



LIBRARIES

UNIVERSITY OF WISCONSIN-MADISON

Governor's message and accompanying documents. Volume II 1876

Madison, Wisconsin: E. B. Bolens, 1876

<https://digital.library.wisc.edu/1711.dl/24QBWZ4ATEQIT8Z>

Based on date of publication, this material is presumed to be in the public domain.

For information on re-use, see

<http://digital.library.wisc.edu/1711.dl/Copyright>

The libraries provide public access to a wide range of material, including online exhibits, digitized collections, archival finding aids, our catalog, online articles, and a growing range of materials in many media.

When possible, we provide rights information in catalog records, finding aids, and other metadata that accompanies collections or items. However, it is always the user's obligation to evaluate copyright and rights issues in light of their own use.

29th sess.

vol. 2, Jan. 13, 1875

DOCUMENT 15.

Second Annual Report

OF THE

RAILROAD COMMISSIONERS

OF THE

STATE OF WISCONSIN.

1875.

MADISON, WIS.:
E. B. BOLENS, STATE PRINTER.

1875.

TABLE OF CONTENTS.

	Page
INDICES TO THE THREE DIVISIONS.....	ix
CONTENTS OF REPORT PROPER.....	1-64
I.—DOINGS OF THE COMMISSIONERS.....	1-32
Re-classification of roads and rates of fare and freight.....	1
Application of the amended law.....	3
As to freights.....	3
As to rates on B. roads.....	4
As to interchange of traffic.....	4
As to pre-payment of freight charges.....	5
As to connection of passenger trains.....	5
As to railway company returns.....	5
Deficiencies of the returns made.....	7
Conflict of laws relating to reports.....	8
Mileage of roads reported.....	9
New mileage.....	10
General characteristics of the roads.....	11
Equipment of the roads.....	11
Capital stock reported.....	12
Debt.....	13
Interest.....	13
Cost of roads.....	14
Doings in transportation.....	15
Train mileage.....	15
Number of passengers carried.....	16
Tonnage of the roads.....	17
Force employed in doing business.....	17
Gross earnings of the roads.....	17
Total expenditures of 1874.....	19
Total expenditures of 1874-5.....	19
Net earnings.....	20
Dividends.....	23
Stock and bonds.....	23
Prices of stocks of C., M. & St. Paul and C. & N. W. R. R. Co. for 1875 (table).....	25
Prices of bonds of C., M. & St. Paul and C. & N. W. R. R. Co. for 1875 (table).....	26-7
Rates of fare and freight.....	28
Accidents.....	29
Inspection of railroads.....	30
Papers and documents accompanying reports.....	31
Official papers, etc.....	31
Portions of Commissioners' correspondence.....	31
Appendix "A".....	32
Appendix "B".....	32

II.—DISCUSSION OF THE GENERAL QUESTION—	Page.
Of State control	33-38
Results of public inquiry	38
Recent action of States	38
In Missouri	38
In Virginia	39
In the Kentucky and Tennessee legislatures	40
Minnesota has retraced her steps	40
Recent action in Foreign countries—	
In Great Britain	40
In Germany	43
In Austria	44
In other Foreign countries	44
The action of railroad managers affords encouragement	45
Railway company associations	45
Southern Railway and Steamship Association	46
Union of German Railroad Managements	46
Associations of engineers, master-mechanics, car-builders and others	46
Individual experts and investigators	47
Final result of all these investigations	47
Result of further investigation by the commission	48
Cost is a basis in all cases	48
Cost varies with climate	48
Cost varies with the season	49
Cost also varies with the times	49
Relative cost varies with the productiveness of the year	49
Also, with the length of haul	50
Also, as there may or may not be loads both ways	50
Cost varies with uniformity of freights in kind, and with termi- nal facilities	51
The cost of the road must vary the chargeable rate	51
Where several roads are involved, difficulty of determining proper rates, etc	51
Difference in necessary cost of roads	52
Next after cost of roads, comes cost of doing the business	52
Maintenance of roadway, bridges, etc., and the force of men necessary thereto	53
Station repairs	53
Movement expenses	53
Cost of transportation not the only basis for the construction of a just tariff	54
The worth of the service to the shipper an element	54
The element of competition	55
Lake and canal rates during October, 1875	55
A fixed specific tariff excludes this element of discrimination	56
The equal mileage theory is a fallacy	57
The present law in part, misunderstood as to rates	57
The method set forth by the commissioners	58
Limited powers of the commissioners, to require repairs of roads	58
Publicity of rates of fare and freight	59
Greater stability of rates and time tables	59
Timely notice of changes of rates, and of time cards	59
Greater uniformity and completeness of accounts	60
Want of logical system	61
Railway reports	63
Publicity, the sheet anchor of public security	64
It is the policy of the State to legislate broadly	64

TABLE OF CONTENTS.

v

CONTENTS OF OFFICIAL PAPERS, STATISTICS AND CORRESPONDENCE.

	Page.
CLASSIFICATION OF ROADS AND RATES OF FARE AND FREIGHT.....	1-5
Classification of roads.....	1
Classification of freight.....	1
General classes.....	2
Special classes.....	2
Rates of fare and freight.....	2
Limitation of charges for fares.....	2
Limitation of charges for freights on railroads classed A and B....	3
Freight tariff—special classes.....	4
Request addressed to all railroad companies for prompt returns.....	5
Blank form for use of railroad companies in reporting.....	7
FULL TEXT OF REPORTS OF COMPANIES.....	20-168
Report of Chicago, Milwaukee and St. Paul Co.....	20-60
Report of Chicago and Northwestern Co.....	67-89
Report of Galena and Southern Wisconsin Co.....	128-138
Report of Green Bay and Minnesota Co.....	103-115
Report of Madison and Portage Co.....	61-66
Report of Mineral Point Co.....	121-127
Report of Prairie du Chien and McGregor Co.....	116-120
Report of Sheboygan and Fond du Lac Co.....	160-168
Report of West Wisconsin Co.....	81-90
Report of Western Union Co.....	91-102
Report of Wisconsin Central Co.....	139-147
Report of Wisconsin Valley Co.....	148-159
TABULATED STATISTICS, COMPILED FROM RAILROAD RETURNS OF 1874 AND 1874-5.....	169-222
Table I.—Showing population, area and miles of railroad of the several States.....	170-171
Table II.—Mileage, cost, business done, earnings and profits, in 1874, of the railroads of the United States.....	172-173
Table III.—Showing per cent. of receipts to total capital and debt, to one mile of road and one inhabitant. Also, operating expenses, net earnings, etc., of railroads of the several states.....	174-175
Table IV.—Railroad lines, etc., in Wisconsin, with classification, length of track, mileage, etc.....	176-177
Tables V and VI—Abstract of reports of roads in Wisconsin, in the year 1874, made to Secretary of State.....	178-9
Tables VII and VIII—Abstract from report of Secretary of State, continued.....	180-1
Tables IX and X—Abstracts from report of Secretary of State continued.	182-3
Tables XI and XII—Abstracts from report of Secretary of State, continued.....	184-5
Tables XIII and XIV—Analysis of reports of railroads operated in Wisconsin, during the year ending June 30, 1875.....	186-7
Tables XIV to XXXIV, inclusive, are continuations of analysis of railroad reports for the year 1875.....	188-213
Table XXXVI—Comparative statistics of the principal railroads in Wisconsin, showing financial condition etc., for year ending June 30, 1875.....	214-15
Table XXXVII—Accidents, number and proportion of mileage, business done, force employed, etc.....	216-17
Table XXXIX—Comparative statement of passenger traffic, etc., for years 1873, 1874, 1875.....	218-22

PORTIONS OF THE RAILROAD COMMISSIONERS' CORRESPONDENCES.....	223-304
Lease of Oshkosh & Miss. R. R., to Milwaukee & St. Paul R. R. Co.	223
Copy of lease.....	223-227
Inquiries.....	227-232
Application of law to B roads	227-8
Supt. W. G. Swan to the Commissioners, and reply.....	227-8
J. T. Comstock to the Commissioners, and their reply	228-30
G. B. Holden to the Commissioners, and their reply.....	230-32
COMPLAINTS—	
RATES ON B ROADS, FACILITIES, TRANSSHIPMENT, THROUGH RATES.	
M. Pedrick to Commissioners, and reply.. ..	232 34
Concerning demand for pre-payment, etc.....	234-274
Commissioners to Mason Blood & Co and reply	234-274
To H. H. Porter.....	235
To G. W. Swan.. ..	235
To C. Obrecht	237
To Van Brunt, Davis & Co	242
To B. C. Cook	243
To J. L. Bush	247
To J. L. Rood	261
To S. S. Merrill, etc.....	266
COMPLAINTS OF PENALTIES FOR OVERLOADING CARS	274-278
S. T. Brand to the commissioners, and reply	274
Commissioners to H. H. Porter, and reply of B. C. Cook.....	275
COMPLAINT THAT CAR-RATES ARE NOT FURNISHED FOR CAR-LOADS OF HEAVY ARTICLES AND MERCHANDISE	
Commissioners to S. S. Merrill and reply.....	278-280
COMPLAINTS RELATING TO CONNECTION OF PASSENGER TRAINS.....	281
Commissioners to D. H. Olin, and reply.....	281-283
To F. O. Wyatt, and reply.....	284, 285
To Vice-President Colby, and reply	285
To E. B. Phillips	
To P of H., Dodge County, A. H. Edwards, Secretary.....	288-293
To S. S. Merrill.....	292
CONCERNING RAILWAY REPORTS—	
D. M. Kelley to commissioners, and reply	293-300
RAILWAY ACCOUNTS AND REPORTS—	
Commissioners to Albert Fink, and reply.....	300-302
SALE OF MILWAUKEE, LAKE SHORE AND WESTERN RAILROAD UNDER FORECLOSURE.....	
Commissioners to Gen. C. S. Hamilton, and reply	302
Abstract of record.....	303
CONDITION OF CHICAGO AND NORTHWESTERN RAILWAY COMPANY.....	
Commissioners to President Keep, and reply.....	304-306
CONTENTS OF APPENDIX:	
APPENDIX A.....	1-33
Railroad laws of 1874.....	1-8
Chapter 273—"Potter-law".....	1-6
Chapter 341—General law.....	7-8

	Page.
Railroad laws of 1875 :	
Chapter 6—an act relating to Wisconsin Central Railroad Company . . .	9
Chapter 24—act to require railroad companies to provide for safety of passengers	11
Chapter 25—act to amend section 50, general laws of 1872—an act in relation to railroads and the organization of railroad companies	12
Chapter 39—act to amend chapter 273, laws of 1874—(the "Potter-law.")	12
Chapter 54—to appropriate certain monies to Railroad Commissioners, etc	13
Chapter 113—Act to amend chapter 273, laws of 1874—changing classification of railroads.	14
Chapter 117—act to encourage building narrow-gauge railroads.	14
Chapter 119—act to prevent gambling in railroad cars.	16
Chapter 168—act to authorize municipal corporations to aid in the construction of railroads.	17
Chapter 173—act to define liabilities of railroad companies in relation to damages sustained by their employees.	18
Chapter 191—act to amend chapter 446, laws of 1868— and act to incorporate the Wisconsin Railroad Farm Mortgage Land Company	18
Chapter 207—Relating to side-tracks to railroads in certain cases.	20
Chapter 208—act in relation to the Wisconsin Railroad Farm Mortgage Land Company	20
Chapter 241—act to authorize the Governor to procure maps, plats, etc., of lands granted to State of Wisconsin to aid in construction of railroads.	21
Chapter 248—act in relation to fencing railroads.	21
Chapter 280—act to restore sections 1, 2, 3, and 7, of chapter 79, of the revised statutes of 1858	22
Chapter 303—act to encourage the construction of railroads in and through the State of Wisconsin.	23
Chapter 305—act to re-enact chapter 533, laws of 1875—an act to accept the grant of land made to the State of Wisconsin by act of Congress, approved June 25, 1864, to aid in the construction of a military road from Wausau to Lake Superior.	23
Chapter 312—act to appropriate a certain sum to Chicago, Milwaukee & St. Paul Railway Company.	24
Chapter 328—act in relation to election of directors of Chicago, Milwaukee & St. Paul Railway Company.	24
Chapter 334—act to amend chapter 273, laws of 1874—an act relating to railroads, etc.	25
Resolutions and memorials of 1875 :	
Concerning railways—memorial to Congress that line of land-grant road between Portage City and Steven's Point be changed to most direct and feasible route.	30
Joint-resolution to straighten line of railroad between Portage City and Steven's Point.	31
Joint resolution, asking extension of time for construction of railroad from Lake St. Croix to Superior and Bayfield.	31
APPENDIX B.	1-53
LEGAL PROCEEDINGS IN SUPREME COURT OF WISCONSIN—	
Attorney-General vs. West Wisconsin Railroad Company.	34-64
History of the case	34-39
Synopsis of argument of H. L. Palmer, Esq., of counsel with Attorney-General.	39-41
Synopsis of argument of L. S. Dixon, of counsel, with the Attorney-General.	40-41
Synopsis of argument of Vilas & Bryant, for respondent.	41-46
Synopsis of argument of John C. Spooner, for defendant.	46-63
Order of court in case	63

	Page.
LEGAL PROCEEDINGS IN THE SUPREME COURT OF THE UNITED STATES—	
William F. Piek, <i>et al.</i> , appellants, vs. the Chicago and Northwestern Railway, the Railroad Commissioners, and the Attorney-General of Wisconsin, respondents, in equity.....	64
L. D. Stone, ticket-agent of the Chicago, Milwaukee and St. Paul Railway Company, plaintiffs in error, vs. the State of Wisconsin, defendants in error.....	65-91
Transcript of record—Circuit Court of the United States for the western District of Wisconsin.....	91-244
Bill of complaint.....	244-259
Exhibits in case, 1 to 21.....	244-246
BRIEFS OF ARGUMENTS—	
Of B. C. Cook, counsel for appellants.....	246-247
Statement of case.....	248-259
Points stated.....	260-305
Argument, etc.....	260
Of C. B. Lawrence, counsel for appellants.....	263
Statement of case.....	263-266
Errors assigned.....	266-305
Points stated.....	306-349
Argument, etc.....	306-307
Of John W. Cary, counsel for appellants.....	307-349
Statement of case, etc.....	350-376
Points stated and argument.....	350
Of Luther S. Dixon, counsel for respondents and defendants.....	351-376
Statement of case.....	377-402
Points stated and arguments.....	377
Of I. C. Sloan, counsel for respondents and defendants.....	380-402
Abstract of case.....	403-453
Points and authorities, etc.....	403-415
Of E. W. Stoughton, counsel for appellants.....	416-453
Case stated, etc.....	
Points, etc., and argument.....	

INDICES.

- I.—INDEX TO COMMISSIONERS' REPORT PROPER.
II.—INDEX TO OFFICIAL PAPERS, STATISTICS, AND CORRESPONDENCE.
III.—INDEX TO APPENDICES.

INDEX TO REPORT PROPER.

A.

Accidents, returns of (table).....	29
Accounts, greater uniformity and completeness of, necessary.....	60
Adherence to principle, want of.....	62
Application of amended law.....	3
Appendix "A," what it embraces.....	32
" B," what it embraces.....	32
Austria, action on railroad problem.....	44
Association, of railway companies.....	45
Southern railway and steamship.....	46
German railroad management.....	46
of engineers, master mechanics, etc.....	46
Experts and investigators.....	47

B.

Bonds and stocks.....	23
Prices of, for each month in year, 1875, (table).....	26
Business, force employed in doing.....	17

C.

Capital, stock reported, (table.).....	12
Classification of roads, rates of fare and freight.....	1
Commissioners, correspondence of.....	31
Method set forth by.....	58
limited powers of, etc.....	58
Companies, returns of.....	5
associations of.....	45
Connection of passenger trains.....	5
Conflict, of laws relating to reports.....	8
Correspondence of commissioners.....	31
Cost of roads, (table.).....	14
is a basis in all cases.....	48
varies with the climate and soil.....	48
varies with the seasons.....	49
varies with the times.....	49
varies with the productiveness of the year.....	50
varies with the length of haul.....	50

	Page.
Chicago and Northwestern Railroad, report in some respects valueless.....	7
does not report number of employees.....	17
gross earnings of.....	18
Chicago, Milwaukee and St. Paul Railroad, gross earnings of, (table).....	18
varies according as there may or may not be loads both ways.....	50
varies in conformity of freights in kind, and with terminal facilities... ..	51
varies in the cost of road, etc.....	51
cost of transportation determined with difficulty.....	51
Where several roads are involved—	
Difference in cost of road, after cost of road, comes cost of doing business	52
Maintenance of roadway, bridges, force of men employed, etc.....	53
station repairs.....	53
movement expenses.....	53
not the only basis for construction of a just tariff.....	54
worth of service to the shipper.....	54
element of competition.....	55
October lake and canal rates during years named, (table.).....	55
D.	
Deficiencies in returns of companies.....	7
Debt, statement of.....	13
Dividends of companies (table).....	23
Discrimination, fixed specific tariff excludes.....	56
Documents, &c., accompanying report.....	31
E.	
Earnings, gross of the roads (table).....	17
rate, 1874-5 (table).....	20-1
Expenditures, total of, 1874-5 (table).....	19
Experts, individual, and investigators.....	47
F.	
Fink, views of concerning cost of transportation.....	51
Fares, recapitulation of.....	1
rates of.....	28
necessity of publicity of rates.....	59
Freight, recapitulation of.....	1
as to pre-payment of charges.....	5
rates of.....	28
necessity of publicity of rates.....	59
G.	
German government, recent action of concerning railroads.....	43
German union of railroad managements.....	46
Great Britain, action on railroad question.....	40
I.	
Investigations, final result of.....	47
Interchange of traffic, &c.....	4
Interest, reports of rates, &c., (table).....	13
Inspection of railroads.....	30
Inquiry, results of public, &c.....	38
Investigators, individual, and experts.....	47
K.	
Kentucky, action of upon railroad legislation.....	40
L.	
Legislation, policy of its being done broadly.....	64

M.

	Page.
Missouri, recent action upon railroad question.....	38
Minnesota, recent action upon railroad question.....	40
Mileage, of roads reported.....	9
new mileage in 1875 (table).....	10
train mileage (table).....	15
equal mileage theory a fallacy.....	57
Milwaukee, Lake Shore and Western, sale of, under foreclosure.....	13

O.

Official, papers and documents accompanying report.....	31
---	----

P.

Papers, etc., accompanying report.....	31
official, etc.....	31
Passenger trains, connection of.....	5
Passengers, report of number carried.....	16
carried one mile.....	16
Pre-payment, of freight charges.....	5
Publicity, of rates of fare and freight.....	59
the sheet-anchor of public security.....	64

Q.

Question, the general, considered.....	33
--	----

R.

Railroads, inspection of.....	30
Railway company associations.....	45
reports of.....	45
Rates, re-classification of, fare and freight.....	1
as to through.....	3
on B roads.....	4
of fare and freight.....	28
present law relating to, misunderstood.....	57
publication of.....	59
greater stability of, and time-cards, etc.....	59
Results, of public inquiry.....	38
of investigations.....	47
Reports, conflict of laws relating to.....	8
of accidents (table).....	29
papers and documents accompanying, etc.....	31
Returns, of railway companies.....	5
deficiencies in.....	7
of mileage.....	9
Roads, re-classification of.....	1
rates on B roads.....	4
mileage of reported.....	9
characteristics of.....	11
equipment of (table).....	11
cost of (table).....	14
gross earnings of (table).....	17
Reports, conflict of laws relating to.....	8
train mileage (table).....	15
of passengers carried.....	16
carried one mile.....	16
of tonnage carried.....	17
of force employed.....	17

S

	Page.
State, policy of to legislate broadly.....	64
States, recent action of	38
Missouri.....	38
Virginia.....	39
Kentucky and Tennessee	40
in foreign countries:	
Great Britain	40
German government	43
Austria	44
Stock, capital reported.....	12
and bonds, &c.....	23
market price of for each month in year 1875, (table).....	25
System, want of of logical, in keeping accounts	61

T

Tariff, fixed specific excludes discrimination.....	56
Tennessee, railroad legislation of	40
Time-cards, greater stability of, necessary, etc.....	59
Tonnage, report of totals carried	17
Traffic, interchange of.....	4
Transportation, doings in.....	15

U.

Union of German railroad managements.....	46
---	----

V.

Virginia, recent action on railroad question.....	39
---	----

W.

West Wisconsin Company, default on interest.....	14
--	----

INDEX TO OFFICIAL PAPERS, STATISTICS AND CORRESPONDENCE.

A

Accidents—Reports, of 30, 31, 32, 33, 66, 78, 89, 101, 112, 120, 127, 146, 156, 168.	
Accounts and reports of railways, suggestions.....	301
Attorney-General—Letter to W. G. Swan, Supt., W. Wis. R. R. Co.....	249
To D. M. Kelley, Supt., G. B. and Min. R. W. Co.....	251
To B. C. Cook, Solicitor C. and W. W. R. R.....	253
To D. M. Kelley, Vice-Prest. G. B. and Minn. R. W.....	250
Atwood, Dan to Van Brunt and Davis, Horicon.....	243

B

Bowen, H., to Commissioners.....	260
Brande, S. F., to the Commissioners.....	274
Britt, O. E., to Van Brunt and Davis, Horicon.....	243
Bush, J. L., to Commissioner	247

C

Capital-Stock—Chicago, Milwaukee and St. Paul Railroad Company.....	21
Madison and Portage (now Chicago and Superior)	61
Chicago and Northwestern.....	68
West Wisconsin.....	82

	Page
Capital Stock—Western Union	92
Green Bay and Minnesota	104
Prairie du Chien and McGregor	116
Mineral Point	121
Galena and Southern Wisconsin	128
Wisconsin Central	139
Wisconsin Valley	148
Sheboygan and Fond du Lac	160
Cars, sleeping—29, 75, 87, 99, 110, 126, 134, 144, 155, 167.	
Circular, to railroad companies requesting reports	5
Classification of roads and rates of fare	1-4
Colby, Chas. L., Vice-Prest., Wisconsin Central Railway	286
Chicago, Milwaukee and St. Paul Railroad, gross earnings	18
Lease to of Oshkosh and Mississippi Railroad, etc, Report of company	223
S. S. Merrill, general manager, to Commissioners,	261, 266, 280, 291
Debt—funded and unfunded	21
Capital stock	21-61
Earnings during year ending June 30, 1875	24
Expenses during year ending June 30, 1875	25
Accidents during year ending June 30, 1875	30
Correspondence—Letters of commissioners to W. G. Swan, general superin-	
tendent West Wisconsin railroad company,	228, 235, 266, 263, 264
J. T. Comstock, Oconto, Wisconsin	229, 230
G. B. Holden, Sparta	231
M. Pedrick, Fairchild	232, 256, 260, 267, 269, 272
Mason, Blood & Co., Appleton	234
H. H. Porter, G. M. C. & N. W. R. R. Co., 235, 238, 257, 259, 270, 275, 305	
Christian Obrecht, Sauk City	237, 240, 241
F. O. Wyatt, supt. Wisconsin Valley railroad company, ..	241, 283, 285, 287
Van Brunt & Davis, Appleton	245
B. C. Cook, general solicitor C. & N. W. railroad company	246
J. L. Bush, Doylestown	248
J. L. Rood, Monroe	248, 255
H. Bowen, Brodhead	260
S. S. Merrill, general manager C.M. & St.P. R.R. Co., 261, 265, 269, 278, 289	
D. A. Olin, general supt., W. W. railroad company	281, 282
C. L. Colby, vice-president Wis. Central railroad company	285, 288
A. H. Edwards, Beaver Dam	291, 292
D. M. Kelley, general manager, G. B. & Minn. railroad company, 295, 297	
Albert Fink, vice-president N. & G. L. railroad company ..	300
C. S. Hamilton, United States Marshal	302
Albert Keep, president C. & N. W. railroad company	304
Chicago and Northwestern Railroad—	
Report of company	67
H. H. Porter, letter of, to commissioners,	258, 272, 239, 306
B. C. Cook, general solicitor to commissioners	243, 276
B. C. Cook to Attorney-General	253
Albert Keep, president to commissioners	304
Capital stock	68
Debt—funded and unfunded	68
Earnings for year	71
Expenses during year	72
Accidents	78
Cook, B. C., to commissioners	243, 253, 276
Reply of, to Attorney-General	253
Comstock, J. F., to commissioners	228, 229
Complaints of violations of the railroad law etc:	
Concerning rates on freight passing over two or more roads, G. B. Hol-	
den, Sparta	230
Concerning rates on B roads, facilities, tran-shipment, through-rates, etc.,	
M. Pedrick, Fairchild, Wis.	233, 255, 267, 268, 271, 273

	Page.
<i>Complaints of violations of the railroad law, etc.</i> —Continued.	
Concerning demands for pre-payment etc., C. Obrecht, Sauk City.	237, 238, 240
Same, Van Brunt & Davis, Horicon	242
Same, J. L. Bush, Doylestown	247
Same, J. L. Bood, Monroe	248
Same, H. Rowen	260
Concerning penalties imposed for over-loading cars, J. F. Brande, Kenosha	274
That cars are not furnished for car loads of heavy articles and merchandise, Commissioner Hoyt to S. S. Merrill	278
Concerning connections of trains	281-293
Same, to F. O. Myott, Tomah	283
Same, Patrons of Husbandry, Dodge county	288

D.

Debt—Funded and unfunded, (tables)—	
Chicago, Milwaukee & St. Paul R. R. Co.	21
Madison and Portage	61
Chicago and Northwestern	68
West Wisconsin	81
West Union	92
Green Bay and Minnesota	103
Prairie du Chien and McGregor	117
Mineral Point	122
Galena and Southern	128
Wisconsin Central	140
Wisconsin Valley	149
Sheboygan and Fond du Lac	161
Of all States and territories, for railroads (tables)	170-1

E.

Earnings for the year ending June 30, 1875—	
Chicago, Milwaukee and St. Paul R. R. Co.	24
Madison and Portage	64
Chicago and Northwestern	70-1
West Wisconsin	84
Western Union	95
Green Bay and Minnesota	107
Prairie du Chien and McGregor	119
Mineral Point	124
Galena and Southern Wisconsin	131
Wisconsin Central	142
Wisconsin Valley	152
Sheboygan and Fond du Lac	164
Edwards, A. H.—to Commissioners	293
Elmore, A. E.—to Commissioners	257
Employees—number of, on all roads	23, 63, 69, 83, 94, 106, 118, 123, 130, 141, 151, 162.
Expenses for year ending June 30, 1875—	
Chicago, Milwaukee & St. Paul R. R.	25
Madison & Portage	65
Chicago & Northwestern	72
West Wisconsin	85
Western Union	96
Green Bay & Minnesota	108
Prairie du Chien & McGregor	119
Mineral Point	125
Galena & Southern Wisconsin	131
Wisconsin Central	143
Wisconsin Valley	152
Sheboygan & Fond du Lac	165
Express, compensation for services, etc.	28, 66, 74, 86, 99, 110, 126, 134, 144, 155, 166

F.

	Page.
Forms, circular letter to railroad companies	5
blank forwarded to each railroad corporation in State	7-19
Fink, Albert, vice-president N. G. & S. S. R. R. Co., letter of	301

G.

Green Bay & Minnesota railroad—	
report of company.....	103
D. M. Kelly, general manager G. B. & Minn. R. Co.....	295, 296, 298
D. M. Kelly, reply to Attorney General.....	251
capital stock	103
debt, funded and unfunded.....	104
earnings, 1874-5.....	107
expenses, &c., 1874-5.....	109
accidents, 1874-5.....	102
Galena & Southern Wisconsin railroad—	
report of company.....	128
capital stock	128
debt, funded and unfunded.....	129
earnings during the year	130
expenses during the year.....	132
accidents	135

H.

Hamilton, C. S., United States Marshall, to commissioners.....	302
Holden, G. B., to Commissioners.....	230
Hoyt, Commissioner, letters of—	
to J. T. Comstock, concerning rates, etc.....	228, 230
to G. B. Holden, concerning rates on passing over two or more roads... ..	231
to M. Pedrick, concerning rates on "B" roads, facilities, through ship- ments, and transshipment.....	232, 256, 260
to Mason, Blood & Co., concerning demands for pre-payment.....	234
to Superintendent W. G. Swan, facilities.....	235
to Christian Obrecht, concerning through rates.....	237, 240, 241
to General Manager H. H. Porter, concerning through rates... ..	238, 257, 270
to Superintendent Wyatt, concerning pre-payment.....	241
to Van Brunt & Davis, concerning through rates.....	245

J.

to Solicitor Cook, on various points.....	246
to H. Bowen, concerning pre-payment of charges	260
to Superintendent Swan, concerning division of earnings.....	265
to General Manager Merrill, concerning division of earnings.....	265, 269
to M. Pedrick, as to through charges.....	267, 269, 272
to General Manager Porter, concerning penalties for over-loading.....	275
to General Manager Merrill, concerning car-rates for some heavy articles of merchandise.....	278
to Superintendent D. A. Olin, concerning passenger connections.....	281, 282
to Superintendent Wyatt, concerning connections.....	283, 285, 287
to Vice-President Colby, concerning connections.....	285, 288
to General Manager Merrill, concerning connections.....	289
to A. H. Edward and others, concerning connections.....	290, 292
to Gen. Manager D. M. Kelley, concerning reports.....	295, 297
to Mr. Albert Fink, on railroad accounts.....	300
to President Keep, on condition of C. and N. W. R. R.....	304

I.

Inquiries, concerning limitation of charges.....	227
concerning freight passing over two or more roads.....	230

K.

	Page.
Kelley, D. A., General Manager G. B. and Minn. Railroad Company to Commissioners	293, 296,
Reply to Attorney-General	298
Keep, Albert, President Chicago and Northwestern Railroad Company.....	304

L.

Lease, of Oshkosh and Mississippi Railroad to Milwaukee and St. Paul Railroad Company	223
Lands, Farm Mortgage Land Company—acts relating to.....	18-20

M.

Madison and Portage Railroad:	
Report of company.....	61
Capital stock	61
Debt, funded and unfunded	62
Earnings during year ending June 30, 1875.	64
Expenses during the year ending June 30, 1875.....	65
Accidents (included in report of Chicago, Mil. and St. P. R. R. Co.)	
Mail, U. S., compensation for transporting on all roads.....	28, 66, 74, 86, 99, 110, 126, 134, 144, 155, 166
Miscellaneous—"Additional questions"	29, 76, 87, 99, 110, 120, 126, 134, 144, 155, 167
Milwaukee, Manitowoc and Green Bay Railroad Co:	
Proceedings on foreclosure and sale by U. S. Marshal	303
Miles of railroads in States and territories (tables).....	170
Mason, Blood and Co., to Commissioners	234
Merrill, S. S., Gen. Manager C., M. and St. P. Railroad Company, to Commissioners	261, 266, 280, 291
Mineral Point Railroad:	
Report of company.....	121
Capital stock	121
Debt, funded and unfunded.....	122
Earnings during year.....	124
Expenses during year.....	125
Accidents	127
O.	
Osborn, Commissioner, letters of:	
To Solicitor Cook.....	246
To J. L. Rood, concerning through rates	248, 255
To President Porter, concerning division of earnings.....	259
To Manager Merrill, concerning division of earnings	261
To Superintendent Swan, concerning division of earnings.....	262, 263
Officers and Offices:	
Chicago, Milwaukee and St. Paul Railroad Company	20
Madison and Portage Railroad.....	61
Chicago and Northwestern Railroad.....	67
West Wisconsin Railroad.....	81
Western Union Railroad	91
Green Bay and Minnesota Railroad	103
Prairie du Chien and McGregor Railroad.....	116
Mineral Point Railroad	121
Galena and Southern Wisconsin Railroad	128
Wisconsin Central Railroad.....	139
Wisconsin Valley Railroad	148
Sheboygan and Fond du Lac Railroad.....	160
Obrecht, C., to Commissioners	237, 238, 240
Olin, D. A., Gen. Supt. W. U. Railroad Co., to Commissioners.....	281

P.

	Page.
Patrons of Husbandry, Dodge county, resolutions, etc.	238
Pedrick, M., to commissioners	233, 255, 267, 268, 271, 273
Phillips, E. B., Pres. Wisconsin Central R. R., to commissioners.....	286
Porter, H. H., to commissioners.....	239, 258, 306
to M. Pedrick.....	272
Population, of States and Territories, (totals).....	170-171
Prairie du Chien and McGregor Railway:	
report of company.....	168
capital stock.....	116
debt, funded and unfunded.....	117
earnings during year 1874-5.....	119
expenses, etc., year 1874-5.....	119
accidents, year 1874-5	120

R.

Roads, lengths of, miles	22, 63, 83, 93, 105, 118, 130, 140, 150, 162
Reports of railroad companies:	
Chicago, Milwaukee and St. Paul.....	20-61
Madison and Portage	61-66
Chicago and Northwestern.....	67-80
West Wisconsin.....	81-90
Western Union.....	91-102
Green Bay and Minnesota.....	103-115
Prairie du Chien and McGregor.....	116-120
Mineral Point.....	121-127
Galena and Southern.....	128-138
Wisconsin Central.....	139-147
Wisconsin Valley.....	148-159
Sheboygan and Fond du Lac	160-168
Rood, J. L., to commissioners.....	248

S.

Sheboygan and Fond du Lac Railroad:	
report of company.....	160
capital stock.....	160
debt, funded and unfunded.....	161
earnings during year.....	164
expenses during year.....	165
accidents	168
Stockholders, list of	35, 62, 82, 92, 114, 117, 122, 135, 139, 157, 161
Stock, etc.. of roads in all the States and Territories in the United States (tables)	170-171
Swan, W. G., Supt. W. Wisconsin R. R. Co., to commissioners	227, 259, 262
reply to Attorney-General	249
telegram to President Porter.....	259

T.

Transportation companies, etc	29, 66, 75, 86, 99, 110, 126, 134, 144, 155, 166
-------------------------------------	--

V.

Van Brunt & Davis, Horicon, to Commissioners.....	242
---	-----

W.

	Page.
West Wisconsin Railroad :	
Report of company.....	81
H. H. Porter, general manager.....	238, 258, 306
W. G. Swan, superintendent, to Commissioners.....	227, 236, 262, 263
W. G. Swan, superintendent, to Attorney-General.....	249
Capital Stock.....	81
Debt, funded and unfunded.....	82
Earnings for year 1874-5.....	84
Expenses for year 1874-5.....	85
Accidents upon, 1874-5.....	89
Western Union Railroad :	
Report of company.....	91
D. A. Olin, general superintendent, to Commissioners.....	281
Capital stock.....	91
Debt, funded and unfunded.....	93
Earnings during year.....	95
Expenses, etc., during year.....	97
Accidents upon, 1874-5.....	101
Wyatt, F. O., to Commissioners.....	242, 284, 287
Wisconsin Central Railroad :	
Report of company.....	139
E. B. Phillips, president, to Commissioners.....	286
Charles L. Colby, vice-president, to Commissioners.....	286
Capital stock.....	139
Earnings during year.....	142
Expenses during year.....	143
Accidents.....	146
Wisconsin Valley Railroad :	
Report of company.....	148
F. O. Wyatt, superintendent, to Commissioners.....	242, 284, 287
Capital stock.....	148
Debt, funded and unfunded.....	149
Earnings during year.....	152
Expenses during year.....	153
Accidents.....	156

REPORT.

To the Honorable Legislature of Wisconsin:

The Railroad Commissioners have the honor to submit their annual report covering the operations of the railroads of this State, so far as the same can be determined, for the year 1875, together with an account of the Commissioners' proceedings under the law, and the results of their further inquiries into railway transportation and the proper relation of transportation companies to the government of the State.

I.—DOINGS OF THE COMMISSIONERS.

RE-CLASSIFICATION OF ROADS AND RATES OF FARE AND FREIGHT.

Chapter 273, laws of 1874, assigned the railroads of the State to three general classes, A, B, and C. To class A were assigned the Chicago, Milwaukee & St. Paul Railway, the Chicago & Northwestern Railway, and the Western Union Railroad. The Wisconsin Central, the West Wisconsin, and the Green Bay & Minnesota railroads were placed in class B. All other roads were to be included in class C. Roads operated by any company under a lease or other contract were to be treated as if owned by the company operating them.

In addition to the restrictions put upon the roads by that law, provision was made as to transportation of passengers, that no A company should charge more than three cents a mile per passenger, no B company more than three and one-half cents per mile, and no C company more than four cents a mile. As to the transportation of freight in seven special classes—D, E, F, G, H, I, and J—rates were prescribed in the law which could not be exceeded by com-

panies belonging to classes A and B; while companies in class C were permitted to make any charges in those classes not exceeding the rates actually in force on their respective roads on the first day of June, 1873.

The four general classes, 1, 2, 3, 4, embracing merchandise, were only so far interfered with as to provide that the rates on freight included therein, under the Milwaukee & St. Paul Company's classification of June 15, 1872, should not exceed the rates actually charged for carrying such freight on June 1, 1873.

The Commissioners, whose appointment was provided for in the same act, were empowered to make certain changes in the classification of rates, and were required to make formal publication of this classification when perfected.

During the year 1874, complaint was made by nearly all companies of the insufficiency of the rates allowed them. The B companies so far convinced the last legislature of the justice of their complaint that on the 2d day of last March, there was approved a law, to-wit, Chapter 113, laws of 1875, so changing the classification of roads as to make but two classes—class A and class B. Class A was to include the same roads as before, and class B was to include all other roads. As to rates, companies operating A roads were to be governed by the rates prescribed in the law of 1874, and all B companies, although limited to the maximum passenger rate of four cents a mile, were to enjoy the privileges of charging their own freight rates of June 1, 1873, as the C companies had been permitted to do under chapter 273, laws of 1874.

Subsequently, however, and but a day or two later, the legislature (of 1875) passed a law (Chap. 334) changing the freight rates chargeable by *all A and B* companies; apparently not bearing in mind the fact that, under the provisions of the law just enacted, (chapter 113) the classes A and B had been made to include *all the roads in the State*.

As this conflict between the laws approved March 2d and March 5th was not discovered until after the adjournment of the legislature, the Commissioners found the task of re-classification under chapter 273, laws of 1874, as amended, somewhat embarrassing.

After due deliberation, they performed that duty, however, on the 17th of March issuing in printed form, for the use of the public and of railway companies, the Classification of Roads and Rates

of Fare and Freight found on pages 1 to 4 of the "Official Papers," accompanying this report.

APPLICATION OF THE AMENDED LAW.

1. As to through rates.

One of the difficulties of enforcing the law of 1874, in respect to rates, grew out of the fact that, while the law required that in case of freight passing over two or more roads "the distance for carrying such freight shall be computed from where it is received,"—evidently meaning from where it was *first* received,—there was no provision requiring the companies owning the connecting lines to pro-rate the charges. Because of this omission, several of the companies assumed that they severally received the freight coming from other lines *at the connecting point*, and on this basis computed the distance and made their charges.

In this way it sometimes happened that a shipper was charged the high rate allowed for the first haul two or three times over, the aggregate sum being considerably larger than the sum of old rates paid before the passage of the law.

This defect in the law of 1874 was remedied by section 2 of chapter 334, laws of 1875, which provides that when freight so passes from one road to another "the amount received for such transportation shall be divided between the companies as the officers thereof may agree," and that where such agreement is found impracticable the terms of such division of receipts shall be settled by arbitration in the manner in said section prescribed.

Notwithstanding this plain and specific provision of law, several instances of its violation were brought to the notice of your Commissioners in the early part of the last season, and it was not until after considerable time had been consumed by the necessary investigations, and by explanations of managers, negotiations between companies, correspondence, (see pages 232 to 272 of Official Papers, &c.) and personal interviews on the part of the Commissioners and the Attorney-General with the attorneys and managers representing the corporations, that an agreement was finally concluded by and between the Chicago, Milwaukee & St. Paul and the Chicago & Northwestern Railway Companies.

As to the other corporations, the principal complaints on the

score of a refusal to make continuous through-rates were against the West Wisconsin Railroad Company. The difficulty here arose out of the claim made by the officers of that company, (1) that it was impossible for them to make the road pay its operating expenses with any lower rates than they were receiving in 1873, and (2) that the last legislature evidently intended to grant them the relief they asked when it enacted the law (chapter 113) making a new classification, and giving to their own and other B companies the privileges of C companies under the provisions of the original "Potter Law."

With them, therefore, there was a serious obstacle in the way of pro-rating with the companies operating connecting lines. On the other side, the Chicago, Milwaukee and St. Paul and the Chicago and Northwestern companies excused themselves for non-compliance with the law as to division of earnings with the West Wisconsin company on the ground that they were unable to get an agreement to pro-rate on a just and equal basis. And so for a time each of the companies above-named charged the local rates. At length, however, the Chicago, Milwaukee & St. Paul Railway Company gave orders to its agents to receive the legal through-rates and retain only the pro-ratae share of the earnings due to them under the law. [See p. 272 of Official Papers, accompanying this report.]

2. As to rates on the B roads.

But few complaints were made during the season on account of charges in excess of the legal rates by "B" companies. Indeed, of the Wisconsin Central no complaint has been made at all. And the complaints made by parties shipping on the West Wisconsin Railroad were confined to a very few persons. The effort made by the Commissioners to effect a satisfactory settlement of the difference in these cases, and the final result of these efforts will appear from the correspondence. [See especially pp. 272-3 and 305-6 Official Papers, etc.]

3. As to interchange of traffic.

Early in the past season there were a few complaints of violations of the provisions of section 4 of chapter 334, laws of 1875, relating to receiving and forwarding freight at connecting points, without requiring cars to be unloaded. But on this point the sev-

eral companies appear to have complied with the law on learning what its requirements were.

4. As to pre-payment of freight charges.

Various complaints were filed against the Chicago, Milwaukee and St. Paul, the Chicago and Northwestern, the West Wisconsin, and the Green Bay and Minnesota companies, (only one or two against the company last named) for demanding payment of charges in advance of final delivery, in violation of that portion of section 4 of chapter 334, laws of 1875, which provides that "advanced payment of freights shall not be required as a condition precedent to carriage, except in case of perishable freight or articles of little value." The correspondence growing out of complaints filed by Christian Obrecht of Sauk City, by Mason, Blood & Co., of Appleton, Van Brunt & Davis, of Horicon, and some other parties, (for which correspondence see especially pages 234 to 255 of accompanying Official Papers), will serve as illustrations of the embarrassments that were encountered in disposing of this class of complaints. They were easily settled when arrangements had been made for pro-rating; and for some time past no complaints of this sort have been filed in this office.

5. As to connection of passenger trains.

The great inconvenience, vexations, delays, and unnecessary expense entailed by the failure of passenger trains on different lines to make proper connection at common points, in times past, led to the adoption by the last legislature of section 5, chapter 334, laws of 1875, which places it in the power of the Commissioners to enforce close connections wherever they are found to be practicable,

Several cases have arisen in which the services of the Commissioners were invoked in this behalf. And we report with pleasure that in every instance where it seemed possible to remedy the evil of bad connections, or no connections, it has been cheerfully and promptly done.

6. As to railway company returns.

Under the present law, the commissioners have no authority in express words to demand such reports as they may deem essential to a proper knowledge of the financial condition of companies and

the business done by them. Section 9, of chapter 273, laws of 1874, reads as follows:

"Section 9. Said railroad commissioners shall have power to administer oaths, or affirmation, to send for persons or papers, under such regulations as they may prescribe, and shall at any and all times have access to any and all books and papers in any railroad office kept for and used by any railroad company in this State."

And section 12 of the same law contains this provision:

" * * * The board of commissioners shall prescribe the form and manner in which all reports from railroad companies under the provisions of this act shall be made, and suitable blanks for that purpose shall be provided (*for*) by the Secretary of State."

Acting under this general authority, and under the requirement of the law to make annual returns of certain facts relating to the cost, earnings, and indebtedness of railroads, your Commissioners, in conference with the Commissioners of the States of Illinois and Minnesota, prepared a certain "form" of reports to be requested of railroad companies, and sent printed copies thereof to the president of each company operating a road or roads in this State.

This communication and the form accompanying are printed on pages 5 to 23, inclusive, of Official Papers submitted herewith.

Except in the case of the Green Bay and Minnesota R. R. Co., (see pp. 293 to 300 of Official Papers and Correspondence) no protest was formally made against this demand. This company at length acquiesced, however, and made as full returns to the Commissioners as seemed practicable under the circumstances.

Returns were reasonably expected from some other companies which had not at all reported. And as the certainty of failure did not appear until it was too late to adopt the means authorized in section 9, above quoted, they are none of them represented in this report.

The following are the companies reporting:

Chicago, Milwaukee and St. Paul.

Chicago and Northwestern.

Galena and Southern Wisconsin.

Green Bay and Minnesota.

Mineral Point.

Madison and Portage (now Chicago and Superior).

Prairie du Chien and McGregor.

Sheboygan and Fond du Lac.

Western Union.

Wisconsin Central.

Wisconsin Valley.

The companies not reporting are:

Chicago and Tomah.

Milwaukee, Lake Shore and Western.

Superior and St. Croix.

DEFICIENCIES OF THE RETURNS MADE.

It will be observed that the form of report adopted by the Commissioners (pp. 5 to 23) is far more systematic and complete than the form prescribed in chapter 119, laws of 1872, and heretofore used by the railroad companies in making their annual returns to the Secretary of State. Owing to this fact it is reasonable to suppose that the accounts kept were not adapted to such showings in every particular as were required by the new form. This will account for many of the deficiencies observable in the fullest of the first reports made. There are particulars, however, in which there is but little ground for such allowance; such, for example as those found on page 81, 82 and 83, under the important headings, "Cost of Railroad and Equipment," and "Doings of the Year in Transportation." It would seem incredible that any railroad company should be without the data for answering such questions as are therein proposed concerning cost of right of way, cost of real estate exclusive of right of way, cost of equipment, the number of employees of every class, the mileage of freight and passenger trains, passenger mileage and ton mileage, the total freight of different classes in tons, and other matters of general importance.

The returns made by the Chicago and Northwestern Company are in some respects valueless because of the neglect to separate the Wisconsin from its other lines in making answer to questions relating to receipts, earnings, etc. It may be allowed that there are some difficulties in the way of such a separation, but they are not insuperable; and until such separate accounts are kept and estimates made the legislature and the people must remain very much in the dark as to the business done by that company on its Wisconsin lines. Some advantage in this and other particulars would doubtless be gained by the State were all companies owning or operating roads in Wisconsin required to have a branch office located within our own boundaries. This would be attended with

some inconvenience and additional expense, however, which should not be imposed unnecessarily.

Perhaps a method better than this, and better than the provision of the Michigan law imposing a heavy fine for neglect to make the reports provided for, would be to require the Secretary of State and the State Treasurer, on notice from the Railroad Commissioners that proper reports have not been filed, to add some definite percentage—to be determined by the legislature—to the license-fee payable by the delinquent company. Either this, or a more general provision, requiring the Secretary of State to refuse the certificate of license to all companies until the necessary reports had been filed with the Commissioners, may be necessary in order to insure returns of real value.

The Chicago, Milwaukee and St. Paul Company has shown a commendable readiness to make as full and complete a report as the data in their possession would allow. Their report was promptly forwarded, and bears evidence of much pains-taking in its preparation.

As a whole, the reports are not so full and complete as it was hoped they would be made; certainly not so complete as is essential to any just comparison of the working economy of the different roads, nor sufficiently so to warrant the footings essential to a fair showing of the entire railroad operations of the State. Nevertheless, they will be found to contain some valuable information, not heretofore obtained by the State, and may be regarded, in the aggregate, as a good beginning of a system of reports that will yield satisfaction in the future.

CONFLICT OF LAWS RELATING TO REPORTS.

Allusion has already been made to chapter 119, laws of 1872, which requires each railroad company doing business in Wisconsin to make on or before the 1st day of Feb. (see law) in each year, a report of its transactions for the year ending on the 31st of the next preceding December. As the report made each year by the Secretary of State is for the fiscal year ending September 30, it results that the information contained in the railway returns therein embodied, can only reach the public and the legislature for a year or more after the date to which that information belongs. On these accounts, and also because the form of report for the use of railway

companies prepared by the Railroad Commissioners is more complete than the one prescribed in the law of 1872, and is so prepared and issued as to secure the returns of companies for the year ending the 30th of June next preceding the date of the Commissioners' annual report to the legislature, the State could properly enough dispense with the returns now required to be made to the Secretary of State, should the legislature so determine.

It also deserves to be noticed by the honorable legislature that the law relating to the report to be annually submitted by this Commission makes certain requirements which it has been practically impossible for the Commissioners to meet. Thus, their report is to be submitted "in the month of January," and yet is to embrace the doings of railroad companies for the year ending on the last day of the next preceding month. When it is borne in mind that the railroad companies require one to two months after the close of a business year to make up their returns, and that the Commissioners must of necessity have considerable time to analyze the returns and conduct their report through the press, it will be apparent that compliance with this provision of the law (section 12, of chapter 273, laws of 1874) is utterly impossible. Under the circumstances, the Commissioners have deemed it proper this year to report the operations of railroads for the years ending December 31, 1874, and June 30, 1875, and in addition thereto to make such a report as was possible for the full year ending December 31, 1875.

It may also be mentioned that, by some clerical or other like error in drafting or engrossing, the Commissioners are required by a provision of section 12, of said chapter 273, to "make return to the *State Treasurer*," instead of to the legislature, as was doubtless intended.

It would be well if these several defects in the law relating to the reports to be submitted to the State were corrected.

THE MILEAGE OF ROADS REPORTED.

The total length of railways reported to the Commissioners for the year ending December 31, 1875, was 4,875.26 of main line and branches. The mileage of total lines operated in Wisconsin was 2,565.73; total length of sidings exclusive of sidings of the Chicago, Milwaukee & St. Paul and the Chicago & Northwestern Railroads, whose sidings are not reported, 86.39 miles. The total mileage of double-track reported is one-half mile.

New mileage.

But 20 miles have been added by construction during the year. This addition was made by the Wisconsin Central Company, as the first section of their new line from Stevens Point to Portage City.

This is a very small increase, but it is not out of proportion with the increase in other States and countries.

The increase of mileage in this State for 1874 was but 87 miles; that of some neighboring States, as Michigan, for example, considerably less; the average for each State 85 miles; total increase in the United States, 1,940 miles. According to the best information that can be had at this date, the total increase in the United States during 1875 has been less than 1,500 miles. Fourteen of the States and Territories have added nothing at all to their mileage.

The increase of mileage in foreign countries in 1874 will appear from the following statement, taken from the Railroad Gazette, to have been only some 40 per cent. greater than in this country:

Country.	Miles.	Country.	Miles.
England (estimated).....	60	Luxemburg	20
Germany.....	960	Denmark	85
France	460	Sweden	599
Austria and Hungary.....	365	Italy	304
Russia	1,162	Spain	20
Belgium.....	29	Turkey	140
Netherlands	41	Roumania	168
Switzerland.....	103		
Total			4,515

The actual and comparative ratio of Wisconsin railroad mileage to area and population, is as follows:

Western States.	Square miles to mile of railroad.	Inhabitants to mile of railroad.
Wisconsin.....	22.2	490
Minnesota	42.0	307
Iowa.....	14.6	378
Nebraska.....	68.7	203
Kansas.....	37.8	280
Missouri.....	22.7	677
Illinois.....	8.2	429
Indiana.....	8.7	462
Michigan.....	16.9	408

These statistics show that, in the building of railroads, Wisconsin has acted with a moderation only exceeded by that of one other State, a fact worthy of notice by capitalists, and furnishing ground of encouragement for those who hold our railroad securities.

GENERAL CHARACTERISTICS OF THE ROADS.

The lines reported have a gauge of 4 feet 8½ inches, except the Galena & Southern Wisconsin Railroad, of which the gauge is 3 feet.

Up to January 1, 1876, the total of miles laid with steel rail was 599.10; miles laid with steel in Wisconsin, 212.60.

The weight of the steel rail is 60 pounds per yard; of the iron rail, 35 pounds on the Galena & Southern Wisconsin, 45 to 56 on the other less important lines, and 50, 56 and 60 on the greater roads.

The number, kind and length of bridges, trestles, culverts, etc., are so imperfectly reported that the returns are of little value.

EQUIPMENT OF ROADS.

The reports of equipment are incomplete, except for the Chicago, Milwaukee & St. Paul and the Chicago & Northwestern roads, the leading particulars of which are as follows:

	Chicago, Milwaukee and St. Paul.	Chicago and Northwestern.
Locomotives.....	203	342
First-class passenger-cars.....	64	142
Second-class passenger-cars.....	31	29
Sleeping-cars.....	11	.....
Baggage, mail and express-cars.....	57	80
Officers' cars.....	1	4
Boarding-cars.....	2	18
Box, freight and caboose-cars.....	3,007	4,413
Stock-cars, not included.....	.....	404
Flat and coal-cars.....	665	.....
Platform-cars.....	.....	1,025
Dump-cars.....	.....	26
Pile driving and wreckers.....	.....	11
Iron-ore cars.....	.....	1,957
Total cars.....	3,837	3,109

REPORT OF RAILROAD COMMISSIONERS.

CAPITAL STOCK REPORTED.

The corporations doing business in this State—the Wisconsin Central, the Madison & Portage, and the Wisconsin Valley not included—reported a total capital stock on December 31, 1874, of \$83,873,997.82, or \$16,998.88 for each mile of road owned and operated. The amount on the 30th day of June, 1875, as reported to the Commissioners—the Milwaukee, Lake Shore & Western, the West Wisconsin, the Chippewa Falls & Western, and the Superior & St. Croix not reporting—was \$88,802,597.82.

Allowing the amounts chargeable to the companies reporting in 1874, but not in 1875, to remain the same as at the former date, the total amount that should have been reported June 30, 1875, is \$92,299,597.82, or \$18,932.24 per mile of road; the Wisconsin Central not being included in either count.

The proportion of capital stock for Wisconsin, issued by companies also operating lines in other States, is shown below:

COMPANY.	Total amount of stock.	Proportion for Wisconsin.
Chicago, Milwaukee & St. Paul.....	\$27,673,744 00	\$13,154,424 42
Chicago & Northwestern	36,484,253 82	*13,732,828 90
Western Union.....	4,000,000 00	1,601,881 00
Prairie du Chien & McGregor.....	100,000 00	87,500 00

A reference to the lists of stockholders in the companies furnishing such lists will show how very small a proportion of the stock is held by citizens of this State. That this fact may the more readily appear, we present the relative number of reported shares held in and out of Wisconsin.

COMPANY.	Total No. shares held.	Shares held in Wisconsin.
Chicago, Milwaukee & St. Paul.....	429,997.44	8,390.00
Green Bay & Minnesota	78,430.00	10,096.00
Galena & Southern Wisconsin.....	1,721.00	320.00

*Estimated on basis of mileage.

DEBT.

The funded debt of companies reporting June 30, 1875—the Milwaukee, Lake Shore and Western, the Superior and St. Croix, the Chippewa Falls and Western, and the Wisconsin Central not being included—was \$75,629,360. The proportion of this debt belonging to Wisconsin, estimating that of the Chicago and Northwestern and Western Union, was, at the date above mentioned, \$39,266,288.52.

The total unfunded debt reported June 30, 1875—debt of Chicago and Northwestern, Milwaukee, Lake Shore and Western, Superior and St. Croix, Chippewa Falls and Western, and Wisconsin Central not included—was \$4,549,164.11. The total reported funded and unfunded debt was \$80,178,464.11. The total of stock and debt on June 30, 1875, was \$168,878,127.58.

A detailed statement of the stock and debt will be found in the tables on pages 178, 186, and 187 of accompanying Official Papers.

INTEREST.

The rate of interest payable on the bonded debt of our railroad companies is for the most part 7 per cent., the stronger companies of course, as a rule, paying the lower rate. The total amount drawing each of the several rates payable is shown in the following tabular statement:

Drawing 6 per cent., currency.....	\$122,000
Drawing 7 per cent., currency.....	35,816,000
Drawing 7 3-10 per cent., currency.....	1,315,000
Drawing 7 per cent., gold.....	31,939,000
Drawing 8 per cent., currency.....	6,091,000
Drawing 10 per cent., currency.....	565,000

The total amount of interest reported as paid during the year ending June 30, 1875, is \$4,565,249.34, of which \$1,981,273.49 was paid by the Chicago, Milwaukee & St. Paul company, and \$2,230,439.68 by the Chicago & Northwestern company.

During the year 1874, there were in the United States at one time, 122 roads in default for non-payment of interest, the amount of bonds on which such default had been made amounting to \$557,624,639. In that list of 122 there were 2 Wisconsin roads—the Milwaukee, Lake Shore and Western, and the Sheboygan and Fond du Lac.

The first-named company passed interest on a first-mortgage extension bond of \$694,000 in April, 1873, and in June of the same year defaulted on another first-mortgage bond amounting to \$750,000. In both of these cases settlements have been made with the bondholders without litigation, and the company goes on as before.

The Milwaukee, Lake Shore & Western Railroad Company defaulted in December, 1873, for non-payment of interest on a first-mortgage bond of \$3,500,000, and has since been unable to settle. As a consequence its road was sold on the 10th of last December, under a decree of foreclosure and sale issued October 12, 1875.

The road was bid in by a committee of bondholders. For an abstract of the records of the proceedings, see page 303 of Official Papers, etc.

In January, 1875, the West Wisconsin company defaulted on one first mortgage bond of \$3,900,000, and on a first mortgage extension bond of \$640,000; total \$4,540,000. Upon default being made, the company elected new officers, who have since been actively endeavoring to rescue the company from the dangers of foreclosure. The road appears to be managed with close economy, and hopes are entertained that it may recover its credit.

COST OF ROADS.

The total cost of the roads reported to the Secretary of State for the year 1874, and published in his report for 1875, was \$146,747,-251.88. But this statement does not include either the Milwaukee, Lake Shore & Western, the Wisconsin Valley, or the Madison & Portage Railroad. According to the reports made to the Commissioners, June 30, 1875, the Milwaukee Lake Shore & Western not reporting, the cost of all roads at that date was \$165,938,592, or \$34,038.-68 per mile.

The cost of road and equipment per mile, in detail, is shown below.

COMPANY.	Cost of road per mile. Total lines.	Cost of road per mile. in Wis.
Chicago, Milwaukee & St. Paul.....	\$39,062 60	\$43,385 00
Chicago and Northwestern.....	33,841 00	No report.
Galena & Southern Wisconsin (narrow guage).....	14,330 70	No report.
Green Bay & Minnesota.....	27,730 00	27,730 00
Mineral Point.....	22,180 00	No report.
Sheboygan & Fond du Lac.....	35,938 00	35,938 00
Western Union.....	37,533 00	No report.
Wisconsin Central.....	36,552 00	36,552 00
Wisconsin Valley.....	13,263 00	13,263 00

DOINGS IN TRANSPORTATION.

During the first portion of the year 1875 the unfavorableness of the season and the low price of cereals had the effect to reduce the amount of freight business done on our roads below the average of previous years. But the business of the whole year has undoubtedly been considerably above the amount done in 1874. We are not yet in full possession of the statistics needed to confirm this opinion, but such as have been gathered from various sources leave scarcely any room for doubt.

Writing in the month of August, the president of the Chicago & Northwestern Railroad Company says: "There is an improvement at the time of writing this report (report for year ending May 31, 1875,) in the traffic of the lines, the month of July showing an increase of about \$264,000 over the same month last year."

Again, in the December number of the *Commercial and Financial Chronicle and Hunts Merchants' Magazine*, the editor remarks:

"Railroad returns for November show the first general and decided increase in earnings that has been seen for many months past. Several of the most prominent roads given in the table below, show an increase in their gross receipts, compared with November, 1874, which is not merely nominal, but forms a considerable per centage of the whole amount. * * The leading western roads, Illinois Central, Northwestern, & St. Paul, are conspicuous for their large increase."

Train mileage.

The total number of miles run by freight and mixed trains on

the roads reported during the year ending June 30, 1875, was 10,555,970, the train mileage of the several roads being:

COMPANY.	Miles run by freight trains.
Chicago, Milwaukee & St. Paul.....	3,160,752
Chicago & Northwestern.....	6,378,271
Green Bay & Minnesota	110,405
Mineral Point	53,836
Sheboygan & Fond du Lac.....	53,361
Western Union	452,911
Wisconsin Central	295,874
Wisconsin Valley.....	50,560
Total.....	10,555,970

The total miles run by passenger trains during the same period was 4,323,930, as follows:

COMPANY.	Miles run by passenger trains.
Chicago, Milwaukee & St. Paul.....	1,063,316
Chicago & Northwestern.....	2,700,856
Green Bay & Minnesota	134,590
Sheboygan & Fond du Lac.....	28,697
Western Union	230,211
Wisconsin Central.....	140,329
Wisconsin Valley.....	45,931

The number of passengers carried

has steadily increased from year to year:

Whole number carried in 1873.....	3,963,039
Whole number carried in 1874.....	4,457,078
Whole number carried in 1874-5.....	4,628,507

For the year 1874-5 (ending June 30), no report was made by the West Wisconsin or Prairie du Chien and McGregor companies. Allowing them the same figures as in 1874, the total number for 1874-5 would be 4,775,767.

The number of passengers carried one mile

for the several years, 1873, 1874 and 1874-5, is reported by but three roads, to wit:

Company.	1873.	1874.	1874-5.
Chicago, Milwaukee & St. Paul...	52,252,558	58,260,429	53,847,931
Chicago & Northwestern.....	111,071,927	109,134,533	106,123,087
Western Union.....	5,369,786	5,862,049	5,820,730

As the dates at which the several reports were made up are not exactly the same, the comparison does not perfectly hold. It is apparent, however, that as the number of passengers carried on these roads in 1874-5 was greater than in the previous years, and the passenger mileage less, the length of journey has somewhat diminished. The total number of passengers carried one mile was 175,559,428.

Tonnage of the roads.

The number of tons moved in 1874-5 was 5,920,494; the West Wisconsin, and Milwaukee, Lake Shore and Western not being reported. The number moved in 1873 was 5,223,948, and in 1874, 5,019,388. Allowing the roads above-named their tonnage of 1874, the number of tons moved in 1874-5 was greater than in 1874 by 1,112,920 tons. Table XXXVIII will show the tonnage of each of the several roads.

The number of tons of freight carried one mile in 1874-5 is reported as having been, 760,850,158, of which 232,530,091 tons were moved by the Chicago, Milwaukee and St. Paul Company, and 454,546,468 tons by the Chicago and Northwestern Company.

The tonnage of different classes of freight for 1874 and 1874-5 will be seen in Tables IX, X, and XXII.

Force employed in doing the business.

The Chicago & Northwestern Company does not report the number of persons in its service. The total number reported by the other companies is 7,050; of which number 5,240 were in the employ of the Chicago, Milwaukee & St. Paul Company. The details as to kind of service will be found in Table XXIII.

GROSS EARNINGS OF THE ROADS.

The gross earnings on all the lines reported January 30, 1875,
2—R R C (Doc. 15)

estimating the Milwaukee, Lake Shore & Western Railroad the same as last year, amounts to \$23,387,400.23; of which the Chicago, Milwaukee & St. Paul road earned \$7,464,298.68, and the Chicago & Northwestern, \$12,597,094.61.*

The total earnings of the Wisconsin lines amounted to \$4,946,-687.26.

This is a decrease as compared with the earnings of 1874, of \$2,248,132.65 on the total lines operated, and of \$818,313.52 on the total business done in Wisconsin.

Of the \$23,387,400.23, gross earnings for 1874-5, \$15,771,268.10 was from freight, \$5,625,281.07 from passengers, and \$1,990,851.06 from other sources.

The passenger earnings of the Chicago, Milwaukee & St. Paul road in 1874 exceeded those of 1873, by \$74,468.55; while the passenger earnings of the Chicago & Northwestern for 1873 exceeded those of 1874 by \$82,874.03.

The receipts of the Chicago & Northwestern Company for the year ending May 31, 1875, as appears by their published report to stockholders, were as follows: From passengers \$3,205,059.68, or \$2,211.07 per mile of road exclusive of proprietary roads, to-wit, on 1,499.6 miles; from freight, \$3,837,823.49, or \$5,096.74 per mile; from express companies, \$268,284.46, or 185.08 per mile; from mails, \$264,459.93; or \$182.37 per mile; and from miscellaneous sources, \$132,094.55, or \$91.12 per mile; total, \$12,707,726.51, or \$8,766.38 per mile.

The comparative gross earnings, freight-earnings, and passenger earnings on the total lines reported, and on lines in Wisconsin, for the years 1873, 1874, and 1874-5 are given below:

Earnings.	1873.	1874.	1874-5.
Gross earnings, total lines...	\$26,039,195 60	*\$25,635,532 88	\$23,387,400 23
Gross earnings in Wisconsin.	11,408,579 43	*11,770,741 37	10,952,427 85
Freight earnings, total lines...	18,320,570 64	*17,765,910 80	15,771,268 10
Freight earnings in Wis.....	9,227,375 94	*9,037,871 99	8,300,470 09
Passenger earnings, total lines	6,199,031 64	6,146,329 94	5,625,281 07
Passenger earnings in Wis...	3,153,471 84	3,126,651 42	2,960,595 85

*The earnings of the Chicago & Northwestern Company in Wisconsin not reported, being set down the same as in 1874.

Total expenditures of 1874.

The total reported expenditures of all the companies, during the year ending December 31, 1874, were \$26,377,346.92, distributed as follows:

Repairs.....	\$4,189,709.53
Buildings.....	254,949.70
Engines.....	1,135,309.86
Cars.....	1,930,781.28
Fuel.....	2,202,973.60
Wages of employees.....	6,410,025.11
Salaries of officers.....	458,852.45
Taxes.....	802,907.48
New construction.....	2,449,815.67
Interest.....	4,935,937.13
Dividends.....	860,371.87
Rental of leased roads and other purposes.....	4,009,952.98

According to these returns, the expenditures for 1874 exceeded the receipts by \$1,341,814.04. Deducting from this amount \$860,-371.87, credited to the dividend account, but really paid in *bonds*, and the deficit amounted to \$481,442.17.

It will be observed, however, that in the above list of expenditures there is \$2,449,815.67 credited to the account of new construction. Deducting this amount also from the total of expenditures, and we have a balance of \$23,027,159.38, as the amount of expenditures allowed to be necessary. This gives a balance of \$2,-608,373.50 as the excess of earnings over expenditures for the year 1874.

Total expenditures of 1874-5.

The total expenditures by all the companies for the year ending June 30, 1875—the Milwaukee, Lake Shore and Western being allowed to stand the same as for the year 1874—amounted to \$15,-855,233.23; of which sum \$5,182,875.81 was expended by the Milwaukee & St. Paul company, and \$7,852,955.93 by the Chicago & Northwestern company. The average expenditures per mile of total lines were \$3,252.18.

The proportion of expenses chargeable to the Wisconsin lines not being reported by either the Chicago & Northwestern, the Ga-

lena & Southern Wisconsin, or the Western Union companies no attempt is made to report such proportion either in aggregate or per mile of road.

The operating expenses per train-mile for the year 1874-5 are given by the following companies only:

Chicago, Milwaukee & St. Paul.....	\$1.23
Green Bay & Minnesota.....	0.94
Mineral Point.....	2.33
Sheboygan & Fond du Lac.....	1.24
Western Union.....	1.13
Wisconsin Central.....	0.60½
Wisconsin Valley.....	0.74

The details of many other items of expenditure for several of the roads will be found in table XXXVI (comparative statistics,) page 214, Official Papers and Statistics. The failure of some one or more of the companies to report each particular item renders it impracticable to give all the aggregates and averages it was our intention to present.

Net earnings.

The total net earnings of the total lines (4,875.26 miles) reported for the year ending June 30, 1875, were \$8,066,723.03, or \$1,654.63 per mile. The total of net earnings to be credited to Wisconsin, as nearly as can be determined, was \$2,018,226.50, or \$786.61 per mile of Wisconsin road.

The average net earnings per mile (total mileage of 4,875.26 miles,) were \$0,00707; the average net earnings per passenger mile, \$0,0035. As the data for these calculations are not entirely complete, the figures given should be considered only a close approximation to the exact amount.

The per centage of net earnings, to gross earnings so commonly given in railway reports, requires to be taken with so much allowance that it is practically valueless as a test of economy. For, among others, the following are modifying circumstances:

The proportion of local to through business;

The amount of the business done, since certain expenses are fixed;

The cost of material and labor at the time of doing the business;

The accuracy of the yearly account of expenses, i. e. the care taken to charge to the account of each year what properly belongs to it;

Relative newness of the road used—a comparatively new road of necessity requiring much larger expenses to keep it in order;

And, whether there was occasion for extraordinary expenditures on account of unavoidable accidents.

As shown by the returns, the per centage of net earnings to gross earnings, for the year 1874-5, on all the lines operated was .346; the per centage of total net earnings to total reported cost, .048.

The earnings, expenses, and profits of the Milwaukee, Chicago and St. Paul Railroad for the years ending December 31, 1873, December 31, 1874, and June 30, 1875, respectively, as per reports of the company, to the Secretary of State and to the Railroad Commissioners, were as follows:

The earnings, expenses and profits of the Chicago, Milwaukee & St. Paul road for the years 1873, 1874, and the year ending June 30, 1875, as gathered from the returns to the Secretary of State and to the Railroad Commissioners, were as follows:

Particulars.	Calendar year 1873.	Calendar year 1874.	Year ending June 30, 1875.
Gross receipts, total lines	\$9,046,123 57	\$8,953,017 11	\$7,464,298 68
Gross earnings in Wisconsin.	5,975,044 72	5,588,925 56	4,835,682 89
Total earnings per mile of road.	6,536 22	6,399 58	.....
Earnings per mile of road in Wis.	.....	.....	7,271 70
Earnings from passengers.	1,837,196 43	1,933,664 98	1,777,777 54
Earnings from freight.	6,421,369 24	6,137,151 84	5,291,380 02
Total specified operating expenses	4,172,513 58	6,346,572 83	4,802,850 28
Taxes paid.	283,690 97	270,690 42	380,046 53
Total operating expenses and taxes.	4,456,204 55	6,617,263 15	5,182,876 81
Interest paid on bonds.	1,839,643 32	1,951,162 11	1,981,273 49
Expenses, including taxes and interest.	6,275,847 87	8,568,425 26	7,164,150 30
Average expenses per mile of r'd	855 86	1,258 84	3,704 70
Average expenses per mile of Wisconsin road. . . . .	.....	.....	4,925 94
Average price per ton per mile, for freight.	2 $\frac{5}{100}$ cents.	2 $\frac{3}{100}$ cents. . . . .	.....
Excess of earnings, total lines, over specified operating exp's.	4,873,609 99	2,606,444 28	2,661,468 40
Net earnings, taxes and interest counted with operating exp's.	2,750,275 70	384,581 85	300,148 37

The earnings, expenses and profits of the Chicago & Northwestern road for the years 1873, 1874, and the year ending June 30, 1875, as gathered from the returns to the Secretary of State and to the Railroad Commissioners, were as follows :

Particulars.	Calendar year 1873.	Calendar year 1874.	Year ending June 30, 1875.
Gross receipts, total lines...	\$14,044,425 25	\$13,361,690 46	\$12,597,094 61
Gross receipts in Wisconsin.....	2,962,563 18	3,559,526 93	.....
Earnings from passengers...	3,481,002 48	3,313,731 99	3,184,788 25
Earnings from freight.....	9,711,259 56	9,351,314 70	8,751,881 47
Total specified operating expenses.....	9,033,536 99	8,156,983 23	7,852,955 93
Taxes paid.....	342,095 57	419,712 88	372,810 77
Total operating expenses and taxes.....	9,375,632 56	8,566,696 11	8,225,766 70
Interest paid on bonds.....	738,400 74	2,266,095 13	2,112,932 58
Expenditures, including taxes and interest.....	10,114,033 30	10,832,711 24	10,338,698 28
Excess of earnings over specified operating expenses, total lines.....	5,010,888 26	5,204,707 23	4,744,138 68
Net earnings, taxes and interest counted with operating expenses.....	3,930,391 95	2,528,979 22	2,258,396 33

In view of the incompleteness of some of the data from which the foregoing calculations have been made, and the variable manner of reporting the operating expenses, by even the same company in different years, too much reliance should not be placed on the figures showing the comparative net earnings of these two companies for the years named ; and such must always be the case so long as there is no fixed and rigidly observed rule as to what shall be reported as such expenses. For example, the reports of the Chicago Milwaukee and St. Paul Company for the years 1873, 1874, and 1874-5 show a difference in one case amounting to over \$2,000,000, according to the report of the president, chiefly due to differences in the expenditures for steel and iron rail.

Assuming the correctness of the figures given, the per centages of net earnings of the Chicago, Milwaukee and St. Paul road to total stock, for the three years respectively, were: For 1873, about ten per cent.; for 1874, one and four-tenths per cent.; for 1874-5, one and one-tenth per cent.

Assuming, in like manner, the correctness of the returns of the Chicago and Northwestern Company, the per centages of the net

earnings of its road to total stock, for the three years in question, were: For 1873, about ten and eight-tenths per cent.; for 1874, seven per cent.; and for 1874-75, six and two-tenths per cent.

DIVIDENDS.

But two companies, the Chicago, Milwaukee & St. Paul, and the Chicago & Northwestern, are reported as having paid dividends for some years past, and neither of these paid any dividend last year. The amounts and rates per cent. paid by them in the years 1873 and 1874 were as follows:

Company.	Rate per cent.	In what.	1873.	1874.
Chicago, Milwaukee and St. Paul.				
On preferred stock.....	7	Cash	\$378,916 41	.....
On preferred stock.....	7	Bonds....	.....	\$860,000
Chicago and Northwestern.....				
On preferred stock.....	3½	Cash	753,219 96	.....

STOCKS AND BONDS.

As might have been anticipated, in view of the extreme depression in commercial affairs, and from the extravagant and reckless manner in which railroad building and management had been conducted for many years, the prices of railroad securities have also been greatly depressed. Many things had conspired to destroy all faith in railroad investments, so that, while the bonds of promising roads were a drug in the market, the bonds of new companies, however well organized, and how much soever the projected roads were needed, have commanded no purchasers. Indeed, public confidence had so far gone out of capitalists and people that the proposition to sell new stocks at any price was calculated to provoke ridicule.

This condition of things was aggravated in the first half of 1875 by quite a general decline in earnings, partly due to business depression generally and low prices of agricultural products, and partly to the activity of competition between roads, especially between the great trunk-lines connecting the West with the seaboard.

Railroad bonds, though considerably depressed, have in general, where well secured upon important roads, held the confidence of

owners to a good degree. Still they too have necessarily felt the influence of the numerous failures to pay interest when due, and have suffered correspondingly. They seem to have reached the lowest point in the early summer, and since that have gradually improved.

This has been the case with the bonds of our own most important roads, the quotations of which, as given by the *Commercial and Financial Chronicle*, together with the quotations of stocks of the Chicago, Milwaukee and St. Paul and the Chicago and Northwestern companies for the entire year just closed, are furnished herewith.

Prices of stocks of the Chicago, Milwaukee & St. Paul, and the Chicago & Northwestern Railway Companies, for each month in the year 1875.

STOCKS.	January.	February.	March.	April.	May.	June.
Chicago, Milwaukee & St. Paul.....	39 $\frac{1}{3}$ - 36	38 $\frac{1}{3}$ - 32 $\frac{1}{2}$	38 $\frac{5}{8}$ - 32 $\frac{1}{2}$	40 $\frac{1}{8}$ - 36 $\frac{3}{8}$	38 - 32	35 $\frac{1}{2}$ - 28 $\frac{5}{8}$
Chicago, Milwaukee and St. Paul, preferred.....	59 $\frac{3}{4}$ - 57	58 $\frac{1}{2}$ - 51 $\frac{1}{2}$	57 - 51	59 $\frac{7}{8}$ - 56 $\frac{1}{2}$	59 - 54 $\frac{1}{2}$	56 $\frac{1}{2}$ - 51 $\frac{1}{2}$
Chicago & Northwestern.....	48 $\frac{3}{8}$ - 43 $\frac{1}{2}$	47 $\frac{1}{8}$ - 39 $\frac{1}{4}$	46 $\frac{1}{2}$ - 38 $\frac{5}{8}$	45 $\frac{7}{8}$ - 41 $\frac{3}{8}$	42 $\frac{1}{4}$ - 37 $\frac{3}{8}$	41 $\frac{3}{4}$ - 34 $\frac{3}{4}$
Chicago & Northwestern, preferred.....	62 $\frac{3}{4}$ - 56 $\frac{3}{4}$	60 $\frac{1}{8}$ - 51 $\frac{1}{2}$	59 $\frac{1}{2}$ - 51 $\frac{1}{8}$	58 $\frac{1}{2}$ - 54	55 $\frac{1}{8}$ - 52 $\frac{3}{4}$	55 - 47 $\frac{1}{2}$

STOCKS.	July.	August.	September.	October.	November.	December.
Chicago, Milwaukee & St. Paul.....	37 $\frac{7}{8}$ - 33 $\frac{1}{8}$	39 - 35 $\frac{3}{4}$	37 $\frac{1}{8}$ - 33 $\frac{3}{4}$	35 $\frac{1}{2}$ - 29 $\frac{5}{8}$	37 $\frac{1}{2}$ - 34	36 $\frac{5}{8}$ - 33 $\frac{5}{8}$
Chicago, Milwaukee & St. Paul, preferred.....	61 $\frac{3}{4}$ - 55	65 $\frac{5}{8}$ - 58 $\frac{3}{4}$	64 $\frac{1}{2}$ - 61 $\frac{3}{4}$	63 $\frac{3}{4}$ - 58 $\frac{1}{4}$	67 $\frac{1}{8}$ - 62 $\frac{1}{2}$	67 $\frac{1}{4}$ - 64 $\frac{1}{2}$
Chicago & Northwestern.....	42 $\frac{1}{2}$ - 36 $\frac{1}{2}$	43 $\frac{1}{8}$ - 38 $\frac{1}{2}$	40 $\frac{1}{2}$ - 37 $\frac{3}{8}$	40 - 33 $\frac{3}{4}$	39 $\frac{7}{8}$ - 36 $\frac{1}{2}$	40 $\frac{1}{4}$ - 37 $\frac{7}{8}$
Chicago & Northwestern, preferred.....	56 $\frac{1}{8}$ - 49	59 $\frac{1}{8}$ - 54 $\frac{1}{4}$	55 $\frac{7}{8}$ - 52 $\frac{1}{2}$	54 $\frac{1}{2}$ - 46	55 - 51	56 $\frac{7}{8}$ - 53 $\frac{1}{8}$

STOCKS AND BONDS.

Prices of bonds of the Chicago, Milwaukee & St. Paul, and the Chicago & Northwestern Railway Companies, for each month in the year 1875.

BONDS.	January.	February.	March.	April.	May.	June.
CHICAGO & NORTHWESTERN.						
Sinking-fund.....	103 - 104	100 - 101½	100 - 103	103 - 105½	104 - 106	104 - 104
Interest bonds.....	100 - 100	99 - 100	97 - 97	100 - 102	99½ - 100	99 - 100
Coupons.....	90 - 91½	89 - 90	88¼ - 90¼	90 - 95	93¼ - 93¾	94½ - 95¼
Extension.....			85 - 85	85 - 95	90 - 90	90 - 90
First mortgage.....	99½ - 100	96½ - 98¼	96 - 97½	98 - 99	98 - 100	100½ - 101¾
Gold coupons.....	80¾ - 82¼	80⅓ - 82⅓	80¼ - 80½	84⅓ - 86⅓	85⅞ - 86¾	80⅓ - 82½
Gold, registered.....	82 - 82¼		82¼ - 82½	83 - 86	86¼ - 86½	79 - 79
MILWAUKEE & ST. PAUL.						
First-mortgage 8's, P. D.....	108½ - 109	104½ - 104½	105 - 107½	108 - 108¼	109¼ - 110	110 - 110
Second-mortgage 7 3-10, P. D.....	93 - 95½		87 - 90	90 - 91⅞	92¼ - 93⅞	90 - 90
Sevens, gold, W. D.....	80 - 84	82 - 84	80 - 83	80 - 86¼	84½ - 86½	85½ - 85½
First-mortgage, La C. Div.....	88 - 88¼	84½ - 87	85 - 86	85 - 87	87 - 90	89 - 91
First-mortgage, I. & M. D.....		75 - 77		74 - 75½	75½ - 80	80 - 80
First-mortgage, I. & D.....	72 - 77		70 - 71	76 - 76		
First-mortgage, H. & D.....	72 - 72	77 - 77	73⅓ - 74½	73¼ - 74		
First-mortgage, C. & M.....	80 - 82		81¼ - 81¼	81¼ - 83¼	83 - 84	
Consolidated sinking-fund.....	73⅞ - 74½	75 - 75	71 - 72¾	73 - 73¾	74 - 74½	74 - 74½
Second mortgage.....	76½ - 77	78 - 79	78 - 80	75 - 79	80 - 80	

Prices of bonds, &c.—Continued.

BONDS.	July.	August.	September.	October.	November.	December.
CHICAGO & NORTHWESTERN.						
Sinking-fund.....	104 - 104 $\frac{1}{2}$	102 $\frac{1}{4}$ - 105	106 - 107 $\frac{1}{2}$	107 - 108 $\frac{1}{2}$	105 - 105	104 $\frac{1}{2}$ - 105 $\frac{1}{2}$
Interest-bonds.....	99 - 100	100 - 102	105 - 105	100 $\frac{1}{2}$ - 102 $\frac{1}{2}$	99 - 99	100 - 101 $\frac{3}{4}$
Consols.....	95 $\frac{3}{4}$ - 97	96 $\frac{1}{2}$ - 98 $\frac{1}{2}$	98 - 98 $\frac{1}{2}$	95 - 97 $\frac{1}{2}$	95 - 97 $\frac{1}{2}$	98 - 99
Extension.....	90 - 90	90 - 90	90 - 90	90 - 90	90 - 90	90 - 90 $\frac{3}{4}$
First-mortgage.....	101 $\frac{1}{4}$ - 103 $\frac{1}{2}$	100 - 101	99 - 100	99 - 100	99 - 100	100 - 101 $\frac{1}{2}$
Gold coupons.....	81 $\frac{1}{4}$ - 85 $\frac{7}{8}$	87 $\frac{1}{4}$ - 88 $\frac{1}{4}$	87 $\frac{1}{2}$ - 88	85 $\frac{1}{2}$ - 87 $\frac{1}{3}$	88 - 89 $\frac{1}{2}$	84 $\frac{1}{4}$ - 85 $\frac{1}{2}$
Gold, registered.....	80 - 85 $\frac{1}{2}$	.....	85 $\frac{1}{4}$ - 87	84 $\frac{1}{2}$ - 87 $\frac{1}{4}$	.....	82 - 84 $\frac{1}{2}$
MILWAUKEE & ST. PAUL.						
First-mortgage 8's, P. D.....	112 - 112	107 - 107	108 - 110	109 - 112	110 $\frac{3}{4}$ - 112	112 - 115
Second-mortgage 7 3-10, P. D.....	90 - 90 $\frac{1}{2}$	88 - 92	90 - 92	90 - 91	92 $\frac{1}{2}$ - 93	93 $\frac{1}{2}$ - 95
Seven's, gold, W. D.....	81 - 86	87 - 87	87 - 88	90 - 90	87 - 90 $\frac{1}{2}$	90 $\frac{1}{2}$ - 92 $\frac{1}{2}$
First-mortgage, La C. Div.....	88 - 94 $\frac{1}{4}$	93 - 93 $\frac{7}{8}$	93 - 94 $\frac{1}{4}$	93 $\frac{1}{2}$ - 94 $\frac{1}{2}$	93 $\frac{3}{4}$ - 96 $\frac{1}{8}$	96 $\frac{1}{4}$ - 98 $\frac{1}{4}$
First-mortgage, I. & M. D.....	77 - 83	.....	82 $\frac{1}{2}$ - 82 $\frac{1}{2}$	79 - 81 $\frac{1}{2}$	82 - 84 $\frac{1}{2}$	84 - 85
First-mortgage, I. & D.....	81 - 81	83 - 83 $\frac{1}{2}$	83 - 83	.....	80 - 80 $\frac{1}{2}$	80 - 80 $\frac{7}{8}$
First-mortgage, H. & D.....	.....	83 $\frac{1}{2}$ - 83 $\frac{1}{2}$	77 - 77	.....	79 - 80 $\frac{1}{2}$	80 - 82
First-mortgage, C. & M.....	80 - 85	83 - 83	83 - 85	83 - 85	84 - 87	87 - 91 $\frac{5}{8}$
Consolidated sinking-fund.....	71 $\frac{3}{4}$ - 78	78 - 78 $\frac{3}{4}$	77 - 79 $\frac{1}{2}$	76 - 78	78 - 80 $\frac{3}{4}$	81 $\frac{1}{4}$ - 82 $\frac{1}{8}$
Second-mortgage.....	80 - 84 $\frac{1}{2}$	83 - 88	88 - 90	83 - 90	87 - 87	85 - 91

STOCKS AND BONDS.

RATES OF FARE AND FREIGHT.

In this connection it is proper to say something of the rates now nominally in force. We use the word "nominally" for the reason that, although the A companies, so far as we now know, have conformed to the law in this respect; the B companies are to a large extent indulged by the public in their interpretation of the intent of the Legislature, as shown in chapter 113, laws of 1875, to relieve them from the necessity of working under the restrictions put upon the rates imposed upon the roads in class A. It is certainly a fact, and the legislature should know it, that, as the matter now stands, the B companies are not rigidly held to the actual legal rates. They feel the need of the relief they asked, and as was supposed received, from the last legislature; and in the main the people have generously given them the benefit of the doubt, if doubt was entertained, of the adequacy of the legal rates, and so have not appealed to the State authorities for the enforcement of these rates.

Further on in this report, under the head of "Accounts" and "Reports," reasons will appear why it is still impossible for your Commissioners to determine the actual cost of transportation on our several roads. And until that can be done it is impossible to determine with certainty whether any particular rates not manifestly high would yield a revenue that would pay a reasonable profit on a fair valuation of the property invested.

It was our opinion a year ago, and it is our opinion now, that the traffic on the B roads is not at present sufficient to yield an adequate income with the rates of charges prescribed for the A roads, however careful the management. Their reported doings in transportation and their reported earnings demonstrate no such capacity, and there is nothing in the circumstances of their location and business to enforce an affirmative conclusion.

As to the A roads, there is not the same ground for a positive opinion. They are operated by powerful companies, have command already of an immense traffic which must steadily grow, and although now burdened by non-paying branches, those branches are feeders and must at an early day become not only self-supporting but remunerative lines.

What these great companies will be able to do in the future, if

their roads are skillfully and honestly managed, it is not difficult to predict. They will be able to operate with average rates even lower than the present, and pay handsome dividends from their net earnings. But until it can be shown that they are making larger earnings than are reasonable, caution should be used in imposing limitations upon their rates.

ACCIDENTS.

As shown by the returns made to the commissioners for the year ending June 30, 1875, the number and class of persons killed and injured on all the roads in 1874-5 were as follows :

Passengers killed.....	1
Passengers injured	6
Employees killed.....	13
Employees injured	108
Other persons killed.....	17
Other persons injured.....	24
Total of persons killed.....	31
Total of persons injured.....	138
Total of persons killed and injured.....	169

Average proportion of persons killed and injured to miles of road, one to 50.66 miles.

Average proportion of persons killed and injured to passenger-miles, 1 person to 1,038,813.18 miles traveled.

Average proportion of persons killed and injured to ton-miles, 1 person to 4,502,012.77 tons carried one mile.

The details will appear from Table XXXVII, page 216 of Official Papers, &c., and the particulars concerning the accidents from the several reports of companies.

Comparing the accidents for the last three years reported, the aggregates stand :

Accidents.	1873.	1874.	1874-5.
Passengers and others, not employees, killed	22	18	18
Employees killed.....	15	28	13
Passengers and others, not employees, injured.....	53	37	30
Employees injured.....	36	80	108
Total persons killed... ..	37	46	31
Total persons injured	89	117	138
Total killed and injured... ..	126	163	169

These figures indicate no improvement in the security of life and limb on the part of passengers, employees, or other persons, and suggest with urgency the importance of better provision than is commonly made to guard against accidents.

Records of accidents on all roads where coupling is done in the old way show that a large proportion of accidents and especially of deaths among employees result from this most hazardous way of connecting cars. Perhaps some provision of law increasing the pecuniary liability of companies not using every reasonable precaution in the interest of their employees, would have the effect to abolish this and some other causes of injury and death.

INSPECTION OF RAILROADS.

With the view of ascertaining more reliably the condition of the roads themselves, as well as a personal knowledge of their practical management, one of the Commissioners, and the same who more particularly performed that duty last year, has again passed over the various lines; traveling on both freight and passenger trains, carefully noting the condition of roadways, and stopping at many stations for the purpose of gaining information by means of personal interviews with the station-agents and other employees, and with patrons of the roads. The other Commissioners have in like manner passed over a number of the lines and made similar observations.

The result of this general inspection has been, in the main, increased satisfaction with the character and management of our roads. There are cases in which roads have been allowed to deteriorate, and some in which the want of proper accommodations, and even a lack of safety, has forced itself upon our attention. This is particularly true of one or two branches of the larger roads—as, for example, the Kenosha & Rockford—and of one or two independent lines, such as the West Wisconsin and the Sheboygan and Fond du Lac, which show considerable need of repairs not in progress.

But generally speaking, the Wisconsin roads compare reasonably well with the roads of any other Western State. As was remarked in our first report, they are ironed with rather light rail, as a rule, excepting the main lines of the two great roads, and are largely without a proper amount of ballast, or with none at all.

Some of the stations are yet wanting in accommodations for the traveling public, and here and there one finds a passenger-coach that should have been put upon the retired list years ago. But these same things are common in all the new States, and just now, in the case of some, there are financial reasons in the way of improvements the managers would be glad to make.

The Commissioners have noted some particulars as to condition of road and equipment that would demand correction did such matters fall within the scope of their duties.

The great lines are in fair condition and well equipped, so that they compare well with trunk lines in any portion of the West; indeed, with but very few exceptions, they will compare with the best roads at the East.

The general management of the lines is good and is manifestly improving. The officers in charge are men of marked ability, and manifest a desire to make their management satisfactory to the public. They have, without exception, treated the Commissioners with the utmost courtesy, and have at all times given respectful consideration to the matters officially brought to their notice.

Of this statement the Commissioners' correspondence, a portion of which is herewith submitted, will afford full corroboration.

THE PAPERS AND DOCUMENTS ACCOMPANYING THIS REPORT

are such as it was believed would be useful to the legislature and public as a means of affording a correct understanding not only of the condition and working of the railroads of the State, but also of the general questions relating to railway transportation and railway control.

The Official Papers, etc,

of the Commissioners consist of their official classification of roads and of rates of fare and freight, of the official returns made by railroad companies, and of tabulated statements of statistics and deductions from the returns made to the Commissioners.

Portions of the Commissioners' Correspondence

are again published, as a means of more correct information than could be otherwise furnished of the nature of the complaints made, of the opinions and sentiments entertained by complainants, of the

rulings of the Commissioners and the Attorney-General upon some important points of law, of the action of railroad officials in matters in which they were at issue with the public, and finally of the nature of the duties the Commissioners were called upon to discharge and the manner in which they have performed them.

It is not the purpose of the Commissioners to make publications of this kind in future reports.

Appendix "A"

consists of all railroad laws enacted in 1874, and 1875. There is frequent occasion to refer to these laws, on the part of the public, and they will be found convenient in connection with the report.

Appendix "B"

embraces—

1. A synopsis of the proceedings held by the Supreme Court of the State in the important case of the Attorney General *vs.* the West Wisconsin Railway; and,

2. A quite full record of the proceedings held by the Supreme Court of the United States in the several appealed cases of Frederick Piek, *et al*, bondholders, and of C. D. Lawrence, *et al*, stockholders in the Chicago & Northwestern Railroad Company *vs.* the Chicago & Northwestern Railway Company, the Railroad Commissioners, and the Attorney-General; also the cases of Ackley and Vilas *vs.* the Chicago, Milwaukee & St. Paul Railroad Company., and of the State of Wisconsin *vs.* L. D. Stone; together with the briefs and points of arguments submitted by the eminent counsel who conducted these suits (which were all tried together and argued in common) on behalf of both the plaintiffs and defendants in error.

This case, as printed, makes a somewhat voluminous document, which immediately upon the receipt of the opinion and decision of the court, to be also included, will be ready for distribution as a document accompanying the Commissioners' Report. The magnitude of the interests involved in the decision to be made, and the eminence of the counsel engaged were deemed by a majority of the Commissioners sufficient warrant for the fullness of that publication.

II.—THE GENERAL QUESTION.

In their first report your Commissioners devoted much space to a careful discussion of the general question of State control of railway corporations, demonstrating, as they believe:

- (1) The necessity for some degree of control;
- (2) The inexpediency, if not impracticability, of such measures as had been tried in many cases; and
- (3) Pointing out such general measures as to them seemed both practicable and judicious.

On the first of these heads we have almost nothing to add by way of argument. The *quasi* public character of railway corporations, now almost universally conceded, implies the right of the public to put upon them such restraints as experience has taught to be necessary to the public welfare. And accordingly the right to impose legislative restrictions has been affirmed and exercised, as was shown in our first report, by foreign governments in all parts of the world where the railroad has been introduced. It has also been asserted to a much greater extent in this country than the public are aware.

The following eighteen States have a *general law* reserving the power to the legislature to alter, amend, or repeal charters, or have been in the habit of reserving such power in the charters themselves: Massachusetts, Maine, New Hampshire, Vermont, Connecticut, New Jersey, Delaware, Pennsylvania, Maryland, Kentucky, Georgia, Alabama, Mississippi, Arkansas, Ohio, Indiana, Michigan, and Nebraska; while in the five following States the *constitution* reserves to the legislature the power to amend or repeal charters, namely, in New York, Wisconsin, Iowa, Kansas, Illinois, and Missouri. In still other States the right of supervision has been asserted and exercised by recent enactments, looking to the regulation of rates, and otherwise restraining railway corporations.

The right and even the expediency of a reasonable supervision is now conceded even by many of the ablest railroad managers of this and other countries.

In fact, it is coming to be everywhere recognized that the railway corporation, with its concentration of millions of capital, its extraordinary chartered privileges, and its natural, not to say inevitable, tendency to growth by absorption and consolidation, although immensely potent for the material and social progress of a

people, is also, if entirely unrestrained, an element of danger; that it has already acquired such power and influence as to be "practically beyond the common law obligation;" that "in our day the common carrier has encountered in England as well as in this country a new power, unknown to its founders, practically too strong for the ordinary private remedies."*

Even in those States where the rights of the people have not been secured by constitutional reservations or timely provision by general statutes, it is becoming a serious question whether the right to restrain the growing and threatening power of great corporations does not by virtue of their very nature, and by reason of the public necessity, inhere in the State. Nor is this discussion confined to that portion of the great public suffering from supposed or real grievances inflicted by the corporations. This opinion, so shadowy and ill defined in the public mind, is finding strong and logical utterance through able and distinguished jurists.

Says a forcible writer in the American Law Review, (vol. 8, page 191) in speaking of the Dartmouth College decision, that bulwork of corporate power, for so many years considered impregnable:

"Any decision in any ordinary case ought to stand; and when a decision has stood for fifty years, even to question it lightly and without sufficient consideration, is injurious and censurable, as tending to unsettle an entire system of jurisprudence. But constitutional decisions which take from the political department of government powers and prerogatives usually belonging to it, and which legislation cannot remedy, stand on a different footing from ordinary precedents involving questions of private rights. Fifty years is a short period in the history of a nation living under a constitution intended to be perpetual. The consequences of the Dartmouth College case are beginning to press heavily on great communities, and the pressure we believe, will increase rather than diminish. It involves questions of political power, political necessity, it may yet be of political safety, and the case will not be let alone, however wise it might be to do so."

Corporate power may never so far threaten the liberties of the people as to require the re-opening of this question in the Supreme Court of the United States; but if that condition of things should indeed come, then it is safe to assume that the decision of that court, made in the infancy of the nation, when the great *quasi* public corporations of the present not only had no existence but had

*Chief Justice Ryan. Opinion in case of the Attorney-General vs. the C. & N. W., and the C. M. & St. P. Ry. Co's., p. 43, Appendix to Commissioners' Report for 1874.

not yet been conceived of, will be so far modified as to afford such protection as shall be found just and necessary. For while it is a cardinal principle of our government that there shall be as little interference with the natural freedom of the citizen, whether in an individual or associate capacity, as is compatible with public security, it is a fundamental principle of all human governments that the great ends of government shall not fail—that the public safety shall be paramount.

Your Commissioners believe that in this, as in most matters of great public concern, there is safety in conservatism; but they cannot close their eyes to the existing facts, nor will they conceal the conviction that the present railroad controversy in this country will not, indeed cannot, cease until the public are, in general terms, satisfied with the conduct of railway corporations, or have found adequate protection for the public interests in new constitutional and statutory provisions. It is useless to undertake to contract the consideration of this subject to the limits of a single State. The conditions which govern in one locality must eventually govern in all. As judicial decisions are had, establishing the right of control, they will characterize legislative enactments. And if charters heretofore granted by State governments without reserving the power to alter, amend or repeal, are to be held irrevocable, other measures will be resorted to for the purpose of enforcing such prerogatives as cannot be surrendered by the people without a sacrifice of sovereignty. An illustration of this tendency is found in a provision of the new constitution of the State of Missouri, which reads as follows:

“SECTION 22. 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 provisions of this constitution applicable to railroads.”

Cases have arisen, and doubtless yet others will arise, in which communities, moved by a sense of injury, and yet wanting in a knowledge of proper remedies, have resorted and will resort to such means as subsequent events and a greater enlightenment will show to have been ill-chosen, perhaps prejudicial to both public and corporate interests. Still it cannot be denied that the American people have ever been distinguished for their love of justice and their moderation in dealing with the rights of others.

We think it unquestionable that justice is the aim of the public

in this controversy. Hitherto they have occasionally failed of the mark because have they contended with the darkness which has surrounded the whole subject of railway company transactions, and the business of railway transportation.

Let the railway companies on their part open their affairs to the clear light of heaven, and the State on its part, through competent and properly authorized agents, make a full and thorough investigation of the whole subject involved in the controversy, and the solution will be made without great difficulty, and to their mutual satisfaction as well as common advantage.

In the opinion of your Commissioners, such an investigation should have preceded all legislation putting arbitrary restrictions upon rates of fare and freight. The law of 1874 was a stroke in the dark. It might be far from just to say that it was prompted, as has been charged, by anything like a spirit of retaliation for the short-sighted and unwarrantable acts of railway corporations, but it is certain that the restrictions it imposed were based upon insufficient data. This was so manifest to all unprejudiced minds that the fact of its passage gave occasion for dissent from the friends of judicious restriction, and for effective denunciation from the corporations and all persons opposed to legislative interference. Moreover, by showing a degree of unreasonableness and unwarrantable haste, it has temporarily unsettled public confidence in the coolness and fair-mindedness of the American legislator, and thus affected to some extent the credit of our people in the great money markets of the world.

On the other hand, it is no less true that the railroad corporations and their over-zealous friends have in some cases largely contributed to the foreign distrust of American railroad securities by extraordinary misrepresentations of the character of the communities held responsible for restrictive legislation. Seeking to make the law obnoxious at home, they have compromised the character of a whole people abroad. The attempt has even been made to hold the few States in which there has been recent legislative restriction responsible for the depressed condition of the railroad interest in the whole country. Charges so unfounded have necessarily recoiled upon their authors and aggravated the evils from which they already suffered.

What is wanted now is an end to all misrepresentations on both sides, and an honest effort to get a right understanding of the issues involved, and an agreement upon the means best calculated to secure the manifest rights of the public without unnecessary interference with the freedom of the corporations.

It is upon this principle that your Commissioners have prosecuted their inquiries; seeking to determine the minimum of interference on the part of the State that would answer the demands of public security, rather than the maximum that could be imposed without absolute ruin to the corporations.

It was strictly in accord with this principle of action that their first report, was drafted, a reference to which will show, that in the suggestion and discussion of the methods of governmental interference they proceeded in logical order from the simplest to those more radical and sweeping, finally laying down, as the result of their inquiry, the following general conclusions:

"The only form of railway control likely to prove successful under present conditions, is the legislative, supplemented by direct supervision; the legislature laying down general rules of action, but leaving the application and enforcement of those rules to a commission. A judicious application of this method requires—

"1. A determination, by the commissioners, of the actual cash value of each railroad; such value not to be greater than the actual cost thereof, and the valuation subject to legislative revision.

"2. An annual determination of the gross and net earnings of each company, from the reports of companies, by actual inspection of books and affairs, and by all other practicable methods.

"3. A division of roads into two classes: the first class including all roads paying a reasonable compensation on valuation, and the second class including all other roads.

"4. A maximum of rates of fare and freight for roads ascertained to belong to the first class; such maximum being subject to legislative revision.

"5. No restriction of earnings upon roads of second class, except by way of remedying unjust discriminations.

"6. A prohibition of unjust discriminations and unreasonable or excessive rates on all roads; any person complaining of discrimination or extortionate charges having the right of appeal to the board of commissioners, under such rules as to evidence of facts as the commissioners may determine; the board determining the fact of discrimination on evidence and notice to both sides, and its conclusions to be *prima facie* evidence as to fact of discrimination, or of unreasonable charges.

"7. Additional police regulations, especially as to running connections and the passage of freight from one road to another.

"8. Limited power of the commissioners to require repair of

roads, improvement of roads of rolling stock, and increased accommodations for passenger travel.

"9. Full and complete publicity of rates of fare and freight.

"10. Publicity of all important contracts and agreements between railway companies, and of their business transactions generally.

"11. Greater uniformity and completeness of accounts, as well as greater fullness and frequency of reports.

"12. Adequate penalties for the falsification or concealment of earnings and expenditures, or other facts.

"13. Efficient means for the prompt enforcement of all provisions of the law, at the expense of the State."

It is proper for us to add that that report, with the conclusions embraced, was a carefully considered statement of the results of much observation of railways and railway management in this country and in all the countries of Europe, supplemented by a year's laborious official investigation.

RESULTS OF PUBLIC INQUIRY.

It is worthy of note in connection with the reiteration of these conclusions, announced a year ago, that almost every where, the public judgment is pointing in the same general direction—towards moderation and due caution in dealing with the complex question of railway transportation so as to promote the best interests of both people and corporations. People and governments are beginning to appreciate the wisdom of moving slowly and carefully in a matter of so great importance.

RECENT ACTION OF STATES.

Missouri.

Missouri has recently taken extreme ground, committing the mistakes of Illinois, Minnesota and Wisconsin, by enacting a law in advance of sufficient data, prescribing rates of fare and freight quite identical with those fixed by the "Potter-law," and imposing like penalties. The law also provides for the appointment and subsequent election of three commissioners, the full term of office being six years.

Besides the duties imposed upon the board by the laws of this State, the commissioners are to examine the roads as often as they deem necessary. If they judge any part of a road unsafe, they may order repairs and require reduced speed of trains. A refusal to

make repairs ordered, to be punished by fine and imprisonment, and in case of accident to life or limb in such event, the superintendent, conductor and engineer shall be deemed guilty of felony. The commissioners can also order the running of passenger trains to be stopped.

The commissioners are required to make annual reports on August 1st of each year, which shall include the amount of stock subscribed and paid in, and the name, residence and holding of each stockholder; funded and floating debt, and assets; estimated value of property; length of all tracks laid; tonnage of through and local freight; monthly passenger and freight earnings; train-expenses; total expenses of working the roads, and salaries of all officers in detail; locomotive-expenses, repairs and maintenance; cost of improvements; passenger rates; freight tariffs; instructions to agents; names of express and transportation companies, terms granted to them and kind of business done by them; running arrangements with other roads; and answers to any other questions the commissioners may require.

In Virginia,

an amendment was made to the existing law by the last legislature, providing that no railroad, canal, steamship, or other transportation company shall charge a greater sum for the transportation of any passenger or freight over a portion of its line or route, whether such shall, in whole or in part, lie within the limits of the State of Virginia, than is charged by such company for the transportation of the like class of passengers or freight over the entire length of its line. No company is allowed to charge any higher rate for passengers or freight going over its line from any place in Virginia to any place outside, than is charged for the same class of business within the State. So, likewise, no higher rates can be charged on business coming from without the State to any point within it than is charged on business passing through the State, and no company or common carrier shall allow through-tickets or through-baggage-checks to be issued over its line by any company or transportation line, its agents or agencies, not incorporated by the State of Virginia, which company or line shall refuse or inhibit by any means any other such company or transportation line incorporated by the State the privilege of issuing by its own local agents and

such agents or agencies as it may establish in any city or elsewhere, through tickets and baggage-checks over such company's road or transportation line, not incorporated by Virginia. It also prohibits all discrimination between individuals, and fixes a penalty of \$500 for a first violation of the law, and of \$5,000 dollars for any succeeding violation, to be recovered in any court of record. An injunction can also be issued by a circuit court to prevent repetition of any of the acts forbidden.

So far as we know, these two States afford the only instances of extreme legislation in this or in foreign countries during the past year.

In the Kentucky and Tennessee Legislatures,

somewhat radical measures were introduced, but the hearing of competent and influential experts in railroad matters, and the careful inquiries of liberal and conservative committees were sufficient to prevent their passage.

Minnesota has retraced her steps,

repealing the law of 1874, and by her last legislature enacting a new law, providing for a single commissioner, as in Ohio and Michigan, but with less authority than is possessed by the commissioner for Michigan—in fact with advisory powers mainly, such as are possessed by the Massachusetts board.

RECENT ACTION IN FOREIGN COUNTRIES.

In Great Britain,

there is general approval of the newly adopted method of government supervision by a board of three railway commissioners.

The origin of this board, as well as the policy of the English government in respect to railways, and the scope of the act of 1854 as amended, will be best understood from the opening remarks of the commissioners in their first report, submitted in August, 1874, but not received at the date of our own first report. They say:

“The powers of railway companies and their liabilities and duties are derived partly from special acts of parliament, and partly from general railway acts, and if companies go beyond their powers, or fail in the performance of their duties, not only are there the ordi-

nary remedies for such individuals as may be aggrieved, but the public also can interfere concerning the excess or non-compliance, of the acts 7 and 8, Vict. C., 85, authorizing the board of trade, on behalf of the public, to institute legal proceeding, in such cases."

"The act of 1854 is one of the general railway acts. It was passed to prevent favoritism on the part of railway companies as carriers, and requires that the terms upon which they carry shall be the same for all. It was passed also that railways might afford all the accommodation to the public of which they are capable, and requires that every railway company shall forward traffic with all reasonable facilities, and that where railways owned by different companies are conterminous and form a continuous line such companies shall use their utmost diligence in sending through traffic over their respective routes.

"The act provides, as the means of carrying out these purposes, that the board of trade, or any person interested, may bring a complaint against a company for contravening them, and may obtain an injunction enforceable by attachment and a penalty not exceeding 200 pounds a day, to prevent the contravention from being continued or repeated; and it also specifies as to the courts which are to entertain the complaints and to issue the injunctions the Common Pleas in England, the Court of Session in Scotland, and any of the superior courts in Dublin.

"It is as to the courts entrusted with the administration of that act, and to be resorted to for enforcing its provisions, that that act has been amended by the act of 1873, which, after providing for the appointment, by your Majesty, of three railway commissioners, directs that the jurisdiction conferred by the 17th and 18th Vict., C. 31, in the courts therein specified, shall cease to be exercised by them, and shall be exercised by three railway commissioners, together or separately, instead."

More specifically, these commissioners have:

First. The powers with respect to the approval of working arrangements between railway companies, and with respect to the exercise by such companies of those powers in relation to steam vessels, which were formerly exercised by the Board of Trade.

Second. Authority to hear and determine the matter of any complaint that may be made or referred to them of violations of the railway and canal traffic act as amended in 1873, having for such purpose the jurisdiction conferred by that act on the several courts and judges empowered to hear and determine complaints under it.

Third. Except in certain cases to hear and determine matters under the railway and canal traffic act, of the nature of differences between transportation companies which under the provisions of any general or special act are required or authorized to be referred to arbitration.

Fourth. Under prescribed limitations, to determine and apportion the through rates chargeable on freights forwarded over two or more lines.

Fifth. To hear and determine any question or dispute that may arise with respect to the terminal charges of any railway company when such charges have not been fixed by an act of Parliament, as also to prescribe what shall be paid for loading, unloading, delivering, and other like services.

Sixth. To enforce the law as to the publication of all rates of transportation, etc.

The act also provides that the commissioners may, with the sanction of the Treasury, call to their aid any necessary number of experts of engineering or other technical knowledge, and appoint such officers and clerks as they deem proper.

It is further provided that for the purposes of the act in question the commissioners shall have "full power to decide all questions, whether of law or of fact," and shall also have the following powers, that is to say :

"a. They may, by themselves, or by any person appointed by them to prosecute an inquiry, enter and inspect any place or building, being the property or under the control of any railway or canal company, the entry or inspection of which appears to them requisite;

"b. They may require the attendance of all such persons as they think fit to call before them and examine, and may require answers or returns to such inquiries as they think fit to make;

"c. They may require the production of all books, papers and documents relating to the matters before them;

"d. They may administer an oath;

"e. They may, when sitting in court, punish for contempt in like manner as if they were a court of record."

It is also provided that the commissioners may "make such general orders from time to time as may be requisite for the regulation of proceedings before them;" that such orders may be made a rule or order of any superior court, to be enforced in the manner prescribed in the act or in like manner as any rule or order of such court; and that, at the instance of any party to proceedings before them, and upon such security as they may direct, they may state a case in writing for the opinion of any superior court by them determined, upon any question which in the opinion of the commissioners is a question of law, and without allowing a stay upon any

decision or order by themselves made, pending the decision of any such appeal.

The working of this law appears to give general satisfaction. The first and second reports of the commission, now before us, show that its chief labors have been in settling difficulties between railway companies; though it has also heard and adjusted some complaints of shippers against carriers. The service rendered by it in these cases is highly appreciated by the companies themselves and by the public, as will appear from numerous comments thereon by the English press.

In confirmation we quote from the last published volume of Bradshaw's Railway Manual:

“Contributing to the same desirable end of economy consequent upon peace with neighbors, the new railway and canal commission promises to operate with more than anticipated potency. An interest which has grown up, as it were, bit by bit, and under the provisions of the various acts of parliament, and of numerous internecine agreements enacted at different times, the provisions of which are often found to be contradictory and irreconcilable one with another, is necessarily liable to occasional differences. In theory, the courts of law are open to disputants in such cases, but we all know how expensive and dilatory the process is found to be. The want of a tribunal with summary jurisdiction to determine questions as to the rights of railways between each other, and as between railways and the public, with the least possible delay, and at the least possible expense, was all but universally admitted. Such a tribunal we have in the railway commissioners, and so effectually has it up to the present time, performed its work, that the government board, (the board of trade,) at whose instance it was established, and by whom its members were selected, will be accorded credit by railway share holders, as well as by the public, for this measure, whatever may have been its short comings in other respects.”

The German government

has lately appointed a Commission of Inquiry on Railroads, consisting of nine members, with instructions to acquaint themselves by the examination of experts and by every other means in their power, with the subject of railway transportation, and as early as

practicable to submit a system of railway regulations for the empire. The commission is now in the midst of its labors, having adopted as general principles that the system shall be uniform for all Germany, and that the tariffs they are authorized to prepare, shall be general maximum tariffs, the railroads being given a perfectly free movement, both in increasing and decreasing their rates, within the maximum. In order to secure proper stability to these tariffs, and to guarantee the practical execution of the principles adopted, the inspection of all the tariffs by a central officer, with assistance from railroad experts, and the absolute publicity of the tariffs, is declared to be necessary.*

In Austria,

a step in the advance has been taken by the creation, at Vienna, of a Railroad Tribunal, for the hearing and adjusting of complaints, whether from companies or from individuals. It consists of twenty-four members, one-half appointed by the Chamber of Commerce and one-half by the railroad companies, and is to decide cases arising in freight transportation where the sum involved does not exceed \$250, though cases involving larger sums may be submitted to it by mutual consent. Cases pending in a circuit court may be transferred to this tribunal only by mutual consent, and *vice versa*. Five members form a court for the hearing and determination of causes. This court is bound by the requirements of the civil law and the working railroad regulations at the time in force, but not by legal forms and rules of evidence.

In foreign countries other than those named,

there have been no recent changes in the relations of the state to railway transportation, so far as we have been able to learn.

Enough has appeared from the foregoing account to establish the correctness of the statement with which we set out, namely, that the present tendency almost everywhere is to conservative action—to the enactment of laws “broad and general in character, compelling observance of established principles, rather than imposing regulations for all the details of practical operations.”†

* Railway Gazette, p. 501.

†First Report of this Commission, p. 137.

THE ACTION OF RAILROAD MANAGERS AFFORDS ENCOURAGEMENT.

However injurious the first effects of the extreme legislation upon railroad matters in this and in other States, it is now beginning to be apparent that much ultimate good will come of it in the way of increased interest in the general subject, on the part of the public, and of an awakening on the part of railway managers everywhere to the importance of close economy in the construction and operation of their roads, as well as to the growing necessity for such scrupulousness of conduct in all their transactions as will bear the test of both private and official scrutiny.

RAILWAY COMPANY ASSOCIATIONS.

Many of the evils of railway management have grown out of the conflict of interests, real or imaginary, between railroad companies. Where the traffic naturally falling to a company is unequal to its full capacity such company will of course seek to monopolize as much as possible of what as naturally belongs to others. The competition thus engendered, up to a certain point, is beneficial both to competing companies and to the public. For while the former are stimulated to extraordinary activity and to the adoption of measures of greater economy, the public, as a consequence, will have better facilities and accommodations, as well as lower rates.

But when the spirit of honorable rivalry degenerates, as it often does, into a reckless greed of business, regardless of whether it involves profit or loss, and especially when it engenders those bitter animosities which lead one company to seek the destruction of another at the peril of its own continued existence, then it is that competition becomes most injurious to all parties concerned. The public may reap a temporary advantage, but only at the sacrifice of a corresponding loss at another time, and the general disadvantage growing out of unnatural excitements and frequent fluctuations in the prices of transportation; while the railways which are parties to the contest suffer, first, the pecuniary loss consequent on doing business at less than a fair price, perhaps at rates far below cost; secondly, the great disadvantage of a demoralization of their own officers and employees; and, thirdly, that loss of confidence, on the part of owners and holders of their securities which must result from the frequent occurrence of struggles of this sort.

In view of these considerations, it is a hopeful fact that railway corporations, both in this country and in some of the countries of continental Europe, following the English example in establishing a "railway clearing system," are moving in the formation of associations, more or less comprehensive in the field of their influence, with this very object, among others, of bringing their several corporate members into relations of common accountability and harmonious co-operation.

Southern Railway and Steamship Association.

It is perhaps too early to speak with safety of this new organization. It is a fact, however, that it originated in a felt necessity on the part of crippled southern railroad companies to save themselves from a condition of things like that above described; that its declared object is to bring about an amicable settlement of differences between the various railroad companies which may become members of the association, more especially in so far as such differences relate to competitive traffic; and that the leadership of the movement and the practical management of the affairs of the association have been entrusted to a gentleman whose knowledge, ability and uprightness are not likely to be questioned.

The Union of German Railroad Managements

is a kindred, yet different organization; its main object being, first, to facilitate business arrangements between the companies included in its membership; and, secondly, to advance the science and art of railway construction and management. It embraces nearly all the managements in Germany and Austria, and in some other countries adjoining, with authority to demand answers to any questions it may put to any of its corporate members, and with a "Technical Commission" of eighteen men distinguished for their scientific attainments as well as for their practical mastery of railway affairs, to conduct the investigations of the Union, and to publish the result of its combined labors. It cannot fail of rendering immense service in the solution of the numerous railway problems too long neglected by the great body of railroad corporations in all countries.

Associations of engineers, master-mechanics, car-builders, and others.

It is also deserving of notice in this connection that associa-

tions of professional engineers, skilled mechanics, and masters of transportation in every department of railroad construction and management are forming organizations in all parts of the world, with the two-fold object of protecting the interests of their several professions or crafts, and of contributing to the progress of those very arts on which economical transportation must of necessity be based.

The present agitation of the question of cheap transportation, and of state interference with transportation companies to that end, has had the effect to quicken all such associations to unwonted activity.

Individual experts and investigators

are also at work as never before; seeking for the means of cheapening the cost of transportation, as well as for reliable data for framing tariffs of rates at once just to the public and reasonably profitable to railroad companies. Of such are Mr. Albert Fink, Vice President and General Superintendent of the Louisville, Nashville, and Great Southern Railroad; Mr. O. Chanute, Consulting Engineer to the Erie Railway Company, and doubtless many others less well known to this commission.

The conscientious pains-taking labors of such men are of incalculable value. They have already done something to reduce railway management to a scientific system, as well as to satisfy a clamorous public of its own almost total ignorance of the extremely complex and difficult subject of railroad transportation. They have also discovered the important fact that the pretensions often made by practical railway managers to exact knowledge of the justice and equality of their tariffs are without proper foundation; that even the most thorough railway expert, after using his utmost skill is obliged, in the settlement of some questions, to resort to a carefully devised system of averages; and that tariff-making is but seldom done in a very accurate and scientific manner.

THE FINAL RESULT OF ALL THESE INVESTIGATIONS

of railway commissioners, associations, and individual experts, will be the establishment of principles having universal acceptance, and the formulation of such definite rules as will wholly supplant the *system of guessing* at present in use even among some of the ablest railroad men of this and other countries.

THE RESULT OF FURTHER INVESTIGATIONS BY THE COMMISSION, carried on in like manner—and including extensive travels by one of the Commissioners in thirty-one of the States, with numerous interviews with eminent engineers and skillful railway managers in all parts of the country—has been, in general terms, the fullest confirmation of the opinions announced in their report for 1874.

We then declared against legislative interference with details relating to tariffs for the reason that, in the present state of general knowledge on this subject, such legislation must of necessity be clumsy, inaccurate and more or less unjust; that there are too many elements, intricacies and modifying circumstances belonging to the business of railway transportation to admit, at least for the present, of direct legislative regulation of rates. We believed that to be a task for experts, one that could not now be safely undertaken by any legislative body, and were not surprised to find such to be the judgment of nearly or quite every commission of inquiry that has ever examined the subject.

EVEN WHERE BUT A SINGLE RAILROAD IS CONCERNED,

the problem of rates is so difficult that even the most experienced masters of transportation often confess to being in doubt as to the equality and fairness of the rates they have adopted.

Cost is a basis in all cases.

We must first know, in any given case, what what will be the actual cost as near as may be of doing the business before we can determine what rates will pay a fair profit on the average amount of business. But just there lies the difficulty. The cost is in the very nature of things variable, as will be manifest upon a little reflection. For example,

Cost varies with the climate and soil.

The cost of operating a railroad in a mild and dry climate, where damage seldom comes from sudden extremes of heat and cold or from violent storms of rain, would not compare, of course, other things being equal, with the cost of operating one under the opposite condition of things—where extremes follow each other in quick succession, where frost and flood are often at their destructive work.

Cost of repairs, which has much to do with cost of transportation, depends, in like manner, to a considerable extent upon the character of the soil of which the road-bed is formed.

So, likewise,

Cost varies with the seasons.

In no portion of our country, perhaps, is this more patent to every observer than here in Wisconsin. During our beautiful summers and magnificent autumns, railroading is ordinarily as inexpensive as anywhere, so far as climate goes. But when winter comes, with its sudden cold, and occasional changes of temperature of 40 to 50° Fahrenheit in a few hours, and with its snow-drifts, impeding the movement of trains at times for days together, the profits of an autumn's work are badly eaten into.

Cost also varies with the times.

It is manifest that when times are hard, and prices of all material consumed, as well as the prices of all kinds of labor, are low, the operating expenses of a railway are correspondingly diminished. This is remarkably illustrated at the present by the almost universal diminution of such expenses, as compared with a few years since. Moreover, since the hardness of the times has also the effect to depress the industries of a country and render them less productive in the aggregate, it also has the effect to increase the economy of management, and so diminish the expenses common to more prosperous times.

Relative cost varies with the productiveness of the year.

When agriculture produces great crops, for example, so that a railroad employed in moving them is crowded with traffic, the operating expenses, other circumstances remaining the same, will be a less per cent. of the total earnings than during an unproductive year, wherein the income is proportionally lessened, while the fixed expenses, which constitute a large share of the whole, remain the same.

A like variation will be liable to follow the success or failure of foreign crops, as well, where they exert any considerable influence upon the great markets for breadstuffs, since this fact may determine the rapidity or regularity with which the road in question may be called upon for transportation service.

Cost also varies with the length of haul.

The expenses are the same for receiving or delivering goods, whether the length of haul be ten miles, or one hundred, or one thousand. It has been shown, for example, that the Massachusetts roads, with an average haul of 49 miles, have an expense per ton 30 per cent. greater than the Illinois Central with an average haul of 142 miles, although the Massachusetts tonnage of miles (tons carried one mile) was 560,000,000 and that of the Illinois Central railroad only half that amount. So that, when an estimate is made of the rates that may be charged upon any road, the average haul must be considered.

This length of haul may be determined by the length of road in one case principally, and in another by the proportion of through business to the local or way business. For a road but fifty miles long, so situated as to be a connecting link in a trunk line doing a through business chiefly, might show an average length of haul greater than a road of a hundred miles long doing a business almost exclusively between stations on its own line.

Cost varies according as there may or may not be loads both ways.

This element in the calculation of cost of transportation, although one of the most important, is often quite entirely overlooked. And yet what can be more apparent, on a moment's reflection, than that a road extending into a new section of country, with only a population exclusively productive and barely large enough to supply the road with out-freight in the form of lumber, mineral or other products of their industry, would have to run its trains one way comparatively empty? The difference in the results of operation between such a road and one having loaded trains both ways might, and very often is, the difference between a handsome profit on the investment and an accumulation of deficits ending in bankruptcy. Says a competent engineer, "in some cases the charges might be reduced one-half, if cars could be loaded both ways." The *fixed* expenses remain, whether trains run loaded or empty. The only increase of cost in running loaded trains is in a slight increase of fuel, wear of track, and expense of handling the freight. The running of the train being a necessity, the receipts on the freight it carries are almost a clear gain. On the other hand, the running

of an empty train is not simply at the loss of what the company might have received had the train been loaded, but at an absolute loss of the expense of running it.

Cost varies with uniformity of freights in kind, and with terminal facilities.

A freight business of one uniform kind, or confined to a few principal articles, involves less expensive preparation for handling, and less cost of service in handling than a miscellaneous business. It is no less apparent that the cost of doing a business must depend to some extent on terminal facilities. And whether these are good, or are capable of being made so without great expense, must be considered in calculating rates.

Finally,

The cost of the road itself must vary the chargeable rate.

Rates that would yield a fair return on an investment of \$25,000 per mile of road would prove the early ruin of a road the cost of which was \$50,000. Indeed it is plain that in such case the earnings of the road costing \$50,000 must be twice as much as the earnings of the cheaper road in order to yield the same amount of returns per cent.

Commenting on this question of cost in a general way, a distinguished authority* on matters of transportation, says:

“The great difference in cost referred to in this report occurs in the average cost per ton-mile of transportation during the period of a whole year; but there is still greater difference in the cost of transportation of one ton one mile on the same road, varying with the conditions under which the service is performed, according to the length of train, the quantities in which freight is transported, and whether the freight is carried in cars that would have to return empty or in special trains. I have mentioned that according to these and other conditions *it may cost one-seventh of a cent only in some cases, and seventy-three cents in others, to transport one ton of freight one mile.*”

WHERE SEVERAL ROADS ARE INVOLVED,

the difficulty of determining cost and proper rates of transporta-

* Mr. Albert Fink, Vice President and General Superintendent Louisville & Nashville and G. S. R. R., Report of 1873-74, p. 53.

tion applicable to all roads in common, or to classes of roads however carefully grouped, is so far increased that it may be considered practically insurmountable.

Let us glance at some of the elements which increase the complexity of the problem.

Difference in necessary cost of roads.

It is true, as was pointed out in our first report, that the high reported cost of many roads is attributable to incapacity, recklessness or fraud in their construction, and that the interest on all amounts over and above honest cost or a fair valuation, is not justly chargeable to the public in the form of increased rates of transportation. But, throwing out the elements of fraud and mismanagement, it will require no argument to show that the cost of roads built at different times, or in different sections of country, must be various. Two roads, one built in a hilly or mountainous country far from supplies, with a necessity for much excavation, numerous bridges, and a large amount of masonry, and the other built across a smooth prairie, and at the very gates of a commercial city supplying material of every sort at the minimum cost, will illustrate the two extremes of necessary cost of construction under different conditions of locality; while the variable condition of the money market, and hence the different amounts that must be discounted in negotiating securities, will suggest yet other elements of difference in the necessary cost of roads constructed at different periods, or in different localities, as well as the consequent necessity for rates of transportation somewhat proportioned to the interest accounts of the various roads constituting a system.

These circumstances constitute one general element of the problem relative to cost of transportation.

Next after cost of road, comes cost of doing the business,

separately considered. Up to this point the problem is simple enough. If actual cost of road equipment cannot be reached, the difference in value may be estimated. But the expense of operation, depending on a multitude of considerations, as already shown in discussing the rates justly charged on a single road, is a very different matter. Among the differing elements we have—

1. *Maintenance of roadway, bridges, and buildings, and the force of men necessary thereto;*

including: Adjustment of track, ballast, ditching, culverts; repairs occasioned by accidents to road—all more or less differing in cost according to soil, climate, conditions, etc.—repairs of cattle-guards, hand and dump cars; repairs of road-tools; replacement of ties; expense of running repair trains; bridge repairs; shop-building repairs; water-station repairs; road and bridge watchmen, etc.

2. *Station repairs;*

including: Repairs of stations and depots, according to their number and extent as compared with earnings; labor of loading and unloading freight; general station expenses, in so far as they are variable elements.

3. *Movement expenses;*

depending on: Climatic interference; road characteristics, especially such as curvatures and gradients; proportion of passenger to freight business; general character of freight as to uniformity or diversity; amount of business as compared with cost of road and unavoidable operating expenses; length of haul, and direction of haul; also, various items relating to repairs of track, locomotives and rolling stock, and to economy of working force.

A striking illustration of the views here presented is found in the case of the Louisville, Nashville and Great Southern Railway. This road consists of a main stem and six branches, and has a total mileage of some 900 miles, constructed under a variety of circumstances, and for the accommodation of portions of the southern country quite different in the amount and kind of business furnished. It is one of the few roads in the country, if not the only one, in which the account with each branch is so systematically, fully, minutely and accurately kept that the officers can make a just comparison of the actual cost in detail of the business done on the several lines.

According to the last report of the able general superintendent—Mr. Albert Fink, to whom reference has already been made,—“the variation in the real cost per ton mile is from 1.78 cents on the main stem, to 19.09 cents on the Glasgow branch.”

The work performed—viz., the movement of one ton of freight one mile—in these two cases was precisely the same, and yet the cost of doing it was ten times greater on the branch than on the main line.

COST OF TRANSPORTATION NOT THE ONLY BASIS FOR THE CONSTRUCTION OF A JUST TARIFF.

It thus appears, (1) that the real cost of carrying freight varies widely on a given road, according to many conditions; so that it requires great skill to determine a just scale of fixed rates; and (2) that diversity of roads immensely increases the difficulty.

But it sometimes happens that the cost of carrying freight is considerably more than a particular kind of freight will warrant.

By "cost" is here meant the average cost per ton per mile for carrying; each ton carried bearing its proportion. For instance, it might occur that a given product, at a particular point, considering the price it would command in the distant market and the insufficiency of its amount in order to profitable handling, could not afford to pay its full share of the earnings in aggregate, which the road must have—in other words would not warrant transportation at full rates.

It is customary, in such cases, where the development of the country and the future success of the road demands concessions in the interest of new enterprises, to make a rate below the ordinary and otherwise sufficiently low rate. With the railroad company, it is a question of something or nothing. Hence, tariffs cannot be based on the proper cost of transportation alone.

THE REMAINING ELEMENTS

are purely commercial, and hence even more incalculable in advance than the material condition heretofore considered. Briefly stated, they are—

1. The worth of the service to the shipper.

If a greater charge should be made for carrying than the difference in values at the home market, the freight could not be shipped at all. The question of rates, then, is, to a good extent, a question of market values—a question the answer to which must vary with every considerable change in the prices current.

2. *The element of competition.*

This is an element which, as shown in our first report, was, at the beginning of railroad-building, greatly over-estimated, but which appears to us now to have been of late underrated. With the extensive net-work now covering this country, competition would indeed be a potent influence, if absorptions, combinations, and consolidations were prevented. As it is, the influence it exerts is very considerable. Of this statement the experience of the past season affords good confirmation; the struggle between the great trunk-line companies between the West and the seaboard having, as is credibly asserted, reduced the rates below the average proper cost of carrying.

Added to this competition between trunk railroad lines, there was energy of competition between water lines and between all water lines and the railroads bidding for the same freights. To such a degree was this carried during the first half of the summer that the lake and canal rates went down to a point they had never reached before, and below what had been supposed possible.

The following statistics, furnished to the public by the *Buffalo Commercial* and quoted by the *Railroad Gazette*, p. 480, vol. 1875, will illustrate this fact:

Lake and canal rates during October in the years named.

YEAR.	LAKE.		CANAL.	
	Wheat, cents.	Corn, cents.	Wheat, cents.	Corn, cents.
1866	13.5	11.7	19.6	16.3
1867	9.0	7.0	19.1	15.3
1868	9.3	8.3	19.2	16.1
1869	10.3	9.8	21.7	19.0
1870	8.5	7.6	11.9	11.5
1871	10.1	9.7	15.9	14.1
1872	16.5	15.5	14.2	12.6
1873	7.8	6.8	12.7	11.3
1874	4.1	3.8	9.6	8.5
1875	3.7	3.4	8.2	7.4

In commenting upon these remarkable figures, the *Commercial* says:

“The average for last month, it will be seen, was lower than that

for the same month in any preceding year. But low as is 3.7 cents on wheat from Chicago, that is an improvement as compared with the average for September, which was only 2.4 cents. The rates by canal last month were a trifle more than one-half of that paid in October, 1871, and a little over a third of the average for the same month in 1869. This surely is cheap transportation with a vengeance."

With the month of November there came a general improvement in transportation matters in all parts of the country. Shipments were heavier than for a long time before, and rates rose on trunk lines in consequence of the compromises affected and the advance of water rates under a pressure of shippers for facilities in anticipation of the necessarily higher winter rates. On a smaller scale, illustrations may be found all about us. In fact, wherever there are common points, and very often at places quite remote from competing points so-called, the influence is felt. In such cases, other things being equal, the shortest line governs the rates, and competing lines must come down to the rate fixed by the controlling line or lose their share of the business. The *average* cost of transportation per ton-mile is no longer considered, and the question of cost of transportation is limited to the variable side of cost. The *minimum* cost takes its place in the calculation. If that is not known to the manager he must get as near as he can to it, and take the risk of absolute loss for the time, or decline the freight altogether. Having determined the minimum, he will get as much more as he can, deeming the balance clear gain to the corporation, and a great advantage to the shipper of the freight in question.

It is plain, however, that if the margin of profit be very small — smaller than the company doing the business could live at — that fact must be taken into the account, and other kinds of freight that will bear higher rates must pay enough more than the fair average to make up the deficiency.

BUT A FIXED SPECIFIC TARIFF EXCLUDES THIS ELEMENT OF DISCRIMINATION,

which is certainly a necessary prerogative of successful railroad management.

Such discriminations as have often been made in the days of irresponsible management between citizens and localities, on grounds

purely personal and selfish, cannot be too strongly denounced or too carefully guarded against. But any law that would take from railroad managers the right to make discriminations based on fixed facts in nature and on sound commercial principles would fetter the corporations to their own great injury and the public disadvantage.

THE EQUAL-MILEAGE THEORY IS A FALLACY,

long since abandoned. The doctrine that no corporation should, under any circumstances, be allowed to charge a lower rate from a competing point than is charged from any point on the same road less distant from the place of delivery is as yet unsettled.

It may be that if competitive offers of transportation were limited to the minimum of actual cost to the competing company of doing the extra business thus secured, so that intermediate points would not of necessity be compelled to make up for absolute losses entailed by doing such business at less than such cost, or pay higher than just rates on account of such competitive business being done at a price less than the regular, or average rate, nothing further would be necessary, save a general provision, faithfully and intelligently enforced, requiring,

1. That all persons and localities similarly circumstanced shall be treated in like manner, and
2. That all offers of special rates at a given place shall be publicly made, and open to all persons doing business at that point.

The foregoing presentation of facts and principles is deemed by your Commissioners a sufficient vindication of those general conclusions contained in their first report, and reiterated in this, which bear upon all attempts on the part of the State to provide fixed tariffs of specific rates. It is also, in their judgement, a sufficient vindication of their views on the subject of a classification of roads on the simple basis of actual net earnings.

THE PRESENT LAW IN PART MISUNDERSTOOD, AS TO RATES.

Advocates of the law exactly as is now stands, in the matter of rates, will perhaps deny the relevancy of the foregoing points against a tariff of specific rates, on the ground that the "Potter-law" is not a law of fixed and specific rates, but a law of *maximum* rates.

In anticipating this possible criticism upon a general argument not framed for application to our State alone, we readily allow that the present is not a specific law in the strict sense, that it is in fact *a maximum law*, prohibiting charges exceeding the rates named in the law, *but allowing any company so limited on the maximum side to charge as little as it pleases*, provided that all patrons at the same point are treated equally.

We emphasize this statement for the reason that the managers of railroads have, in some instances, both as to passengers and freight, misled the traveling and shipping public by assuming and insisting that they were prohibited from accepting less than the rates named in the law.

It should be admitted on the other side that, though a maximum law in the letter, the intent in framing it seems to have been to get the rates as near as possible to what would be a *low specific* tariff if one could be formed. So that, in many cases, it has the effect of a specific law, fitting so close as to pinch the weaker roads, if not those in class A.

In this important respect, it differs from most maximum tariffs, which, as a rule, are framed with a scrupulous certainty not to wrong the corporations, while protecting the public from *extortionate* charges.

It was on this principle that such tariffs were incorporated in the charters of so many of the European railways as well as in those of several of the American States.

THE METHOD SET FORTH BY THE COMMISSIONERS,

in their conclusions, [see pages 37-8 of this report] amply affords, in connection with the other features of the plan, every needed security to the public, and possesses the advantage of reasonable certainty that neither party will suffer from deficiencies of knowledge and consequent errors of judgment, very liable to occur where other than maximum rates are determined in a direct manner by legislative enactments.

LIMITED POWER OF THE COMMISSIONERS TO REQUIRE REPAIR OF ROADS, improvement of roads or rolling stock, and increased accommodations for passenger travel, which was also commended to the attention of the last legislature, is now a feature of most laws for the

regulation of railway management, and is deemed of sufficient importance to demand your special notice.

PUBLICITY OF RATES OF FARE AND FREIGHT,

dwelt upon at some length on pages 112 to 114 of our last report is again brought to the attention of your honorable body, as being one of the best correctives of that reprehensible system of private special rates, rebates and drawbacks so almost universal upon the railways of this country.

We have just endeavored to show that discriminations may be just to the public, and are even necessary to the successful working of any railway. But we have also insisted that offers of special rates should be "openly made," so that all persons capable, in general terms, of fulfilling the conditions prescribed would be able to avail themselves of the privileges to be accorded,

As a means to this end, not only the rates regularly charged, but all propositions of special rates should be so published, by public posting or otherwise, as to afford all interested parties equal opportunities.

GREATER STABILITY OF RATES AND TIME-TABLES

should, if practicable, be enforced by the State. Where all companies are perfectly free to do as they like in this matter, unwarrantable advantage is liable to be taken of the license on the part of some, and this may virtually compel others better disposed towards the public convenience to make changes also.

The changes of the seasons and the exigencies of business suggest the propriety, if not practical necessity, of changes in the time arrangements of passenger trains and in the rates of transportation; but, as a fact, changes are much more frequent than would be necessary if due foresight were practiced by those in charge of these departments. Certainly changes every few days, such as are sometimes noticed, are an unfavorable comment on the capacity and fidelity of managers, besides being a serious disturbance to commercial transactions.

TIMELY NOTICE OF CHANGES OF RATES AND OF TIME-CARDS

is also again insisted on. Publicity will be of but little value unless publication is timely. Many railway companies show a repre-

hensible carelessness in these particulars. The traveler finds too frequently the most carefully prepared monthly railway guide provokingly misleading, and the shipper too often finds himself unable to fulfil his contracts without loss, if not utter ruin, because of sudden and unexpected changes in the schedule of rates.

Notice in advance of changes proposed should be scrupulously made, and when the new tariff has taken effect the company should be held to it a reasonable length of time.

“GREATER UNIFORMITY AND COMPLETENESS OF ACCOUNTS.”

Under the head of railway accounts your Commissioners used the following language in their report:

“It is, of course, out of the question for either the State or the public to know with certainty how the affairs of a railway are managed unless the accounts of the company are so kept as to make an intelligible exhibit, and to command the entire confidence of those who have a right to know all about the receipts and disbursements. To this end it is important that the following conditions should be fulfilled:

“(1) They must be kept on correct principles, all receipts being honestly credited to their real sources, and all expenditures charged to the proper account, care being taken, where there is room for doubt, that the capital account, especially, be not unduly increased.

“(2) They should be kept so as to be separable for the different lines, where more than one line is operated by one company. This especially where, as in this State at present, the companies pay a State tax proportioned to the earnings of lines within the State. It is also important as enabling the State and the public to know to what extent new lines—sometimes lying in other States—are a burden upon the old ones; and also enabling the managers themselves so know what the interests of the company demand.

“(3) The freight account should be so kept as to make a full showing of every shipment of freight, with the class to which it belongs, weight in pounds, stations from which and to which shipped, and the amount actually received and charged to the company thereon; the freight account of each station showing for itself, and the accounts at the general freight office showing the exact business and freight receipts at all the stations on each and every line. Such keeping of accounts is essential to the proper

management of the roads, and to the State important as furnishing correct data for a full understanding of the company's condition.

“(4) The accounts kept by all the railway companies of the state should be uniform as to method, in order that the working of different roads may be compared, and that uniform reports may also be possible.

“(5) They should be closed and accessible to the stockholders both before and after the regular meetings at which they are presented for approval, and should be published in full abstract, with balance sheet, for the use of the stockholders and the state authorities.”

To this we add that the observations and inquiries since made by us have so strongly impressed the importance of this subject that we feel constrained to urge it with increased emphasis.

As was remarked in the early portion of this report, the books and accounts of different corporations are so variously kept and many of them so imperfectly kept, that when called on to make the annual returns reasonably demanded the officers declare themselves utterly wanting in the data. The result is, these reports are almost useless, whether for the purposes of a comparison with other companies, or as a means of getting a correct knowledge of the companies independently.

Among the more important faults and deficiencies of railway accounts we notice, briefly these:

1. *Want of logical system.*

The proper objects to be observed in the keeping of railway accounts are (1), to show the actual transactions of the company—the business done in transportation during the year, the receipts from all sources and the expenditures for all purposes, with perfect exactness of detail, and the financial status of the company as to debt, funded and unfunded, and the company's relation to its stockholders; (2), to illustrate the skill with which the general affairs of the company are managed, and especially the *economy of practical management*.

This last named object appears in a great measure to be lost sight of. Extensive intercourse with railroad managers, and a careful examination of reports, has satisfied us of the fact that the instances are rare in which the officers of a road can tell from their accounts what has been the cost of operating their different lines, the cost in

detail of the different branches of the business on a given line, the exact economy with which their several stations have been managed and trains run, or the loss sustained by the handling of dead weight; much less make a fair approximation to the cost per ton per mile of each class of freight carried.

So far as we have learned, there is scarcely more than one road in the country whose accounts are so classified and kept that the superintendent can know at the end of the year exactly what business has been done and just what each important item of it has cost the company. A visit, during the past summer, to Mr. Fink who has inaugurated such a system of accounts, and a careful examination of his principles, method and practice, resulted in a still deeper impression of the imperative necessity there is, in order to better railroad management and a healthy growth of railway enterprise, for the perfection and uniform adoption of a scientific system of railway accounts.

So deeply convinced is Mr. Fink of the necessity for accurate knowledge of the details above-mentioned that he employs additional force at the expense of \$10,000 per annum for the purpose of providing himself with the requisite data for his calculations, and declares that he would not consent to hold his position as manager of the road, if compelled to work his several lines as he would otherwise have to—in the dark.

In answer to the question, What is the proper course to pursue in ascertaining whether a railroad is operated economically or not? he says:

“To this the answer must be given that the only mode of ascertaining this fact thoroughly is to make an examination of each item of expenditure incurred in the operation of a railroad, and see whether this has been reduced to a minimum, and the service rendered for it to a maximum. To make this investigation requires of course a thorough and practical knowledge of railroad operations, of the cost of material and labor, of the quality of the same, and of the best results that can be obtained therefrom. But even that knowledge would be of little avail unless the accounts of the operating expenditures of railroads are kept in such a manner as to exhibit in detail not only the expenditures but also the amount of work performed for each item of expenditure.”

2. There is want of rigid adherence to principles when once adopted.

In the matter of operating expenses, for example, we not only

find that there is no rule of classification followed, as there should be, by all companies, but that even the same company does not inflexibly adhere to any principle of practice.

Manifestly, such expenses as are *fixed*, remaining the same, or substantially so, should be separated from those which rise or fall as the volume of business increases or diminishes. Accounts kept without regard to this principle are practically useless for the purpose of ascertaining the actual and the minimum cost of transportation in detail.

So it is with the matter of separation between actual operating expenses and expenditures for construction. There is no proper and well-defined line drawn between them, and yet with the stockholders and public it makes a good deal of difference whether receipts that should go to the account of net earnings, for the payment of dividends and the gradual extinction of debt, are so referred, or whether, being actually applied to new construction, they are reported as operating expenses and charged against the public, who besides paying for the use of the road are also steadily paying for the road itself, although the ownership is to remain permanently in others.

RAILWAY REPORTS.

We have dwelt at some length on the subject of accounts because they lie at the very foundation of economical railway management, and are at the same time the only means of furnishing the public with correct knowledge of the need of legislative interference when it really exists, and also a correct knowledge of when it is safe to let the corporations alone.

We do not deem it necessary that the State should dictate either directly or through the Commission the manner of keeping railway accounts; this may be managed by the companies in their own way. But the State has a right to such facts, capable of being furnished, as are necessary to a full knowledge of the companies' transactions, including the data for a comparative showing of the skill, fidelity, and economy with which their roads are managed respectively. And this implies the right to command reports that will supply all needed facts. Authority to require such reports and to enforce their prompt delivery in time for the Commissioners' use, is a necessity.

Indeed,

PUBLICITY IS THE SHEET-ANCHOR OF THE PUBLIC SECURITY.

Without it all legislative interference is hazardous and may prove disastrous to very important interests. With it once fully secured, occasions for such interference will steadily diminish until an enlightened public sentiment will need to be supplemented by only the most general form of State supervision.

For the meantime, also, as said before,

IT IS THE TRUE POLICY OF THE STATE TO LEGISLATE BROADLY;

laying down such general rules of action as will cover and carry with them all necessary particulars as a consequence, and leaving the application and enforcement of those general rules to a competent commission authorized and required to keep itself familiar with the condition and working of all the roads; to hear complaints and settle differences between the corporations, as well as between the corporations and the public; to study the problem of transportation so as to gain an expert's mastery of it in all its parts; to enforce the law, in cases of violation, in the name and at the expense of the State; and, finally, to report all important facts and decisions to the legislature.

Your Commissioners are firm in the conviction that the adoption of a general policy of this sort would produce the most beneficial results—that it would insure to the public the best protection it is now possible to give; that, leaving to the managers the necessary freedom of action, it would give to owners the grateful assurance not only that they were to be allowed a fair profit, if their roads can earn it, but that, through the power of the State and the vigilance of its officers they would have increased security, and hence more certain returns; and, finally, that the results of such adequate security to both the public and the railroad interests would be, the improved credit of the State and the direct promotion of its industrial and commercial prosperity..

Respectfully submitted.

JOHN W. HOYT,
JOSEPH H. OSBORN,
GEORGE H. PAUL,

Commissioners.

OFFICE OF THE RAILROAD COMMISSIONERS,

Madison, January, 1876.

OFFICIAL PAPERS

OF THE RAILROAD COMMISSIONERS, WITH PORTIONS OF THEIR
CORRESPONDENCE.

CLASSIFICATION OF ROADS, AND RATES OF FARE AND FREIGHT.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, March 17, 1875.

*To any Individual, Company or Corporation, owning, operating,
managing or leasing any Railroad, or part of Railroad, in the
State of Wisconsin:*

Notice is hereby given by the undersigned Railroad Commissioners for the State of Wisconsin, that the following Classification of Railroads, Classification of Freights, maximum Rates of Fare, and maximum Rates of Freight, have been established by chapter 273, laws of 1874, and the following acts amendatory thereof, to-wit: Chapters 113 and 334, laws of 1875, and by said Commissioners, in pursuance of authority conferred upon them by law.

CLASSIFICATION OF ROADS.

Class A—"All Railroads, or parts of Railroads, in the State of Wisconsin, now owned, operated, managed or leased, either by the St. Paul Railway Company, the Chicago & Northwestern Railway Company, or the Western Union Railway Company, except the Madison & Portage Railroad."

Class B—"All other Railroads, or parts of Railroads, in this Stat

CLASSIFICATION OF FREIGHT.

All freights hereafter transported upon any Railroad, or part of Railroad, in this State, are divided into four General Classes, to be
(Doc. 15.)

designated as First, Second, Third, and Fourth Classes, and into seven Special Classes, to be designated D, E, F, G, H, I, J.

GENERAL CLASSES.

Said four General Classes shall include all merchandise and other articles of transportation, included in the standard Classification of the Milwaukee & St. Paul Railway Company, which took effect June 15, 1872, except such articles as are hereinafter assigned in accordance with law to Special Classes hereinafter named.

SPECIAL CLASSES.

The Special Classes hereinafter named shall include the following articles, respectively:

D.—All Grain, in car-loads.

E.—Flour in lots of fifty barrels, or more; Lime in lots of twenty-four barrels, or more.

F.—Salt in lots of 60 barrels or more; Cement, Water-Lime and Stucco, in lots of twenty-four barrels, or more.

G.—Lumber, Lath, and Shingles, in car-loads.

H.—Live-stock, in car-loads.

I.—Agricultural Implements, Furniture, and Wagons.

J.—Coal, Brick, Sand, Stone, and heavy Fourth Class articles, in car-loads.

RATES OF FARE AND FREIGHT.

LIMITATION OF CHARGES FOR FARES.

Any Individual, Company, or Corporation owning, operating, managing or leasing any Railroad, or part of a Railroad, in the Classification of Roads hereinbefore prescribed, is limited to a compensation for the transportation of any person, with ordinary baggage not exceeding one hundred pounds in weight, as follows:

CLASS A—*Three cents per mile.*

CLASS B—*Four cents per mile.*

Provided, That no such Individual, Company, or Corporation, hereinbefore designated, shall charge, demand, or receive any greater compensation per mile for the transportation of children of the age of twelve years, or under, than one-half the respective rates above prescribed.

LIMITATION OF CHARGES FOR FREIGHTS ON RAILROADS CLASSED A
AND B.

No Individual, Company, or Corporation owning, operating, managing or leasing any Railroad belonging to Classes A and B, is entitled to charge for, or receive, a greater or higher rate for carrying any freight belonging to either of the four General Classes of freight hereinbefore named, than was charged for carrying freights now belonging to said four General Classes, on said Railroad, on the first day of June 1873.

Nor is any Individual, Company, or Corporation owning, operating, managing, or leasing any Railroad belonging to said Classes A and B,* entitled to charge for, or receive, a greater or higher rate for carrying articles belonging to any of the Special Classes hereinbefore named than is specified in the annexed table:

* It is claimed that chapter 113, laws of 1875, indicates that it was not the intention of the legislature to subject the roads classed "B" to the same freight-rates as are applicable to "A" roads. The question of *intention* the commissioners do not assume to decide.

Railroads "A" and "B"—Freight Tariff—Special Classes.

DISTANCES.	Miles.	D	E	F	G	H	I	J
		Grain in car-loads. 100 lbs.	Flour in lots of 50 bbls, or more; lime in lots of 24 bbls. or more. Barrel.	Salt in lots of 60 bbls, or more; cement, wa- ter-lime and stucco in lots of 24 bbls. or more. Barrel.	Lumber, lath and shin- gles, in car-loads. Car.	Live stock in car-loads. Car.	Agricultural implem'ts furniture and wagons. Car.	Coal, brick sand, stone, and heavy fourth-class articles in car-loads. Car.
25	<i>Cents.</i> 06.00	<i>Cents.</i> 12.00	<i>Cents.</i> 15.00	<i>Dollars.</i> 8.00	<i>Dollars.</i> 10.00	<i>Dollars.</i> 12.00	<i>Dollars.</i> 8.00
26	06.16	12.32	15.24	8.20	10.28	12.32	8.24
27	06.32	12.64	15.48	8.40	10.56	12.64	8.48
28	06.48	12.96	15.72	8.60	10.84	12.96	8.72
29	06.64	13.28	15.96	8.80	11.12	13.28	8.96
30	06.80	13.60	16.20	9.00	11.40	13.60	9.20
31	06.96	13.92	16.44	9.20	11.68	13.92	9.44
32	07.12	14.24	16.68	9.40	11.96	14.24	9.68
33	07.28	14.56	16.92	9.60	12.24	14.56	9.92
34	07.44	14.88	17.16	9.80	12.52	14.88	10.16
35	07.60	15.20	17.40	10.00	12.80	15.20	10.40
36	07.76	15.52	17.64	10.20	13.08	15.52	10.64
37	07.92	15.84	17.88	10.40	13.36	15.84	10.88
38	08.08	16.16	18.12	10.60	13.64	16.16	11.12
39	08.24	16.48	18.36	10.80	13.92	16.48	11.36
40	08.40	16.80	18.60	11.00	14.20	16.80	11.60
41	08.56	17.12	18.84	11.20	14.48	17.12	11.84
42	08.72	17.44	19.08	11.40	14.77	17.44	12.08
43	08.88	17.76	19.32	11.60	15.04	17.76	12.32
44	09.04	18.08	19.56	11.80	15.32	18.08	12.56
45	09.20	18.40	19.80	12.00	15.60	18.40	12.80
46	09.36	18.72	20.04	12.20	15.88	18.72	13.04
47	09.52	19.04	20.28	12.40	16.16	19.04	13.28
48	09.68	19.36	20.52	12.60	16.44	19.36	13.52
49	09.84	19.68	20.76	12.80	16.72	19.68	13.76
50	10.00	20.00	21.00	13.00	17.00	20.00	14.00
62	11.50	23.00	23.50	14.50	19.25	22.50	16.00
75	13.00	26.00	26.00	16.00	21.50	25.00	17.50
87	14.00	28.00	28.50	17.00	23.75	27.50	18.75
100	15.00	30.00	31.00	18.00	26.00	30.00	20.00
112	16.00	32.00	33.50	19.00	28.25	32.50	21.25
125	17.00	34.00	36.00	20.00	30.50	35.00	22.50
137	18.00	36.00	38.50	21.00	32.75	37.50	23.75
150	19.00	38.00	41.00	22.00	35.00	40.00	25.00
162	20.00	40.00	43.50	23.00	37.25	42.50	26.25
175	21.00	42.00	46.00	24.00	39.50	45.00	27.50
187	22.00	44.00	48.50	25.00	41.75	47.50	28.75
200	23.00	46.00	51.00	26.00	44.00	50.00	30.00
212	53.50	27.00	46.25	52.50	31.25
225	23.50	47.00	56.00	28.00	48.50	55.00	32.50
237	58.50	29.00	50.75	57.50	33.75
250	24.00	48.00	61.00	30.00	53.00	60.00	35.00
262	63.50	31.00	55.25	62.50	36.25
275	24.50	49.00	66.00	32.00	57.50	65.00	37.50
287	68.50	33.00	59.75	67.50	38.75
300	25.00	50.00	71.00	34.00	62.00	70.00	40.00

When rates are not shown in the above table for the exact distance, the rates given for the next greater distance should be used.

In all cases, distances are to be computed from localities where freight is first received, notwithstanding it may pass from one railroad to another.

NOT APPLICABLE TO THROUGH FREIGHTS.

Nothing contained in this notice is intended in any manner to abridge or control the the rates for freights charged by any railroad or company in the State, "for carrying freight which comes from beyond the boundaries of the State, and to be carried across or through the State."

JOSEPH H. OSBORN,
GEO. H. PAUL,
JOHN W. HOYT,
Railroad Commissioners.

ATTEST:

H. A. TENNEY,
Clerk of the Board.

LETTER ADDRESSED TO RAILROAD COMPANIES REQUESTING REPORTS.

MADISON, WIS., July 29, 1875.

To _____,
President of _____ R'y Co.

DEAR SIR:—In January last we forwarded to your address the printed form of a Report which the members of this Board, and of similar Boards of Commissioners in Minnesota and Illinois, adopted for the purpose of obtaining information by them from each Railroad Corporation, doing business in the several States by them represented.

The report first requested by the undersigned is for the year ending June 30, 1875, and should be received at this office during the

month of August, so that the Commissioners may arrange the statistics for their second annual report.

It is hoped, therefore, that you will give prompt attention to this matter and see that the returns from your company are in our hands as early as possible.

We forward herewith a duplicate copy of the blank form above referred to, requesting an acknowledgement thereof when received.

Very respectfully,

JOHN W. HOYT,
JOS. H. OSBORN,
GEO. H. PAUL,
Railroad Commissioners.

By H. A. TENNEY,
Clerk of the Board.

BLANK FORM FORWARDED BY THE COMMISSIONERS
TO EACH CORPORATION OPERATING RAILROADS IN
WISCONSIN.

REPORT

OF THE

.....RAIL..... COMPANY,

For the year ending June 30, 187..

OFFICERS AND OFFICES OF THE COMPANY OPERATING.

Names.	Address.	Salaries.
.....President.....	\$.....
.....First Vice-President.....
.....Secretary.....
.....Solicitor.....
.....Treasurer.....
.....General Manager.....
.....General Superintendent.....
.....Chief Engineer.....
.....General Ticket Agent.....
.....General Freight Agent.....
.....Auditor.....
Total salaries.....	

1. General offices at.....

Names of directors.	Residence.	Names of directors.	Residence.
.....
.....
.....
.....

..... }
 } Executive Committee.

2. Date of annual election of directors.
3. Name and address of person to whom correspondence, concerning this report, should be directed.

CAPITAL STOCK.

	Amount.
1. Capital stock authorized by charter.....	\$.....
COMMON STOCK ISSUED.	
2. Stock subscribed by municipalities paid in bonds.....
3. Stock subscribed by individuals and other corporations paid in cash.....
4. Stock issued for account of construction.....
5. Stock issued for bonds of company cancelled.....
6. Stock issued for dividends payable in stock.....
7. Stock issued for payment of floating-debt.....
8. Stock issued for interest on bonded debt.....
9. Stock issued for construction-account on extension-lines.....
10. Stock issued to represent purchased lines.....
11. Other common stock issued—and for what?.....
12. Total common stock.....
PREFERRED STOCK ISSUED.	
13. Amount of preferred stock*.....
14. Rate of preference and for what issued.....
15. Total capital stock.....
16. *Proportion of stock for Wisconsin.....

17. A list of the stockholders at the last election of directors, showing the name, residence and amount of stock owned by each, must be filed herewith.
18. When and to whom was the original stock, owned by the company sold, and what was the cash value realized by the company for the same?
19. If any stock has been issued since the original, state the date or dates when the same was issued, to whom issued, in what manner the same was paid for, and the cash value realized by the company for the same.

FUNDED AND UNFUNDED DEBT.

	Total.	Wisconsin lines.
1. Describe severally all outstanding classes of bonds, including amounts, dates of issue, interest, where and when payable.....	\$.....	\$.....
2. Amount of debt not secured by mortgage.....
3. Total funded and unfunded debt.....
4. Net cash realized from bonded debt, above described.....
5. Proportion of debt, bonded and floating, for Wisconsin.....

*NOTE.—Unless some good reason exists to the contrary, this proportion—and all other estimates of the same character—should be for the miles of road in the State compared with the whole. If made on a different basis, please state the reasons therefor.

COST OF ROAD AND EQUIPMENT.

	Total.	Wisconsin lines.
1. Cost of right-of-way.....	\$.....	\$.....
2. Cost of real estate, exclusive of right-of-way
3. Cost of construction.....
4. Cost of equipment.....
5. All other items of expense for construction and equipment.....
6. Amounts paid for road, or portions of road, not built by the company (specifying amounts paid, and how paid, in each case, and line acquired).....
Total cost of entire line.....

ORIGINAL COST AND PRESENT ESTIMATED VALUE OR TOTAL PROPERTY IN THIS STATE.

DESCRIPTION OF PROPERTY.	Original cost.	Present cash value.
1. Right of way, as per accompanying schedule*	\$.....	\$.....
2. Lands for depots, stations, etc., as per schedule.....	.....	.....
Total cash valuation of all lands purchased .....	.....	.....
3. Grading as per schedule.....	.....	.....
4. Masonry, as per schedule, [No. culverts, —, No. bridges, —, No. tunnels, —].....	.....	.....
5. Bridging, as per schedule, [No. iron bridges, —, No. wooden bridges, —].....	.....	.....
Total cash valuation of substructure.....	.....	.....
6. Ties and tying.....	.....	.....
7. Iron rails, [No. miles, —, Lbs. wt. per yard, —].....	.....	.....
8. Steel rails, [No. miles, —, Lbs. wt. per yard, —].....	.....	.....
9. Chains, spikes, fish-bar, etc.....	.....	.....
10. Laying track.....	.....	.....
Total cash valuation of superstructure.....	.....	.....
11. Passenger stations, fixtures, and furniture, as per schedule. [No. stations, —].....	.....	.....
12. Freight stations and fixtures and furniture, as per schedule. [No. stations, —].....	.....	.....
13. Engines and car shops, as per schedule..... (No. —).....	.....	.....
14. Machine shops, as per schedule	(No. —).....	.....
15. Machinery and fixtures, as per schedule.....	(No. —).....	.....
16. Engine-houses, as per schedule	(No. —).....	.....
17. Car-sheds, as per schedule	(No. —).....	.....
18. Turn-tables, as per schedule	(No. —).....	.....
19. Track, and other scales	(No. —).....	.....
20. Wood-sheds and water-stations, as per schedule, (No. —).....	(No. —).....	.....
21. Fencing..... (No. miles, —).....	(No. —).....	.....
22. Elevators, as per schedule..... (No. —).....	(No. —).....	.....
Total cash valuation of buildings of every sort .....	.....	.....
23. Engineering expenses before and during construction .....	.....	.....
24. Salaries of officers and agents essential during construction.....	.....	.....
25. Incidental expenses.....	.....	.....
Total original cost and present estimated cash value of line unequipped .....	.....	.....

REPORT OF RAILROAD COMMISSIONERS.

Original cost and present estimated value—Continued.

DESCRIPTION OF PROPERTY.	Original cost.	Present cash value.
26. Locomotives, as per schedule, (No. —. Av. wt. tons, —).....	\$.....	\$.....
27. Tenders, as per schedule.....(No. —. Av. wt. tons, —).....
28. Snow-plows, as per schedule.....(No. —. Av. wt. tons, —).....
29. Wreckers, as per schedule.....(No. —. Av. wt. tons, —).....
30. Passenger-cars, 1st class.....(No. —. Av. wt. tons, —).....
31. Passenger-cars, 2d class.....(No. —. Av. wt. tons, —).....
32. Baggage-cars.....(No. —. Av. wt. tons, —).....
33. Mail-cars.....(No. —. Av. wt. tons, —).....
34. Express-cars.....(No. —. Av. wt. tons, —).....
35. Freight-cars, closed.....(No. —. Av. wt. tons, —).....
36. Platform-cars.....(No. —. Av. wt. tons, —).....
37. Hand-cars.....(No. —. Av. wt. tons, —).....
38. Machinery and tools to accompany trains, repair track, etc., used by trackmen and others.....
39. All other property not enumerated.....
Total cash value of equipment.....
40. Amounts paid for and present value of — miles of road not built by company.....
Grand total original cost and estimated present value of line equipped.....

*NOTE.—A schedule of items corresponding to this schedule, for each division of the road in this State should accompany this general report, and also a schedule of items not specified in this general report should accompany the schedule of each division.

CHARACTERISTICS OF ROAD.

LENGTH OF ROAD.	MILES.		Weight of rail per yard.
	Entire length.	Length in Wisconsin.	
1. Length of main line of road from.....to.....
2. Length of double track on main line.....
*BRANCHES—Name each..			
3. From ..to.. { Length of branch.....
{ Length of double track on branch.....
4. From ..to.. { Length of branch.....
{ Length of double track on branch.....
5. From ..to.. { Length of branch.....
{ Length of double track on branch.....
6. From ..to.. { Length of branch.....
{ Length of double track on branch.....
7. Total length of main line and branches.....

- 8. Aggregate length of tracks operated by this company *computed as single track.*
- 9. Aggregate length of sidings and other track not above enumerated.
- 10. Number of "common points."
- 11. What is the gauge of your lines?

*This includes leased lines—designate them as such—the earnings, expenses, etc., of which are given in this report.

DOINGS OF THE YEAR IN TRANSPORTATION.

CHARACTER OF SERVICE.	Number of persons employed.	Average salary per annum.
Division and assistant superintendents.....		
Clerks in all offices.....		
Master and assistant mechanics.....		
Conductors.....		
Engineers.....		
Brakemen.....		
Flagmen, switch-tenders, gate-keepers and watchmen.....		
Station agents.....		
Section men.....		
Laborers.....		
Other employees.....		

MILEAGE AND TONNAGE.	MILES.	
	Whole line.	In Wisconsin.
2. Number of miles run by passenger trains.....		
3. Number of miles run by freight and mixed trains.....		
4. Number of miles run by construction and other trains.....		
5. Total mileage.....		
6. Mileage of empty freight cars.....		
7. Total number passengers carried.....		
8. Total number tons freight carried one mile.....		
9. Total number passengers carried one mile.....		
10. Average distance traveled by each passenger.....		
	Miles per hour.	
11. The highest rate of speed allowed for express passenger trains.....		
12. Schedule rate of same, including stops.....		
13. The highest rate of speed allowed for mail and accommodation trains.....		
14. Schedule of same, including stops.....		
15. The highest rate of speed allowed for freight trains.....		
16. Schedule rate of same, including stops.....		
17. Amount of freight carried per car.....		
18. Amount of freight carried per train.....		
19. TOTAL FREIGHT IN TONS.	Whole line.	In Wisconsin.
Grain.....		
Flour.....		
Provisions.....		
Salt, cement, water lime and stucco.....		
Manufactures, including agricultural implements, furniture and wagons.....		
Livestock.....		
Lumber and forest products.....		
Iron, lead and mineral products.....		
Stone, brick, lime, sand, etc.....		
Coal.....		
Merchandise and other articles.....		
Total tons.....		

EARNINGS DURING THE YEAR ENDING JUNE 30, 187—.
MONTHLY EARNINGS FROM ALL SOURCES.

MONTHS.	PASSENGERS.		FREIGHT.		MAILS.		EXPRESS.		OTHER SOURCES.		TOTALS.	
	Whole line.	Wis-consin.	Whole line.	Wis-consin.	Whole line.	Wis-consin.	Whole line.	Wis-consin.	Whole line.	Wis-consin.	Whole line.	Wis-consin.
July, 1874.....												
August, 1874.....												
September, 1874.....												
October, 1874.....												
November, 1874.....												
December, 1874.....												
January, 1875.....												
February, 1875.....												
March, 1875.....												
April, 1875.....												
May, 1875.....												
June, 1875.....												
Totals.....												

- | | |
|--|---|
| <p>1. Earnings per mile of road \$.....</p> <p>2. Earning per mile of road on freight..... \$.....</p> <p>3. Earnings per mile on passengers.....</p> <p>4. Earnings per train mile, run on freight.....</p> <p>5. Earnings per train mile run, on passengers.....</p> | <p>6. Of the earnings of the entire line, what is the ratio of the passenger to the freight?..... as..... to.....</p> <p>7. Average gross earnings per mile (..... miles) of road, exclusive of sidings..... \$.....</p> <p>8. Average per mile (..... miles) of road, exclusive of sidings.....</p> <p>9. Average net earnings per train mile.....</p> |
|--|---|

EXPENSES DURING THE YEAR ENDING JUNE 30, 187—.

PAYMENTS FOR CURRENT AND OPERATING EXPENSES.	Belonging to whole line.	Belonging to Wisconsin.
1. Maintenance of way :		
Repairs of track, including new and re-rolled iron rail in place of old iron rail.....		
Repairs of bridges.....		
Repairs of fences.....		
New steel rail, valued only as iron rail*		
Other expenses on way.....		
2. Maintenance of buildings.....		
3. Maintenance of rolling stock :		
Locomotives..... \$.....		
Passenger, baggage, mail and express cars		
Freight cars.....		
Shop tools and machinery.....		
4. Conducting transportation, and general expenses :		
Management and general office..... \$.....		
Foreign agency and advertising.....		
Agents and station service.....		
Conductors, baggage and brakemen.....		
Engineers, firemen and wipers.....		
Train and station supplies.....		
Fuel consumed.....		
Oil and waste.....		
Personal expenses.....		
Damage to persons.....		
Damage to property.....		
Loss and damage to freight and baggage....		
Legal expenses.....		
Other general operating expenses, as per items below.....		
5. Current expenses :		
For taxes.....		
For insurance.....		
Lease or privilege of other roads whose earnings are included in this report giving name and amounts paid.....		
6. Total current operating expenses, being.....		
per cent. of earnings.....		
7. Average operating expenses per mile of road, exclusive of sidings.....		
8. Average operating expenses per train mile.....		
9. Excess of earnings over operating and current expenses.....		
10. Cost of maintaining track and bridges per mile run.....		
11. Cost of repairs of engines per mile run.....		
12. Cost of engineers and firemen per mile run.....		
13. Cost of oil and waste per mile run.....		
14. Cost of fuel per mile run.....		

* In substituting steel rail for iron rail, the cost of iron rail only should be charged to operating account, and the excess carried to extraordinary expenses. (See next page.)

EXPENSES, ETC.

PAYMENT IN ADDITION TO OPERATING EXPENSES.	Belonging to whole line.	Belonging to Wisconsin.
15. New steel rail, excess of cost over iron rail, old track...	\$.....
16. New rail on new track
17. New equipment
18. New bridges and culverts (not including replacements)
19. Real estate bought during the year.....
20. New tools and machinery.....
21. New buildings.....
22. Total paid for new investment on the length of the company's lines one year ago.....
23. Amounts paid in cash, stock, bonds, or otherwise, for extensions, new lines and branches, during the past year—specify particularly.....
Total new investment.....
24. For interest on bonds.....
25. Dividends—rate.....per cent.—on preferred stock
26. Dividends—rate.....per cent.—on common stock
27. Total payments in addition to operating expenses...
28. What amount of money have you expended for building roads out of the State, from proceeds arising from business done on your roads in this State?.....
29. Specify each patent in use on your road, and the amount paid as royalty for said patents, in separate items....
30. How was amount of dividends paid the past year—cash, stock, or otherwise? Specify amounts and manner of payment

GENERAL BALANCE-SHEET, 1ST OF JULY 187...

Assets.	Dollars.	Cents.	Liabilities.	Dollars.	Cents.
.....
.....
.....
.....

1. What is your estimate of the cost to you, for the transportation of each passenger per mile?
.....
2. What is your estimate of the cost to you, per ton per mile, for the transportation of freight?
.....
3. What regulations govern your employees in regard to crossings of other railroads, and are they found sufficient?
.....
4. What regulations govern your employees in regard to crossings of public highways? And are these regulations found to be sufficient?
.....

5. What platform and coupler between passenger cars, do you use?
.....

6. What kind of brakes do you use on passenger trains?
.....

U. S. MAIL.

7. What is the compensation paid you by the United States Government for the transportation of its mails, and on what terms of service?
.....

EXPRESS COMPANIES.

8. What express companies run on your road, and on what terms, and what conditions as to rates, use of track, machinery, repairs of cars, etc.; what kind of business is done by them, and do you take their freights at the depot, or at the office of such express companies?
.....

TRANSPORTATION COMPANIES.

9. What freight and transportation companies run on your road, and on what terms, and on what conditions as to rates, use of track, machinery, repairs of cars, etc.? Do they use the cars of your company, or those furnished by themselves, and are their cars or their freight given any preference in speed or order of transportation, and if so, in what particular?
.....

SLEEPING CARS.

10. Do sleeping or dining cars run on your road, and if so, on what terms are they run, by whom are they owned, and what charges are made in addition to the regular passenger rates?
.....

ADDITIONAL QUESTIONS.

11. *Date of original charter of the road and that of any road consolidated with it, with the names of the companies.
.....

12. *Date of foreclosure and sale, under which road and each branch is now held and terms and amount of each sale.
.....

13. Rates and dates of all cash dividends on stock of original and consolidated companies, as far as known.
.....

14. Rates and dates of stock and other dividends, not cash, of original and consolidated companies.
.....

15. Date when main line (giving termini and length) was completed and put in operation.
.....

*NOTE.—If the answer to this question was given in full last year, it is only necessary to refer to the page in the—Annual Report of the Railroad Commission on which the answer may be found.

- 16. *Date of the commencement of operating of each branch line, giving termini and length.
.....
- 17. Roads operated under lease (whether temporary or permanent) giving name, termini length, address of lessors and terms of lease.
.....
- 18. What running arrangements have you with other railroad companies, setting forth the contracts for the same.
.....
- 19. What is the total number of acres of swamp or other State lands granted to your company by the State?
.....
- 20. What is the total number of acres United States lands granted to your company by Congress directly, or through the State?
.....
- 21. What number acres received by your company, directly or indirectly?
.....
- 22. What number acres sold and conveyed?
.....
- 23. Average prices, per acre, realized?
.....
- 24. To what corporations have you sold land? How much, and at what price?
.....
- 25. Number of acres now held by company?
.....
- 26. Average price asked for lands now held by company?
.....
- 27. Value of donations of right-of-way or other real estate?
.....
- 28. Amount of city, county, and town aid granted to company in exchange for stock, or otherwise? Specify particulars.
.....
- 29. Total cash amount realized from such aid?
.....
- 30. Amount of lands sold, but not conveyed, under contracts now in force?
.....
- 31. The whole amount of cash, principal and interest, received for lands hitherto sold and conveyed?
.....

*NOTE.—If the answer to this question was given in full last year, it is only necessary to refer to the page on the——Annual Report of the Railroad Commission on which the answer may be found.

- 32. Whole amount of cash received, principal and interest, on outstanding contracts in force?
.....
- 33. Whole amount of cash received, principal and interest, on contracts forfeited?
.....
- 34. Whole amount of cash received for stumpage, trespasses, &c.?
.....
- 35. What have been your total receipts from lands sold, and contracted to be sold, the past year?
.....
- 36. What is the aggregate sum of receipts on account of lands, from all sources whatever, up to the present time?
.....
- 37. What is the amount now due the company on lands sold, or contracted to be sold?
.....

ACCIDENTS.

Number of accidents.	1 STATEMENT OF EACH ACCIDENT.													Damages claimed.	Damages paid.
	PASSENGERS.				EMPLOYEES.				OTHERS.						
	From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.				
	Killed.	Injured	Killed.	Injured	Killed.	Injured	Killed.	Injured	Killed.	Injured	Killed.	Injured			
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															
.....															

1Give name of person, date and place of accident.

- 1. Of the above accidents those numbered as follows were caused by broken rails:.....
 Total No.....
- 2. Of the above accidents those numbered as follows were caused by INATTENTION OF EM-
 PLOYEES: Total No.....
- 3. Of the above accidents these numbered as follows were caused by COLLISIONS not prop-
 erly coming under 2:..... Total No.....
- 4. Of the above accidents these numbered as follows were caused by explosions:.....
 Total No.....
- 5. Amount paid as damages on account of stock killed by trains.....
- 6. Amount paid as damages caused by fire from locomotive.....

REMARKS.

.....

STATE OF WISCONSIN, }
 County of } ss.

.....And.....of the.....
 Rail.....Company, being duly sworn, depose and say that they have caused the
 foregoing statements to be prepared by the proper officers and agents of the Company, and
 having carefully examined the same, declare them to be a true, full and correct statement of
 the condition and affairs of said Company, on the first day of July, A. D. 187 , to the best of
 their knowledge and belief.

(Signed,)

(Seal) of R. R.

Subscribed and sworn to before me,.....this.....day of.....A. D. 187 .

(Seal.)

FULL TEXT OF THE REPORTS OF CLASSIFIED RAIL-ROAD COMPANIES.

REPORT

OF THE

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY,

For the Year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.
Alexander Mitchell, President.....	Milwaukee.
Julius Wadsworth, Vice-President.....	New York.
R. D. Jennings, Secretary.....	Milwaukee.
Jno. W. Carey, General Solicitor.....	Milwaukee.
R. D. Jennings, Treasurer.....	Milwaukee.
S. S. Merrill, General Manager.....	Milwaukee.
John C. Gault, Assistant Manager.....	Milwaukee.
D. J. Whittemore, Chief Engineer.....	Milwaukee.
A. V. H. Carpenter, General Ticket Agent.....	Milwaukee.
O. E. Britt, General Freight Agent.....	Milwaukee.
J. P. Whaling, Auditor.....	Milwaukee.

Names of Directors.	Residence.
Alexander Mitchell.....	Milwaukee.
Julius Wadsworth.....	New York.
Walter S. Gurnee.....	New York.
Elias L. Frank.....	New York.
James Buell.....	New York.
David Daws.....	New York.
J. M. Burke.....	New York.
S. Chamberlain.....	Cleveland.
Peter Geddes.....	Chicago.
Jno. Plankinton.....	Milwaukee.
J. G. Thorpe.....	Madison.
J. M. Bowman.....	Kilbourn.
F. A. Mueller.....	Rotterdam, Holland.

Executive Committee.	Address.
Alexander Mitchell.....	Milwaukee.
Julius Wadsworth.....	New York.
W. S. Gurnee.....	New York.
Selah Chamberlain.....	Cleveland.
Elias L. Frank.....	New York.

Date of annual election of directors.

June.

Name and address of person to whom correspondence, concerning this report should be directed.

J. P. Whaling, Auditor, Milwaukee.

For answers to questions Nos. 1, 18, and 19 on page 2, and 11, 12, 13, 14, 15, and 16 on pages 12 and 13, (of blank form,) we state: That the present company was

organized in 1863, and comprises various lines of road which had been built by other companies, the records of which are not all in our possession; on which account it is impossible to give the information desired.

CAPITAL STOCK.

COMMON STOCK ISSUED.

Stock subscribed by municipalities paid in bonds.....	}	\$15,399,261 00
Stock subscribed by individuals and other corporations paid in cash		
Stock issued for account of construction		
Stock issued for bonds of company cancelled.....		
Stock issued for dividends payable in stock.....		
Stock issued for payment of floating debt.....		
Stock issued for interest on bonded debt.....		
Stock issued for construction account on extension lines		
Stock issued to represent purchased lines		

Total common stock..... 15,399,261 00

PREFERRED STOCK ISSUED.

Amount of preferred stock..... 12,274,483 00

Total capital stock..... 27,673,744 00

Proportion of stock for Wisconsin..... 13,154,424 42

A list of stockholders at the last election of directors, showing the name, residence and amount of stock owned by each, must be filed herewith.

[For list of stockholders, see page following this report.]

FUNDED AND UNFUNDED DEBT.

	Total,	Wisconsin Lines.
Describe severally all outstanding classes of bonds, including amounts, dates of issue, interest, where and when payable. [See statement attached.].....	\$27,098,500 00	\$14,814,718 00
Amount of debt not secured by mortgage.....	454,397 39	215,993 04
Total.....	27,552,897 39	15,030,711 04

Proportion of debt, bonded and floating, for Wisconsin..... 15,030,711 04

Class of bonds.	Rate of interest	where payable.	When payable.	Amount.	Proport'n on Wis. lines.
First mortgage, consolidated.....	7	N. Y.	July 1, 1904	\$1,039,000	\$493,878
First mortgage.....	7	N. Y.	Jan. 1, 1893	5,750,000	5,750,000
First mortgage, Chicago & Mil. Div.....	7	N. Y.	Jan. 1, 1903	2,500,000	1,105,882
First mortgage, Eastern Division.....	8	N. Y.	Nov. 1, 1874	778,500	778,500
First mortgage, Iowa & Minnesota Div.....	7	N. Y.	July 1, 1897	3,810,000	.....
First mortgage, Minnesota Central R'y.....	7	N. Y.	July 1, 1894	190,000	.....
First mortgage, St. Paul Division.....	7	London	Jan. 1, 1902	4,000,000	.....
First mortgage, Iowa & Dakota Div.....	7	N. Y.	July 1, 1899	1,003,000	.....
First mortgage, Prairie du Chien Div.....	8	N. Y.	Feb. 1, 1898	3,674,000	3,674,000
First mortgage, H. & Dakota Division.....	7	N. Y.	Jan. 1, 1902	1,213,000	.....
Second mortgage.....	7	N. Y.	Oct. 1, 1884	1,191,000	1,191,000
Second mortgage, Prairie du Chien Div.....	7 ³ / ₁₀	N. Y.	Feb. 1, 1894	1,315,000	1,315,000
Milwaukee City.....	7	N. Y.	Mar. 1, 1874	7,500	7,500
Milwaukee & Western.....	7	N. Y.	July 1, 1891	234,000	234,000
Real estate purchase money.....	7	N. Y.	July 1, 1874	148,500	148,500
Equipment and bridges.....	10	N. Y.	June 1, 1883	245,000	116,458
Total.....				27,098,500	14,814,718

+Gold.

COST OF ROAD AND EQUIPMENT.

Cost of right of way	}	Total.
Cost of real estate, exclusive of right of way		886,902 47
Cost of construction		5,384,007 92
Cost of equipment		2,765,611 85
Amounts paid for road, or portion of road, not built by company, (specifying amounts paid, and how paid, in each case, and line ac- quired)		45,611,380 11
Total cost of entire line		54,647,902 35

For answer to the interrogatories on page 4, [blank form,] we refer you to our general answer on page 2, [blank form] and more particularly to a report made by this company, 26th of December, 1874, which will be found on page 186 and following pages in the railway Statistics of the first annual report of the Railroad Commissioners.

Length of Road—Miles.

From—	To—	Entire length.	Length in Wisconsin.
Chicago	Milwaukee	85	38
Milwaukee	Prairie du Chien	193	193
North McGregor	St. Paul	212	.....
Milwaukee	La Crosse	196	196
La Crescent	St. Paul	128	.....
Milwaukee	Portage City	96	96
North Milwaukee	Schwartzburg	6	6
Horicon	Berlin	43	43
Rush Lake	Winneconne	14	14
Watertown	Madison	37	37
Milton	Monroe	42	42
Colmar	Algoma	126	.....
Conover	Decorah	10	.....
Austin	Mason City	40	.....
Mendota	Minneapolis	9	.....
Hastings	Glencoe	75	.....
Sabula	Marion	87	.....
Total .....	.....	1,399	665

The C. M. & St. Paul Ry. Company are operating the Oshkosh and Mississippi Railway, from Ripon to Oshkosh, length 20 miles, sixty-five per cent. of the gross earnings of which are included in the earnings as stated on page 7 (blank form) of this report.

Number of "common points."

Twelve.

What is the gauge of your lines?

Four feet eight and a half inches.

[Omitted by mistake.]

MILEAGE AND TONNAGE.

	Whole line.	In Wisconsin.
Number of miles run by passenger trains.....	1,063,316	614,636
Number of miles run by freight and mixed trains.....	2,160,752	1,957,091
Number of miles run by construction and other trains...	315,530	189,481
Total mileage.....	4,539,598	2,761,208
Mileage of empty freight cars	13,159,921	8,828,007
Total number of passengers carried	1,026,229	670,472
Total number tons of freight carried one mile.....	*232,530,091	*158,120,462
Total number passengers carried one mile.....	*53,847,931	32,615,594
Average distance traveled by each passenger.....	52 miles.	49 miles.
Amount of freight carried per car.....	†About 5 tons.	About 5 tons.
Amount of freight carried per train†.....		

TOTAL FREIGHT IN TONS.

Grain.....	542,519	283,057
Flour.....	140,816	61,181
Provisions.....	40,297	31,658
Salt, cement, water line, and stucco.....	20,575	17,878
Manufactures, including agricultural implements, furniture, and wagons	24,269	13,445
Live stock.....	42,539	34,725
Lumber and forest products.....	64,943	52,202
Iron, lead, and mineral productions.....	39,272	32,275
Stone, brick, lime, sand, &c.....	60,812	21,880
Coal	296,276	158,006
Merchandise and other articles.....	284,851	151,087
Total tons.....	1,557,169	857,404

* Estimated.

† No statistics are kept that would enable us to furnish answers to these questions.

DOINGS OF THE YEAR IN TRANSPORTATION,

CHARACTER OF SERVICE.

Number of persons employed:		
Division and assistant superintendents		8
Clerks in all offices		440
Master and assistant mechanics		6
Conductors		133
Engineers		189
Brakemen		337
Flagmen, switch-tenders, gate-keepers, and watchmen		150
Station agents		221
Section men		1,725
Laborers { Includes shop and round-house men, train, baggage-men, fire-	men, and other employees not enumerated in above	2,031
Total		<u>5,240</u>

EARNINGS DURING THE YEAR ENDING JUNE 30, 1875.

MONTHS.	MONTHLY EARNINGS FROM ALL SOURCES.										TOTALS.	
	PASSENGERS.		FREIGHTS.		MAILS.		EXPRESS.		OTHER SOURCES.			
	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.
1874												
July	\$209,855 00	\$122,029 41	\$477,672 87	\$334,442 78	\$13,173 83	\$7,363 80	\$14,985 31	\$8,040 49	\$6,658 82	\$5,016 32	\$722,345 83	\$476,892 80
August	202,655 38	115,629 15	430,324 16	276,406 77	10,193 18	4,442 69	9,532 43	6,259 67	7,650 15	5,619 70	660,355 30	408,357 98
September	226,428 29	136,395 03	501,775 89	346,392 21	12,253 27	7,258 59	14,502 53	7,822 50	8,117 53	5,910 12	763,077 51	503,838 45
October.....	186,977 96	104,420 02	593,852 92	400,104 31	7,953 18	4,248 63	15,458 23	8,469 72	8,788 73	6,716 64	813,030 52	523,959 62
November.....	133,069 18	74,336 46	490,992 57	351,064 70	8,049 60	4,437 83	14,073 84	7,437 29	14,905 31	13,218 77	661,090 50	450,495 05
December.....	122,066 36	69,301 14	496,213 44	343,994 31	7,839 81	4,282 15	14,955 25	7,869 82	10,046 49	8,671 97	651,121 35	434,119 39
1875												
January	93,259 54	54,645 91	327,457 38	227,980 79	13,007 40	9,658 01	14,265 02	7,580 59	6,081 49	5,037 49	454,070 83	304,902 79
February	64,118 99	37,578 24	215,398 55	147,996 99	12,855 06	7,705 72	13,190 04	7,014 03	4,315 41	3,107 77	309,878 05	203,402 75
March	109,691 89	61,680 01	343,742 88	214,215 69	12,976 73	7,711 31	14,874 60	7,935 96	4,795 43	3,365 07	486,081 53	294,908 04
April	139,304 64	79,209 69	437,832 86	260,198 55	13,168 56	7,836 31	14,236 28	7,551 85	6,148 68	4,517 67	605,691 00	359,314 07
May	133,539 79	73,197 84	488,632 18	328,304 49	12,650 48	7,549 47	14,255 03	7,570 60	5,897 57	4,439 51	654,975 05	421,061 91
June	156,810 52	88,567 32	492,464 32	346,051 13	12,858 31	7,637 26	14,266 81	7,582 38	6,181 23	4,591 95	682,581 19	454,430 04
Total	1,777,777 54	1,016,990 22	5,291,360 02	3,577,152 72	136,979 41	80,131 77	168,595 37	91,134 90	89,586 34	70,273 28	7,464,298 68	4,835,682 89

NOTE.—Earnings of Elevators in Milwaukee are not included in above statement.

Earnings per mile of road in Wisconsin	\$7,271 70.
Earnings per mile of road on freight in Wisconsin	5,379 18
Earnings per mile of road on passengers in Wisconsin	1,529 31
Earnings per train mile, run on freight in Wisconsin	*1 83
Earnings per train mile run, on passengers in Wisconsin	†1 65.
Of the earnings of the entire line, what is the ratio of the passenger to the freight?	as 1 to 3
Average gross earnings per mile [665 miles] of road, exclusive of sidings, in Wisconsin	7,271 70
Average net earnings per mile [665 miles] of road, exclusive of sidings in Wisconsin	2,345 76
Average net earnings per train mile in Wisconsin	60 ⁷ / ₁₀

EXPENSES DURING THE YEAR ENDING JUNE 30, 1875.

PAYMENTS FOR CURRENT AND OPERATING EXPENSES.

	Belonging to whole line.	Belonging to wisconsin.
Maintenance of way:		
Repairs of track, including new and re-rolled iron rail in place of old iron rail.....	\$1,260,990 07	\$740,038 27
Repairs of bridges.....	59,777 91	36,492 05
Repairs of fences	22,917 84	20,614 21
New steel rail, included in repairs of track		
Maintenance of buildings	92,250 78	51,671 91
Maintenance of rolling stock:		
Locomotives	\$300,087 46	196,159 70
Passenger, baggage, mail and express cars	415,097 15	270,963 72
Freight cars.....		
Shop tools and machinery ..	31,191 84	25,697 53
Conducting transportation, and general expenses:	746,376 45	
Management and general office	151,874 81	87,465 49
Foreign agency and advertising.....	92,467 96	54,016 60
Agents and station service ..	618,491 65	400,680 01
Conductors, baggage and brakemen,	288,721 81	172,641 54
Engineers, firemen and wipers	364,855 77	230,335 35
Train and station supplies...	90,603 94	60,646 89
Fuel consumed.....	700,904 23	434,125 85
Oil and waste.....	68,621 65	48,080 44
Personal expenses. (Included in other items.)		
Damage to persons.....	23,337 14	10,622 42
Damage to property.....	15,203 58	6,956 15
Loss and damage to freight and baggage.....	13,637 14	7,919 22
Legal expenses.....	44,615 01	27,675 87
Other general operating expenses.....	106,590 26	71,633 38
Current expenses:		
For taxes	280,046 55	297,734 38
For insurance	40,592 28	23,582 57
Lease or privilege of other roads whose earnings are included in this report, giving name and amount paid.....	420,638 81	
Entire line, total current operating expenses, being 69.4 per cent of earnings.....	5,182,876 81	3,275,753 55

*To arrive at this result, the miles run by freight and mixed trains were used.
 †To arrive at this result, the miles run by passenger trains were used.

Average operating expenses per mile of road, exclusive of sidings	\$3,704 70	\$4,925 94
Excess of earnings over operating and current expenses	2,281,421 87	1,559,929 34
Cost of maintaining track and bridges per mile run*	31 $\frac{3}{10}$	30 $\frac{2}{10}$
Cost of repairs of engines per mile run*	7 $\frac{3}{10}$	7 $\frac{6}{10}$
Cost of engineers and firemen per mile run*	8 $\frac{2}{10}$	9
Cost of oil and waste per mile run*	1 $\frac{6}{10}$	1 $\frac{3}{10}$
Cost of fuel per mile run*	16 $\frac{6}{10}$	16 $\frac{9}{10}$

EXPENSES, ETC.

PAYMENTS IN ADDITION TO OPERATING EXPENSES.

	Belonging to whole line.	Belonging to Wisconsin.
New steel rail, excess of cost over iron rail, old track. (Included in repairs of track)		
New equipment	\$50,934 50	\$24,211 18
New bridges and culverts (not including replace- ments,) also viaducts	35,505 33	12,377 56
Real estate bought during the year, and expenses at- tending purchase	70,926 13	39,831 04
New tools and machinery. (Included in "shop tools" and machinery.)		
New buildings. (Included in maintenance of build- ings.)		
Total paid for new investment on the length of the company's lines one year ago.		
Amounts paid in cash, stock, bonds, or otherwise, for extensions, new lines and branches, during the past year—specify particularly		
McGregor extension	11,629 84	
La Crosse extension	2,916 47	2,916 47
Expenditures for new elevators, new fences, new tun- nel at Greenfield, &c.	85,264 38	51,143 69
Total new investment	257,176 65	130,489 94
For interest on bonds	1,981,273 49	1,088,994 00
Total payments in addition to operating expenses	<u>2,258,450 14</u>	<u>1,219,483 94</u>

What amount of money have you expended for building roads out of the State, from proceeds arising from business done on your roads in this State?

None.

Specify each patent in use on your road, and the amount paid as royalty for said patents, in separate items.

Cannot specify with accuracy. All patents deemed necessary to safety and economy are employed by us.

How was amount of dividends paid the past year—cash, stock, or otherwise? Specify amounts and manner of paying them.

No dividend.

*In arriving at these percentages, the miles run by freight, passenger and mixed trains were used.

GENERAL BALANCE SHEET, 1st OF JULY, 1875.

All lines owned by company in Illinois, Wisconsin, Iowa, and Minnesota.

<i>Assets.</i>	<i>Amount.</i>	<i>Liabilities.</i>	<i>Amount.</i>
Cost of road.....	\$54,647,902 35	Capital stock preferred.....	\$12,274,483 00
Western Union Railroad stock.....	1,500,750 00	Capital stock common.....	15,399,261 00
St. Paul, Stillwater and Taylor Falls R. R. stock...	15,000 00	Bonds outstanding.....	27,098,500 00
Madison & Portage R. R. bonds.....	129,771 13	Incumbrances assumed.....	19,110 00
City of Hastings bonds.....	7,700 00	Unpaid pay-rolls and bills.....	1,319,322 77
City of St. Paul bonds.....	10,000 00	Loan account.....	140,000 00
Stock of material on hand.....	644,603 48	Deferred payments, real estate, Chicago.....	57,239 68
United States Government Post-office Department..	45,494 07	Due other R. R. companies freight and ticket accts.	14,039 31
Balance due from agents and other company's freight and ticket accounts.....	114,691 41	Miscellaneous accounts.....	72,260 96
Miscellaneous accounts.....	379,364 33	Dividends unpaid.....	6,904 33
Cash on hand.....	707,619 19	Coupon account.....	53,549 82
Bills receivable.....	42,133 47	Income account.....	1,790,358 56
		Total.....	58,245,029 43
Total.....	58,245,029 43		

What is your estimate of the cost to you for the transportation of each passenger per mile?

What is your estimate of the cost to you, per ton per mile, for the transportation of freight?

In answer to questions 1 and 2 (blank form) we state that we keep no system of accounts which would enable us to answer definitely as to the cost of the transportation of freight and passengers per mile; nor does any road keep such accounts as to enable them to charge up the passenger and freight expenses separately.

What regulations govern your employees in regard to crossings of other railroads, and are they found to be sufficient?

All engines, with or without trains, are obliged to stop dead within 400 feet of all railroad crossings, and not proceed until track is clear.

What regulations govern your employees in regard to crossings of public highways, and are these regulations found to be sufficient?

Whistling-posts are set 80 rods each side of public highways, and all locomotives must blow whistle at these posts, and ring bell until highway is crossed.

What platform and coupler between passenger-cars, do you use?

Chicago, Milwaukee and St. Paul Railway.

What kind of brakes do you use on passenger-trains?

Air-brakes, hand-brakes.

UNITED STATES MAIL.

What is the compensation paid you by the United States Government for the transportation of its mails, and on what terms of service?

ROUTE.		Rate per mile per annum.
From—	To—	
Chicago	Milwaukee	\$175 00
Milwaukee	La Crosse	230 00
Watertown	Madison	100 00
Winona	St. Paul	200 00
Winona	La Crescent	50 00
Milwaukee	Prairie du Chien	125 00
Milton	Monroe	50 00
North McGregor	Minneapolis	90 00
Conover	Decorah	50 00
Calmar	Algona	50 00
Austin	Mason City	40 00
Milwaukee	Berlin	90 00
Horicon	Portage	50 00
Nepenskin	Winneconne	40 00
Hastings	Glencoe	50 00
Ripon	Oshkosh	50 00
Sabula	Marion	40 00

EXPRESS COMPANIES.

What express companies run on your road, and on what terms, and what conditions as to rates, use of track, machinery, repairs of cars, etc.; what kind of business is done by them, and do you take their freights at the depot, or at the office of such express companies?

American Express Company \$325 per day.

United States Express Company 225 per day.

On all lines operated by the company.

Freight taken at depots.

TRANSPORTATION COMPANIES.

What freight and transportation companies run on your road, and on what terms, and on what conditions as to rates, use of track, machinery, repairs of cars, etc.? Do they use the cars of your company, or those furnished by themselves, and are their cars or their freight given any preference in speed or order of transportation, and if so, in what particular?

None.

SLEEPING-CARS.

Do sleeping or dining cars run on your road, and if so, on what terms are they run, by whom are they owned, and what charges are made in addition to the regular passenger-rates?

We have no dining-cars, and use sleepers of the Chicago, Milwaukee and St. Paul Railway.

Additional charges for accommodation in sleepers:

Between Chicago and Milwaukee, and La Crosse and Prairie du Chien..	\$1.50
Between Chicago and Milwaukee, and St. Paul and Minneapolis.....	2.00

ADDITIONAL QUESTIONS.

Since June, 1863, when this company was organized, there has been paid for dividends on the preferred and common stock \$9,414,432.20, as follows:

On preferred stock:	
In cash	\$3,613,467 37
In common stock.....	2,293,728 80
In bonds	860,000 00
	<hr/>
	6,767,196 17
On common stock:	
In cash	\$229,962 83
In common stock	2,417,273 20
	<hr/>
	\$2,647,236 03

Roads operated under lease (whether temporary or permanent) giving name, termini, length, address of lessors and terms of lease.

The Oshkosh and Mississippi River Railway. From Oshkosh to Ripon. Length, 20 miles. The Madison and Portage Railroad. From Madison to Portage. Length, 39 miles.

What running arrangements have you with other railroad companies, setting forth the contracts for the same.

We have an agreement with all railroads we connect with, that enables us to make close connections with them, which is a mutual benefit to the companies, and accommodation to the public.

Amount of city, county, and town aid granted to company in exchange for stock, or otherwise? Specify particulars.

Total cash amount realized from such aid?

In answer to these two questions we refer to our general answers on page 2, of blank form.

For answer to questions 19 to 27 inclusive, on pages 14, and questions 30 to 37 inclusive, on pages 15 (of blank form,) we state that the company has received no swamp or other lands, either from the State or general government.

ACCIDENTS.

Number of accidents.	STATEMENT OF EACH ACCIDENT.	PASSENGERS.				EMPLOYEES.				OTHERS.			
		From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.	
		Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
1	¹ Thos. Usher, Poynette, July 4, 1874.....												
2	² Unknown, near Salem, July 31, 1874.....						1					1	
3	³ Geo. Schultz, Milwaukee, August 1, 1874.....												
4	Byron Warner, near Cross Plains, August 20, 1874.....			1				1					
5	¹ John Leopold, Milwaukee, August 7, 1874.....							1					
6	¹ J. McCarty, Mazomanie, August 12, 1874.....							1					
7	¹ Pat. Moran, Watertown Junction, August 28, 1874.....							1					
8	Unknown, La Crosse, September 7, 1874.....									1			
9	¹ Robert Young, Waupun, September 15, 1874.....							1					
10	¹ G. Rood, Lemonwier, September 17, 1874.....							1					
11	² F. McGrath, Milwaukee, September 17, 1874.....							1					1
12	— Howard, Hartland, September 13, 1874.....												1
13	Caroline Limiens, Camp Douglass, September 24, 1874.....												1
14	Aug. Knick, LeRoy, September 25, 1874.....							1					
15	J. Cunningham, Madison, October 1, 1874.....					1							
16	Edw. Conners, Fall River, October 7, 1874.....							1					
17	J. M. Smith, Silver Creek, October 21, 1874.....							1					
18	Edw. Leiter, Beaver Dam, October 27, 1874.....							1					

19	James Little, Winneconne, October 14, 1874.....									1										
20	Fred Prah, Milwaukee, October 31, 1874.....									1										
21	¹ G. Fulendorf, Milwaukee, October 31, 1874.....									1										
22	Carl Frank, Milwaukee, October 31, 1874.....									1										
23	G. Patzloff, Wright's Ferry October 27, 1874.....																			
24	W. B. Pierce, Whitewater, November 11, 1874.....																			
25	¹ L. Freedland, Burnett Junction, November 16, 1874.....																			
26	¹ P. J. Smith, Winneconne, November 16, 1874.....																			
27	J. Lepke, Milwaukee, November 14, 1874.....																			
28	E. Fry, Mazomanie, November 11, 1874.....																			
29	Wm. Wright, Palmyra, August 7, 4374.....									1										
30	² Chas. Votz, Milwaukee, November 21, 1874.....																			
31	L. Herrick, Camp Douglass, November 19, 1874.....																			
32	M. Hanlin, Sparta, November 20, 1874.....																			
33	Geo. Kapplin, Columbus, November 25, 1874.....																			
34	James Fox, Janesville, November 23, 1874.....																			
35	S. A. Dickey, Winona Junction, November 12, 1874.....																			
36	⁴ D. O. Benedict, South Milwaukee, November 15, 1874.....																			
37	D. A. Beardsley, Lowell, November 19, 1874.....																			
38	Geo. Sloan, Lowell, November 19, 1874.....																			
39	¹ J. Staffey, Ripon, December 4, 1874.....																			
40	Jno. Leary, Edgerton, December 19, 1874.....																			
41	¹ Jas. Free, Sparta, January 12, 1875.....																			
42	⁵ Ed. Lynch, Milwaukee, January 4, 1875.....																			
43	F. Sadler, Hartford, January 22, 1875.....																			
44	Jno. Knudston, Cross Plains, January 29, 1875.....																			
45	H. Clayman, Cold Spring, February 1, 1875.....																			
46	C. Roher, Milwaukee, February 3, 1875.....																			
47	Amelia Omland, near Tomah, February 6, 1875.....																			
48	² C. W. Slayton, Beaver Dam, February 9, 1875.....																			
49	² G. S. Patterson, Milwaukee, February 1, 1875.....																			
50	² G. Hoanicka, Le Roy, February 17, 1875.....																			
51	¹ Wm. Loomis, Sparta, February 17, 1875.....																			
52	Mrs. J. M. Flint, ⁴ Brandon, February 26, 1875.....																			
53	W. P. Andrews, Brandon, February 26, 1875.....																			
54	Thos. Rosling, Brandon, February 26, 1875.....																			
55	Jno. Albert, Brandon, February 26, 1875.....																			

80	J. Mackusky, Gravel Pit, June 2, 1875.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....
81	J. Mayer, near Middleton, May 31.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
82	Nich. Wagner, Ackerville, June 7.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
83	M. McManman, Milton, June 7.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
84	Pat. Murphy, Boscobel, March 29.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
85	J. Pipal, Muscoda, June 30.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
86	J. McIlree, Lima, June 10.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
87	Wm. McGowin, Waukesha, June 24.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
88	Jno. Flinn, Waukesha, June 29.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
89	Chas. H. Evans, Portage, June 15.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Total	4	1	2	19	2	39	1	4	11

DAMAGES.

1 Time and expenses. 2 Expenses. 3 \$100 and expense. 4 \$100. 5 \$30.

Of the above accidents those numbered as follows were caused by broken rails: Nos. 37, 38, 49, 53, 54, 55, 56.....	Total No. of accidents, 3.
Of the above accidents those numbered as follows were caused by collisions not properly coming under 2: Nos. 57, 58, 59, 60, 61, 62, 36.....	Total No. of accidents, 2.
Of the above accidents those numbered as follows were caused by explosion: No. 67.....	Total No. of accidents, 1.
Amount paid as damages on account of stock killed by trains	} \$6,956 15
Amount paid as damages caused by fire from locomotive.....	

REMARKS.

The statement of accidents, as shown on page 16 of this report (blank form), is full and complete, comprising all accidents on the company's lines in the State of Wisconsin during the year ending June 30, 1875, that have been reported. A very large proportion of the injuries to persons were of the most trivial nature.

STATE OF WISCONSIN,
County of Milwaukee, ss.

We, S. S. Merrill, General Manager, and Royal D. Jennings, Secretary and Treasurer of the Chicago, Milwaukee and St. Paul Railway Company, being duly sworn, depose and say that we have caused the foregoing statement to be prepared by the proper officers and agents of this company, and having carefully examined the same, declare them to be a true, full, and correct statement of the condition and affairs of said company on the first day of July, A. D. 1875, to the best of their knowledge and belief.

S. S. MERRILL,
General Manager.

R. D. JENNINGS,
Secretary and Treasurer.

Subscribed and sworn to before me, a Notary Public, this twenty-third day of September, A. D. 1875.

G. E. WEISS,
Not. Pub., Milwaukee Co., Wis.

List of stockholders of the Chicago, Milwaukee & St. Paul Railway Company.

Name.	Residence.	Scrip prefer'd.	Preferred.	Common.
		Shares.	Shares.	Shares.
John Abbot.....	Philadelphia, Pa	30		
Wm. H. Abbot.....	do.....	10		
S. P. Acker.....	New York.....			300
Mrs. Emla A. Adams.....	Terryville, Conn.....		10	1.47
Adams, McHarg & Co.....	New York.....	70		
Geo. B. Adriance.....	Poug'k'psie, NY	10		
John P. Adriance.....	do.....	100	200	
Wm. Agnews & Son.....	New York.....	10	200	
Leop. Ahrweiler.....	Germany.....		9	10
A. J. Akin.....	Pawling, N. Y.....	40		
A. S. Albro.....	New York.....			100
Wm. D. Alexander.....	Griffin, Ga.....		115	16
Julia S. Allen.....	New York.....	10		
Wm. F. Allen.....	do.....	50		
Alfred Allendorf.....	Redhook, N. Y.....	10		
Edward H. Ammdown.....	New York.....	20	300	
H. Amy & Co.....	do.....	30		
J. J. Anderson.....	do.....		100	
Sam'l Andrews.....	Salem, Mass.....			16.05
Arents & Young.....	New York.....		200	100
Armour, Plankinton & Co.....	do.....	50	700	
Chas. Arms.....	do.....	30		
Dan. H. Arnold.....	do.....	10	100	
Wm. H. Arnoux.....	do.....			2.62
J. Hubley Ashton.....	Washington, D.C.....			32
Wm. Astor.....	New York.....		1,200	
Mrs. Elizabeth C. Altee.....	Lancaster, Pa.....	10		
John H. Atwater.....	Brooklyn, N. Y.....	10		
Cornelia A. Atwill.....	Poug'k'psie, NY	100		
Annie G. Audubon.....	New York.....		3	
Mary Austin Averill.....	Danbury, Conn.....		2	2
Alfred Avery.....	Willimantic, Ct.....		15	
Latham Avery.....	New York.....		200	1,200
Mrs. R. K. Avery.....	do.....	40		
J. C. Ayer & Co.....	Lowell, Mass.....	30	500	
Edwin J. Adams.....				
Mrs. Melanie Adams.....				
N. Addison.....	Pittsburg, Pa.....			
Chas. Victor Antoine.....	New York.....			
Francesco Angero.....				
Maria Bachman.....		10		
F. Bacon & H. Jassett, trustees.	Boston, Mass.....		28	16
Bacon Bros.....	New York.....	40		
Isaac H. Bailey.....	do.....		200	
P. Blair.....	do.....		100	
Bain & Son.....	do.....	10	200	
Cyrus O. Baker.....	New York.....	10		200
Edward Baker.....	Millstone, N. J.....	140		
Frank Baker.....	do.....	10		
Howes Baker.....	New York.....		100	
C. C. Baldwin, guardiau.....	do.....		15	
Sally R. Baldwin.....	do.....		10	
Baldwin & Kimball.....	New York.....	20	1,100	400
Baldwin & Weeks.....	do.....			600
Jas. M. Ballard, executor.....	Boston, Mass.....		10	1.07

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip prefer'd.	Preferred.	Common.
		Shares.	Shares.	Shares.
Baltzer & Taaks	New York.....			5
B. F. Bancroft, trustee.....	Salem, N. Y....	10	100	
Geo. Bancroft.....	New York.....	50		
Gottlieb Bantley.....	Johnstown, Pa..			50
Jas. L. Barclay.....	Astoria, L. I....	160		
Robt. S. Barclay.....	New York.....			20
Sackett M. Barclay.....	Astoria, L. I....	20		
David P. Barhydt.....	New Ybrk.....	50		
John Barker.....	do.....	365		
Adelaide S. Barnes.....	do.....			20
A. S Barnes.....	do.....			236
David H. Barnes.....	Poug'k'psie, N Y	30		
James Barnes.....	New York.....	300		
Mrs. Mary L. Barnes, adm'r.....	Brooklyn, N. Y.	30		
Walter Barnes.....	New York.....	30		
Geo. Barney.....	Sandusky, O....		50	
Barney, Raymond & Co.....	New York.....		200	700
Daniel H. Barstow.....	Boston, Mass....		50	
John S. Barstow.....	do.....		100	
W. H. C. Bartlett.....	New York.....	40		
Thos. B. Bartram.....	Black Bock, Con.		100	
John Bates.....	Red Hook, N. Y.	20		
Robert Bayard.....	New York.....	3,660	3,200	1,177.54
Elijah Bayley.....	Platteville, Wis.	500		
A. B. Baylis.....	New York.....	100		
A. B. Baylis & Co.....	do.....	40	900	1,700
H. C. Beach.....	do.....	10		
Jos. C Beach.....	Cheshire, Conn..	20		
Mrs. Mary C. Beach.....	New York.....	100		
Moses Y. Beach.....	do.....	40		
J. A. Beardsley, cashier.....	do.....	80		
Abram Bedell.....	Athens, N. Y....		25	
Ellen Bedell.....	do.....		15	
Jas. W. Beebe.....	New York.....	20		
N. B. Beebe.....	Newburgh, N. Y.			20
Coleman Benedict.....	New York.....			200.21
E. C. Benedict.....	do.....			100
Benedict, Flower & Co.....	do.....			100
Jas. Benhard.....	do.....	130		7
Mrs. Mary Bennet.....	do.....	80		
Mrs. Harriet Bennett.....	Newburgh, N. Y.	40		
Mary C. Bennett.....	Danville, Va....	10		
L. D. Bentley.....	Norwich, Conn..		25	
D. W. Berdan.....	New York.....			100
Teunis G. Berger, trustee.....	Bay Ridge, L. I..		75	11
E. Bernheimer.....	New York.....			100
Isaac Bernheimer.....	do.....			1,000
Geo. W. Berrian.....	Jersey City, N. Y.	20		
Matthew Bird.....	New York.....		200	
Lewis Birdsall.....	do.....	70		
D. W. Bishop.....	New York.....	30		
D. W. Bishop, in trust.....	do.....	100		
John M. Bixby.....	do.....	50		
Giles Blague.....	do.....		100	
John P. Blairs.....	Indiana, Pa....			200
Rufus Blakeman.....	Greenfield, Conn.	10		

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip	Preferred.	Common.
		prefer'd.		
		<i>Sheres.</i>	<i>Shares.</i>	<i>Shares.</i>
S. A. Blatchford.....	New York.....	120		
John Bloodgood & Co.....	do.....	310		1,800
Hamilton Blydenburgh.....	do.....		25	
Landsale Boardman.....	do.....	90		300
Norman Boardman.....	do.....			107
O. M. Bogart & Co.....	do.....	40	100	500
Cornelius Bogert.....	do.....			3
E. T. Bogert.....	do.....			5
James L. Bogert.....	do.....	10	100	
J. M. Bokee.....	do.....	10		
E. L. Bolles.....	do.....	10	500	
R. V. Bonnell.....	do.....			20
G. T. Bonner & Co.....	do.....			100
Samuel W. Boocock & Co.....	do.....		100	
Bond & Co.....	do.....			200
Johnathan M. Bowman.....	Kilb'n City, Wis.			100
Nathanial G. Bradford, Jr.....	Westchest'r, N Y	10		3
Mrs. Cornelia Brady.....	New York.....		100	
Julia S. Brandagee.....	do.....		7	
Nancy C. Brandagee.....	New London, Ct.	100		100
Edward Brandon.....	New York.....	10		
Rev. Charles Breck.....	Wilmington, Del.	20	4	9
C. H. Breneman.....	do.....			100
H. O. Briggs.....	Boston, Mass.....			100
Abm. D. Brinckherhoff.....	New York.....	50		
R. H. Brinckherhoff.....	Crawf'd L'g, N Y	10		
William P. Brinton, trustee.....	Lancaster, Pa.....	40		
H. H. Rockway.....	New York.....	30		
Oliver Bronson.....	St. Augustine, Fla.	80	100	
H. D. Brookman.....	New York.....	10		
Fritz Bros.....	do.....	180		
James Clifton Brown.....	England.....	80		
Joseph M. Brown.....	Jersey City, N. J.	40		
Mrs. Mary H. Brown.....	New York.....	10		
Timothy Brown.....	Madison, Wis.....			100
Edward J. Brown & Co.....	New York.....		100	
George & Samuel Brown & Co.....	do.....	10		100
Charles Brush.....	Stanwich, Conn.....	20		
Harriet Brush.....	do.....		1	
William Brush.....	do.....	20		
Mrs. Mary E. Bryan.....	Troy, N. Y.....	50		
James Bryce, guardian.....	do.....	20		
Willian Bryce.....	do.....	800		
William Bryce & Co.....	do.....	30	500	
Rtv. Edward Y. Buchanan.....	Philadelphia.....		20	
Nationabath Bucher.....	Germany.....		6	2.96
G. Buckingham, Jr.....	New York.....			100
S. M. Buckingham.....	Poug'k'psie, N. Y	40	50	5
Samuel Buel.....	do.....	20		
James Buell.....	New York.....	3,180	1,000	2.50
Charles Bulkley.....	do.....			
Edwin Bulkley.....	Southport, Conn.	10		
E. H. Bulkley.....	Albion, N. Y.....		100	
Oliver Bulkley.....	N. Bright'n, N. Y	10		
Freeman C. Bullock.....	New York.....		10	10
Catharine C. Bonner.....	do.....	10		

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip	Preferred.	Common.
		prefer'd.		
		Shares.	Shares.	Shares.
Julius Bunzl.....	New York.....		400	
Bunzl & Dormitzer.....	do.....		100	
Lawrence Burke.....	do.....		100	200
Arthur Burtis.....	Buffalo, N. Y.....			25
R. J. Burton.....	Albany, N. Y.....	10		
Dorothea Burtzell.....	do.....	10		
Richard L. Burtzell.....	New York.....	70		
Maria C. Bushnell.....	Monticello, N. Y.....	20		
M. L. Bushnell.....	do.....	80		
Wm. Butler.....	Boston, Mass.....		40	
J. W. Butterfield.....	Washington, D C.....			50
Sir J. B. Byles.....	England.....	30		
Peter Byrnes.....	do.....		3	
Ashbel C. Barney.....	New York.....			
John M. Burke.....	do.....			4,500
Edward Cachard.....	do.....	10		
Rev. Philander K. Cady.....	Poug'k'psie, N Y.....	50		
John R. Callaghan.....	do.....			100
Mrs. Jane Cameron.....	New York.....	10		
Anna M. Cameron.....	do.....	20		
Kate L. Cameron.....	do.....	20		
Cameron & Co.....	do.....	50	10	1,650
T. H. Camp.....	Watertown, N. Y.....	100		
Samuel Campbell.....	New York.....	10		
Campbell & Richmond.....	do.....		800	1,305
Capron & Strong.....	do.....			14
Geo. W. Carleton.....	do.....	100		
David Carlisle.....	do.....		25	
B. Platt Carpenter.....	Poug'k'psie, NY.....	120		
Isaac S. Carpenter.....	Amenia City, NY.....	100		
Jacob B. Carpenter.....	Poug'k'psie, NY.....	80		
Morgan Carpenter.....	do.....	10		
Sarah M. Carpenter.....	do.....	90		
Carpenter & Richards.....	New York.....	40	100	100
H. D. Carroll.....	Springfield, Mass.....		50	
J. F. Carroll.....	New York.....	30		
Watson E. Case.....	do.....	60	200	
Wm. Case.....	do.....		5	73
N. B. Caswell.....	Milwaukee, Wis.....		50	
P. Caswell.....	New York.....	50		
Clarissa J. Catlin, Admx.....	Elizabeth, N J.....	50		
John Catlin.....	do.....	60		
L. A. Catlin.....	New York.....	10		
Ebenzer Cauldwell.....	do.....	10	100	
Mrs. A. B. Cavalry.....	do.....		5	
Cecil, Stout & Thayer.....	New York.....	30	700	
Selah Chamberlain.....	Cleveland, O.....	9,480	2,518	3,270
Jas. Champ.....	New York.....		200	2,800
Anna Champneys.....	Lancaster, Pa.....	20		
Benjamin Champneys.....	do.....	40		
Do..... Executor.....	do.....	30		
Christian Champneys.....	do.....	10		
Jas. P. Champneys.....	do.....	10		
F. Chandler.....	New York.....	10		
Edw. Chappell.....	Norwich, Conn.....	20		
Chase & Higgins.....	New York.....		300	

List of Stockholders, Cc.—Continued.

Name.	Residence.	Series	Preferred.	Common.
		prefer'd.	Shares.	Shares.
Thos. Chatterton	New York.....	Shares .		
Wm. Chauncey.....	do.....	30		
T. Mattack Cheeseman.....	do.....	30		
Mrs. Mary A. Chisolm, Trustee	College Point NY	100	100	
Geo. S. Christy.....	Indiana, Pa.....		18	
A. E. Church.....	West Point, N. Y.	30		22.90
H. A. Church.....	Boston, Mass.....		17	24
F. H. Churchill.....	New York.....	40		
A. Mead Clark.....	Bedford, N. Y.....	10	3	
Edmund F. Clark.....	Rochester, N. Y.....	40		
Ferdinand W. Clark.....	New York.....	30		
La Fayette Clark.....	W. Br'tboro, Vt.....		6	3
Newell Clark.....	S. Fa'ing't'n, Mass.			114.49
Clark, Dodge & Co.....	do.....	20	2,000	2,500
Caroline S. Clarke.....	Rochester, N. Y.....	10		
Edward S. Clarke.....	do.....	60		
Elizabeth Clarke.....	do.....	10		
F. DeWitt Clarke.....	do.....	50		
Freeman Clarke, Jr.....	do.....	10		
Geo. H. Clarke.....	do.....	60		
Isaac S. Clarke.....	do.....	60		
L. W. Clarke.....	do.....	40		
Mary H. Clarke.....	do.....	10		
Roswelt S. Clarke.....	do.....	10		
Albert W. Close.....	Stanwich, Conn.....		1	
Mary Clossey.....	New York.....	100		
Closson & Hays.....	do.....			100
F. D. Cobb & Co.....	do.....			100
T. F. Cook & L. G. Cullen, Ex'r	do.....	60		
Osborn Coe.....	Middletown, Con.....		50	
Caleb Coffin.....	Athens, N. Y.....		25	
T. Coffin.....	New York.....			200
J. H. Coghill, Trustee.....	do.....	10		
U. Cole.....	Poughk'psie, N. Y.....	20	10	
Elisha Cole & Co.....	New York.....		100	
Cornelius C. Colgate.....	do.....	70	700	200
Do..... Executor.....	do.....		100	
Edward Colgate.....	do.....	36	400	300
Do..... Trustee.....	do.....	60	200	
Wm. Colgate.....	do.....	10	200	
Jas. B. Colgate & Co.....	do.....		1,500	2,000
Mrs. Anna M. Collins.....	do.....	10		
Caroline Collins.....	Saginaw, Mich.....	10		
Harriet E. Collins.....	Cleveland, O.....	50		
C. L. Colton.....	Canastota, N. Y.....	70		
R. B. Conant, Cashier.....	Boston, Mass.....	10		
Helen R. Cone.....	New York.....	50	17	
Wm. Constable, Trustee.....	do.....	50		
Mrs. Charlotte Constantine.....	W'st Farms, N. Y.....	10		
Geo. E. Cook & Co.....	New York.....		200	
Hubbard Cooke.....	Cleveland, O.....	10		
Francis B. Cooley.....	Hartford, Conn.....	130		6.42
Margaret Coolidge.....	New York.....	10		
Chas. Cooper.....	Fishkill, N. Y.....	20		
Philena Cooper.....	Owosso, Mich.....	10		
Corlies, Macy & Co.....	New York.....		100	

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrp	Preferred.	Common.
		prefer'd		
		<i>Shares.</i>	<i>Shares.</i>	<i>Shares.</i>
S. B. M. Cornell.....	New York.....	70		
Israel Corse.....	do.....	750		
Do... Guardian.....	do.....	90		
A. V. Courtelyon.....	Brooklyn, N. Y.....		15	
T. B. Coster.....	New York.....		15	
Chas. Courter.....	Cobleskill, N.Y.....	30		
N. A. Cowdrey.....	New York.....	5,810	100.30	26
Do..... Guardian.....	do.....	100		
Do..... Trustee.....	do.....	10		
D. Cowee.....	Troy, N. Y.....			5
Jas. R. Cowing.....	New York.....	100		
W. S. Cox.....	St. Paul, Minn.....	10		
Kenyon, Cox & Co.....	New York.....			7
Robt. Craig.....	N. Germ't'n NJ.....	10		
B. F. Crane.....	New York.....	10		
Thos. Crane.....	do.....	50	120	17.59
R. Crangle.....	Wheeling, W. Va.....			29
Wm. A. Creesy.....	Salem, Mass.....			25
Lucy C. Crehore.....	Boston, Mass.....		50	
F. A. Crocker.....	New York.....	10	100	
Hans Crocker.....	Milwaukee, Wis.....	10	200	
Richd. L. Crook.....	New York.....	10	100	135
D. P. Crosby.....	do.....	50		
Mrs. Elizabeth M. Crosby.....	New York.....	100		
John Crouse.....	Syracuse, N. Y.....	50	600	100
John S. Crouse.....	Red Hook, N. J.....	20		
Jane C. Cullen.....	New York.....	30		
Lucretia C. Cullen.....	do.....	30		
Mariame G. Culleno.....	do.....	30		
John Cullyer.....	do.....	120		
Wm. Culyer.....	do.....	10		
Revd. Edwd. K. Cumpston.....	Rockville, Md.....	10	8	5
J. W. Cunningham & Bro.....	New York.....	120	300	100
Geo. K. Curry.....	do.....		100	
S. J. Cartis.....	New York.....	110		
Cushman & Hurlbut.....	do.....			200
Laura E. Cutter.....	Brooklyn N. Y.....	20		
R. L. Cutting.....	New York.....	100		
R. L. Cutting, Jr., & Co.....	do.....	100		
W. T. Dayton.....	do.....	30		
C. F. Dambman & Co.....	do.....	20		
Chas. Dana.....	do.....			3.21
Sarah F. Daniell.....	Boston, Mass.....		50	
A. E. Darling.....	New York.....	50		
Henry W. Darling.....	Potsdam, N. Y.....			11
Henry Data.....	Hyde Park, N.Y.....	20		
Ira Davenport.....	Bath, N. Y.....			800
John Davenport.....	do.....			700
Davidson & Jones.....	New York.....	50		
Alice A. Davies.....	Poughk'sie, N. Y.....	10		
Henry E. Davies.....	New York.....	10		
John G. Davies.....	do.....	50		
Mary H. Davies.....	do.....	20		
Wm. D. Davies.....	Providence, R. I.....	20	300	17
Davies & Freeman.....	New York.....			100
Alfred W. Davisson.....	Brooklyn, N. Y.....	30		

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrp prefer'd.	Preferred.	Common.
		Shares.	Shares.	Shares.
Nathan Day & Co	New York		200	100
Day & Heaton	do	30	100	175
F. DeBiller	do	220		
Henry DeCoppet	do			75
Alfred DeGraff	Fonda, N. Y.	200		
Mary DePeyster	New York	10		
DeRahm & Co.	do		7	
DeRonga & Dyett	do	350		
Alexr. DeWitt	Poughk'sie, N. Y.	10		
L. P. Dean	Flens Falls			100
Geo. W. Debevoise	New York			200
Z. Dederick	do	20		
Edwd Delano	do	10	14	159
S. J. Dennis	do	50		
Wm. Dennistown	do	500		
Thos. Denny	do	10	36	21
Thos. Denny & Co.	do	80		
Sam'l Derickson	do			100
Herman F. Dernell	Athens, N. Y.		10	
Thos. Devine	New York	20		
Mrs. Mary E. Dewey	Boston, Mass.	10		
Nelson Dewey	Cassville, Wis.		1	1.18
Orville Dewey	Sheffield, Mass.		40	
Hiram Dewing	Stamford, Conn.	30		
Lucas A. Diaz	Matanzas, Cuba	20		
John A. Dibble	Fair Haven, Con	20	8	
A. Dickerson	New York	30		
Hugh T. Dickey	Chicago, Ill.	10	100	14.66
Edward P. Dickie	New York	200		
Horace P. Dickie	do	50		
Mrs. Mary E. Dickie	do	50		
Perry Dickie	do	20		
Robert Dinwiddie	do		33	
Thos. E. Disbrow	N. Rochelle, N. Y.	10		
Alfred P. Dix	New York		50	
Harry E. Dodge	Brooklyn, N. Y.	10		
J. T. Dodge	Madison, Wis.		10	
L. G. Dodge	Poughk'psie, N. Y.	20		
Dominick & Dickerman	New York		100	
H. T. Dortic	do	40		
Geo. Dow	do		6	
Jason Downer	Milwaukee, Wis.	100		
David Dows	New York	680		
Simeon J. Drake	do			100
C. C. Drew	Worcester Mass.		20	
Drexel & Co.	Philadelphia, Pa			200
Drexel, Morgan & Co.	New York			450
Arthur Drysdale	Scotland	30		
Matthew W. Dubois	Middlehope, N. Y.	10		
Geo. C. Dunbar	New York	10		
Kenneth J. Duncan	N. Brunswick, N. J.		20	
Duncan, Sherman & Co	New York	70	400	
Theo. W. Dunning	do	100		
Wm. H. Dunning	do	120		
A. DuPasquier	do		5	
John M. Durand	Milwaukee, Wis.	540		

List of Stockholders—Continued.

Name.	Residence.	Scrip	Preferred.	Common.
		prefer'd.	Shares.	Shares.
Harrison Durkee.....	New York.....	Shares.	Shares.	Shares.
Durbach & Oettinger.....	do.....	60	100	1,200
Dutch Administration.....	do.....		14,695	
Amos T. Dwight.....	New York.....	40	200	
Theo. W. Dwight.....	do.....	50		
Thos. Eakins & Co.....	do.....			700
M. R. Eames.....	Buffalo, N. Y.....	30	500	16
Eames & Moore.....	New York.....	10		500
Wm. H. Earle.....	do.....		100	
Mary A. Easton.....	do.....			100
Geo. W. Elder.....	do.....	100		
Chas. H. Eldredge.....	Portsmouth, N. H.....	30		
Mrs. E. F. Ellet.....	New York.....	20		
C. W. Elliot.....	do.....	140		
C. W. Ellis.....	do.....		700	
Moses Ellis.....	Farmingh'm Mas.....		100	
C. W. Ellis & Co.....	New York.....	60	26	
Sarah B. Elmendorf.....	Poughk'psie, NY.....	10		
Thos. Elmendorf.....	Red Hook, N. Y.....	20		
David Elston.....	New York.....		100	
Wm. A. Elston.....	New York.....	10		
Luther Elting.....	Poughk'psie, NY.....	300		
Mary E. Elting.....	New Paltz, N. Y.....	10		
Rœlif Elting.....	Poughk'psie, NY.....	10		
Sarah E. W. Elting.....	do.....	120		
N. H. S. Elting.....	New York.....		60	
C. F. Elwert.....	Philadelphia, Pa.....		7	3.64
N. N. Ely.....	Stratford, Conn.....	20		
Peter E. Emery.....	New York.....	10		
Thos. Emery & Sons.....	Cincinnati, O.....		300	
Wm. Englehardt.....	New York.....	20		
Henrietta J. Erdman.....	do.....	70		
John J. Evely.....	New York.....	30		
Chas. J. Everett.....	Goshen, N. Y.....	20		
Ewell, Stout & Co.....	New York.....	10		
Danl. Fairchild.....	Trumbull, Conn.....		10	
Jas. B. Fairman.....	New York.....			20
Zerah Fairman.....	Newton, Conn.....		3	
Fanshawe & Milliken.....	New York.....			600
Isaac D. Farnsworth.....	Boston, Mass.....	10	92	
Wm. Fehr.....	New York.....		390	
John S. Felton.....	Salem, Mass.....		43	
Luis A. Fernandez.....	New York.....	10		
Mrs. Julia E. Terry.....	do.....	10		
T. S. Terry, in trust.....	do.....	20		
E. G. Field.....	do.....	200		
Thomas F. Field, Jr.....	do.....			100
Emeline R. Filor.....	do.....	50		
Jane E. Fisher.....	do.....	50		
Susan S. Fisher.....	Brooklyn, N. Y.....	60		
Mary G. Fisk.....	Boston, Mass.....		50	
Jas. C. Fisk and others, trustees.....	do.....	20		
Fisk & Hatch.....	New York.....	30		
Helen M. Fiske.....	Boston, Mass.....		50	
Fitzgerald & Moale.....	Baltimore, Md.....			100
Wm. A. Fitzhugh.....	New York.....	100		

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip prefer'd	Preferred.	Common.
		Shares.	Shares.	Shares.
Fitzhugh & Jenkins	New York	10		
Wm. Flanders	Brooklyn, N. Y.		100	
C. L. Flemming	New York	10		
Austin Flint, Senr.	do	10		
Martha Forbes	Poug'k'psie N. Y.	30		
Geo. Ford	Ward's Isl'd, N. Y.	90		
N. E. Ford	Morrist'wn, N. J.	10		
Oscar H. Fordham	Sag Harbor N. Y.	20		
Geo. J. Forrest	New York		900	
Anna V. Forrester	do	150		
Josie Forrester	do	10		
Margaret A. Forrester	do	30		
Peter Forrester	do	10		
Mrs. R. E. Foster	Poug'k'psie N. Y.	20		
Robt. Foulis	Scotland		20	
Elizabeth S. Fowler	New York		10	
H. H. Fowler	Bedford, N. Y.	10		
Isaac C. Fowler	Newburgh, N. Y.		8	16
Fowler Brothers	New York	10		
E. L. Frank	do		100	
Frank & Ganes	do	1,650		
C. S. Franklyn	Brooklyn, N. Y.	20		
Walter Freeman	Philadelphia, Pa.			100
Franklyn Frisbee	Rensalaerv'l, N. Y.	50		
P. H. Frost	New York			130
Wm. H. Fry	do	100		
Jas. S. Fulton	Stanley Cr's, N. Y.	20	13	20.57
F. P. Furnald	New York	100	400	
Fyshe & Conings	do			100
Victor Fanche	France			
Ernst Galber	New York		100	
Horace Galpen	do	60		
Ganes Bros.	do		100	125
John H. Gardner	Saratoga S., N. Y.	140		
Jas. G. Garner	New York	2,140		100
Henry Gassett	Dorchester, Mass	10	14	15
Henry Gassett, trustee	do		27	4
Jos. Gautier	France	60		
Sereno Gaylard	Chickopee, Mass.	20		
Peter Geddes	Chicago, Ill.	10		200
Gelston & Bussing	New York	40		150
Isaac S. George	Baltimore, Md.			100
A. S. Gibbs	do	60		
A. Giddings	do	50		
Chas. Gignoux	France	100		
Gilley & Germond	New York			600
F. W. Gilley, Jr., & Co	do			700
John C. Gilligan	Lock Haven, Pa.	20		
Chas. A. Girran	Little Falls, N. Y.		20	293
Rev. Thos. Gleason	Malden, Mass.	10		
Glending. Davis & Amorey	New York		200	
Henry B. Glover	do	20	6	6
T. James Glover	New York	60		
Chas. W. Goddard	Newburyp't, Mass		10	
Miss Eunice C. Goddard	New London, Ct.		10	
Geo. W. Goddard	do		20	

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip	Preferred.	Common.
		prefer'd.		
		<i>Shares.</i>	<i>Shares.</i>	<i>Shares.</i>
Peter Goelet	New York.....	150		
Robt. Golett.....	do.....	150	100	
Mrs. Francis Goldsmith	Rutland, Vt.....	30		
Mrs. C. V. D. Gott.....	Goshen, N. Y....	30		
John Gould.....	Albany, N. Y....	20	6	3
Wm. Gould	do.....	220		
Wm. Gould, executor	do.....	20		
Rafeal Govin.....	New York.....	110		100
W. H. Garnbery & Co.	do.....			10
B. S. Grant	Boston, Mass.			100
Grant & Co.....	New York.....			100
Rufus K. Graves.....	do.....		100	100
Dr. John F. Gray.....	do.....	250		
Jacob Green.....	do.....	30		
Mrs. Mary A. Green	N. Rochelle, N. Y.	30		
Mary H. Green.....	Ro'ring Bro'k, Pa	10		
Samuel Green	Athens, N. Y....		50	
Green & Cranston	Providence, R. I.			300
Greenleaf, Norris & Co.....	New York.....	380	4,800	600
Ellen A. Greenman	Brooklyn, N. Y.		10	
George B. Gree.....	New York.....	250		
Israel Griffith	Baltimore, Md.	10	200	3
B. W. Griswold.....	New York.....	30		
Samuel L. Griswold.....	do.....	90	12	
George F. Grout.....	Spencer, Mass....	30	5	1.25
Mary E. Grout	New York.....			
James P. Groves.....	do.....			200
W. S. Gurnee	do.....	7,310	1,700	6,155
Henry Hadden.....	Nottingham, Eng.		200	
Henry Hadden & Co.....	New York.....		100	
B. Hagaman	Oswego, N. Y....			100
Hagen & Billings	New York.....	20		
Louis Haight.....	do.....			15
G. L. & L. Haight.....	do.....			100
E. B. Hale & Co.....	Cleveland, O....	20		
Catharine Hall	Boston, Mass.		7	16
C. B. Hall	New York.....	20		
Irene E. Hall.....	Min'apolis Minn		10	
Halgarton & Co.....	New York.....	40	700	1,235
N. S. Hamilton.....	Monticello, N. J.	80		
N. R. Harbach	New York.....	10		
George Harden, estate of.....	do.....	30	500	535
Wainwright Hardy	do.....	50		
John Hardy.....	do.....	30		
Thomas Hargreaves.....	England	100		
W. D. Harris	New York.....			300
Col. W. H. Harris.....	Indianapolis, Ind.	30		
Marcellus Hartley	New York.....	250		
Reuben M. Hartley	Pt. Jackson, N. Y.	10		
John Hartness.....	Cleveland, O....		100	
Isaac Hartshorn	Providence, R. I.	340		13.04
J. M. Hartshorn & Bro.....	New York.....	450	1,600	200
Sherman Hartwell	Bridgeport, Ct.	10	3	
C. Harvier.....	New York.....	10	100	100
Mrs. Adeline W. Hasbrouck	Syracuse, N. Y....	10		
Phebe A. Hasbrouck.....	New Platz, N. Y.	10		

List of Stockholders &c.—Continued.

Name.	Residence.	Scrip	Preferred.	Common.
		prefer.d.		
		Shares.	Shares.	Shares.
B. W. Haskins.....	Cleveland, O.....	10		
Mrs. Mary Hastings.....	New York.....	10		
Rufus Hatch.....	do.....			100
Hatch & Foot.....	do.....		85	
W. T. Hatch & Son.....	do.....		700	
J. L. Hathaway.....	New York.....	30		
F. B. Hawes.....	Marquette, Wis.....			10
E. Judson Hawley.....	New York.....	40		
E. Judson Hawley, executor.....	do.....	70		
Leonard Hay.....	Warsaw, Ill.....	10		
Peter Hayden.....	New York.....		100	
Clarissa S. Haydock.....	Skeneateles, N. Y.....	210		
Walter W. Haydock.....	do.....	30		
Heidellach, Frank & Co.....	New York.....	8,540	5,990	3,478
E. Heineken.....	do.....	20	300	
Otto Heinze.....	do.....		100	
Heines, Goss & Co.....	do.....	100		
Adelaide Haden.....	Washington, D. C.....		100	
Edward Hen.....	New York.....	20	200	
Jas. Henderson.....	do.....			75
Sophie Henderson.....	Brooklyn, N. Y.....			25
Wm. and Jane Henderson.....	Scotland.....	10		
J. W. Herbert.....	Marlbon, N. J.....	10		
Geo. L. Heusen.....	New York.....	20		
G. Hewitt, Jr.....		270		
Hewett & Ryerson.....	New York.....	10	100	
Hewson, Kilbreth & Co.....	do.....	30		100
Dr. J. M. Heister.....		10		
Jas. K. Hill.....	New York.....	20	250	
Wm. H. Hill.....	Boston, Mass.....	10		
Hill, Head & Co.....	New York.....		100	
J. Hills & Sons.....	Hartford, Conn.....	10	200	
A. J. Hine.....	Arsonia.....			7
Mrs. Emma Hiscox.....	Brooklyn, N. Y.....	50		
John Hitchins.....	Troy, N. Y.....	10	3	3.21
Caroline E. Hoague.....	Boston, Mass.....		50	
L. D. Hodgman.....	Bath N. Y.....	10	5	3
John T. Hoffman.....	New York.....	100		
Samuel W. Hoffman.....	Elizabeth, N. J.....			900
Levi Holbrook.....	New York.....	330		
A. M. Holley.....	Lakesville, Conn.....	30		
Mrs. Francis V. V. Holmes.....	Hudson, N. Y.....	30		
Saml. C. Holmes.....	New York.....			5.72
Wm. A. Holmes.....	Boston, Mass.....		10	
Jane Hope.....	New York.....	20		
Thomas Hope.....	do.....		50	100
Henry Hopkins.....	Catskill, N. Y.....	20	6	4
J. C. Hopkins.....	Madison, Wis.....		80	
Jona. H. Hopper.....	Peterson, N. J.....	40		
E. Hornbostel.....	New York.....			100
H. L. Horton & Co.....	do.....			100
Chas. C. Hoskins.....	Providence, R. I.....			200
Geo. W. Hosmer.....	Yellow Springs, O.....	10		
Chas. B. Hotchkiss.....	Bridgport, Conn.....	50		
Henry Hotchkiss.....		160		
Henry Howard.....	New York.....	500		

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip	Preferred.	Common.
		prefer'd.		
		Shares.	Shares.	Shares.
Martin A. Howell	New Brun'k, N.J.	100	397	100
Mrs. Sarah A. Howell	do.	10		
Jesse Hoyt	New York		1,000	1,000
L. T. Hoyt	do.	10		200
Samuel N. Hoyt	Brooklyn, N. Y.		100	
Wm. Hubbard	do.	50		
D. M. Hughes	New York	380		
Jasper W. Hughes	do.	20		
Belinda Hughson	Pough'psie, N.Y.	20		
Hollis Hunnewell, Trustee	Boston, Mass.	50		
H. H. Hunnewell	do.		100	43.98
H. H. Hunnewell & Sons	do.	20	300	435.53
Mrs. Helen M. F. Hunt	Newport, R. I.		3	1.03
John H. Hunt	New York	20		
Mrs. Mary C. Hunt	Hartford, Conn.	10	100	117.70
Mrs. Mary H. Hunt	New York	100		
Peter Hunt	Stonington, Conn.	10		
Washington Hunt	do.	140		
Chas. Hunter	do.	10	200	
Wm. Hutchison	New York		100	
Benj. H. Hutton	do.	10	500	1,000
Hutzelseider & Daumer	Germany		8	15
Elizabeth A Hyde	New York	50		
Wm. Ingram	Troy, N. Y.		100	
Geo. Innis	Pough'psie, N.Y.		23	25.95
Richard Irvin & Co.	New York		18	98
A Iselin & Co.	do.	120	100	
F. W. Jackson	do.	20		107
Geo. T. Jackson	do.		10	
Victor Jaclard	do.	40		
J. H. Jacquelin	do.			25
Jacquelin & De Coppet	do.	30		
Jacquelin, De Coppet & Bros.	do.		34	479
D. J. Jaffe	do.		20	.64
Mrs. Cassie M. James	do.	20		
H. R. James	Ogdensburg N.Y.	110		
F. P. James & Co	New York	4,480	1,200	1,900
Jameson, Smith & Cotting	do.	30	800	
S. B. James	do.	20		
H. L. Jacques	do.	250		
Jas N. Jarve	do.			10
S. P. Jermain	Albany, N. Y.	70		
J. B. Jewett	Po'keepsie, N.Y.	70		
Jacob B. Jewett, treasurer	do.	50		
Chas. A. Johnes	New York	20		
E. R. Johnes	Newburgh, N.Y.	190		
Goldsmith D. Johnes	do.	50		
J. L. Johnes	Morrist'wn N. J.	20		
Matilda L. Johnson	do.		50	
Welcome W. Johnson	Nahant, Mass.		12	
John Johnston	Milwaukee, Wis.	10		
John Johnston, guardian	do.	50		
S. P. Johnston	New York			10
Annie E. Jones	Sing Sing, N. Y.	70		
Chas. E. Jones	New York	60		
David Jones	do.	60		

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip	Preferred.	Common.
		prefer'd.		
		Shares.	Shares.	Shares.
Martha M. Jones.....	N. Brighton, NY	60		
Lawrence Joseph.....	New York.....	10		
Caroline D. Kane.....	do.....		15	
Wm. Keep.....		80		
Julia T. Kellum.....	Poug'k'psie, NY	10		
Chas. Kellogg.....		10	100	
S. N. Kellogg.....	New Haven, Con	100		
Henry Keney.....	Hartford, Conn.		100	100
H. and W. Kenney.....	do.....			107
Keneys & Roberts.....	do.....			107
Harvey Kennedy.....	New York.....		1,700	2,600
H. Kennedy & Co.....	do.....			2,800
Kennedy, Hutchinson & Co.....	do.....	10		
A. M. Kidder & Co.....	do.....			100
Mrs. D. B. Kiersted.....	Cadosia V'y, N Y	20		
John W. Kilbreth.....	New York.....		1	
C. H. Kimball & Co.....	do.....			10
Kimball, Howell & Co.....	do.....		50	
Henry L. King.....	Albany, N. Y.	30		
J. Howard King.....	do.....	60		100
Joshua J. King.....	Ridgefield, Conn	40		
Joshua J. King.....	Albany, N. Y.	40		
Rufus H. King.....	do.....	70		
Wm. Henry King.....	New York.....	160		
W. J. King.....	Providence, R. I	120	68	91
King & Robb.....	New York.....			100
Geo. L. Kingsland.....	do.....			1,000
Catharine A. Kinzer.....	Lancaster, Pa...	10		
Mrs. Catharine N. Kinzer.....	do.....	20		
Wm. W. Kip.....	New York.....	10	100	
R. C. Kirk.....	Mount Vernon, O	20		
Chas. A. Kirtland, Attorney.....	do.....	40		
Kissam & Co.....	New York.....			2,900
H. Knickerbocker & Co.....	do.....			200
Edwin Knickerbocker.....	Red Hook, N. Y	100		
Emanuel Knight.....	New York.....		100	100
Benjamin Knower.....	do.....		100	
Geo. Knower, Attorney.....	do.....			14.49
John Knower.....	do.....	870	435	3
Jas. Knowlton.....	Yonkers.....	40		
J. C. Knox.....	New York.....	40		
Caroline S. Kohly.....	do.....	10		
Louisa Kohly.....	do.....	20		
H. Korn.....	Rahway, N. J.	10		
Susan B. Kowalski.....	Brooklyn, N. Y.	150		
Kuhn, Loeb & Co.....	New York.....			300
Jas. H. Ladd.....	do.....	10		
Harriet A. Lambert.....	Morristown, N. J	100		
John V. Lamoree.....	Salt Point, N. Y.	30		
Adelaide B. Lampman.....	Jamaica, N. Y.		28	
Jacob H. Landis.....	Mauor, Pa.....	30		
John G. Lane.....	do.....	10		
Cath. M. Lansing.....	do.....		20	2
J. Larabec.....	New York.....			10
John T. Lary.....	do.....	60		
Latham, Alexader & Co.....	do.....		40	

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip	Preferred.	Common.
		prefer'd.		
		Shares.	Shares.	Shares.
Jas. Laurie.....	New York.....	10	100	.....
Alex. Law.....	New Canaan, Con	50	.....	.....
Francis C. Lawrence.....	New York.....	830	300	717.48
Lewis H. Lawrence.....	Utica, N. Y.....	.....	100	.....
Thos. N. Lawrence.....	New York.....	.....	.....	100
Lawrence & Co.....	New London, Con	10	200	3
Jas. Lawson.....	New York.....	30	.....	.....
Jacob Lazarus.....	do.....	.....	100	.....
Fredk. Leake.....	Williamst'n, Mas	700	200	4
John S. Leake.....	.....	100	.....	.....
Jas. M. Leavitt.....	Brooklyn, N. Y.	10	.....	.....
N. LeBrun (Trustee).....	New York.....	10	.....	.....
Geo. C. & Chas. J. Lee; (Trus)	Boston, Mass.....	.....	100	.....
Geo. K. Lee.....	New York.....	.....	.....	40
Lee, Higginson & Co.....	do.....	.....	.....	100
Philip A. Lefever.....	Loyd, N. Y.....	.....	40	50
Leisler & Sommerhof,.....	New York.....	180	.....	.....
Leland Bros. & Co.....	do.....	20	500	200
Lenard Shelden & Co.....	do.....	20	828	100
Jas. Leoni.....	do.....	100	100	.....
Leopold Bros.....	Baltimore, Md.....	.....	50	.....
C. S. Leresche.....	Glasgow, Scot.....	.....	.....	2,473
Henry M. Levingston.....	New York.....	350	.....	.....
Mrs. Esther S. Leverett.....	do.....	.....	100	.....
John Lewis.....	do.....	300	.....	.....
Newton Lihner.....	Lancaster, Pa.....	40	.....	.....
Aug. Limbert & Co.....	New York.....	10	.....	.....
Chas. F. Livermore.....	do.....	160	.....	.....
Edwd. Livermore.....	do.....	110	.....	.....
Geo. H. Livermore.....	do.....	160	.....	.....
Sarah A. Livermore.....	do.....	50	5.20	3
Clermont Livingston, In trust..	do.....	50	.....	.....
C. B. Lockwood.....	do.....	.....	50	.....
G. A. Lockwood.....	Stanwich; Conn.	20	.....	.....
Mrs. Georgiana M. Lockwood..	Brooklyn, N. Y.	10	.....	.....
Mary A. Lockwood.....	Stanwich, Conn..	.....	1	14
Lockwood & Co.....	New York.....	140	.....	107
Chas. E. Low.....	do.....	.....	.....	7
A. Long.....	Pittsburgh, Pa.....	.....	100	.....
Emily Longfellow.....	Boston, Mass.....	.....	50	.....
Louis C. Lord.....	do.....	10	.....	.....
Helen S. Lossing.....	Pough'psie N. Y.	10	.....	.....
Paul E. Lowe.....	New York.....	.....	.....	100
J. A. Lowery, Executor.....	do.....	480	.....	.....
Mrs. Harriet M. Ludington.....	Skeneateles, N.Y	.....	40	.....
David Ludig, Trustee.....	New York.....	90	.....	.....
Hanford Lyon.....	Bridgeport, Conn	50	.....	.....
B. K. McAlpine.....	New York.....	200	.....	.....
Jas. B. McCamant.....	do.....	.....	.....	100
Hugh McCollum.....	Albany, N. Y.....	10	5	.....
John D. McCord.....	Philadelphia, Pa.	.....	100	100
N. L. McCreedy.....	New York.....	200	.....	.....
Jas. McCreery.....	Belleville, N.J.....	20	13	51
Hugh McCulloch.....	Washington, D. C	30	.....	.....
McGinnis Bros., & Fearing.....	New York.....	.....	.....	100
McGregor & McRiver Ry Co.....	do.....	80	.....	.....

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip. prefer'd.	Preferred.	Common.
Cath. J. McGuire.....	New York.....	20	.....	.....
Jos. M. McKee.....	do.....	.....	50 00	.....
Wm. E. McKee.....	New Haven, Ct.	20	20 00	2 00
Thos. McKie.....	New York.....	50	.....	.....
Jas. M. McKinlay.....	do.....	1,410	20 03	14 70
Hannah McLeod.....	do.....	.....	4 00	8 94
Helen M. McLeod.....	do.....	.....	8 00	8 94
Jas. McManes.....	Philadelphia, Pa	.....	5 00	1 07
J. L. McWhorter.....	Oswego, N. Y.	10	5 00	1 00
Martin Maas & Co.....	New York.....	20	200 00	900 00
John Macdougall.....	England.....	20	.....	.....
J. Milton Mackie.....	G't Bar'ton, Mass	.....	114 00	2 00
Chas. Maden.....	New York.....	60	.....	.....
Chas. Maden, Guardian	do.....	.....	7 00	4 00
Wm. Maden.....	Cuba.....	.....	6 00	4 00
Wm. Maden, Exer. trustee	do.....	.....	7 00	4 00
David Magie.....	New York.....	.....	20 00	.....
Phebe T. Magie.....	do.....	40	20 00	.....
Edwd. Maguire.....	do.....	.....	100 00	.....
H. W. T. Mali & Co.....	do.....	70	.....	428 00
Eliza A. Mallory.....	do.....	10	.....	.....
J. M. Mantel.....	do.....	10	.....	.....
Horace Manuel & Co.....	do.....	.....	.....	100 00
Marcuse & Baltzer.....	do.....	10	.....	.....
Peter Marie.....	do.....	90	.....	.....
A. B. Marks.....	do.....	10	100 00	.....
Henry Marks.....	do.....	10	100 00	.....
S. H. Marks.....	do.....	.....	80 00	1 07
Marguand & Hill.....	do.....	.....	.....	7 00
John R. Marshall.....	do.....	.....	100 00	.....
Robt. Marshall.....	do.....	60	.....	.....
Mrs. Cornelia S. Martin.....	do.....	1,080	.....	.....
C. R. Marvin.....	do.....	90	.....	.....
Sarah R. Marvin.....	Brooklyn, N. Y.	20	.....	.....
Wm. Marvin.....	Skaneateles, N Y	20	275 00	142 00
Marvin Bros.....	New York.....	.....	.....	100 00
Robt. L. Massonneau.....	Red Hook, N. Y.	50	.....	.....
J. Edwd. Mastin.....	New York.....	30	.....	.....
Mrs. Laura F. Matson.....	do.....	10	.....	.....
S. J. Matson.....	Schod'k Ldg N. Y	.....	20 00	.....
C. F. Maurice.....	Sing Sing, N. Y.	10	.....	.....
May & King.....	New York.....	.....	.....	307 00
Geo. L. Meacham.....	do.....	10	.....	.....
Drake Mead.....	Greenwich, Ct.	.....	40 00	.....
Fred Mead.....	New York.....	60	800 00	.....
Mary W. Mead.....	Stanwich, Ct.....	60	3 00	.....
Solomon Mead.....	Greenwich, Ct.....	100	.....	.....
Weeker, Worden & Co.....	New York.....	.....	.....	100 00
Henry Meigs.....	do.....	60	.....	.....
H. Meigs, J. & Smith.....	do.....	20	.....	.....
Wm. T. Meredith & Co.....	do.....	.....	.....	100 00
Mrs. Louisa K. Merrill.....	do.....	10	.....	.....
S. S. Merrill.....	Milwukuee, Wis.	820	280 50	1 19
Mrs. Julia Merritt.....	Irvington, N. Y.	.....	.....	100 00
Geo. P. Metcalf.....	Jersey Cy. N. J.	140	.....	.....
L. H. Meyer.....	New York.....	.....	5 00	.....

List of Stockholders, &c.—Continued.

Name.	Residence.	scrip preferred.	Preferred.	Common.
Moritz Meyer	New York	40		
Meyer Pestalozzi	Switzerland	20		
Edward T. Meig	Mullhouse	60		
Sam'l Millank		70		
J. & K. Millank	New York	20		
John Milhan	do.	40		
Lydia G. Millard	Louisville, Ky.			50 00
Alex'r. Miller	New York	20		
Edmund H. Miller	do.	80		
Geo. M. Miller	do.	50		
Geo. N. Miller	do.	10	300 00	4 00
Hiram Miller	do.	30		
Wm. H. Miller	do.		1 00	
E. H. Miller & Son	do.			7 00
Miller & Walsh	do.			3 00
Sam'l M. Mills	do.			200 00
S. M. Mills & Co.	do.		3,600 00	11,000 00
Mills, Robeson & Smith	do.	20		
George Miln	do.	20	300 00	400 00
Chas. Minzesheimer & Co.	do.	60		
Minzesheimer & Hyman	do.		500 00	600 00
Alex. Mitchell	Milwaukee, Wis.	5,740	3,500 00	2,703 00
Do.....Trustee	do.	30		
Amos Mitchell	So. Britain, Ct.	20		
B. G. Mitchell	New York			1,000 00
Chas. Mitchell	Scotland	280		
N. W. Mitchell	So. Britain, Ct.			34 00
Oliver Mitchell	do.		25 00	
Mrs. Anna Moderwell		10		
Geo. Moke	New York	200		
Geo. H. Moller	do.		200 00	
Thos. J. Monroe	New York		4 00	8 00
Wm. Moody	Ireland			35 00
John P. Moore	New York	10	50 00	1 00
Moran Bros.	do.	130		
Moran Bros., in trust	do.	80		
H. T. Morgan & Co	do.	30		64 00
Samuel E. Morran	do.			100 00
Morse, Kimball & Co	do.			1,100 00
L. P. Morton, Trustee	do.		18 00	
Morton, Bliss & Co.	do.	2,890		200 00
D. H. Mount	Rockville, N. Y.		3 00	
F. A. Mueller	Holland		100 00	
Munson Muir	Newburgh, N. Y.	10		
Alexander Muirhead	New York		50 00	
J. U. Muller	Switzerland	10		
Wm. Mulligan	New York	20		
O. D. Munn	do.	40		
E. S. Munroe & Co	do.			22 21
Donald Murray		30		
Mary E. Murray	Brooklyn, N. Y.		10 00	25 00
T. Bailey Myers	New York	130		
Eli Mygatt	New Milford, Ct.	30		
Geo. Nauman	Lancaster, Pa.	10		
M. Needham	New York	10	105 00	268 00
Mrs. Elizabeth W. Newcomb	New Haven, Ct.	30		

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip prefer'd.	Preferred.	Common.
D. F. Newell.....	Globe Vil., Mass			28 00
Newton Savings Bank .....	....., Conn.	10		
Allen Nichols, Treasurer.....	Southport, Conn.	30		
J. T. Nichols		100		
Samuel H. Nichols.....	Athens, N. Y.	10		
Nathaniel Niles		30		
Harvey North	New York	140		
A. Noxon.....	Crescent, N. Y.	240		
J. O. Noxon, Treasurer	New York			2,871 00
Chas. Noyse.....	Westerly, N. Y.	10	3 00	
A. Nussbaum.....	New York			20 00
Chas. Nussbaum.....	do.			240 00
Ezra Nye.....			1 00	
A. Oatman.....	New York			200 00
H. Obermeyer.....	do.		100 00	
Wm. John O'Brien	do.	540		3,403 00
Jos. Offenbach	do.	90		
Arthur J. O'Hara	do.			3 00
F. P. and H. L. Olcott.....	do.	10		7 00
Olcott & Co	do.	10		
Henry Oothout, Trustee.....	Stamford, Conn.	100		
C. J. Osborn.....	New York			2,200 00
Osborn & Co.....	do.			200 00
Osborn & Chapin.....	do.	50		100 00
Job P. Otis	Scituate, Mass.		30 00	
Maria Otto	Key West, Fla.	50		
Emiline K. Owen	New York	50	600 00	
Thos. J. Owen & Co.....	do.	40	600 00	
Thos. J. Owen & Son.....	do.	30		100 00
Henry H. Palmer.....	N. Brunswick, Ct.	80		
Hunloke W. Palmer.....		30		
Mrs. Ozias E. Palmer.....	Moodus, Ct.		2 00	
Lorenzo Papante				64 00
Frances C. Parcels.....	New York	20		
Chas. Pardee.....	Skeneateles, N. Y.	30		
Sarah E. Parkin.....	New York	10		
F. J. Parmenter.....	Troy N. Y.		100 00	
Frances D. Parry.....	New Hope, Pa.	50		
Mrs. Anna P. D. Parsons	Morristown, N. J.	30		
Chas. Parsons	New York	100		
Edwin Parsons.....	do.	200		
Jas. H. Parsons.....	do.	30		
Jas. Paton	Scotland		80 00	
Robt. Paton.....	do.		85 00	
Jas. Alex. & John Paton.....	do.		80 00	
Mrs. Martha F. Patten.....	New York	10	150 00	56 00
Ludlow Patton & Co.....	do.	30		
Margaret T. Peabody			15 00	
Edward Pearsall		10	150 00	151 20
Chas. A. Peck	New York		10 00	
Henry Dwight Peck.....	do.	30		
Henry K. Peck	Cornwall, N. Y.			121 00
Walton H. Peckham.....	New York			3 91
John A. Pell	do.	20		
John Pemberton	Albany, N. Y.	20		
N. W. Pendergrast		150		

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip prefer'd.	Preferred.	Common.
Aurelic Perez	Cuba	20		
E. H. Perkins, Jr.	New York	650		
Geo. W. Perkins	do.	30		
H. W. Perkins	do.		2 00	
Austin Perry	Southport, Ct.	20		
Chas. Perry	Westerly, R. I.	10	3 00	
Delia F. Perry	Southport, Ct.		2 00	
Horace Perry	New York	20		
Simeon F. Perry	Westerly, R. I.	10	3 00	
Thos. Perry	do.	10	3 00	
Chas. Pfizer & Co.	New York			100 16
Mrs. D. L. F. Phillips	Red Hook, N. Y.	20		
J. F. Phillips	New York		200 00	
Geo. Phillips	Farm'gham, Mass	10	100 00	
J. A. Piedra	Cuba	50		
Pedro Y. Piedra	Cuba	40		
Jacob Pierce	do.	50		
Jacob Pincus	Babylon, L. I.	40		
Ovid Pinney	do.			107 00
C. A. Pitcher	Providence, R. I.			70 00
John Plankinton	Milwaukee, Wis.		100 00	
Eliza Plum	Troy, N. Y.	10	100 00	
Mary L. Polhanrius	New York	150		
Geo. Pomeroy	do.	70	1,000 00	
John Ponder	do.		400 00	200 00
A. H. Porter	do.	30	400 00	
Porter, Rolf & Swett	Pittsburg, Pa.	10	3 00	1 24
Alfred C. Post	New York	70		300 00
B. F. Potter	Albany, N. Y.	20		
Horatio Potter	New York	30		
W. H. Potter	Kingston, R. I.		50 00	
Edwin Powell	Whitestone; L. I.			10 70
Stephen C. Powell	New Haven, Con		30 00	
Geo. W. Powers	New York	20	100 00	
Alden J. Pratt	New Paltz, N. Y.	20		
Presb. c'h on University Place	New York	70		
Valentine Pressler	do.			73 50
J. D. Prince & Co.	do.			100 00
W. H. Pooler	do.	20		
E. Pinchot	do.	10		
Mrs. Anna M. Quackenbush	Troy, N. Y.	10	100 00	
Estate of D. V. N. Radcliff	Albany, N. Y.	100		
David Rail, Trustee	New York	50		
Jas. & Mary Dick Rail	Scotland	10		
Richard Ralph	Brooklyn, N. Y.	60	28 00	19
Chas. Randall	New Milford, Con	150		
E. D. Randolph & Co.	New York			100 00
Mrs. Jane Ransom	Poughk'psie, N. Y.	270		
Do..... Guardian	do.	200		
Smith Ransom	do.	40		
Cath. and Phebe E. Ransom	do.	30		
Chas. A. Rapallo	New York	100		
L. C. Rapelye	Fishkill, N. Y.	30		
Edward Raymond	do.	20		
Chas. J. Raymond	New York		3 00	3 05
S. Coite Real	do.			100 00

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrp prefer'd.	Preferred.	Common.
Thos. Reed & Co.....	New York.....	10		
Mrs. Mary A. Reese.....	N. Hamburg, NY	20		
Wm. Reid.....	New York.....			23 00
Jas. and John Reigert, Trustee.	Beloit, Wis.....	130		
Henry B. Resh.....	.....	10		
Reynal & Co., in trust.....	New York.....	50		
Reynes Bros. & Co.....	.....			107 00
Edward H. Rich.....	Richford, N. Y.....			15 00
T. Addison Richards.....	New York.....	50		
Richard & Tillinghast.....	do.....			100 00
Enos Richardson.....	do.....			300 00
Sam'l Richradson.....	do.....	270		
Henry Richmond.....	do.....	10		
Van R. Richmond.....	Lyons, N. Y.....			200 00
Chas. R. Riebsam.....	Madison, Wis.....		10 00	
Mary L. Margaret & Edith Rigg	Scotland.....		20 00	
Riggs & Co.....	New York.....			100 00
John Riley.....	do.....			500 00
Geo. Ripley.....	do.....	60		
Amos Robbins.....	do.....	10	100 00	
Albert B. Roberts.....	Murfreesboro, NC	20		
Chas. H. Roberts.....	Poughk'sie, N. Y.....	340		
Isaac Roberts.....	Middletown, Conn.....		120 00	
Jacob Roberts.....	Auburndale, Mass.....		15 00	3 49
Theo. Roberts.....	N. Cananan, Conn.....			4 00
Robins, Powell & Co.....	New York.....	70	1,200 00	400 00
A. C. Robinson.....	Pittsburgh, Pa.....			100 00
Frank B. Robinson.....	New York.....	80		
Mrs. Mary Robinson.....	do.....	20		
O. J. Robinson.....	Corning, N. Y.....			14 00
W. A. Robinson.....	Ireland.....			100 00
Mrs. Matilda L. Rogers.....	New York.....	80		
J. Warren, Rogers & Co.....	do.....		100 00	
Rogers, Courter & Co.....	.....	990		
S. H. Rokenbaugh.....	do.....	20	200 00	
B. F. Romaine.....	do.....	100		
B. F. Romaine, Jr.....	do.....	30		
E. F. Rook.....	do.....			21 00
Elias Rott.....	Oswego, N. Y.....	10		
Helen C. Root.....	Hartford, Conn.....	10		
S. Louisa Ropes.....	New York.....	10		
W. Ropes & Co.....	do.....	70		
A. H. Rosenheim.....	do.....	10		100 00
Julia H. Ross.....	do.....	70		
Nath'l Ross.....	Brooklyn, N. Y.....	10		
Chas. Rubens.....	New York.....	300		
Chas. Rubens & Co.....	do.....	40	600 00	
Joseph Rudd.....	do.....	1,880	370 00	
Zebulon Rudd.....	do.....	10		
John C. Runkle.....	do.....	20		
Peter P. Runyon.....	do.....	10	18 00	12 84
A. Rusch & Co.....	New York.....	60		
A. Rusch & Co. In trust.....	do.....	10	3 00	
Estate of A. T. Russell.....	do.....	20		
S. L. Russell.....	do.....	30		
Arthur Russell.....	Scotland.....		15 00	

List of Stockholders, &c.—Continued.

Name.	Residence.	scrip prefer'd.	Preferred.	Common.
John B. Russell & Son.....	Hartford			7 00
Rutten & Bonn.....	New York		5 00	
Rutter & Gross.....	do.....			500 00
Jas. Ryan.....	Philadelphia, Pa.....		50 00	144 00
Wm. Kyle, Trustee.....	New York.....	30		
Gardner A. Sage.....	do.....	180		
Russell Sage.....	do.....	17,010	4,634 51	11,300 51
Do..... Sage, Trustee.....	do.....	260		53
Do..... Sage, et al., Trus.....	do.....	60	18 29	59
Mrs. Francis C Salisbury.....	do.....			14 00
Henry Salisbury.....	New York.....	200		
Sam'l S. Sands & Co.....	do.....	70		
Wm. E. Sanford.....	do.....		50 00	
John K. Sartwell.....	Boston, Mass.....	20		
G. B. Satterlee.....	do.....	50	300 00	
Bartlett M. Savery.....	New York.....	30		
Wm. Savery.....	Carner, Mass.....	10		
Schaler Bros.....	New York.....	33	500 00	3,007 00
W. Shall & Co.....	do.....	10		
A. Scholfield.....	do.....	100		
Adeline Scholfield.....	do.....	20		
Ann Scholfield.....	do.....	10		
Ellen Scholfield.....	do.....	20		
Joseph Scholfield.....	do.....	30		
Edmund Schriver.....	Washington, D.C.....		50 00	
John F. Schroeder.....	New Milford, Ct.....		10 00	
Schulz & Ruckgaber.....	New York.....		7 00	
Edwd. Scofield.....	Darien, Conn.....	20	3 00	2 00
Geo. Scofield.....	Stamford, Conn.....	20		
Isaac Scott.....	do.....	80		
Leonard Scott.....	New York.....	60		
W. H. Scott.....	do.....	10		
Wm. Donaldson, Scott & others.....	England.....	240	100 00	4 00
E. P. Scott & Co.....	New York.....	30	300 00	3,600 00
W. B. Scott & Co.....	do.....	20	200 00	100 00
T. Scott & Son.....	Baltimore, Md.....	10	100 00	
Scott, Strong & Co.....	New York.....	140		100 00
J. & N. C. Scoville.....	Buffalo, N. Y.....	240		
Scranton & Scoville.....	New York.....			1,700 00
Isaac W. Scudder.....	Jersey City, N. J.....	50		
Wm. Searls.....	New York.....	10		
W. F. Sebert.....	do.....		50 00	
Seekamp & Tews.....	Bremen.....	20		
Miss C. W. Seney.....	Brooklyn, N. Y.....	10		
G. I. Seney.....	do.....	140		
Miss Sarah L. Seney.....	do.....	30		
Thos. Service.....	Glasgow, Scotld.....			440 00
Thos. Service, In trust.....	do.....			100 00
Service & Workman.....	do.....			300 00
Jose. Seville.....	Lima, Peru.....	40	500 00	1,000 00
Mrs. Mary A. Seymour.....	Syracuse, N. Y.....		6 00	3 00
Georgina Shannon.....	do.....	180		
H. Sophia Shannon.....	do.....	40		
T. W. Shannon, In trust.....	do.....	190		
John S. Shaw.....	New York.....	30		
Israel Sheldon.....	Orange, N. J.....		100 00	

List of Stockholders &c.—Continued.

Name.	Residence.	Scrip prefer'd.	Preferred.	Common.
Lucius M. Sheldon.....	.....	.....	.....	100 00
Mrs. M. J. Sheldon.....	Suffield, Conn.....	160	.....	.....
Sheldon, Hoyt & Co.....	New York.....	70	.....	.....
Abram Shepard.....	do.....	.....	100 00	.....
Chas. Shepard.....	Dansville N. Y.....	30	.....	.....
D. C. Shepard.....	St. Paul, Minn.....	210	.....	.....
Henry F. Shepard.....	Boston Mass.....	.....	25 00	1 00
Edward J. Sherman.....	New York.....	10	.....	.....
Isaac Sherman.....	.....	6,200	.....	.....
Roda B. Sherman.....	Fairfield, Conn.....	10	.....	.....
Walter Sherman.....	Amenia U'n, N Y.....	.....	100 00	.....
Theo. Shiff.....	New York.....	50	.....	.....
Clarence Shook.....	Red Hook, N. Y.....	30	.....	.....
Simmons & Chew.....	New York.....	.....	.....	100 00
Michael H. Simmons.....	Boston, Mass.....	40	600 00	9 63
J. T. Simmons.....	Hudson, N. Y.....	10	.....	.....
H. B. Sisson.....	Hamburg, Conn.....	.....	5 00	.....
Geo. K. Sistare.....	New York.....	100	400 00	300 00
Saml. S. Skinner.....	do.....	10	60 00	1 07
John F. Slater.....	Norwich, Conn.....	10	400 00	.....
Henry E. Slaymaker, in trust..	Lancaster, Pa.....	20	.....	.....
Mrs. Mary Slaymaker.....	do.....	10	.....	.....
Susan R. Slaymaker.....	do.....	10	.....	.....
Joseph Slee.....	Pou'k'sie, N. Y.....	20	.....	.....
Issac Small.....	Little Falls, N. Y.....	10	103 00	.....
Chas. Smith.....	S. Windham, Ct.....	.....	24 00	14 00
C. D. Smith.....	.....	50	.....	.....
Francis Smith.....	Lincoln Mass.....	.....	5 00	.....
Geo. Smith.....	London, Eng.....	5,150	.....	36
Jas. A. Smith.....	New York.....	40	.....	.....
Jane A. Smith.....	.....	20	.....	.....
Mary C. Smith.....	New York.....	40	.....	.....
Mary M. Smith.....	Catskill N. Y.....	10	.....	.....
Seth Smith.....	New London, Ct.....	20	.....	.....
W. M. Smith.....	New Haven, Ct.....	.....	100 00	1 60
Wm. Alexr. Smith & Co.....	New York.....	20	.....	.....
Smithers & Donold.....	do.....	.....	.....	5 00
Mary E. Soldon.....	Hamstead, N. Y.....	10	.....	.....
E. H. Somarindyck.....	Glen Coe, N. Y.....	10	100 00	.....
John W. Somarindyck.....	do.....	.....	50 00	.....
South Berwic Savings Bank.....	Maine.....	120	.....	.....
Sutter & Co.....	New York.....	.....	100 00	200 00
Rosalie L. Spanier.....	do.....	50	.....	.....
A. W. Spencer.....	Boston, Mass.....	20	203 00	2 00
A. G. P. Speyers.....	New York.....	.....	.....	100 00
A. W. Spies.....	do.....	70	300 00	79
Chas. H. Spitzener.....	do.....	10	200 00	100 00
D. J. Sprague.....	do.....	.....	100 00	.....
Henry Staats.....	Pou'k'sie, N. Y.....	30	.....	.....
Louisa S. Staats.....	do.....	40	.....	.....
Richard Stacpoole.....	New York.....	.....	10 00	.....
Halle Steensland.....	Madison, Wis.....	.....	10 00	.....
O. H. P. Stem.....	New York.....	.....	.....	7 49
Geo. W. Sterling.....	Pou'k'sie, N. Y.....	70	.....	.....
M. F. S. Steinberger.....	New York.....	.....	100 00	.....
Abel Stevens.....	do.....	20	.....	.....

List of Stockholders, &c—Continued.

Name.	Residence.	Scrip prefer'd.	Preferred.	Common.
Geo. J. Stevens	New York.....	10		
Wm. N. Stevenson	do.....		15 00	
A. M. Stewart	Indiana, Pa.....	20	300 00	
Geo. T. Stewart	New York.....		50 00	
John A. Stewart		60		
Wm. H. Stewart	France.....		100 00	
Elias Stillwell	Philadelphia, Pa.....	30		
B. B. St. John.....	Newburgh, N. Y.....	610		
D. B. St. John, trustee.....	do.....	40		
F. M. St. John.....	Monticello, N. Y.....	80		
Mrs. Marietta St. John.....	Newburgh, N. Y.....	100		
Rebecca M. St. John	do.....	50		
Wm. C. Stoddard.....	New Brunswick.....	10	200 00	
Dwight Stone.....	Brooklyn, N. Y.....		50 00	
Sumner R. Stone.....	New York.....	10	200 00	
Isaac A. Storm.....	do.....	10		
Lucius Storrs	Buffalo, N. Y.....	10		
Jacob Stout.....	New York.....		200 00	
Stout & Dickinson.....	do.....			7 00
John A. Stover	Sydney, N. Y.....	10	8 00	2 13
Geo. Strobel.....	Philadelphia, Pa.....	10		
Adolph A. Strohn.....	New York.....	20	100 00	100 00
Strohn & Reitzenstein	do.....	20		
James Struthers & Co.....	do.....	10	100 00	500 00
Marion Stuart.....		30		
A. Studwell	New York.....	10	16 00	19 00
Sturtevant & Goadby.....	do.....			100 00
Anna Elizabeth Stuyvesant.....		10		
Alanson Sumner.....	Albany, N. Y.....	70	52 00	
B. B. Sumner.....	Willimantic, Ct.....		25 00	
Josiah Sutherland.....	New York.....	70		
John Sutton	Indiana, Pa.....		200 00	
C. Swan.....	Poughkeepsie, N. Y.....	10		
Otis D. Swan & Co.....	New York.....	20		47
Swan & Payson	do.....	10		
H. M. Sweeney	Georgetown, D. C.....	10	100 00	
E. Sweet & Co.....	New York.....	40		100 00
Chas. W. Swift.....	Poughkeepsie, N. Y.....	50		
Geo. H. Swift.....	Armstrong, N. Y.....	40		
Jas. K. Swift	So. Armenia, N. Y.....	20		
John M. Swift.....	do.....	40		
Isaac M. Swope.....	Milford, N. J.....	40		
Chas R. Swords.....	New York.....	110	19 00	55 00
Mary H. Swords.....	do.....	20		
Mary Stephen Tait.....	Metuchen, N. J.....	10		
Henry Talcott.....	West Hartford, Ct.....	70		
Talcott & Sons.....	New York.....			800 00
Chas. D. Tallman	do.....	70		
Mary P. Tappen, Executrix	Huntington, L. I.....	20		
Mrs. Ida Tauber.....		50		
Edw'd Taylor.....	Middletown, N. J.....	20		
Eleanor G. Taylor.....	Poughkeepsie, N. Y.....	20		
Henry M. Taylor.....	do.....	50		
Jerome Taylor.....	Newark, N. J.....			50 00
Mrs. Josephine D. Taylor.....	Brooklyn, N. Y.....		200 00	
Wm. Taylor.....	Clifton, N. J.....	20		

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip prefer'd.	Preferred.	Common.
W. B. Taylor & Co.....	New York.....		200 00	800 00
Taylor Bros.....	do.....			400 00
Alex. Taylor's Sons.....	do.....		1,500 00	500 00
John Ten Brook.....	do.....		100 00	10 00
D. I. Tenney.....	do.....	50		
Harvey Terry.....	Richmond, Va..	50		28 00
J. S. Thebaud.....	New York.....	100		
H. Theiss, Jr.....	do.....		100 00	
John Thomas, Jr.....	Albany, N. Y..	10		
Sarah Elva Thomas.....	do.....		3 00	
Andrew L. Thompson, Trustee.	New York.....		2 00	
J. A. Thompson.....	Ellington, Ct...	10	100 00	
John A. Thompson.....	Pine Plains, N.Y.		50 00	2 00
A. A. Thomson & Co.....	New York.....			100 00
Leonard M. Thorn.....	do.....			131 03
Joseph G. Thorp.....	Madison, Wis..			100 00
N. Thouron & Co.....	Philadelphia, Pa.			200 00
Felix Thurmauer.....	New York.....			100 00
Geo. H. Tilley.....	do.....		1,000 00	
Geo. J. Tillotson.....	Putnam, Ct.....		35 00	1 00
C. L. Timmerman.....	New York.....	10	2 00	
Eliza A. Titus.....	do.....		50 00	
Expenetus Titus.....	Athens, N. Y..		25 00	
Geo. Titus.....	do.....	10	100 00	
Rachel B. Tomlinson.....	Orange, N. J..	30		
Alide Topp.....	New York.....	30		
Mrs. Adaline T. Townsend.....	do.....	50		
Anna K. Townsend.....	do.....	50		
Geo. A. Townsend.....	do.....	50		52 00
Jas. M. Townsend.....	New Haven, Ct..	80		
R. H. L. Townsend.....	New York.....	20		
R. W. Townsend.....	do.....	180		
Wm. Townsend.....	Newburgh, N. Y.	30		
Wm. Harold Townsend.....	New York.....		50 00	
Edwd. Tracy.....	Lans'gb'gh, N.Y.	60	100 00	
Edwd. H. Tracy.....	New York.....		16 00	24 61
Guy Tracy.....	Milan, Pa.....	60	29 00	17 00
Tracy & Russell.....	New York.....	60	100 00	
Trask & Stone.....	do.....		100 00	500 00
Danl. P. Tremaine.....	Auburn, N. Y..	30		
Amos H. Trowbridge.....	New York.....	200		
Henry Trowbridge.....	New Haven, Ct..			100 00
Jas A. Trowbridge, in trust.....	do.....	160		
Henry S. Troxell.....	Easton, Pa.....	10		
J. M. Tufts.....	Rahway, N. J..	10	3 00	1 24
Serena D. Turrell.....	New York.....	10		
Turner Bros.....	do.....	30		
Henry C. Tuttle.....	do.....			30 00
Mrs. Liza M. Tyler.....	do.....		10 00	
Mary C. Tyler.....	Canand'ig'a, N. Y.	110		
John Tyson.....	do.....	20		
J. F. Underhill & Co.....	New York.....			200 00
Bloomfield Usher.....	Potsdam, N. Y..	40		
Geo. W. Underhill.....	New York.....			100 00
H. F. Vail, Cashier.....	do.....	80		
Walter S. Vail.....	Newburg, N. Y.	60		

List of Stockholders, &c.—Continued.

Names.	Residence.	Scrip prefer'd.	Preferred.	Common.
Henry Valette.....	Cincinnati, O...	800	.....	.....
Mrs. Catherine B. Van Buren..	Fis'k'l L'ng, N.Y	20	.....	.....
Edw'd L. Van Buren.....	do.....	20	.....	.....
Henrietta E. Van Buren.....	do.....	60	.....	28 62
Van Deventor & Patton.....	New York.....	.....	.....	300 00
Mrs. A. E. Vanduzer.....	Goshen, N. Y ..	20	.....	.....
J. R. Vanduzer.....	do.....	70	.....	.....
S. Vanduzer.....	Croton F'ls, N.Y	20	.....	.....
Van Dyck & Williams.....	New York.....	.....	5 00	.....
David B. Van Emburgh.....	do.....	.....	.....	200 00
Walter Van Kleeck.....	Poug'k'psie, N.Y	10	.....	.....
Abraham R. Van Nest.....	New York.....	.....	100 00	214 00
John F. Van Nort.....	Newburgh, N. Y.	.....	6 00	10 11
Mrs. Elizabeth Van Norstrand.	New York.....	20	.....	.....
John James Van Nostrand.....	Brooklyn, N. Y.	10	.....	.....
P. C. Van Schaick.....	New York.....	90	500 00	216 86
Van Schaick & Co.....	do.....	5 30	3,700 00	914 00
Rev. Jacob Van Vetchen.....	do.....	20	.....	.....
Geo. Van Vliet.....	Poug'k'psie, N.Y	10	.....	.....
D. E. Van Volkenburgh.....	New York.....	.....	.....	200 00
Edw'd Van Volkenburgh.....	do.....	.....	.....	200 00
Philip Van Volkenburgh.....	do.....	.....	.....	300 00
Elizabeth W. Van Wagener..	Poug'k'psie, N.Y	10	.....	.....
John W. Van Wagener.....	do.....	10	.....	.....
John R. Vanderbilt.....	do.....	20	.....	.....
J. B. Vandervoort, Trustee....	New York.....	10	.....	.....
Joseph Vandervoort.....	do.....	10	.....	.....
Abraham Varick.....	Poug'k'psie, N.Y	90	31 00	1 66
Abraham Varick, Guardian....	do.....	20	.....	.....
John Guy Vassar.....	do.....	430	.....	.....
Matthew Vassar, Jr.....	do.....	110	15 00	7 00
Vassar College Interest.....	do.....	200	.....	.....
Verdon.....	Plainfield, N. J.	40	60 00	14
Vermileye & Co.....	New York.....	1,160	400 00	2,057 00
Vernan & Hoy.....	do.....	20	.....	100 00
Veitor & Achelis, in trust.....	do.....	.....	30 00	.....
E. Bliss Vinton.....	Springfield, Mass	.....	60 00	.....
F. W. Von Stade, in trust.....	New York.....	30	.....	.....
Dr. Benj. Vreeland.....	do.....	10	.....	.....
E. S. Wadsworth.....	Chicago, Ill.	620	.....	.....
Julius Wadsworth.....	New York.....	1,880	500 00	1,201 00
W. B. Wadsworth.....	do.....	.....	.....	300 00
S. M. Waite.....	Brattleboro, Vt.	.....	7 00	422 00
J. N. H. Walbridge.....	New York.....	70	.....	.....
Gad. Wales.....	Lindleyto'n, N.Y.	40	.....	.....
S. H. Wales.....	New York.....	60	.....	.....
Margaret Walker.....	do.....	10	.....	.....
Francis T. Walker & Co.....	do.....	.....	.....	500 00
Jacob Wall.....	do.....	20	.....	.....
F. B. Wallace & Co.....	do.....	210	1,365 00	452 00
Ward, Campbell & Co.....	do.....	10	118 00	300 00
H. B. Wardell.....	do.....	10	.....	.....
Angelica C. Warner.....	do.....	10	.....	.....
Mary S. Wayland.....	Saratoga Sp., N.Y	50	.....	.....
Mary I. Weatherby.....	Sing Sing, N. Y.	70	.....	.....
Thurlow Weed.....	New York.....	30	.....	.....

List of Stockholders, &c.—Continued.

Name.	Residence.	Scrip prefer'd.	Preferred.	Common.
Wm. H. Weed	Brooklyn, N. Y.			400 00
Robert W. Weir	West Point, NY.	20		
Wm. F. Weld	Boston, Mass.	500		
C. M. Wellington	Troy, N. Y.	50		
Chas. Wells	Manchester, N. H.	10	100 00	
Hannah Wells	New York		12 00	17 00
John Wells	Jamestown, N. Y.	20		
Jonathan L. Wells	Northamp'n, Mas	10		
Jonathan L. Wells, Attorney	do.	30		
C. M. Welstead	London, Eng.	40		
E. B. Wesley	New York	1,650		
Weston & De Billier	do.	380	1,050 00	1,207 45
Margaretta C. Weyman	do.	30		
Whetstone Bros	do.		300 00	
Jas. L. White	do.			500 00
Mrs. Mary P. White	do.	60		
Niles G. White	do.	20		
Wm. H. White	do.	70		
White, Morris & Co	do.	40	300 00	1,025 00
Edward Whitehouse	do.	110		
Whitehouse & Co.	do.	70	400 00	100 00
Daniel B. Whitlock	do.	10		
H. H. Wilbirt	do.	20		
C. A. Wilbour	do.			100 00
W. G. Wiley	do.	70	1,200 00	
Loyal Wilcox	Hartford, Conn.			100 00
J. J. Willets	Flushing, L. I.	130		
Mrs. C. L. Williams	Brooklyn, N. Y.	30		
Chas. P. Williams	Stonington, Conn	30		
C. P. Williams	New York			200 00
Mrs. D. A. Williams	do.	100		
John E. Williams	do.		200 00	
Sherman Williams	Mayville, N. Y.			100 00
A. D. Williams & Co.	New York	110		1 46
Williams, Black & Co.	do.			3 21
D. B. Williamson	do.	20		
B. Wilson	New York		20 00	42 00
Catlin Wilson	do.	140		
F. N. Wilson	do.	20		
John R. Wiltsie	New York			4 00
Robt. Winthrop & Co.	do.		30 00	
Mary E. Witmer	Lancaster, Pa.		20 00	
Stillman Witt	do.	250	58 00	62 00
Agusta Wix	Hoboken, N. J.	50		
Augustus Wolenman	Albany, N.		10 00	17 00
Lewis Wolfe	Athens, N. Y.		50 00	
Sarah E. Wolfe	New York	60		
Virginia Wolf	do.	40		
C. D. Wood	do.	80		
C. V. Wood	Boston, Mass.			100 00
Wood & Davis	New York	10	100 00	
Wood & Morris	do.	10		
Wood & Rieck	do.	710		
Wyly Woodbridge	Savannah, Ga.	10	80 00	
Jas. F. Woodhuse	New York	10	150 00	
A. G. Woodruff	do.			100 00

List of Stockholders, &c.—Continued.

Name.	Residence	Scrip prefer'd.	Preferred.	Common.
Lewis B. Woodruff	New York.....	70	50 00	80
Morris Woodruff.....	do.....		35 00	
Edwin P. Woodward.....	do.....			100 00
Mrs. Emma C. Wooster.....	do.....	200		
George H. Wooster	do.....	70		
Work, Strong & Co.....	do.....		200 00	3,860 00
Robt. Wm. & Marion Workman	Belfast, Ireland		33 00	
Robt. Workman & Co	do.....			1,630 00
Stephen Wray	New York.....		100 00	100 00
Jefferson Wyncoop.....	Cuba, N. Y.....	50		
Julia Yelverton	New York.....	100		
Jyhn S. Young	do.....	10		
Dr. Wm. Young.....	Cold Spri'g, N. Y	100		
Wm. B. Young	New York.....	50		
Matirn Zborowski	do.....	110		
Total.....	.....	153,260	122,744 83	153,992 61

REPORT
OF THE
MADISON & PORTAGE RAILROAD COMPANY,
Now Chicago & Superior Railroad Company.
[Leased to the Chicago, Milwaukee & St. Paul Railway Company.]

For the Year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.
James Campbell, President	Madison.
R. P. Lane, First Vice-President.....	Rockford.
A. S. Sanborn, Secretary.....	Madison.
B. J. Stevens, Solicitor	Madison.
J. B. Bowen, Treasurer	Madison.

General Offices at Madison, Wisconsin.

Names of Directors.	Residence.
James Campbell	Madison.
David Atwood	Madison.
R. B. Sanderson	Madison.
Winslow Bullen	Arlington.
O. D. Peck	Oshkosh.
H. T. Moore	Rockford.
Ralph Emerson.....	Rockford.
Geo. Youngs.....	Hala.

Date of annual election of directors.
Second Wednesday in January.

CAPITAL STOCK.

Capital stock authorized by charter.
Not limited.

COMMON STOCK ISSUED.

Stock subscribed by municipalities paid in bonds.....	\$66,000
Stock issued for account of construction.....	328,300
	<hr/>
Total common stock	394,300
	<hr/> <hr/>

The original capital stock of this company was \$400,000, of which \$394,300 has been sold to the following named persons—Balance of \$5,700 is unsold:

James Campbell.....	\$300,000
Condit & Co.....	25,000
H. K. Colby.....	200
O. E. Wood.....	100
— Roth.....	200
— Mallory.....	200
— Flower.....	100
R. B. Sanderson.....	500
N. H. Wood.....	1,000
Alden S. Sanborn.....	1,000
City of Madison.....	25,000
Town of Windsor.....	6,000
Town of Arlington.....	12,000
Town of Dekorra.....	8,000
City of Portage.....	15,000
	<hr/>
Balance unsold.....	394,300
	5,700
	<hr/>
Total.....	400,000

The stock of the company at the present time—October 7, 1875—is held and owned as follows:

James Campbell, Madison, Wisconsin.....	\$207,000
George O. Clinton, Madison, Wisconsin.....	55,000
R. B. Sanderson, Madison, Wisconsin.....	20,500
O. D. Peck, Oshkosh, Wisconsin.....	6,000
Winslow Bullen, Arlington, Wisconsin.....	3,000
David Atwood, Madison, Wisconsin.....	1,000
H. T. Moore, Brodhead.....	1,000
E. Bowen, Brodhead, Wisconsin.....	1,000
N. H. Wood, Portage, Wisconsin.....	1,000
Alden S. Sanborn, Madison, Wisconsin.....	1,000
C. F. Thompson, Brodhead, Wisconsin.....	500
Condit & Co., New York.....	25,000
E. K. Casey, New York.....	5,200
O. E. Wood, New York.....	100
A. Thompson, New York.....	100
C. Taggart, New Jersey.....	100
B. Campbell, New York.....	100
— Roth, Madison, Wisconsin.....	200
— Mallory, Pacific, Wisconsin.....	200
S. A. Pond, Albany, Wisconsin.....	100
Samuel Mitchell, Albany, Wisconsin.....	100
— Flower, Portage, Wisconsin.....	100
City of Madison, Dane county, Wisconsin.....	25,000
Town of Windsor, Dane county, Wisconsin.....	6,000
Town of Arlington, Columbia county, Wisconsin.....	12,000
Town of Dekorra, Columbia county, Wisconsin.....	8,000
City of Portage, Columbia county, Wisconsin.....	15,000
	<hr/>
Total.....	394,300

FUNDED AND UNFUNDED DEBT.

Describe severally all outstanding classes of bonds, including amounts, dates of issue, interest, when and where payable.

First mortgage, October 1st, 1870, 7 per cent., gold.....	}	\$600,000
Bonds payable 1870; in New York.....		
Amount of debt not secured by mortgage about.....		25,000
Net cash from bonded debt, above described.....		
Bonds pledged for \$353,200 and interest.....		

COST OF ROAD AND EQUIPMENT.

Cost of right of way, (included in construction)	
Cost of construction.....	\$920,950
Iron rail, 39 miles.	lbs. wt. per yard 50
Length of main line of road from Madison to Portage.....	39
Total length of main line and branches.....	39 miles.
Aggregate length of tracks operated by this company <i>computed as</i> <i>single track</i>	39 miles.
Number of "common points".....	2
What is the gauge of your lines?.....	4 feet 8½ inches

DOINGS OF THE YEAR IN TRANSPORTATION.

CHARACTER OF SERVICE.

Number of persons employed:	
Division and assistant superintendents.....	1
Conductors.....	2
Engineers.....	1
Brakemen.....	2
Station-agents.....	5
Section-men.....	23
Other employees.....	3
Total.....	37

MILEAGE AND TONNAGE.

	Whole line.	In Wis- consin.
*Number of miles run by freight and mixed trains.....	23,358	23,358
Number of miles run by construction and other trains.....	950	950
Total.....	24,308	24,308

Mileage of empty freight cars.....	39,810	39,810
Total number pasengers carried.....	12,562	12,562
Total number tons freight carried one mile, included in report of C. M. & St. Paul R'y Co,.....		
Total number passengers carried one mile.....	298,865	298,865
Average distance traveled by each passenger.....	24 miles	24 miles

Total freight in tons.

Included in report of Chicago, Milwaukee & St. Paul Railway Company.

*Feight 234	}		{ East freight 15,416.
Mixed 23,124.	}	Mixed 23,124.	{ East passenger 7,708

EARNINGS DURING THE YEAR ENDING JUNE 30, 1875.

MONTHS.	MONTHLY EARNINGS FROM ALL SOURCES.										TOTALS.	
	PASSENGERS.		FREIGHTS.		MAILS.		EXPRESS.		OTHER SOURCES.			
	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.
1874												
July		1,223 58		1,263 24		162 50		56 73		1 80		2,707 85
August		1,238 58		916 58		212 50		39 28		5 40		2,412 34
September		713 93		1,246 93		112 50		65 66		8 30		2,147 32
October.....		1,038 54		1,584 41		162 50		42 11		10 50		2,838 06
November.....		795 71		1,055 48		143 75		41 96		7 20		2,044 10
December.....		849 40		1,064 16		112 50		46 22		4 55		2,076 83
1875												
January		765 73		702 35		162 50		42 76		1 00		1,674 34
February		310 38		461 67		143 75		18 89		6 60		941 29
March		575 07		1,316 50		112 50		20 16		4 85		2,029 08
April		808 01		1,359 04		162 50		68 02		6 65		2,404 22
May		678 18		1,532 70		143 75		53 09		4 90		2,412 62
June		831 53		1,828 16		112 50		40 30		3 05		2,815 54
Total		9,828 64		14,331 22		1,743 75		535 18		64 80		26,503 59

Earnings per mile of road.....	\$679 58
Earnings per mile of road on freight.....	367 47
Earnings per mile of road on passengers.....	252 02
Earnings per train-mile, run on freight.....	92
Earnings per train-mile, run on passengers.....	1 28
Of the earnings of the entire line, what is the ratio of the passenger to the freight.....	as 1 to 1.5
Average gross earnings per mile [39 miles] of road, exclusive of sidings.	\$679 58

EXPENSES DURING THE YEAR ENDING JUNE 30, 1875.

PAYMENTS FOR CURRENT AND OPERATING EXPENSES.

	Belonging to whole line.	Belonging to Wisconsin.
Maintenance of way:		
Repairs of track, including new and re-rolled iron rail in place of old iron rail	\$9,545 66	\$9,545 69
Repairs of bridges.....	129 87	129 87
Repairs of fences	8 25	8 25
Maintenance of buildings	85 20	85 20
Maintenance of rolling stock:		
Locomotives	1,141 48	1,141 48
Passenger, baggage, mail and express cars.....	334 09	334 09
Freight cars.....		
Conducting transportation, and general expenses:		
Management and general office	5,317 75	5,317 75
Agents and station service	5,629 13	5,629 13
Conductors, baggage and brakemen.....	2,327 70	2,327 70
Engineers, firemen and wipers	2,577 28	2,577 28
Train and station supplies.....	104 78	104 78
Fuel consumed.....	5,948 00	5,948 00
Oil and waste.....	251 04	251 04
Damage to persons.....	196 85	196 85
Damage to property.....	340 25	340 25
Loss and damage to freight and baggage	91 25	91 25
Legal expenses.....		
Other general operating expenses, as per items below	33 00	33 00
Current expenses:		
For taxes	457 75	457 75
Entire line, total current operating expenses, being 130 per cent. of earnings.....		\$34,519 36
Average operating expenses per mile of road, exclusive of sidings....		885 11
Average operating expenses per train-mile.....		1 48
Excess of operating and current expenses over earnings.....		8,115 77
Cost of maintaining track and bridges per mile run		41 ⁴ / ₁₀
Cost of repairs of engines per mile run		4 ⁴ / ₁₀
Cost of engineers and firemen per mile run		11
Cost of oil and waste per mile run		01 ¹ / ₁₀
Cost of fuel per mile run		25 ² / ₁₀

Total new investment.

Cannot state.

Specify each patent in use on your road, and the amount paid as royalty for said patents, in separate items.

Cannot state.

How was the amount of dividends paid the past year—cash, stock, or otherwise? Specify amounts and manner of payment.

None.

What regulations govern your employees in regard to crossings of other railroads, and are they found to be sufficient?

Same as on C. M. & St. Paul Railway lines.

What regulations govern your employees in regard to crossings of public highways? And are these regulations found to be sufficient?

Same as on C. M. St. Paul Railway lines.

What platform and coupler between passenger cars, do you use?

Same as on C. M. & St. Paul Railway lines.

What kind of brakes do you use on passenger trains?

Hand brakes.

UNITED STATES MAIL.

What is the compensation paid you by the U. S. Government for the transportation of its mails, and on what terms of service?

\$50 per mile per annum.

EXPRESS COMPANIES.

What express companies run on your road, and on what terms, and on what conditions as to rates, use of track, machinery, repairs of cars, etc.; what kind of business is done by them, and do you take their freights at the depot, or at the office of such express companies!

(Included in C. M. and St. Paul Railway Report.)

TRANSPORTATION COMPANIES.

What freight and transportation companies run on your road, and on what terms, and on what conditions as to rates, use of track, machinery, repairs of cars, etc. Do they use the cars of your company, or those furnished by themselves, and are their cars or their freight given any preference in speed or order of transportation, and if so, in what particular?

None.

ACCIDENTS.

Thos. Usher, employee; injured July 4, 1874, by want of caution and his own misconduct. Damages paid, time and expenses. (Included in C. M. & St. Paul Railway Report.

Amount paid as damages on account of stock killed by trains	} \$340 25
Amount paid as damages caused by fire from locomotive	

STATE OF WISCONSIN, *County of Milwaukee, ss.*

S. S. Merrell, General Manager, and Royal D. Jennings, Secretary and Treasurer of the Chicago, Milwaukee and St. Paul Railway Company, lessee of the Madison and Portage Railroad Company, being duly sworn, depose and say that they have caused the foregoing statements to be prepared by the proper officers and agents of this Company, and having carefully examined the same declare them to be a true, full, and correct statement of the condition and affairs of said Company, on the first day of July, A. D. 1875, to the best of their knowledge and belief.

S. S. MERRELL,
General Manager.

R. D. JENNINGS,
Secretary and Treasurer.

Subscribed and sworn to before me, a Notary Public, this nineteenth day of October, A. D. 1875.

G. E. WEISS,
Not. Pub., Milwaukee Co., Wis.

REPORT
OF THE
CHICAGO AND NORTHWESTERN RAILWAY COMPANY

For the Year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.
Albert Keep, President	Chicago.
M. L. Sykes, Jr., 1st Vice-President	New York.
M. L. Sykes, Jr., Secretary	New York.
B. C. Cook, Solicitor	Chicago.
M. L. Sykes, Jr, Treasurer	New York.
H. H. Porter, General Manager	Chicago.
M. Hughitt, General Superintendent	Chicago.
E. H. Johnson, Chief Engineer	Chicago.
W. A. Thrall, General Ticket Agent	Chicago.
H. C. Wicker, General Freight Agent	Chicago.
J. B. Redfield, Auditor	Chicago.

The officers of this company are also the officers of other companies whose roads are operated by this company, with no additional salary. The proportion of salaries for the State of Wisconsin (according to the miles in the State,) is \$78,140.59.

General offices at Chicago.

Names of Directors.	Address.
Albert Keep	Chicago.
John F. Tracy	Chicago.
Henry H. Porter	Chicago.
Wm. K. Terry	Chicago.
J. H. Howe	Kenosha.
Wm. L. Scott	Erie.
Milton Courtwright	Erie.
A. G. Dulman	New York.
S. M. Mills	New York.
M. L. Sykes, Jr	New York.
Charles R. Marvin	New York.
Harvey Kennedy	New York.
A. B. Bayliss	New York.
David Dows	New York.
R. P. Flower	New York.
Francis S. Tows	New York.
J. L. Ten Have Frzn	Amsterdam, Holland.

Executive Committee.	Residence.
Albert Keep	Chicago.
John F. Tracy	Chicago.
H. H. Porter	Chicago.
M. L. Sykes, Jr	New York.
A. G. Dulman	New York.

Date of annual election of directors, the first Thursday in June.

Name and address of person to whom correspondence concerning this report should be directed: B. C. Cook, Chicago, Ill.

CAPITAL STOCK.

This company has no record of subscriptions made to its capital stock, or to the stock of the companies consolidated to form this company, all records of this description having been destroyed in the fire of October 9, 1871.

Total common stock..... \$14,996,600 40

PREFERRED STOCK ISSUED.

Amount of preferred stock..... \$21,487,653 42

Rate of preference and for what issued: Preference of 7 per cent.

To retire convertible bonds and for stock of companies consolidated.

Total capital stock..... \$36,484,253 82

Statement of bonded debt of Chicago & Northwestern Railway Company, June 30, 1875.

Name of Bond.	Seven per cent. currency.	Six per cent. currency.	Seven per cent. and gold.	Total.
Preferred sinking fund	\$1,228,700			\$1,238,700
Appleton Extension	145,000			145,000
Green Bay Extension.....	265,000			265,000
Funded coupon	740,300			740,000
General first mortgage	3,578,000			3,578,000
G. & C. U. R. R. Co. first mortgage..	1,692,000			1,692,000
G. & C. U. R. R. Co. second mortgage.	22,000			22,000
Elgin and State Line Railroad.....		122,000		122,000
Mississippi River Bridge	182,000			182,000
Cons. sinking fund, Currency	4,307,000			4,307,000
Peninsula R. R. of Mich., 1st mortgage.	324,000			324,000
Mil. & Chicago R. R., 2d mortgage...	2,000			2,000
C. & Mil. R. R., 1st mortgage, gold...	1,700,000			1,700,000
Beloit & Madison R. R., 1st mort., gold	284,000			284,000
Madison Extension, 1st mortgage, gold			3,150,000	3,150,000
Menominee Extension, 1st mort., gold.			2,700,000	2,700,000
General consolidated.....			9,930,000	9,930,000
Total.....	14,480,000	122,000	15,780,000	30,382,000

Statement of expenditures charged to cost of road and equipment, during year ending June 30, 1875.

Extension or alteration of the road.....	\$1,050,305 99
Construction of buildings.....	30,945 17
Cost of new shops, West Chicago.....	86,580 91
Cost of Halsted street viaduct, Kinzie street, Chicago.....	33,658 63
Cost of permanent bridges (new over old)	78,788 50
Equipment	33,759 06
Total	1,315,038 26

ORIGINAL COST AND PRESENT ESTIMATED VALUE OF TOTAL PROPERTY IN THIS STATE.

It is impossible to give the original cost of property in this State, the records having been destroyed by fire, and no new estimates of present value have been made.

Locomotives, as per schedule	342
Wreckers, as per schedule.....	11
Passenger cars, 1st class.....	142
Passenger cars, 2d class.....	27
Baggage cars, express, and others.....	253
Mail cars.....	15
Ore cars.....	1,957
Freight cars, closed.....	4,677
Platform cars.....	1,025
Hand cars.....	260

CHARACTERISTICS OF ROAD.

	Entire length.	Length in Wisconsin
Chicago to east end, Mississippi River bridge.....	137.00	.....
Chicago to Freeport.....	121.00	.....
(Above includes 35 miles of second track)		
Elgin to Geneva Lake.....	44.50	.....
Batavia to St. Charles.....	5.60	.....
East end Mississippi River bridge to Clinton.....	1.10	.....
Clinton to Cedar Rapids.....	81.30	.....
Cedar Rapids to Missouri Valley.....	271.60	.....
Clinton to Lyons.....	2.60	.....
Lyons to Anamosa.....	68.80	.....
Stanwood to Tipton.....	8.50	.....
Belvidere to Madison.....	67.60	47.50
Madison to Elroy.....	74.20	74.20
Elroy to Winona Junction.....	54.90	54.90
Winona Junction to Winona (Sub. T & P. including Winona Bridge, 1 3-10 miles,.....	29.00	28.00
Winona to Marshall.....	248.00	.....
Marshall to State Line.....	40.50	.....
State Line to Lake Kameska.....	38.50	.....
Mankato Junction to Mankato (W. M. & N. W.).....	3.75	.....
Chicago to Milwaukee.....	85.00	40.00
Milwaukee to Fond du Lac.....	62.63	62.63
Kenosha to Rockford.....	72.10	27.50
Chicago to Fort Howard.....	242.20	171.40
Fort Howard to Michigan State line.....	49.45	49.45
Chicago to Montrose (cut off).....	5.20	.....
Chicago Br. track, Junction to river.....	4.50	.....
Michigan State Line to Escanaba.....	64.65	.....
Escanaba to Lake Angeline.....	68.00	.....
Branches to Mines.....	38.60	.....
Entire length.....	1,990.78	.....
Entire length in Wisconsin.....		562.28

MILEAGE AND TONNAGE.

Number of miles run by passenger trains.....	2,720,856
Number of miles run by freight and mixed trains.....	6,378,271
Number of miles run by construction and other trains.....	422,874
Total number passengers carried.....	3,084,307
Total number passengers carried one mile.....	106,123,087

Statement of number of tons of freight carried and the number of tons carried one mile on the Chicago & Northwestern Railway and proprietary roads for year ending June 30, 1875.

Months.	Tons carried.	Tons carried one mile.
1874		
July	325,181	41,383,934
August	263,383	31,617,830
September	278,168	37,397,177
October	300,274	43,112,452
November	345,062	52,709,151
December	261,268	38,844,611
1875		
January	231,196	38,365,465
February	193,958	30,425,873
March	170,436	24,938,483
April	240,386	35,841,823
May	239,613	36,655,297
June	304,390	43,254,372
	3,153,315	454,546,468

EARNINGS DURING THE YEAR ENDING JUNE 30, 1875.

MONTHLY EARNINGS FROM ALL SOURCES.

Detailed statement of the earnings for twelve months, ending June 30, 1875.

Months.	Passenger.	Freight.	Express.	Mail.	Miscellaneous	Total.
1874.						
July.....	\$314,584 99	\$641,157 12	\$22,527 48	\$21,450 11	\$11,957 35	\$1,011,685 05
August.....	300,196 10	760,932 28	23,120 10	23,385 89	10,739 29	1,118,370 66
September.....	355,161 30	844,450 29	24,508 40	21,302 56	8,832 81	1,254,255 36
October.....	336,707 63	1,015,650 89	23,475 63	21,333 59	10,807 22	1,407,974 96
November.....	253,992 03	752,927 50	22,360 61	23,446 92	12,998 78	1,065,725 84
December.....	242,323 50	738,372 92	23,514 80	21,397 92	4,418 39	1,030,027 53
1875.						
January.....	190,638 86	584,711 72	20,973 80	23,416 92	5,727 39	825,468 69
February.....	153,737 81	466,819 28	19,347 88	21,333 59	10,545 74	671,784 30
March.....	232,393 77	688,204 42	21,939 21	21,333 59	6,192 78	970,063 77
April.....	270,740 91	703,296 15	21,677 22	21,361 03	7,313 95	1,024,389 26
May.....	266,443 02	819,750 04	22,343 74	23,422 81	32,499 06	1,164,458 67
June.....	267,868 33	735,608 86	21,801 06	21,340 05	6,272 22	1,052,890 52
Total.....	3,184,788 25	8,751,881 47	267,589 93	264,532 98	128,301 98	12,597,094 61

REPORT OF RAILROAD COMMISSIONERS.

EXPENSES DURING THE YEAR ENDING JUNE 30, 1875.

	Twelve months ending June 30, 1875.
Operating expenses:	
Repairs of engines and tenders	\$566,396 61
Repairs of cars	897,296 71
Repairs of buildings	124,915 10
Repairs of fences, gates and crossings	47,998 50
Repairs of bridges and culverts	106,484 00
Repairs of track	1,634,197 47
Repairs of tools and machinery	98,657 04
Fuel used by locomotives	864,584 78
Fuel and light used in cars and at stations	123,290 16
Oil and waste used	87,897 60
Office and station furniture and expenses	54,276 56
Furniture and fixtures for cars	15,189 25
Foreign agents	45,985 26
Advertising	19,986 24
Stationery, printed blanks, tickets, etc.	49,221 35
Enginememen, firemen and wipers	672,781 01
Conductors, baggagemen and brakemen	411,465 02
Laborers and switchmen at stations	660,614 47
Agents and clerks at stations	614,184 19
Superintendence	108,262 35
Rents	23,919 22
Loss and damage	66,289 32
Injury to persons	51,823 57
Teaming, freight, baggage and mails	5,561 53
Miscellaneous expenses	57,162 92
Car-hire over amount received	53,399 03
Total	7,461,240 26
Add for losses at Chicago fire	18,904 90
Add for taxes	372,810 77
Total	7,852,955 93

PAYMENTS IN ADDITION TO EXPENSES.

	Belonging to whole line.
New steel rail, excess of cost over iron rail, old track }	\$501,967 84
New rail on new track	
New equipment	33,759 06
New bridges and culverts, (not including replacements) and viaducts	113,447 13
Real estate bought during the year, for right of way and depot grounds	14,424 40
New tools and machinery (rail repairing, machine shop at Junction)	4,611 39
New buildings (West Chicago shops)	117,529 08
Total paid for new investment on the length of the company's lines one year ago	529,299 36
For interest on bonds, increased premium on gold coupons, and interest and exchange	2,230,439 68
Dividends on preferred stock. None.	
Dividends on common stock. None.	
Specify each patent in use on your road, and the amount paid as royalty for said patents, in separate items. None.	
How was amount of dividends paid the past year—cash, stock, or otherwise? Specify amounts and manner of payment. None paid.	

GENERAL BALANCE SHEET, 1ST OF JULY, 1875.

Assets	Amount.	Assets.	Amount.
Cost of Road.....	\$59,377,781 51	Capital stock.....	\$36,484,253 82
Cost of equipment.....	7,991,932 05	Funded debt.....	30,382,000 00
Land grant account.....	16,211 81	Sinking fund account.....	280,840 00
Proprietary roads.....	4,691,206 10	Income account.....	4,957,955 82
Amount of excess of sundry assets over floating debt.	27,918 17		
Total.....	72,105,049 64	Total.....	72,105,049 64

What regulations govern your employees in regard to crossings of other railroads and are they found to be sufficient?

Employees are instructed to bring trains to a full stop before crossing the track of another company.

What regulations govern your employees in regard to crossings of public highways? And are these regulations found to be sufficient?

Engineers are required to sound whistle at signal posts, which are 80 rods before highway crossings, and to ring the bell.

What platform and coupler between passenger cars, do you use?

The Miller platform coupler.

What kind of brakes do you use on passenger trains?

The Westinghouse air brake.

U. S. MAIL.

What is the compensation paid you by the U. S. Government for the transportation of its mails, and on what terms of service?

Schedule of contracts with United States Post-Office Department, for carrying mails upon the different routes below named.

Number of route.	Location.	Distance.	Rate per mile per annum.	Amount.
25,009	Chicago and Green Bay	245	210 00	\$51,450 00
25,011	Kenosha and Rockford	73.6	60 00	4,416 00
23,002	Chicago and Freeport	121	210 00	25,410 00
23,003	Chicago and Clinton	139	275 00	38,225 00
23,008	Clinton to Missouri River	351	255 00	89,505 00
25,010	Caled. Junction and Elroy	135.45	75 00	10,158 75
24,031	Fort Howard and Ishpeming	181.20	85 00	15,402 00
27,013	Stanwood and Tipton	8.81	50 00	440 00
23,001	Chicago and Milwaukee	87	220 00	19,140 00
23,004	Elgin and Green Lake	44	40 00	1,760 00
27,024	Clinton and Anamosa	74.10	40 00	2,969 00
26,012	Winona and Winona Junction	28	215 00	6,020 00
26,015	Winona and Mankato	145.60	85 00	12,376 00
	Total			277,267 75

EXPRESS COMPANIES.

What express companies run on your road, and on what terms, and what conditions as to rates, use of track, machinery, repairs of cars, etc.; what kind of business is done by them, and do you take their freights at the depot, or at the office of such express companies?

Schedule of rates paid by Express companies for service on this company's lines.

AMERICAN EXPRESS COMPANY.

ROUTE.	Rate per diem on limited tonnage.	Limit of pounds to be carried each day at regular per diem rates.	Rate pr 100, carried of whole length of route, to be paid on excess of tonnage.
Chicago to Council Bluffs.....	275 00	10.000	150
Chicago to Freeport.....	90 00	12.000	75
Chicago to Menomonee.....	180 00	10.000	85
Menomonee to Ishpeming.....	20 00	3.000	1.10
Chicago to Elroy.....	135 00	10.000	1.35
Clinton to Anamosa.....	12 50	2.000	62 ¹ / ₂
Stanwood to Tipton.....	3 75	1.000	37 ¹ / ₂
Kenosha to Rockford.....	5 07	1.000	60
Elgin to Geneva Lake.....	5 00	1.000	36
Chicago to Fond du Lac.....	40 00	5.000	80
	766 32		

Right of through business between Milwaukee and Chicago, Elroy and Marshall, in accordance with tariff rates to be paid between stations agreed upon January 1, 1874.

Business between Winona and Winona Junction, on Milwaukee and St. Paul Railway trains at rate of 30 cents per 100 lbs., carried whole distance, half of which is paid by this company to Milwaukee and St. Paul Railway Company as their proportion of said earnings.

UNITED STATES EXPRESS COMPANY.

ROUTE.	Rate per diem on limited tonnage.	Limit of pounds to be carried each day at regular per diem rates.	Rate pr 100, carried of whole length of route, to be paid on excess of tonnage.
Chicago to Milwaukee.....	66 66	17.000	40

Do sleeping or dining cars run on your road, and if so, on what terms are they run, by whom are they owned, and what charges are made in addition to the regular passenger rates?

Sleeping cars are run; they are hauled in consideration of their use. They are owned by "Pullman Palace Car Co." All charges in addition to regular passenger rates are collected by the owners.

ADDITIONAL QUESTIONS.

Date of original charter of the road and that of any road consolidated with it, with the name of the companies.

Chicago & Northwestern R'y. Co., chartered in Illinois Feb. 19, 1859.

Chicago & Northwestern R'y. Co., chartered in Wisconsin, March 14, 1859.

Certificate of incorporation made June 6, 1859.

Since its formation the Chicago & Northwestern R'y. Co., has received by consolidations the following named companies, to wit:

Dixon, Rockford and Kenosha R'y. Co., Organized Jan. 16, 1864. Consolidated with C. & N. W. Co., Jan. 19, 1864.

Galena and Chicago Union Railroad Co., Incorporated Jan. 16, 1836. Consolidated with C. & N. W. R'y. Co., June 2, 1864.

Peninsula R. R. Co. (of Michigan) incorporated Feb. 12, 1855. Consolidated with C. & N. W. R'y. Co., October 21, 1864.

Beloit and Madison Railroad Co., organized Sept. 1862, consolidated with C. & N. W. R'y. Co., March, 1871.

Baraboo Air Line R. R. Co., incorporated March 8, 1870, consolidated with C. & N. W. R'y. Co., March 10, 1871.

Roads operated under lease (whether temporary or permanent) giving name, term, length, address of lessors and terms of lease.

The line of road from Chicago to Milwaukee, eighty-five miles, (of which forty miles are in the State of Wisconsin,) is operated under permanent lease from the "Chicago and Milwaukee Railway Company;" the lessor guaranteeing six per cent. per annum on the stock of the Chicago and Milwaukee Railway Company, and the payment of all bonded debt and operating expenses:

The line of road from Milwaukee to Fond du Lac sixty-two and sixty-three one hundredths miles, (all in the State of Wisconsin,) is operated under permanent lease from the "Northwestern Union Railway Company," the lessees agreeing to pay a percentage on its gross earnings as follows:

Out of the first \$1,500, per mile, per annum \$700, per mile per annum.

Out of any excess of gross earnings, \$1,500 per mile until such excess shall reach \$3,000 per mile, thirty-three and one-third per cent. thereof as further rental.

Out of any excess of gross earnings over \$4,500 per mile twenty per cent. thereof as further rental. And further agreeing that if such rental shall not be sufficient to pay the interest on the bonded debt of the Company, to make up the deficiency.

What is the total number of acres United States lands granted to your Company by Congress directly, or through the State?

Besides portions of right of way and depot grounds, etc., about 551,490 $\frac{10}{100}$ acres of which 154,183 $\frac{91}{100}$ acres had been received by the Chicago, St. Paul and Fond du Lac Railroad Company, and sold by order of court on account of that company's indebtedness. No part of the proceeds thereof having been received by the Chicago and Northwestern Railway Company.

What number acres received by your Company, directly or indirectly? . . . 397,306 $\frac{19}{100}$

What number acres sold and conveyed?

Total number of acres conveyed 30,941.21

Total number of acres sold but not conveyed 2,136.69

Total sales to July 1, 1875. 33,077.90

Average price, per acre, realized?

All sales to date \$3.21 per acre.

To what corporations have you sold land? How much, and at what price?

No sales to corporations.

Number of acres now held by Company?

On July 1, 1875. 364,228.29

Average price asked for lands now held by Company?

As far as appraised \$1.97.

Amount of land sold, but not conveyed, under contracts now in force? being receipts previous to July 1st, 1873.	2,136 69 acres.
The whole amount of cash, principal received for lands hitherto sold and conveyed.	\$46,731 83
Whole amount of cash received, principal and interest, on outstand- ing contracts in force.	None.
Whole amount of cash received, principal and interest, on contracts forfeited.	None.
Whole amount of cash received for stumpage, trespass, &c.	\$1,843 81
What have been your total receipts from lands sold, and contracted to be sold, the past year.	59,129 79
What is the aggregate sum of receipts on account of lands, from all sources whatever, up to the present time.	107,705 43

ACCIDENTS.

Accidents (causing injury to persons,) within the State of Wisconsin during the year ending June 30, 1875.

Date.	Name.	Place.	Class.	Cause.	Result.
1874.					
July 6.	John Schraam.....	Milwaukee	E	Switching—caught between the cars.....	Injured.
July 6.	Chas. Eber.....	Baraboo	E	Coupling	Injured.
July 10.	Mrs. Chris. Kubbs...	Black Wolf.....	O	Tried to rescue child—run over.....	Injured.
July 10.	Son of above.....	do.....	O	On track, run over.....	Injured.
July 20.	Joe Beldace.....	Union Center.....	E	Missed coupling	Injured.
Aug. 25.	A. A. Roberts.....	Baraboo	O	Tried to climb over car, switching.....	Injured.
Aug. 27.	Louis Gust.....	do.....	E	Jumping on train, run over.....	Killed.
Sept. 11.	Pat. Contillon.....	Near Ableman's....	E	Premature blasting of stone.....	Injured.
Sept. 11.	Peter Berrigrew.....	do.....	E	Premature blasting of stone.....	Injured.
Sept. 15.	Wm. Fultz.....	Wonowoc.....	E	Found dead; probably run over.....	Killed.
Sept. 16.	Ed. Murray.....	Near Nowalk.....	E	Supposed to have fallen from train.....	Killed.
Sept. 21.	Wm. Quail.....	Kenosha	E	Drawing link from draw-bar, run over.....	Killed.
Sept. 25.	Dan Miller.....	Sparta	E	Coupling	Injured.
Oct. 12.	Thos. Bryne.....	Beloit.....	E	Missed coupling	Injured.
Oct. 17.	F. Hogan.....	Blooms	E	Struck by fence while looking under cars	Injured.
Oct. 18.	C. E. Hollisy.....	do.....	E	Struck by bridge climbing from caboose.....	Injured.
Oct. 21.	Dan. Duely.....	Brooklyn	E	Missed coupling.....	Injured.
Oct. 22.	Ed. Long.....	Near Pine Creek....	O	Lying on track drunk, struck by train	Injured.
Oct. 26.	Mrs. A. Cramer.....	Fond du Lac.....	O	Crossing track, struck by train.....	Injured.
Nov. 27.	James Hallet.....	Norwalk.....	E	Coupling.....	Injured.
Nov. 28.	Jas. Parmlee.....	Fox River.....	E	Coupling.....	Injured.
Dec. 12.	Fred. Wheeler.....	Baraboo	E	Missed coupling.....	Injured.
Dec. 19.	Geo. W. King.....	Reedsburg	E	Coupling.....	Injured.
1875.					
Jan. 5.	E. W. West.....	La Valle.....	E	Coupling.....	Injured.
Jan. 7.	W. D. Krebs.....	Elroy.....	E	Coupling.....	Injured.
Jan. 20.	Fred Smith.....	Near Kewaskum....	O	Drove on to track.....	Injured.

Jan. 20.	Frank E. Brower.....	Dane	E	Un-coupling.....	Injured.
Jan. 30.	B. Finnegan.....	Near Appleton.....	O	Walking on track, struck by train.....	Killed.
Feb. 1.	Unknown man.....	Near Evansville.....	O	Walking on track, struck by train.....	Killed.
Feb. 9.	G. J. Waters.....	Madison	E	Missed coupling.....	Injured.
Feb. 25.	J. L. Stewart.....	Magnolia.....	E	Caboose thrown from track.....	Injured.
Feb. 26.	Henry Barrier.....	Evansville	E	Unloading car, fell on a stake.....	Injured.
Feb. 27.	Irving Phillips.....	Kendall	E	Jumping on engine.....	Killed.
March 3.	Wyman Ryder.....	Dane	E	Missed coupling.....	Injured.
March 8.	H. J. Miller.....	Near Beloit.....	E	Engine thrown off track.....	Injured.
March 20.	H. Dorchester.....	Near La Valle.....	E	Run over by hand-car.....	Injured.
March 23.	Jas. Sanderson.....	Near Undyne.....	O	Supposed to have jumped from train.....	Killed.
March 24.	Wm. Stothard.....	Glendale	E	Missed coupling.....	Injured.
March 26.	Herman Sofka.....	Reedsburgh	O	Stealing ride, jumped from train.....	Injured.
March 30.	Henry Dicke.....	Near Norwalk.....	O	Lying on track drunk, run over.....	Injured.
April 2.	Antoine James.....	Near De Pere	O	Lying on track drunk, run over.....	Killed.
April 5.	Chas. Steel.....	Wrightstown	E	Jumping on engine.....	Injured.
April 24.	Phillip Car.....	Near Norwalk.....	E	Walked out of end door car in tunnel.....	Injured.
May 10.	F. Torway.....	Wauakee	E	Jumping on engine.....	Injured.
May 11.	E. Gay.....	Appleton	E	Coupling cars.....	Injured.
May 20.	Mrs. E. M. Sharp.....	Madison	P	Struck by stone thrown by boys.....	Injured.
June 1.	— Ellenbeck.....	Ft. Howard Junction.....	O	Jumping on train.....	Injured.
June 2.	Jas. Wiseman.....	Ableman's.....	E	At work under bridge, slipped on rock.....	Injured.
June 9.	Unknown man.....	Oshkosh	O	Standing on crossing.....	Killed.
June 22.	Albert Carl.....	Sparta	O	Jumped on pilot engine, run over.....	Injured.
June 23.	Wm. Lundkee.....	Milwaukee	O	Crossed track ahead of engine.....	Killed.
June 29.	Henry Bedessen.....	Near Oak Creek.....	O	Sitting close to track, struck by train.....	Killed.

SUMMARY.

	Injured.	Killed.
Employees.....	29	5
Passengers.....	1	
Others.....	10	7
Total.....	40	12

STATE OF ILLINOIS, }
County of Cook, } ss.

Albert Keep, president, and J. B. Redfield, assistant secretary of the Chicago and Northwestern Railway Company, being duly sworn, depose and say that they have caused the foregoing statements to be prepared by the proper officers and agents of this company, and having carefully examined the same declare them to be true, full, and correct statements of the condition and affairs of said company, on the first day of July A. D. 1875, to the best of their knowledge and belief

ALBERT KEEP,
J. B. REDFIELD.

Subscribed and sworn to before me, this tenth day of September, A. D. 1875.

RALPH C. RICHARDS.
Notary Public.

REPORT
OF THE
WEST WISCONSIN RAILWAY COMPANY,
For the Year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.
H. H. Porter, President.....	Chicago.
J. H. Howe, 1st Vice-President	Kenosha.
F. E. Trowbridge, Secretary.....	New York City.
John C. Spooner, Solicitor.....	Hudson.
R. P. Flower, Treasurer	New York City.
Wm. G. Swan, General Superintendent	Hudson.
H. H. Weakley, Land Commissioner	Hudson.
J. B. G. Roberts, Chief Engineer	Hudson.
G. K. Barnes, General Ticket Agent	St. Paul.
F. B. Clarke, General Freight Agent	St. Paul.
C. D. W. Young, Auditor.....	Hudson.
General offices at Hudson, Wis.	

Names of Directors.	Residence.
H. H. Porter	Chicago.
J. H. Howe.....	Kenosha.
Z. G. Simmons.....	Kenosha.
S. W. Nickezon	Chicago.
M. Hughitt	Chicago.
J. B. Redfield.....	Chicago.
P. Sawyer.....	Oshkosh.
D. A. Baldwin.....	New York City.
A. H. Baldwin.....	New York City.
A. Coplin.....	New York City.
H. Seibert.....	New York City.
J. O. Hoyt.....	New York City.
R. P. Flower	New York City.
J. Humbird.....	Cumberland, Md.

Executive Committee.	Residence.
H. H. Porter.....	Chicago.
D. A. Baldwin.....	New York City.
J. H. Howe	Kenosha.

Date of annual election of directors, first Wednesday in September.

Name and address of person to whom correspondence concerning this report should be directed:

C. D. W. Young, Hudson, Wis.

CAPITAL STOCK.

Capital stock authorized by charter. \$9,000,000

COMMON STOCK ISSUED.

Stock subscribed by municipalities paid in bonds	None.
Stock subscribed by individuals and other corporations paid in cash	No record.
Stock issued for account of construction	\$5,000,000
Stock issued for bonds of company cancelled.	No record.
Stock issued for dividends payable in stock	None.
Stock issued for payment of floating-debt	None.
Stock issued for interest on bonded debt	None.
Stock issued for construction-account on extension-lines	None.
Stock issued to represent purchased lines	None.
Other common stock issued—and for what?	None.
Total common stock	\$8,000,000

PREFERRED STOCK ISSUED.

Amount of preferred stock	\$1,000,000
Rate of preference and for what issued	10 per cent.; construction.
Total capital stock	\$9,000,000
Proportion of stock for Wisconsin	All.

A list of stockholders at the last election of directors, showing the name, residence and amount of stock owned by each, must be filed herewith.

[None received by Commissioners.]

When and to whom was the original stock owned by the company sold, and what was the cash value realized by the company for the same?

To contractors for constructing the road.

If any stock has been issued since the original, state the date or dates when the same was issued, to whom issued, in what manner the same was paid for, and the cash value realized by the company for the same.

No record.

FUNDED AND UNFUNDED DEBT.

Describe severally all outstanding classes of bonds, including amounts, dates of issue, interest, where and when payable:

7 per cent. gold, Jan. 1 and July 1.

Land Grants, Southern extension, Consolidated.

Amount of debt not secured by mortgage, about	$\left. \begin{array}{r} \$4,000,000\ 00 \\ \quad 640,000\ 00 \\ \quad 1,500,000\ 00 \\ \quad 2,000,000\ 00 \\ \hline \end{array} \right\}$	
Total funded and unfunded debt		\$8,140,000 00

COST OF ROAD AND EQUIPMENT.

Cost of right of way	No record.
Cost of real estate, exclusive of right of way	No record.
Cost of construction	No record.
Cost of equipments	No record.
All other items of expense for construction and equipment	No record.
Amounts paid for road, or portions of road, not built, by the Company, specifying amounts paid, and how paid, in each case and line acquired:	None.

ORIGINAL COST AND PRESENT ESTIMATED VALUE OF TOTAL PROPERTY IN THIS STATE.

DESCRIPTION OF PROPERTY.

Right of way, as per accompanying schedule	No record.
Land for depots, stations, etc., as per schedule	No record.
Grading, as per schedule	No record.
Masonry, as per schedule	No record.
Bridging, as per schedule	No record.
Ties and tying	No record.

Iron rail	No record.
Steel rail	No record.
Chairs, spikes, fish-bar, etc.	No record.
Laying track	No record.
Passenger stations, fixtures and furniture	19
Freight stations and fixtures and furniture	18
Engine and car shops	2
Machine shops	2
Engine houses	6
Car sheds	None
Turn tables	6
Track and other scales	1
Wood sheds and water stations	14
Fencing	60
Elevators, as per schedule	None.
Engineering expenses before and during construction	No record.
Salaries of officers and agents essential during construction	No record.
Incidental expenses	No record.
Locomotives . }	
Tenders }	18
Caboose cars	12
Snow plows, as per schedule	2
Wreckers	1
Passenger cars, 1st class	10
Passenger cars, 2d class	3
Baggage and sleeping cars	4
Mail cars	3
Business car	1
Freight cars, closed	70
Platform cars	87
Hand cars	33

CHARACTERISTICS OF ROAD.

LENGTH OF ROAD.

	Miles.
Length of main line of road from St. Croix Lake to Elroy	177.5
Length in Wisconsin	177.5
From Eau Claire to Chippewa Falls	11.0
From North Wisconsin Junction to end of track, length of double track on branch	40.0
Total length of main line and branches	<u>228.5</u>

	Miles.
Aggregate length of tracks operated by this company <i>computed as single track</i>	248 ⁴ / ₁₀
Aggregate length of sidings and other track not above named	7 ¹ / ₈ ³³ / ₀
Number of common points	Three (3)
What is the gauge of your lines?	4 feet 8 ¹ / ₂ inches

DOINGS OF THE YEAR IN TRANSPORTATION.

CHARACTER OF SERVICE.

Division and assistant superintendents	No record.
Clerks in offices	No record.
Masters and assistant mechanics	No record.
Conductors	No record.
Engineers	No record.
Brakemen	No record.
Flagmen, switch tenders, gate keepers and watchmen	No record.
Station agents	No record.
Section men	No record.
Laborers	No record.
Other employees	No record.

MILEAGE AND TONNAGE.

Number of miles run by passenger trains.....	No record.
Number of miles run by freight and mixed trains.....	No record.
Number of miles run by construction and other trains.....	No record.
Mileage of empty freight cars.....	No record.
Total number passengers carried.....	No record.
Total number tons freight carried.....	No record.
Total number passengers carried one mile.....	No record.
Average distance traveled by each passenger.....	No record.

Miles per hour.

The highest rate of speed allowed for express passenger trains.....	35
Schedule rate of same, including stops.....	20
The highest rate of speed allowed for mail and accommodation trains.....	35
Schedule of same, including stops.....	20
The highest rate of speed allowed for freight trains.....	15
Schedule rate of same, including stops.....	9
Amount of freight carried per train,.....	17 loaded cars.

TOTAL FREIGHT IN TONS.

Grain.....	No record.
Flour.....	No record.
Provisions.....	No record.
Salt, cement water-lime, and stucco.....	No record.
Manufactures, including agricultural implements, furniture and wagons.....	No record.
Live stock.....	No record.
Lumber and forest products.....	No record.
Iron, lead, and mineral products.....	No record.
Stone, brick, lime, sand, etc.....	No record.
Coal.....	No record.
Merchandise and other articles.....	No record.

EARNINGS DURING THE YEAR ENDING JUNE 30, 1875.

MONTHS.	MONTHLY EARNINGS FROM ALL SOURCES.			
	Passengers.	Freight.	Mails, ex-press, etc.	Totals.
1874.				
July.....	\$29,654 73	\$30,481 01	\$7,890 60	\$68,026 34
August.....	28,678 79	34,802 13	3,310 99	66,791 91
September.....	31,885 31	48,863 83	3,136 89	83,886 03
October.....	28,549 77	55,577 56	3,176 59	87,303 92
November.....	24,309 88	44,504 21	2,992 18	71,806 27
December.....	18,675 23	50,131 93	3,177 41	71,984 57
1875.				
January.....	11,500 06	31,931 84	3,434 24	46,866 14
February.....	9,122 19	24,987 60	3,171 16	37,280 95
March.....	15,792 68	39,681 71	3,338 35	58,812 74
April.....	24,536 65	49,763 28	3,293 50	77,593 43
May.....	23,667 56	42,789 61	3,206 08	69,663 25
June.....	25,711 68	34,038 23	3,334 63	63,084 54
Totals.....	272,084 53	487,552 94	43,462 62	803,100 09

Earnings per train mile run, on freight.....	No record.
Earnings per train mile run, on passengers.....	No record.
Average net earnings per mile of road, exclusive of sidings.....	No record.
Average net earnings per train mile.....	No record.

EXPENSES DURING YEAR ENDING JUNE 30, 1875.

PAYMENTS FOR CURRENT AND OPERATING EXPENSES.

Maintenance of way:	
Repairs of track, including new and re-rolled iron rail in place of old iron rail.....	\$154,411 71
Repairs of bridges.....	9,337 00
Repairs of fences.....	4,454 11
Maintenance of buildings.....	18,067 11
Maintenance of rolling stock:	
Locomotives.....	35,879 28
Passenger, baggage, mail, express, and freight cars.....	68,180 56
Shop tools and machinery.....	4,701 07
Conducting transportation, and general expenses:	
Management and general office.....	57,104 40
Foreign agency and advertising.....	14,024 74
Agents and station service.....	60,849 57
Conductors, baggage and brakemen.....	32,577 15
Engineers, firemen and wipers.....	48,302 50
Train and station supplies.....	10,014 74
Fuel consumed.....	64,967 40
Oil and waste.....	10,263 52
Personal injuries.....	3,327 56
Damage to property.....	3,711 61
Loss and damage to freight and baggage.....	3,492 51
Legal and miscellaneous expenses.....	38,615 33
Car hire paid in excess of amt. received in interchange of business.....	5,326 38
Interest and exchange.....	52,731 63
For taxes.....	30,559 84
For insurance.....	64 37
Lease or privilege of other roads whose earnings are included in this report, giving name and amounts paid:	
Hudson Branch St. Croix & Taylor's Falls R'y.....	9,600 00
Total current operating expenses.....	740,564 09

EXPENSES, ETC.

PAYMENTS IN ADDITION TO OPERATING EXPENSES.

New steel rail, excess of cost over iron rail, old track.....	Belonging to whole line. \$4,192 07
New rail on new track.....	None.
New fences.....	18 00
New bridges and culverts (not including replacements).....	None.
Real estate bought during the year.....	None.
New tools and machinery.....	26 97
New buildings.....	416 90
For interest on bonds.....	None paid.
Dividends on preferred stock.....	None paid.
Dividends on common stock.....	None paid.
What amount of money have you expended for building roads out of the State from proceeds arising from business done on your roads in this State?.....	None.
How was amount of dividends paid the past year—cash, stock, or otherwise? Specify amounts and manner of payment.....	None

GENERAL BALANCE SHEET, 1ST OF JULY, 1875.

ASSETS.	
	Amount.
Construction	\$9,879,767 50
Equipment	550,969 54
Operating assets	169,308 77
Other assets	6,993,904 47
Being excess of operating expenses, taxes, interest, rental, etc., over earnings to June 30, 1875.....	422,242 37
Total	18,016,192 65

LIABILITIES.	
	Amount.
Capital stock.....	\$9,000,000 00
Funded debt.....	6,955,500 00
Floating debt.....	2,060,692 65
Total	18,016,192 65

What is your estimate of the cost to you, for the transportation of each passenger per mile?

Five cents (5c) per passenger per mile.

What is your estimate of the cost to you, per ton per mile, for the transportation of freight?

Four cents (4c) per ton per mile.

What regulations govern your employees in regard to crossings of other railroads, and are these regulations found to be sufficient?

1st. All trains must come to full stop.

2d. Perfectly sufficient.

What regulations govern your employees in regard to crossing of public highways, and are these regulations found to be sufficient?

1st. Must sound the whistle and ring the bell. If crossing is unusually dangerous, it is passed with all necessary caution.

2d. Perfectly sufficient, except as regards cattle grazing on the highway.

What platform and coupler between passenger cars, do you use?

Miller's patent platform, and Potter's patent draft iron.

What kind of brake do you use on passenger trains?

Westinghouse patent air brake on all passenger and baggage equipment.

U. S. MAIL.

What is the compensation paid you by the U. S. Government for the transportation of its mails, and on what terms of service?

Mail carried between all stations, one each way daily, Sundays excepted. Compensation \$100 per mile per annum.

EXPRESS COMPANIES.

What express companies run on your road, and on what terms, and what conditions as to rates, use of track, machinery, repairs of cars, etc.; what kind of business is done by them, and do you take their freights at the depot, or at the office of such express companies?

American Express Company—who handle their own freight in our cars, and pay \$60 per day for maximum weight of 6,000 pounds.

TRANSPORTATION COMPANIES.

What freight and transportation companies run on your road, and on what terms, and on what conditions as to rates, use of track, machinery, repairs of cars, etc.?

Do they use the cars of your company, or those furnished by themselves, and are their cars or their freight given preference in speed or order of transportation, and if so, in what particular?

All connecting railroad companies. Also, all transportation companies owning freight cars have right to use track, and when furnishing their own cars, such cars earn 1c per mile for actual distance run on this road.

SLEEPING CARS.

Do sleeping or dining cars run on your road, and if so, on what terms are they run, by whom are they owned, and what charges are made in addition to the regular passenger rates?

Pullman palace sleeping cars run on all night trains, for use of which owners receive four cents (4c) per mile run, and maintain the cars, except when damaged by accident. About one dollar for double berth is charged in addition to regular passenger fare.

ADDITIONAL QUESTIONS.

Date of original charter of the road and that of any road consolidated with it, with the name of the companies.

Chapter 243, Private and Local Laws, 1863, approved April, 1863.

Date of foreclosure and sale, under which road and each branch is now held and terms and amount of each sale.

There has never been a foreclosure of any mortgage executed by the company.

Rates and dates of all cash dividends on stock of original and consolidated companies, as far as known.

None.

Rates and dates of stock and other dividends, not cash, of original and consolidated companies.

None.

Date when main line (giving termini and length) was completed and put in operation.

Dec. 1, 1872—Termini, Elroy and Hudson.

Date of the commencement of operating of each branch line, giving termini and length?

Eau Claire to Chippewa Falls; Nov. 25, 1874; 11 miles.

North Wisconsin Junction to end of track; prior to July 1, 1874; 40 miles.

Roads operated under lease, (whether temporary or permanent,) giving name, termini, length, address of lessors, and terms of lease?

Chippewa Falls and Western Railway, temporary lease; terms: allow owners 25 per cent. of all gross earnings for use of road, this company paying all operating expenses.

What running arrangements have you with other railroad companies, setting forth the contracts for the same?

With Chicago and Northwestern Railroad company, earnings between principal points being pro-rated upon basis of distance.

What is the total number of acres of swamp or other State lands granted to your company by the State? None.

What is the total number of acres United States lands granted to your company by Congress directly, or through the State? 1,004,160 acres.

What number acres received by your company, directly or indirectly? 759,990.60 acres.

What number acres sold and conveyed? 50,567.70 acres.

Average price, per acre, realized? \$4.23

To what corporations have you sold land? How much, and at what price? None.

Number of acres now held by your company? 601,232.34

Average price asked for lands now held by company? No estimate.

Value of donations of right of way or other real estate? No record.

Amount of city, county, and town aid granted to company in exchange for stock, or otherwise? Specify particulars.....	Nothing realized.
Total cash amount received from such aid?.....	None.
Amount of land sold, but not conveyed, under contracts now in force ? (acres).....	108,140.56
The whole amount of cash, principal received for lands hitherto sold and conveyed.....	\$213,809 35
Whole amount of cash received, principal on outstanding contracts in force.....	208,223
Whole amount of cash received, principal and interest, on contracts forfeited?.....	1,128 75
Whole amount of cash received for stumpage, trespasses, &c.?.....	54,029 79
What have been your total receipts from lands sold and contracted to be sold the past year?(cash).....	23,299 17
What is the aggregate sum of receipts on account of lands, from all sources whatever, up to the present time?.....	961,091 19
What is the amount now due the company on lands sold, or contracted to be sold?.....	413,707 22

ACCIDENTS.

Number of accidents.	STATEMENT OF EACH ACCIDENT.	PASSENGERS.				EMPLOYEES.				OTHERS.			
		From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.	
		Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
1	James Sires, brakeman, Black River Falls, September 7, 1874					1							
2	Irving West, brakeman, Rudd's, September 22, 1874					1							
3	H. D. Fox, brakeman, Wilson, October 12, 1874					1							
4	Jerry Sullivan, switchman, Eau Claire, September 26, 1875					1							
5	Isaac Sires, brakeman, December 21, 1874					1							
6	L. J. Newell, brakeman, December 23, 1874					1							
7	Louis Babb, switchman, Eau Claire, December 29, 1874					1							
8	T. Myers, brakeman, West Eau Claire, December 30, 1874					1							
9	*Miss Mary A. Landon, passenger, Elk Mound, February 13, 1875		1										
10	M. A. Sackman, conductor, Wilson, February 17, 1875					1							
11	Thos. Bowers, conductor, Hudson, March 30, 1875											1	
12	Hans Oleson, brakeman, Elroy, May 7, 1875					1							
13	Nat. Bensley, brakeman, Augusta, June 6, 1875					1							

* Damages paid, \$200.

Of the above accidents those numbered as follows were caused by broken rails:		
No. 9.....	Total No.	One.
Of the above accidents those numbered as follows were caused by inattention of employees.....	Total No.	None.
Of the above accidents those numbered as follows were caused by collisions not properly coming under 2.....	Total No.	None.
Of the above accidents those numbered as follows were caused by explosions.....	Total No.	None.
Amount paid as damages on account of stock killed by trains....	}	Nothing.
Amount paid as damages caused by fire from locomotive.....		

REMARKS.

No. 11 caused by Thos. Bowers jumping on wood-train at Draw Bridge and riding without knowledge of conductor at Hudson Station. In attempting to jump off before the train stopped, he made a mis-step and fell between the platform and the cars, breaking one leg and otherwise injuring himself. He fully exonerated the company from all blame or liability in the premises.

STATE OF WISCONSIN, *County of St. Croix, ss.*

Wm. G. Swan, General Superintendent, and C. D. W. Young, Auditor of the West Wisconsin Railway Company, being duly sworn, depose and say that they have caused the foregoing statement to be prepared by the proper officers and agents of this company, and having carefully examined the same declare them to be a true, full and correct statement of the condition of the affairs of said Company on the first day of July, A. D. 1875, to the best of their knowledge and belief.

W. G. SWAN,
C. D. W. YOUNG.

Subscribed and sworn to before me this 10th day of September, A. D. 1875.

D. M. WHITE,
Notary Public.

REPORT
OF THE
WESTERN UNION RAILWAY COMPANY.

For the Year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.	Salaries.
Hon. Alex. Mitchell, President.....	Milwaukee.....	\$1,000 00
S. S. Merrell, First Vice-President.....	Milwaukee.....	1,000 00
D. R. May, Secretary and Treasurer.....	Milwaukee.....	1,275 00
Fuller & Harkness, Solicitors.....	Racine.....	3,000 00
D. R. May, Treasurer.....	Milwaukee.....	.....
D. A. Olin, General Superintendent.....	Racine.....	4,000 00
Fred Wild, General Ticket and Freight Agent.....	Racine.....	2,500 00
P. Tyrrell, Auditor.....	Racine.....	2,360 00
Total salaries.....		15,135 00

General offices at Racine, Wisconsin.

Names of directors.	Residence.
Hon. Alex. Mitchell.....	Milwaukee.
S. S. Merrell.....	Milwaukee.
Jno. Mitchell.....	Milwaukee.
Hon. J. W. Cary.....	Milwaukee.
Hans Crocker.....	Milwaukee.
Jno. Plankinton.....	Milwaukee.
Hon. Russell Sage.....	New York.
H. F. Fuller.....	Racine,
D. W. Dame.....	Lanark.
Wm. Shannon.....	Shannon.
E. P. Burton.....	Freeport.
H. A. Mills.....	Mt. Carroll.
Walter S. Gurnee.....	New York.

Date of annual election of directors.
Second Wednesday in October.

Name and address of person to whom correspondence, concerning this report, should be directed.

P. Tyrrell, Racine, Wisconsin.
No Executive Committee.

CAPITAL STOCK.

Capital stock authorized by charter..... \$4,000,000 00

COMMON STOCK ISSUED—By purchase.

Stock subscribed by municipalities paid in bonds.....	}	\$4,000,000 00
Stock subscribed by individuals and other corporations paid in cash		
Stock issued for account of construction		
Stock issued for bonds of company cancelled.....		
Stock issued for dividends payable in stock.....		
Stock issued for payment of floating debt.....		
Stock issued for interest on bonded debt.....		
Stock issued for construction account on extension lines		
Stock issued to represent purchased lines		
Other common stock issued—and for what?		
Total common stock.....		4,000,000 00

PREFERRED STOCK ISSUED.

Amount of preferred stock.....	None.
Total capital stock.....	4,000,000 00
Proportion of stock for Wisconsin.....	1,601,881 00

A list of stockholders at the last election of directors, showing the name, residence and amount of stock owned by each, must be filed herewith.

See list following.

Owners of stock, July 1, 1875.

Names.	Residence.	Amount.
G. A. Thomson.....	Union Town, Pa....	\$428 56
R. C. Tate.....	Racine, Wis.....	100 00
E. Northey.....	Shannon, Ill.....	500 00
H. A. Mills.....	Mt. Carroll, Ill....	500 00
Wm. Shannon.....	Shannon, Ill.....	100 00
H. F. Fuller.....	Racine, Wis.....	100 00
D. W. Dame.....	Lanark, Ill.....	100 00
J. H. Addams.....	Freeport, Ill.....	100 00
E. P. Barton.....	Freeport, Ill.....	100 00
R. W. Smith.....	Racine, Wis.....	1,100 00
S. P. Nash.....	New York City.....	500 00
J. S. Wetmore.....	New York City.....	500 00
D. Andrews.....	Racine, Wis.....	500 00
R. Irwin & Co., in trust.....	New York City.....	2,240 00
John Wilson.....	Union Town, Pa....	200 00
G. A. Jamison.....	Scotland.....	11 44
— Ogilvy.....	Scotland.....	20 00
Russell Sage.....	New York City.....	100 00
W. S. Gurnee.....	New York City.....	100 00
S. S. Merrell.....	Milwaukee, Wis....	100 00
Hans Crocker.....	Milwaukee, Wis....	100 00
John W. Cary.....	Milwaukee, Wis....	100 00
John L. Mitchell.....	Milwaukee, Wis....	100 00
Alex. Mitchell.....	Milwaukee, Wis....	300 00
Jno. Plankinton.....	Milwaukee, Wis....	100 00
C. J. Leresche, Agt.....	London, England...	1,460,500 00
C. J. Leresche, in trust.....	London, England...	16,200 00
Jas. Macdonald.....	London England...	515,200 00
Mil. & St. Paul Railway.....	Milwaukee, Wis....	2,000,000 00
Total.....		4,000,000 00

FUNDED AND UNFUNDED DEBT.

Describe severally all outstanding classes of bonds, including amounts, dates of issue, interest, where and when payable?

First mortgage; due Feb. 1st, 1896; interest 7 per cent., payable semi-annually, Feb. 1st and Aug. 1st.....	\$3,500,000
Amount of debts not secured by mortgage.....	374,973
	<hr/>
Total funded and unfunded debt.....	3,874,973
Proportion of debt, bonded and floating, for Wisconsin.....	1,551,811
	<hr/> <hr/>

COST OF ROAD AND EQUIPMENT.

Cost of right of way.....	} By purchase	\$7,000,600
Cost of real estate, exclusive of right of way....		
Cost of construction		
Cost of equipment.....		
All other items of expense for construction and equipment.....		
Amounts paid for road, or portions of road, not built by the company (specifying amounts paid, and how paid, in each case and line acquired)?		
Additional construction and equipment.....		982,543
		<hr/>
Total cost of entire line.....		7,982,543

ORIGINAL COST AND PRESENT ESTIMATED VALUE OF TOTAL PROPERTY IN THIS STATE.

(See cost of road and equipment.)

CHARACTERISTICS OF ROAD.

LENGTH OF ROAD.	MILES.		Weight of rail per y'd.
	Entire length.	Length in Wisconsin.	
Length of main line of road from Racine to Rock Island Junction.....	192.00	68.70	56
BRANCHES—Name each.			
From Elkhorn to Eagle { Length of branch.. } { Length of double track } { on branch..... }	16.50	16.50	56
From Watertown to Hampton coal mines— { Length of branch..... } { Length of double track on branch }	4.25	.....	56
	<hr/>	<hr/>	
Aggregate length of tracks operated by this company computed as single track.....	212.75	85.20	
Aggregate length of sidings and other track not above enumerated	212.75		
	<hr/>	<hr/>	
	23.24		

Number of "common points"..... 9

What is the gauge of your line?

Four feet eight and one-half inches.

DOINGS OF THE YEAR IN TRANSPORTATION.

CHARACTER OF SERVICE.

	Number per- sons empl'yd.	Av. Salary pr annum.
Division and assistant superintendents.....	1	\$1,380 00
Clerks in all offices.....	38	655 00
Master and assistant mechanics.....	3	1,500 00
Conductors.....	23	889 00
Engineers.....	27	992 00
Brakemen.....	48	520 00
Flagmen, switch tenders, gate-keepers, and watchmen.....	19	483 00
Station agents.....	44	677 00
Section men.....	193	420 00
Laborers.....	59	411 00
Other employees.....	181	642 00
	636	363,437 00

MILEAGE AND TONNAGE.

	Miles.
Number of miles run by passenger trains.....	230,211
Number of miles run by freight and mixed trains.....	452,911
Number of miles run by construction and other trains*.....	43,970
Total mileage.....	727,092
Mileage of empty freight cars.....	2,703,006
Total number passengers carried.....	213,028
Total number tons freight carried one mile.....	43,598,652
Total number passengers carried one mile.....	5,820,730
Average distance traveled by each passenger.....	27 ^{3/10}
	Miles per hour.
The highest rate of speed allowed for express passenger trains.....	25
Schedule rate of same, including stops.....	20
The highest rate of speed allowed for mail and accommodation trains.....	25
Schedule of same, including stops.....	20
The highest rate of speed allowed for freight trains.....	15
Schedule rate of same, including stops.....	10
Amount of freight carried per car.....	..
Amount of freight carried per train.....	..

TOTAL FREIGHT IN TONS.

	Whole line.
Grain.....	173,121
Flour.....	4,256
Provisions.....	6,306
Salt, cement, water lime and stucco.....	2,467
Manufactures, including agricultural implements, furniture and wagons..	14,286
Live stock.....	22,382
Lumber and forest products.....	67,949
Iron, lead and mineral products.....	4,682
Stone, brick, lime, sand, etc.....	10,422
Coal.....	45,491
Merchandise and other articles.....	38,533
Total tons.....	389,895

*Not included in averages.

EARNINGS DURING THE YEAR ENDING JUNE 30, 1875.

MONTHS.	MONTHLY EARNINGS FROM ALL SOURCES.										TOTALS.	
	PASSENGERS.		FREIGHTS.		MAILS.		EXPRESS.		OTHER SOURCES.		Whole line.	Wisconsin.
	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.		
1874												
July	20,657 81	.....	76,108 84	.....	1,104 80	.....	1,000 00	.....	1,258 17	.....	100,129 62	.....
August	20,969 56	.....	85,994 34	.....	1,104 80	.....	1,000 00	.....	1,967 72	.....	111,136 42	.....
September	25,012 06	.....	86,649 35	.....	1,104 80	.....	1,000 00	.....	2,522 85	.....	116,289 06	.....
October	21,041 95	.....	96,417 85	.....	1,104 80	.....	1,000 00	.....	2,636 60	.....	122,201 20	.....
November	16,406 98	.....	75,779 65	.....	1,104 80	.....	1,000 00	.....	1,607 92	.....	95,899 35	.....
December	17,102 44	.....	66,166 95	.....	1,104 80	.....	1,000 00	.....	1,942 09	.....	87,316 28	.....
1875												
January	13,889 88	.....	54,132 60	.....	1,104 80	.....	1,000 00	.....	2,049 44	.....	72,226 72	.....
February	11,180 02	.....	45,836 07	.....	1,104 80	.....	1,000 00	.....	1,599 65	.....	60,720 54	.....
March	16,287 22	.....	58,477 61	.....	1,104 80	.....	1,000 00	.....	1,681 28	.....	78,550 91	.....
April	15,648 57	.....	53,321 79	.....	1,104 80	.....	1,000 00	.....	1,095 13	.....	72,170 29	.....
May	13,910 75	.....	61,431 10	.....	1,104 80	.....	1,000 00	.....	1,681 95	.....	79,128 60	.....
June	16,486 55	.....	70,134 03	.....	1,104 80	.....	1,000 00	.....	1,724 60	.....	90,449 98	.....
Total	208,593 79	.....	830,500 18	.....	13,257 60	.....	12,000 00	.....	21,767 40	.....	1,086,118 97	.....

Earnings per mile of road.....	\$5,058 14
Earnings per mile of road on freight.....	3,903 64
Earnings per mile on passengers.....	980 46
Earnings per train mile run, on freight.....	1 83
Earnings per train mile run, on passengers.....	91

Of the earnings of the entire line, what is the ratio of the passenger to the freight?
As one to four.

Average gross earnings per mile ($212\frac{75}{100}$ miles) of road, exclusive of sidings.....	\$5,058 14
Average net earnings per mile ($212\frac{75}{100}$ miles) of road, exclusive of sidings.....	1,491 67
Average net earnings per train mile, (683,122 miles).....	46

EXPENSES DURING THE YEAR ENDING JUNE 30, 1875.

PAYMENTS FOR CURRENT AND OPERATING EXPENSES.

Maintenance of way:		
Repairs of track, including new and re-rolled iron rail in place of old iron rail.....		\$162,389 18
Repairs of bridges.....		20,773 76
Repairs of fences.....		6,440 92
New steel rail, valued only as iron rail. (No steel rail on road.)		
Maintenance of buildings.....		17,539 50
Maintenance of rolling stock:		
Locomotives.....	\$68,720 74	
Passenger, baggage, mail and express cars.....	}	66,084 55
Freight cars.....		
Shop tools and machinery.....			6,234 58
		141,039 87
Conducting transportation, and general expenses:		
Management and general office.....	33,075 72	
Foreign agency and advertising.....	2,831 76	
Agents and station service.....	65,478 52	
Conductors, baggage and brakemen.....	52,585 43	
Engineers, firemen and wipers.....	58,799 54	
Train and station supplies.....	14,783 05	
Fuel consumed.....	84,513 17	
Oil and waste.....	10,39 939	
Miscellaneous expenses.....	1,729 84	
Savanna transfer.....	7,736 35	
Damage to persons.....	4,445 77	
Car service.....	6,670 31	
Damage to property.....	1,490 94	
Locomotive service.....	600 00	
Loss and damage to freight and baggage.....	1,728 89	
Legal expenses.....	4,563 52	
		351,882 20
Other general operating expenses, as per items below.....		
Current expenses:		
For taxes.....	38,107 42	
For insurance.....	6,062 17	
Lease or privilege of other roads, giving name and amounts paid:		
Chicago, Rock Island & Pacific.....	15,000 00	
Milwaukee & St. Paul.....	9,531 00	
Track service.....	24,531 20	
		68,700 79
Total current operating expenses, being 71 per cent. of earnings..		<u>768,766 22</u>

Average operating expenses per mile of road, exclusive of sidings....	\$3,613 47
Average operating expenses per train-mile.....	1 13
Excess of operating and current expenses over earnings.....	317,352 75
Cost of maintaining track and bridges per mile run.....	27
Cost of repairs of engines per mile run.....	10
Cost of engineers and firemen per mile run.....	09
Cost of oil and waste per mile run.....	02
Cost of fuel per mile run.....	12

EXPENSES, Etc.

PAYMENTS IN ADDITION TO OPERATING EXPENSES.

	Belonging to whole line.
New equipment.....	\$69,545 68
Winter bridge, Savanna.....	4,982 77
Interest and exchange.....	12,653 70
Guarantee to Racine elevator.....	23,742 42
For interest on bonds.....	243,950 00
Dividends on preferred stock }	No dividend.
Dividends on common stock }	
Total payments in addition to operating expenses.....	<u>354,874 57</u>

How was amount of dividends paid the past year—cash, stock, or otherwise?
Specify amounts and manner of payment.
Nothing.

GENERAL BALANCE SHEET, 1st OF JULY, 1875.

Assets.	Amount.	Liabilities.	Amount.
Cost of road	\$7,000,000 00	First mortgage bonds.....	\$3,500,000 00
Construction and equipment.....	982,543 96	Common stock.....	4,000,000 00
Materials and fuel on hand.....	52,884 74	Due railroads and other companies.....	251,527 22
Due from railroads and other companies.....	26,746 19	State taxes, unpaid.....	11,536 41
United States Government Post-office department... ..	3,314 30	Unpaid vouchers and back pay-rolls.....	111,910 22
Station agents.....	4,699 89	Balance to income account.....	222,630 05
D. R. May, treasurer, cash on hand.....	27,414 82		
		Total.....	8,097,603 90
Total	8,097,603 90		

What regulations govern your employees in regard to crossings of other railroads, and are they found to be sufficient?

All trains come to a full stop four hundred feet from other railroads, before crossing them. The rule is found sufficient.

What regulations govern your employees in regard to crossings of public highways, and are these regulations found to be sufficient?

The engine-bell is rung and whistle sounded before crossing highways and is considered sufficient for the purpose.

What platform and coupler between passenger cars, do you use?

The Potter draft-iron and coupling-platform of our own design.

What kind of brakes do you use on passenger trains?

Hand-brakes of our own design.

UNITED STATES MAIL.

What is the compensation paid you by the U. S. Government for the transportation of its mails, and on what terms of service?

\$13,257.60 per annum for two trains each way daily.

EXPRESS COMPANIES.

What express companies run on your road, and on what terms, and on what conditions as to rates, use of track, machinery, repairs of cars, etc.; what kind of business is done by them, and do you take their freights at the depot, or at the office of such express companies?

American Merchants' Union Express Company. Terms, \$1,000 per month, one trip each way daily. Allowed to carry three tons of freight each way. Freight received at depots.

TRANSPORTATION COMPANIES.

What freight and transportation companies run on your road, and on what terms, and on what conditions as to rates, use of track, machinery, repairs of cars, etc. Do they use the cars of your company, or those furnished by themselves, and are their cars or their freight given any preference in speed or order of transportation, and if so, in what particular?

None.

SLEEPING-CARS.

Do sleeping or dining cars run on your road, and if so, on what terms are they run, by whom are they owned, and what charges are made in addition to the regular passenger rates?

Sleeping-cars belong to company. Through-fare, \$1.50. Between stations, \$1.

ADDITIONAL QUESTIONS.

Rates and dates of all cash-dividends on stock of original and consolidated companies, as far as known?None.

Rates and dates of stock and other dividends, not cash, of original and consolidated companies?None.

Date when main line (giving termini and length) was completed and put in operation.

Racine to Port Byron; completed January 14, 1866; 182 miles. Port Byron to Rock Island Junction; 10 miles; purchased December, 1872.

Roads operated under lease (whether temporary or permanent) giving name, termini, length, address of lessors and terms of lease.....None.

What running arrangements have you with other railroad companies, setting forth the contracts for the same.

Arrangement with Chicago, Rock Island & Pacific Railroad Co., to run between Rock Island Junction and Rock Island, for which we pay \$15,000 per annum.

Trains of this company are run over the Chicago, Milwaukee & St. Paul Railway between Western Union Junction and Milwaukee, the compensation allowed being forty (40) cents per train per mile.

What is the total number of acres of swamp or other State lands granted to your Company by the State?

No lands received by public donation.

ACCIDENTS.

Number of accidents.	STATEMENT OF EACH ACCIDENT.	PASSENGERS.				EMPLOYEES.				OTHERS.			
		From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.	
		Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
1	E. K. Roberts, brakeman, Aug. 28, 1874, at Albany, Ill, fell off train while in motion.....					1							
2	L. B. Burns, brakeman, Sept. 30, 1874, at Lyons, Wis., fell from train.....						1						
3	— Crambough, Oct. 21, 1874, at Port Byron, Ill, knocked from a bridge while fishing.....												1
4	C. Monahan, brakeman, Nov. 16, 1874, at Rockton, Ill., fell from train.....						1						
5	William Bagne, brakeman, March 18, 1875, at Thomson, Ill., trying to get on an engine while in motion.....					1							
6	— Lynch, May 12, 1875, at Savanna, lying on track.....												1

REPORT OF RAILROAD COMMISSIONERS.

Amount paid as damages on account of stock killed by trains	\$1,025 94
Amount paid as damages caused by fire from locomotive	375 00
	<hr/> <hr/>

STATE OF WISCONSIN, *County of Racine, ss.*

Daniel A. Olin, General Superintendent, and P. Tyrrell, Chief Clerk of the Western Union Railroad Company, being duly sworn, depose and say that they have caused the foregoing statements to be prepared by the proper officers and agents of this Company, and having carefully examined the same declare them to be a true, full, and correct statement of the condition and affairs of said Company, on the first day of July, A. D. 1875, to the best of their knowledge and belief.

DANIEL A. OLIN,
PATRICK TYRRELL.

Subscribed and sworn to before me, a Notary Public, this nineteenth day of November, A. D. 1875.

JOHN B. WINSLOW,
Not. Pub., Racine Co., Wis.

REPORT

OF THE

GREEN BAY AND MINNESOTA RAILROAD COMPANY,

For the Year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.	Salaries.
Henry Ketchum, President.....	New London,.....	
D. M. Kelly, Vice President.....	Green Bay.....	\$5,000 00
W. J. Abrams, Secretary and Paymaster.....	Green Bay.....	1,500 00
Norris & Chyneworthy, Solicitors.....	Green Bay.....	3,000 00
W. R. Hancock, Treas., Cashier & Accountant.	Green Bay.....	2,000 00
S. B. Kenwick, Superintendent.....	Green Bay.....	2,000 00
F. J. Alton, Chief Engineer.....	Green Bay.....	1,500 00
R. W. Nathan, Gen'l Pas'nger and Ticket Ag't.	Green Bay.....	2,000 00
Dan Atwood, General Freight Agent.....	Green Bay.....	2,400 00
J. M. Norris, Auditor.....	Green Bay.....	1,500 00
Total salaries.....		<u>20,900 00</u>

General office at Green Bay, Wisconsin.

Names of directors.	Residence.
H. Ketchum.....	New London.
D. M. Kelly.....	Green Bay.
W. J. Abrams.....	Green Bay.
M. D. Peak.....	Green Bay.
Geo. Somers.....	Green Bay.
Fred S. Ellis.....	Green Bay.
W. E. Peak.....	Fort Howard.
E. F. Hatfield, Jr.....	New York.
Walter Scranton.....	New York.

The board consists of nine members.

The board of directors is the executive committee.

Date of annual election of directors.

The first Monday in April.

Name and address of person to whom correspondence, concerning this report, should be directed.

D. M. Kelly, Green Bay, Wisconsin.

CAPITAL STOCK.

Capital stock authorized by charter..... \$8,000,000

COMMON STOCK ISSUED.

Stock subscribed by municipalities paid in bonds.....	\$709,000
Stock subscribed by individuals and other corporations paid in cash..	35,200
Stock issued for account of construction.....	2,104,800
Stock issued for payment of floating debt..	5,000,000
	<hr/>
Total common stock.....	7,849,000
	<hr/>
Total capital stock issued.....	7,849,000
Proportion of stock for Wisconsin.....	7,849,000
	<hr/>

A list of the stockholders at the last election of directors, showing the name, residence and amount of stock owned by each, must be filed herewith.

See list accompanying this report.

When and to whom was the original stock, owned by the company sold, and what was the cash value realized by the company for the same?

Already answered.

If any stock has been issued since the original, state the date or dates when the same was issued, to whom issued, in what manner the same was paid for, and the cash value realized by the company for the same.

None.

FUNDED AND UNFUNDED DEBT.

Describe severally all outstanding classes of bonds, including amounts, dates of issue, interest, where and when payable:

1st mortgage \$3,200,000, issued Aug. 1, 1870, 7 per cent. gold, payable in New York, Aug. 1, and Feb. 1, principal due Aug. 1, 1900.	
2d mortgage \$779,866, issued Sept. 9, 1863, 8 per cent. currency payable in New York, May 1, and Nov. 1, principal due Nov. 1, 1893.....	\$3,979,860 00
Amount of debt not secured by mortgage.....	1,461,301 49
	<hr/>
Total funded and unfunded debt.....	5,441,161 49
	<hr/>
Net cash realized from bonded debt, above described.....	2,967,480 00
The outstanding 2d mortgage bonds were used to fund coupons of first mortgage bonds.	
Proportion of debt, bonded and floating, for Wisconsin.....	5,441,161 49
	<hr/>

COST OF ROAD AND EQUIPMENT.

Cost of right of way, cash.....	\$23,873 43
Cost of real estate, exclusive of right of way, cash.....	11,047 99
Cost of construction, (\$3,136,772 07 cash, \$2,104,800 stock.) ..	5,241,572 07
Cost of equipment, cash.....	580,283 53
All other items of expense for construction and equipment, cash..	176,167 60
	<hr/>
Total cost of entire line.....	6,032,944 62
	<hr/>

ORIGINAL COST AND PRESENT ESTIMATED VALUE OF TOTAL PROPERTY IN THIS STATE.

Right of way, cash.....	\$23,873 43
Land for depots, stations, etc., as per schedule.....	11,047 99
	<hr/>
Total cash valuation of all lands purchased.....	714,003 65

Grading, cash.....	}	\$279,456 00
Bridging, cash.....		
Total cash valuation of substructure.....		993,459 65
Ties and tying, cash.....		131,258 60
Iron rail, main line; cash No. miles, 213; Lbs. wt. per yard, 52 and 56.....	}	1,566,205 54
No. miles 10 in side-track; Lbs. wt. per yard.....		
Chairs, spikes, fish-bar, etc., cash.....		157,354 29
Laying track.....		62,334 48
Total cash valuation of superstructure.....		1,918,152 91
Passenger stations, fixtures and furniture, cash.....	}	55,494 86
Freight stations and fixtures and furniture.....		
Engine-houses and car-shops.....		
Machine shops.....	}	32,332 49
Machinery and fixtures, tools used by trackmen, etc.....		
Engine houses.....		
Telegraph construction.....		8,787 08
Turn tables.....		6,110 00
Wood sheds and water stations.....		22,553 70
Fencing.....		26,569 43
Elevators and docks.....		73,321 85
Total cash valuation of buildings of every sort.....		225,159 51
Engineering expenses before and during construction, cash.....		63,141 02
Salaries of officers and agents essential during construction.....		31,044 45
Total cost of engineering and official management during construction.....		94,185 47
Incidental expenses, cash.....		81,982 13
Total original cost in cash of line unequipped.....		3,347,861 09
Locomotives, cash. No. 16.....	}	162,757 90
Tenders, No. 16.....		
Snow plows. No 10.....		700 00
Passenger cars, 1st class. No. 7.....		31,339 94
Passenger cars, 2d class. No. 4.....		8,782 03
Baggage cars. No. 3.....		7,270 44
Express cars.....	}	292,758 10
Freight cars, closed. No. 375.....		
Platform cars. No. 125.....		75,666 12
Hand cars.....		1,006 00
Total cash value of equipment.....		580,283 53
Capital stock issued for account of construction.....		2,104,800 00
Grand total original cost and estimated present value of line equipped.....		6,032,944 62

CHARACTERISTICS OF ROAD.

LENGTH OF ROAD.	MILES,		
	Entire Length.	Length in Wisconsin.	Weight of rail per y'd.
Length of main line of road from Green Bay to Mississippi River.....	213	213	52 & 56
*BRANCHES—Name each.			
Winona branch. Length of branch.....	} 4½	} 4½	} 56
From Marshland to Winona, leased.....			
Total length main line and branches.....	217½	217½	.....

*Less length of Mississippi River bridge at Winona.

Aggregate length of tracks operated by this company *computed as single track*—217½ miles.

Aggregate length of sidings and other track not above enumerated, 10 miles.

Number of "common points"..... Seven.

What is the gauge of your lines?..... 4 feet, 8½ inches.

DOINGS OF THE YEAR IN TRANSPORTATION.

CHARACTER OF SERVICE.

	Number per- sons empl'yd.	Av. Salary pr annum.
Clerks in all offices.....	6	\$873 33
Master and assistant mechanics.....	3	1,165 16
Conductors.....	10	804 00
Engineers.....	15	991 13
Brakemen.....	16	540 00
Flagmen, switch-tenders, gate-keepers, and watchmen.....	2	510 00
Station agents.....	24	543 33
Section men.....	169	552 43
Laborers and mechanics.....	150	656 56
Other employees—road-master, dock-master, superintendent of } repairs, train-dispatcher, assistant engineer, wood and tie agent }	6	1,133 33

MILEAGE AND TONNAGE.

	Miles.
Number of miles run by passenger trains.....	134,590
Number of miles run by freight and mixed trains.....	110,405
Number of miles run by construction and other trains.....	105,255
Total mileage.....	350,250
Mileage of empty freight cars.....	432,431
Total number passengers carried.....	56,884
Total number tons freight carried one mile.....	9,768,512
Total number passengers carried one mile.....	2,540,608
Average distance traveled by each passenger.....	44
	Miles per hour.
The highest rate of speed allowed for express passenger trains.....	25
The highest rate of speed allowed for mail and accommodation trains..	25
Amount of freight carried per car, 20,000 lbs. car-load.....	183½ tons.
Amount of freight carried per train.....	179 tons.

TOTAL FREIGHT IN TONS.

	Whole line.
Grain.....	26,590
Flour.....	4,157
Provisions.....	555
Salt, cement, water lime and stucco.....	2,267
Manufactures, including agricultural implements, furniture and wagons.	1,859
Live stock.....	212
Lumber and forest products.....	45,905
Iron, lead and mineral products.....	135
Stone, brick, lime, sand, etc.....	955
Coal.....	1,286
Merchandise and other articles.....	7,869
Total tons.....	91,790

EARNINGS DURING THE YEAR ENDING JUNE 30, 1875.

MONTHS.	MONTHLY EARNINGS FROM ALL SOURCES.										TOTALS.	
	PASSENGERS.		FREIGHTS.*		MAILS.		EXPRESS.		OTHER SOURCES.		Whole line.	Wisconsin.
	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.		
1874												
July	9,563 52		18,978 14		899 51		270 65		259 50		29,971 32	
August	8,756 56		12,941 97		899 51		152 54		228 00		22,978 58	
September	8,739 83		12,640 05		899 51		139 81		80 00		28,499 20	
October.....	8,601 04		32,390 37		899 51		151 88		145 75		42,188 55	
November.....	7,913 86		27,666 98		899 51		142 33		163 42		36,786 10	
December.....	6,112 26		12,630 02		899 51		150 15		136 62		19,929 36	
1875												
January	4,160 30		10,617 92		899 51		94 77		38 55		15,811 05	
February	3,049 35		10,376 92		899 51		58 19		53 75		14,437 72	
March	5,717 61		13,477 95		899 51		88 38		36 50		20,219 95	
April	7,214 83		10,454 15		899 51		106 52		31 50		18,706 50	
May	6,839 52		17,843 87		899 51		124 54		48 50		25,855 99	
June	7,131 84		17,249 77		899 51		157 33		60 71		25,499 16	
Total	83,801 26		203,368 11		10,794 12		1,637 09		1,282 80		300,883 38	

*Including car mileage.

Earnings per mile of road.....	\$1,405 99
Earnings per mile of road on freight.....	1,008 40
Earnings per mile of road on passengers.....	391 59
Earnings per train-mile, run on freight.....	1 95
Earnings per train-mile run, on passengers.....	0 62
Of the earnings of the entire line, what is the ratio of the passenger to the freight.....	28 to 72
Average gross earnings per mile [214 miles] of road, exclusive of sidings	1,405 99

EXPENSES DURING THE YEAR ENDING JUNE 30, 1875.

PAYMENTS FOR CURRENT AND OPERATING EXPENSES.

Maintenance of way:		
Repairs of track, including new and re-rolled iron rail in place of old iron rail.....		\$81,893 23
Repairs of bridges.....		5,556 63
Maintenance of buildings.....		2,570 21
Maintenance of rolling stock:		
Locomotives.....	\$16,413 38	
Passenger, baggage, mail and express cars.....	} 26,786 02	
Freight cars.....		
Shop tools and machinery.....	5,044 69	
		48,244 09
Conducting transportation, and general expenses:		
Management and general office.....	26,254 87	
Foreign agency and advertising.....	172 33	
Agents and station service.....	23,485 10	
Conductors, baggage and brakemen.....	13,451 89	
Engineers, firemen and wipers.....	24,863 48	
Train and station supplies.....	1,607 45	
Fuel consumed.....	44,064 02	
Oil and waste.....	5,224 74	
Damage to persons.....	629 58	
Loss and damage to freight and baggage.....	3,640 32	
Legal expenses.....	3,200 00	
Other general operating expenses, as per items below.....	14,451 54	
		161,045 32
Current expenses:		
For taxes.....	2,328 79	
For insurance.....	1,600 00	
Lease or privilege of other roads whose earnings are included in this report, giving name and amounts paid.		
To C. & N. W. R. R. Co.....	26,259 46	
		30,188 25
Total current operating expenses.....		329,497 73
Average operating expenses per mile of road, exclusive of sidings		1,539 71
Average operating expenses per train mile*.....	\$0.94.07	
Cost of maintaining track and bridges per mile run....	0.26.55	.26
Cost of repairs of engines per mile run.....	0.04.68	.04
Cost of engineers and firemen per mile run.....	0.07.09	.07
Cost of oil and waste per mile run.....	0.01.49	.01
Cost of fuel per mile run.....	0.11.24	.11

*Figured on total mileage of 350, 250 miles.

EXPENSES, Etc.

PAYMENTS IN ADDITION TO OPERATING EXPENSES.

New equipment.....	\$25,500 00
Total new investment.....	25,500 00
For interest on bonds.....	60,000 00
Total payments in addition to operating expenses.....	<u>85,500 00</u>

Specify each patent in use on your road, and the amount paid as royalty for such patents, in separate items?..... None.

How was amount of dividends paid the past year—cash, stock, or otherwise? Specify amounts and manner of payment?..... None.

GENERAL BALANCE SHEET, 1ST OF JULY, 1875.

ASSETS.

	Amount.
Cost of road and equipment.....	\$12,086,134 25
Interest account to Jan. 1st, 1875.....	1,107,988 80
Profit and loss.....	40,715 87
Local aid.....	133,881 20
Fuel on hand.....	20,813 21
Station agents and conductors.....	6,502 42
Various persons and railroad companies.....	18,915 72
Operating expenses account to July 1st, 1875.....	139,626 36
	<u>13,554,577 83</u>

LIABILITIES.

	Amount.
Capital stock.....	\$7,849,000 00
First mortgage bonds.....	3,200,000 00
Second mortgage bonds.....	779,860 00
Lackawana Iron and Coal Co.....	1,219,234 85
Four months scrip.....	12,215 00
Haskell & Barker Car Co.....	60,677, 74
Bills payable.....	80,405 47
Pay rolls not paid.....	37,476 63
Elmore & Kelley.....	20,743 28
Farmers' Loan and Trust Co.....	1,500 00
D. M. Kelly.....	11,245 25
Local aid, payable in stock.....	133,890 60
Various persons.....	17,417 10
Earnings account, from Jan. 1st, 1875 to July 1st, 1875.....	130,525 74
Balance due treasurer.....	386 17
	<u>13,554,577 83</u>

What is your estimate of the cost to you, for the transportation of each passenger per mile?

$3\frac{63}{100}$ cents, not including interest on investment, or depreciation of the property.

What is your estimate of the cost to you, per ton per mile, for the transportation of freight?

$2\frac{13}{100}$ not including interest on investment or depreciation of the property.

What regulation governs your employees in regard to crossings of other railroads, and are they found to be sufficient?

State law sufficient.

What regulations govern your employees in regard to crossing of public highways? And are these regulations found to be sufficient?

State law sufficient.

What platform and coupler between passenger cars, do you use?
Ordinary platform and plain wrought iron coupler.

What kind of brake do you use on passenger trains?
Hand brakes.

U. S. MAIL.

What is the compensation paid you by the U. S. Government for the transportation of its mails, and on what terms of service?
\$50 per mile; service six times a week.

EXPRESS COMPANIES.

What express companies run on your road, and on what terms, and what conditions as to rates, use of track, machinery, repairs of cars, etc.; what kind of business is done by them, and do you take their freights at the depot, or at the office of such express companies?

American Express Company. 81 cents per 100 lbs. on freight, averaged as carried on whole length of road. General express business. At depot.

TRANSPORTATION COMPANIES.

What freight and transportation companies run on your road, and on what terms and on what conditions as to rates, use of track, machinery, repairs of cars, etc.? Do they use the cars of your company, or those furnished by themselves, and are their cars or their freight given any preference in speed or order of transportation, and if so, in what particular?

None.

SLEEPING CARS.

Do sleeping or dining cars run on your road, and if so, on what terms are they run, by whom are they owned, and what charges are made in addition to the regular passenger rates?

None.

ADDITIONAL QUESTIONS.

Date of original charter of the road and that of any road consolidated with it, with the name of the companies.

April 12, 1866; original name of company, Green Bay and Lake Pepin Railway company. September 5, 1873, name changed to, Green Bay and Minnesota Railroad Company.

Rates and dates of all cash dividends on stock of original and consolidated companies, as far as known.

None.

Rates and dates of stock and other dividends, not cash, of original and consolidated companies.

None.

Date when main line (giving termini and length) was completed and put in operation.

Green Bay to Winona, 214 miles, Dec. 18, 1873.

Roads operated under lease, (whether temporary or permanent,) giving name, termini, length, address of lessors, and terms of lease?

Four and one half (4½) miles—Marshland to Winona—leased from Chicago and Northwestern Railway Company. This company pays for use of that piece of track, 10 per cent. on one-third original cost, and pays for keeping in repair in proportion of its use of it to the entire use.

What running arrangements have you with other railroad companies, setting forth the contracts for the same?.....	} .. None.
What is the total number of acres of swamp or other State lands granted to your company by the State?.....	
What is the total number of acres United States lands granted to your company by Congress directly, or through the State?.....	
What number acres received by your company, directly or indirectly?..	
What number acres sold and conveyed?.....	
To what corporations have you sold land? How much, and at what price?	
Number of acres now held by your company?.....	
Value of donations of right of way or other real estate?	
Small value. Have no estimate.	
Amount of city, county, and town aid granted to company in exchange for stock, or otherwise? Specify particulars.....	\$709,000 00
Total cash amount realized from such aid?.....	387,390 33
Amount of land sold, but not conveyed, under contracts now in force? (acres).....	} None.
The whole amount of cash, principal, and interest received for lands hitherto sold and conveyed	
Whole amount of cash received, principal and interest on outstanding contracts in force	
Whole amount of cash received, principal and interest, on contracts forfeited?	
Whole amount of cash received for stumpage, trespasses, &c.?.....	
What have been your total receipts from lands sold and contracted to be sold the past year?(cash)	
What is the aggregate sum of receipts on account of lands, from all sources whatever, up to the present time?.....	
What is the amount now due the company on lands sold, or contracted to be sold?	

ACCIDENTS.

Number of accidents.	STATEMENT OF EACH ACCIDENT.	PASSENGERS.				EMPLOYEES.				OTHERS.			
		From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.	
		Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
1	P. S. Bacon, killed at Merrilan, Jan. 20, 1875. Caught foot in frog while running in front of locomotive.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
2	M. Percell, killed near Amherst, March 26, 1875. Attempted to get on train while it was in motion; slipped and fell under wheels and was run over....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

Of the above accidents those numbered as follows were caused by inattention of employees;

Numbers one and two.

Total number..... 2

Amount paid as damages on account of stock killed by trains \$1,506 00

Amount paid as damages caused by fire from locomotive 25 00

STATE OF WISCONSIN, *County of Brown, ss.*

D. M. Kelly, Vice-President and General Manager, and W. R. Hancock, Treasurer, of the Green Bay and Minnesota Railroad Company, being duly sworn, depose and say that they have caused the foregoing statement to be prepared by the proper officers and agents of this company, and having carefully examined the same declare them to be a true, and correct statement of the condition of the affairs of said Company on the first day of July, A. D. 1875, to the best of their knowledge and belief.

D. M. KELLY.

W. R. HANCOCK.

Subscribed and sworn to before me this 15th day of September, A. D. 1875.

P. T. BINGHAM.

Notary Public, Brown county, Wis.

List of Stockholders, April 5, 1875.

Names.	Residence.	Shares.
Town of Alma	Jackson County.....	150
W. J. Abrams	Green Bay	18
Mary F. Ames.....	Haverhill, Mass.....	341
N. Anderson.....	Scandam	5
Town of Arcadia.....	Trempealeau County	500
Town of Ashwabanoa	Brown County.....	27
J. J. Astor.....	New York City.....	200
J. S. Bailey	New York	256
E. Bertral.....	Unknown	5
John I. Blair.....	Blairstown, N. J	1,012
James Blair.....	New Jersey	100
Town Black Creek.....	Outagamie County	120
Town Bovena.....	do.....	100
W. G. Boswell.....	Menomonee	1
W. H. Bishop.....	Unknown	40
W. B. Bristol.....	do.....	200
E. A. Bradley.....	New York City	1
Miles Bristol.....	Unknown	50
Brown County.....	Wisconsin.....	1,500
E. J. Buckam	New York City	78
Thos. M. Camm.....	.....	2
B. G. Clark.....	New York City	100
George M. Clearman	Unknown	20
Erastus Corning.....	Albany, N. Y.....	150
R. L. Cutting	Unknown	62
H. E. Curtis	do.....	5
E. Decker.....	Green Bay	20
Town Dexter	Wood County.....	200
Thomas Dickson	New York	100
H. F. Dousman	Wateville, Wis	5

List of Stockholders.—Continued.

Names.	Residence.	Shares.
Wm. E. Dodge	New York City	500
W. E. Dodge, Jr.	do	40
W. T. Dugan	Waubasha	3
Fred S. Ellis	Green Bay	3
Sarah C. Evans	New York	250
Jas. S. Fetherly	Green Bay	2
Wm. S. Fisk	Fort Howard	4
P. B. Foster	Unknown	30
City Fort Howard	Brown County	373
Thos. W. Gall	Unknown	100
David B. Grant	New York	100
City of Green Bay	Brown County	1,000
C. Gustavus	do	1
E. F. Hatfield	New York City	1
H. Halverson	Trempealeau County	3
George Hiles	Dexter ville	90
Town Hixton	Jackson County	150
Henry L. Hotchkiss	Unknown	20
Elizabeth Hotchkiss	do	20
Martha P. Hotchkiss	do	20
Susan V. Hotchkiss	do	20
Jas. David	do	300
David M. Kelley	Green Bay	5,332
Mary M. Kelley	Haverhill, Mass	341
Henry Ketchum	New London	1
Antone Klaus	Green Bay	25
Conrad Kruger	do	1
Lackawana Iron and Coal Co.	Plus	3,768
J. A. Lawton	Depere	3
Irena Larned	Unknown	20
Henry Lemphold	do	1
M. P. Lindsley	Green Bay	11
Town Little Wolf	Waupacca County	100
J. J. Marsh	New York City	341
Elizabeth Marsh	Haverhill, Mass	341
Samuel Marsh	New York City	1
W. H. Macy	Unknown	50
Chas. A. Macy	do	50
J. A. Mathew	do	10
S. F. Mathew	do	1
Fred Mead	do	200
Adeline M. Merriam	Popefield, Mass	312
Geo. N. Miller	Unknown	100
J. W. Mitchell	New York City	100
Ole Oleson Moland	do	2
John Murdock	Unknown	10
New London	do	500
Josc V. Orvativia	New York City	264
Henry Parish	do	271
William E. Peak	do	1
H. S. Pierce	do	296
M. D. Peak	do	1
Town Plover	do	300
J. C. Rolph	Scranton, Penn	50
C. L. Porter	Winona	10
Town of Preston	Trempealeau County	250
P. R. Pyne	New York City	150

List of Stockholders—Continued.

Names.	Residence.	Shares.
Andrew Reid	Depere	3
E. C. Read	Unknown	80
Henry M. Rice .....	.....	4
C. D. Robinson	Green Bay	14
C. B. Rogers	Unknown	120
Ruben & Co. Chs.	New York City	62
Chas H. Russell .....	...do.....	300
S. T. Scranton, Prest.	Oxford, N. J.	500
S. T. Scranton & Co. ....	...do.....	93
Walter Scranton	New York City	251
Estate, J. H. Scranton .....	.....	117
Joseph H. Scranton	Pennsylvania	266
Town of Scandinovia	Waupaca County	100
Town of Seymour	Outagamie County	70
A. T. Sharpe	Wabasha	3
Samuel Sloan	Nyw York City	100
John Stewart .....	...do.....	150
J. & D. J. Stewart .....	...do.....	100
W. A. Smith .....	...do.....	62
George Sommers .....	.....	2
James Stokes	London, England	200
James Stilman	Unknown	300
W. Stranskey .....	.....	1
Town of St. Lawrence .....	.....	150
Moses Taylor, trustee	New York City	50,006
Moses Taylor .....	...do.....	1,579
Abram Taylor	New York City	2
Geo F. Talman .....	.....	200
John Thorn	Unknown	100
Mary F. Townsend .....	...do.....	20
Albert Weiser	Green Bay	9
Randal Wilcox	Depere	3
D. R. Williams	Unknown	39
Thomas Wilson	Winona	5
Joshua Witney .....	.....	16
Wood County .....	.....	1,500
Henry Young	Unknown	100
John Tayter Johnston	New York City	150
Casper Zrogsky .....	.....	3
Total .....	.....	78,438

REPORT
OF THE
PRAIRIE DU CHIEN AND MCGREGOR RAILWAY COMPANY.

For the Year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.	Salaries.
John Lawler, president.....	Prairie du Chien.....	\$6,000 00
James Lawler, secretary.....	Prairie du Chien.....	1,200 00
James Lawler, treasurer.....	.....	.....
S. E. Farnham, general manager.....	.....	1,200 00
Total salaries.....		<u>8,400 00</u>

General offices at Prairie du Chien, Wis.

Names of directors.	Residence.	Amount of Stock
John Lawler.....	Prairie du Chien.....	\$96,000 00
James Lawler.....	Prairie du Chien.....	1,000 00
George L. Bass.....	McGregor.....	1,000 00
S. E. Farnham.....	Prairie du Chien.....	1,000 00
Robertson James.....	Prairie du Chien.....	1,000 00
Total.....		<u>100,000 00</u>

Date of annual election of directors.
October 9th.

Name and address of person to whom correspondence, concerning this report, should be directed.

John Lawler.

CAPITAL STOCK.

Capital stock authorized by charter..... \$100,000 00

COMMON STOCK ISSUED.

Stock subscribed by individuals and other corporations paid in cash.. \$100,000 00

Total common stock..... 100,000 00

Total capital stock..... \$100,000 00
Proportion of stock for Wisconsin ($\frac{7}{8}$)..... 87,500 00

A list of stockholders at the last election of directors, showing the name, residence and amount of stock owned by each, must be filed herewith.

(See list of directors.)

When and to whom was the original stock owned by the company sold, and what was the cash value realized by the company for the same?

To J. Lawler, Jas. Lawler, G. L. Bass, J. H. Houston and P. Doyle, for \$100,-000.

If any stock has been issued since the original, state the date or dates when the same was issued, to whom issued, in what manner the same was paid for, and the cash value realized by the company for the same.

None issued.

FUNDED AND UNFUNDED DEBT.

Describe severally all outstanding classes of bonds, including amounts, dates of issue, interest, where and when payable:

No indebtedness.

COST OF ROAD AND EQUIPMENT.

Cost of right of way	}	\$2,610 00
Cost of construction		
Bridging		65,000 00
Iron and grading		32,000 00
Total cost of entire line		<u>99,610 00</u>
Wisconsin lines, seven-eighths of entire line		87,158 25

ORIGINAL COST AND PRESENT ESTIMATED VALUE OF TOTAL PROPERTY IN THIS STATE.

DESCRIPTION OF PROPERTY.

Total cash valuation of all lands purchased	<u>\$2,610 00</u>
Grading as per schedule	2,000 00
Bridging, as per schedule, No. wooden bridges, 2	65,000 00
Total cash valuation of substructure	<u>67,000 00</u>
Ties and tying	4,400 00
Iron rail, No. miles, 2½; lbs. wt. per yard, 56	12,000 00
Chairs, spikes, fish-bar, &c	2,600 00
Total cash valuation of superstructure	<u>19,000 00</u>
Engineering expenses before and during construction	3,000 00
Salaries of officers and agents essential during construction	8,000 00
Total cost of engin'g and official management during construction	<u>11,000 00</u>
Total original cost and present estimated cash value of line unequipped	99,610 00
Total cash value of equipment, Furnished by C. M. & St. Paul R'y. Co	<u>99,610 00</u>
Grand total original cost and esti'ted present value of line equipped	<u>99,610 00</u>

CHARACTERISTICS OF ROAD.

LENGTH OF ROAD.	MILES.		Weight of rail per y'd.
	Entire length.	Length in Wisconsin.	
Length of main line of road from Prairie du Chien to McGregor	2	1 $\frac{1}{4}$	56
Length of double track on main line	1 $\frac{1}{2}$	$\frac{1}{2}$	
Total length of main line and branches....	2	1 $\frac{3}{4}$	

Aggregate length of tracks operated by this company, *computed as single track*..... 2 $\frac{1}{2}$ miles.

DOINGS OF THE YEAR IN TRANSPORTATION.

CHARACTER OF SERVICE.

	Number of persons employed.	Average salary per annum.
Division and assistant superintendents.....	1	\$1,500 00
Clerks in all offices.....	1	800 00
Conductors.....	1	1,200 00
Engineers.....	1	800 00
Brakemen	2	6,600 00
Flagmen, switch tenders, gate keepers and watchmen, (per month).....	11	50 to 65 00
Section men, (furnished by C., M. & St. P. R'y Co.		

MILEAGE AND TONNAGE.—Miles.

	Whole line.	In Wisconsin.
Number of miles run by passenger trains.....	1,600	1,400
Number of miles run by freight and mixed trains.....	5,760	5,040
Total mileage	7,360	6,440
Average distance traveled by each passenger.....	2	1 $\frac{3}{4}$
	Miles per hour.	
The highest rate of speed allowed for express passenger trains..	6	6
The highest rate of speed allowed for freight trains.....	5	5
Amount of freight carried per car, tons.....	10	
Amount of freight carried per train, tons.....	250	
Total freight in tons, (estimated).....	400,000	

GROSS EARNINGS DURING THE YEAR ENDING JUNE 30, 1875.

MONTHLY EARNINGS FROM ALL SOURCES.

MONTHS	PASSENGERS.		FREIGHT.	
	Whole line.	Wisconsin.	Whole line.	Wisconsin.
1874.				
July.....			4,881	7-8 of entire line.....
August.....			2,623	
September.....			6,390	
October.....			5,810	
November.....			3,974	
December.....			4,896	
1875.				
January.....			4,510	
February.....			3,310	
March.....			2,071	
April.....			3,207	
May.....			4,430	
June.....			4,450	
Totals.....	2,100	1,800	51,983	45,485

Earnings per mile of road.....	\$20,000
Of the earnings of the entire line, what is the ratio of the passenger to the freight.....	1 to 20
Average gross earnings per mile of road, exclusive of sidings.....	20,000
Average net earnings per mile of road, exclusive of sidings.....	12,000

EXPENSES DURING YEAR ENDING JUNE 30, 1875.

PAYMENTS FOR CURRENT AND OPERATING EXPENSES.

Maintenance of way:	Belonging to whole line
Repairs of track, including new and re-rolled iron rail in place of old iron rail.....	\$7,900
Repairs of bridges.....	3,200
Repairs of fences.....	4,700
Conducting transportation, and general expenses.....	\$14,900
Management and general office.....	8,400
Conductors, baggage and brakemen.....	2,400
Engineers, firemen and wipers.....	1,200
Train and station supplies.....	700
Fuel consumed.....	2,200
Other general operating expenses, as per items below.....	4,750
For taxes.....	1,700
For insurance.....	3,000
Total current expenses, being.....	13,775
Excess of earnings over operating and current expenses.....	27,000

EXPENSES, Etc.

No payments in addition to operating expenses.

GENERAL BALANCE-SHEET, 1ST OF JULY, 1875.

Assets :	
Cash value of road.....	\$100,000
Liabilities :	
Capital stock	<u>\$100,000</u>

ADDITIONAL QUESTIONS.

Date of original charter of the road and that of any road consolidated with it, with the names of the companies.

October 10, 1872.

Date when main line (giving length and termini,) was completed and put in operation.

April 15, 1874.

ACCIDENTS.

No accidents.

STATE OF WISCONSIN, *County of Crawford, ss.*

I, James Lawler, secretary and treasurer of the Prairie du Chien and McGregor Railway Company, being duly sworn, depose and say that I have caused the foregoing statements to be prepared by the proper officers and agents of this company, and having carefully examined the same declare them to be a true, full and correct statement of the condition and affairs of said company, on the first day of July, A. D. 1875, to the best of my knowledge and belief.

JAMES LAWLER.

Subscribed and sworn to before me, L. F. S. Viele, this 20th day of August, A. D. 1875.

L. F. S. VIELE,
Notary Public.

R E P O R T
OF THE
MINERAL POINT RAILROAD,
For the Year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.	Salaries.
Luther Beecher, President.....	Detroit, Mich.....	\$3,000
Calvert Spensley, Secretary.....	Mineral Point, Wis.....	
M. M. Cothren, Solicitor.....	Mineral Point, Wis.....	1,000
Luther Beecher, Treasurer.....	Detroit, Mich.....	
Geo. W. Cobb, General Manager.....	Mineral Point, Wis.....	5,000
Calvert Spensley, { Gen. Ticket Agent, Gen. Freight Agent, Auditor, }		1,800
Total salaries.....		10,800
General offices at Mineral Point, Wis.		

Names of Directors.	Residence.
Luther Beecher.....	Detroit, Mich.
Geo. W. Cobb.....	Mineral Point, Wis.
M. M. Cothren.....	Mineral Point, Wis.
Calvert Spensley.....	Mineral Point, Wis.
Geo. L. Beecher.....	Port Burwal, Ont.

Date of annual election of directors.
First Monday in July.

Name and address of person to whom correspondence, concerning this report should be directed.
Geo. W. Cobb, General Manager, Mineral Point, Wis.

CAPITAL STOCK.

Capital stock authorized by charter. \$2,000,000 00

COMMON STOCK ISSUED.

Stock subscribed by municipalities paid in bonds.....	} See answer to question No. 19.
Stock subscribed by individuals and other corporations paid in cash.....	
Stock issued for account of construction.....	
Stock issued for bonds of company cancelled.....	
Stock issued for dividends payable in stock.....	
Stock issued for payment of floating-debt.....	
Stock issued for interest on bonded debt.....	
Stock issued for construction-account on extension-lines.....	
Stock issued to represent purchased lines.....	
Other common stock issued—and for what?.....	
Total common stock.....	1,200,000 00
Total capital stock.....	1,200,000 00
Proportion of stock for Wisconsin.....	<u>1,128,274 00</u>

If any stock has been issued since the original, state the date or dates when the same was issued, to whom issued, in what manner the same was paid for, and the cash value realized by the company for the same.

This company was organized November 12, 1861. The property of the old Mineral Point railroad company was sold under a decree rendered in the Circuit Court of the United States for the district of Wisconsin. Such property was organized by parties who organized the present company. See Articles of Organization, Report of Railroad Commissioners, 1874, page 96, appendix.

Total stock of company, all common, \$1,200,000.00.

FUNDED AND UNFUNDED DEBT.

Describe severally all outstanding classes of bonds, including amounts, dates of issue, interest, where and when payable?

First mortgage bonds issued in 1868, 10 per cent. interest payable semi-annually, at Second National Bank, Detroit, due in 1890, amount.....		\$320,000 00
Amount of debt not secured by mortgage		None.
Total funded and unfunded debt	320,000 00	300,600 00
Net cash realized from bonded debt, above described.....		320,000 00
Proportion of debt, bonded and floating, for Wisconsin.....		300,600 00

COST OF ROAD AND EQUIPMENT.

See answer to question 19, before. No data on hand to show original cost of road.

ORIGINAL COST* AND PRESENT ESTIMATED VALUE OF TOTAL PROPERTY IN THIS STATE.

Right of way, as per accompanying schedule.....		\$14,400 00
Land for depots, stations, etc., as per schedule		12,000 00
Total cash valuation of all lands purchased		<u>26,400 00</u>
Grading, as per schedule, 31 miles at \$15,000 per mile.....		465,000 00
Masonry, as per schedule. No. culverts, 43		18,115 00
Bridging, as per schedule. No. wooden bridges, 8.....		40,000 00
Total cash valuation of superstructure.....		<u>618,115 00</u>
Ties and tying 2,500 ties per mile at fifty cents, 35 miles including sidings		45,000 00
Iron rail. No. miles, 36. Lbs. wt. per yard, 56.....		221,760 00
Chairs, spikes, fish-bar, etc., for 36 miles.....		50,400 00
Laying track.....		14,400 00
Total cash valuation of superstructure		<u>331,560 00</u>
	No.	
Passenger stations, fixtures and furniture, as per schedule... 4		9,500 00
Machine shops, as per schedule.....		6,000 00
Machinery and fixtures, as per schedule.....		5,000 00
Engine houses, as per schedule.....		3,000 00
Car-sheds, as per schedule.....		300 00
Turn tables, as per schedule	1	1,000 00
Wood sheds and water stations, as per schedule	4	6,000 00
Fencing. No. miles; 30.....		24,000 00
Total cash valuation of buildings of every sort.....		<u>53,800 00</u>

*See answer to question 19, before. No data on hand to show original cost of road.

	No.	
Locomotives, as per schedule. Av. wt. tons, 25.....	5	\$54,000 00
Passenger cars, 1st class.....	2	8,000 00
Passenger cars, 2d class.....	3	7,500 00
Baggage cars.....	2	4,000 00
Freight cars, closed.....	26	15,600 00
Platform cars.....	26	11,700 00
Hand cars.....		500 00
		<hr/>
Total cash value of equipment.....		101,300 00
		<hr/>
Grand total original cost and estimated present value of line equipped.....		1,131,175 00

CHARACTERISTICS OF ROAD.

LENGTH OF ROAD—Miles.

	Entire length.	Length in Wisconsin.	Weight of rail pr y'd.
Length of main line of road from Mineral Point to Warren.....	33	31	56
BRANCHES—Name each.			
Calamine to Platteville, length of branch.....	18	18	56
Aggregate length of tracks operated by this company <i>computed as single track</i> (miles).....			51
Aggregate length of sidings and other track not above enumerated.....			5
Number of "common points".....			2
What is the gauge of your line?			
Four feet eight and one-half inches.			

DOINGS OF THE YEAR IN TRANSPORTATION.

CHARACTER OF SERVICE.

	No. of persons employed.
Division and assistant superintendents.....	1
Clerks in all offices.....	4
Master and assistant mechanics.....	15
Conductors.....	2
Engineers.....	4
Brakemen.....	4
Flagmen, switch-tenders, gate-keepers and watchmen.....	2
Station agents.....	7
Section men.....	50
Other employees.....	20

MILEAGE AND TONNAGE—MILES.

	Whole line.	No passenger trains.
Number of miles run by passenger trains.....		
Number of miles run by freight and mixed trains.....	53,836	
Number of miles run by construction and other trains.....	4,200	
	<hr/>	
Total mileage.....	58,036	
	<hr/> <hr/>	

Proportion for Wisconsin, 49.51.

Mileage of empty freight cars	No data.
Total number passengers carried	21,499
Total number tons freight carried one mile.....	1,941,545
Total number passengers carried one mile	303,017
Average distance traveled by each passenger.....	18 $\frac{3}{4}$

The highest rate of speed allowed for express passenger trains?

None of these trains.

Schedule rate of same, including stops?

None of these trains.

The highest rate of speed allowed for mail and accommodation trains?

Sixteen miles per hour.

Schedule of same, including stops?

Sixteen miles per hour.

The highest rate of speed allowed for freight trains?

Sixteen miles per hour.

Schedule rate of same, including stops?

Sixteen miles per hour.

Amount of freight carried per car.....	20,000 lbs.
Amount of freight carried per train,	100,000 lbs.

TOTAL FREIGHT IN TONS.

	Whole line.
Grain	13,797
Flour	300
Provisions	2,039
Salt, cement water-lime, and stucco.....	710
Manufactures, including agricultural implements, furniture and wagons	494
Live stock.....	11,200
Lumber and forest products.....	7,556
Iron, lead, and mineral products.....	15,561
Stone, brick, lime, sand, etc	318
Coal	2,918
Merchandise and other articles.....	6,972

Total tons

61,865

Proportion for Wisconsin.....

58.439

EARNINGS DURING THE YEAR ENDING JUNE 30, 1875.

MONTHS.	MONTHLY EARNINGS FROM ALL SOURCES.			
	Passengers.	Freight.	Mails.	Express.
1874.				
July.....	\$1,523 07	\$7,080 89	215 42	100 00
August.....	1,489 62	6,359 89	215 42	100 00
September	1,446 22	5,152 48	215 42	100 00
October.....	1,779 60	7,457 43	215 42	100 00
November.....	1,398 41	10,809 86	215 42	100 00
December.....	1,494 13	10,357 12	215 42	100 00
1875.				
January.....	1,057 12	7,614 82	215 42	100 00
February	892 02	7,219 37	215 42	100 00
March.....	1,314 43	5,005 28	215 42	100 00
April.....	962 82	6,354 37	215 42	100 00
May.....	1,239 02	5,694 39	215 42	100 00
June.....	1,600 83	6,455 54	215 12	100 00
Totals.....	16,197 29	84,739 33	2,588 04	1,200 00

Earnings per mile of road.....	\$2,053 36
Earnings per mile of road on freight.....	1,661 55
Earnings per mile on passengers.....	317 59
Earnings per train mile run, on freight.....	1 57
Earnings per train mile run, on passengers.....	30
Of the earnings of the entire line, what is the ratio of the passenger to the freight?	as 2 to 11
Average gross earnings per mile (51 miles) of road, exclusive of sidings.....	2,053 36

EXPENSES DURING THE YEAR ENDING JUNE 30. 1874.

PAYMENTS FOR CURRENT AND OPERATING EXPENSES.

Maintenance of way:		Belonging to whole line.
Repairs of track, including new and re-rolled iron in place of old iron rail.....	\$54,268 52	
Repairs of bridges.....	3,688 71	
Repairs of fences.....	5,100 00	
Maintenance of buildings.....	1,193 11	
Maintenance of rolling stock:		
Locomotives.....	} 16,193 91	
Passenger, baggage and express cars.....		
Freight cars.....		
Shop-tools and machinery.....		
Conducting transportation, and general expenses:		
Management and general office.....	14,065 20	
Agents and station service.....	8,875 80	
Conductors, baggage and brakemen.....	4,521 00	
Engineers, firemen and wipers.....	5,524 00	
Fuel consumed.....	10,794 73	
Oil and waste.....	816 26	
Personal expenses.....	274 51	
Damage to property.....	35 00	
Loss and damage to freight and baggage.....	237 98	
Legal expenses.....	1,200 00	
Other general operating expenses, as per items below, freight bills.....	1,439 76	
Current expenses:		
For taxes.....	4,854 27	
For miscellaneous.....	1,085 42	
Total current operating expenses, being 127 per cent. of earnings.....	134,168 18	
Average operating expenses per mile of road, exclusive of sidings.....	2,630 74	
Average operating expenses per train mile.....	2 33	
Cost of maintaining track and bridges per mile run.....	.998	
Cost of repairs of engines per mile run.....	27.9	
Cost of engineers and firemen per mile run.....	.095	
Cost of oil and waste per mile run.....	.095	
Cost of fuel per mile run.....	.016	
	<u>18.6</u>	

EXPENSES, ETC.

PAYMENTS IN ADDITION TO OPERATING EXPENSES.

New equipment.....	\$3,950
Total new investment.....	3,950
For interest on bonds.....	37,000
Total payments in addition to operating expenses.....	35,950
Specify each patent in use on your road, and the amount paid as royalty for said patents, in separate items.....	None.
How was amount of dividends paid the past year—cash, stock, or otherwise? Specify amounts and manner of payment.....	None.

GENERAL BALANCE SHEET, 1ST OF JULY, 1875.

Nothing due from company, or owing to it, except ordinary monthly business with other roads. Settled before this report is dated.

What regulations govern your employees in regard to crossings of other railroads, and are they found to be sufficient?

Cross no railroads.

What regulations govern your employees in regard to crossings of public highways? And are these regulation found to be sufficient?

Whistle and ring bell. Found sufficient.

What platform and coupler between passenger cars, do you use?

No passenger trains. Ordinary platform and coupler used.

What kind of brakes do you use on passenger trains?

Ordinary brake on trains. No passenger trains.

U. S. MAIL.

What is the compensation paid you by the U. S. Government for the transportation of its mails, and on what terms of service?

\$50 der mile for daily service each way, except Sundays.

EXPRESS COMPANIES.

What express companies run on your road, and on what terms, and what conditions as to rates, use of track, machinery, repairs of cars, etc., what kind of business is done by them, and do you take their freights at the depot, or at the office of such express companies?

We carry freight for American Express Company in our cars, for a stipulated monthly compensation. Freight is received on cars, and in charge of express company employees.

TRANSPORTATION COMPANIES.

What freight and transportation companies run on your road, and on what terms, and on what conditions as to rates, use of track, machinery, repairs of cars, etc.? Do they use the cars of your company, or those furnished by themselves, and are their cars or their freight given any preference in speed or order of transportation, and if so in what particular?

None.

SLEEPING CARS.

Do sleeping or dining cars run on your road, and if so, on what terms are they run, by whom are they owned, and what charges are made in addition to the regular passenger rates?

None.

ADDITIONAL QUESTIONS.

Date of original charter of the road and that of any road consolidated with it, with the names of the companies.

Date of original charter of old Mineral Point Railroad Company, April 17, 1852. See Report of Railroad Commissioners, 1874. Appendix pages 83 to 96.

Date of foreclosure and sale, under which road and each branch is now held, and terms and amount of each.

See Report of Railroad Commissioners as above.

Rates and dates of all cash dividends on stock of original and consolidated companies, as far as known.

None.

Rates and dates of stock and other dividends, not cash, of original and consolidated companies.

None.

Date when main line (giving termini and length) was completed and put in operation.

Main line, Warren, Ill., to Mineral Point, was completed May, 1857. Length 33 miles.

Date of the commencement of operating of each branch-line, giving termini and length.

Branch from Calamine to Platteville; 18 miles; completed July, 1870.

Roads operated under lease (whether temporary or permanent) giving name, termini, length, address of lessors, and terms of lease. None.

What is the total number of acres of swamp or other State lands granted to your company by the State? None.

What is the total number of acres United States lands granted to your company by Congress directly, or through the State? None.

What number acres received by your company, directly or indirectly? None.

What number acres sold and conveyed? None.

Average price, per acre, realized? None.

To what corporations have you sold land? How much, and at what price? None.

Number of acres now held by company? None.

Average price asked for lands now held by company? None.

Value of donations of right-of-way or other real estate? None.

Amount of city, county, and town aid granted to company in exchange for stock, or otherwise? Specify particulars.

\$150,000 bonds received from county of Iowa; \$60,000 by town of Mineral Point, and \$10,000 by town of Waldwick, to old Mineral Point Railroad Company. Nothing issued to this company; no part of above received by it.

Total cash amount realized from such aid? Can't say.

Company has received no donations of public lands.

ACCIDENTS.

No accidents.

REMARKS.

In the above report the earnings and expenses of the branch from Calamine to Platteville, a distance of 18 miles, are included. The cost of that road not given. No data on hand other than that heretofore reported and given on page 222 of R. R. Commissioners' report of 1874.

The year included in the foregoing report has been an unusual one as regards expense. A considerable portion of the Platteville branch was fenced, and an unusual quantity of iron rail laid down to replace old, on main line.

STATE OF WISCONSIN, *County of Iowa, City of Mineral Point, ss.*

George W. Cobb, general manager, and Calvert Spensley, secretary and auditor, of the Mineral Point Railroad, being duly sworn, depose and say that they have caused the foregoing statements to be prepared by the proper officers and agents of this company, and having carefully examined the same declare them to be a true, full, and correct statement of the condition and affairs of said company, on the first day of July, A. D. 1875, to the best of their knowledge and belief.

GEORGE W. COBB,
General Manager.
CALVERT SPENSLEY,
Secretary and Auditor.

Subscribed and sworn to before me, this ninth day of August, A. D. 1875.

JOHN B. TEASDALL,
City Clerk of the City of Mineral Point.

REPORT

OF THE

GALENA & SOUTHERN WISCONSIN RAILROAD COMPANY.

For the year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.
Darius Hawkins, President.....	Galena, Ill.
Richard Barrett, 1st Vice-President.....	Galena, Ill.
John Lorrain, Secretary.....	Galena, Ill.
Wm. H. Snyder, Treasurer.....	Galena, Ill.
F. E. Harding, Chief Engineer (now without one.)	
Work of General Ticket Agent done by Secretary.	

Names of Directors.	Residence.
Darius Hawkins.....	Galena, Ill.
R. Barrett.....	Galena, Ill.
J. Lorrain.....	Galena, Ill.
W. H. Blewett.....	Galena, Ill.
R. S. Norris.....	Galena, Ill.

Executive Committee.	Salaries.
D. Hawkins, President.....	None.
R. Barrett.....	None.
Wm. Blewett.....	None.
R. Norris.....	None.

CAPITAL STOCK.

Capital stock authorized by charter :

Sec. 3 of charter: "The capital stock of said corporation shall be \$100,000, which may be increased from time to time to any sum not exceeding the entire amount expended on said road."

COMMON STOCK ISSUED.

Stock subscribed by municipalities paid in bonds:	
Stock issued for account of construction	None.
Stock issued for bonds of company cancelled.....	None.
Stock issued for dividends payable in stock.....	None.
Stock issued for payment of floating debt.....	None.
Stock issued for interest on bonded debt.....	None.
Stock issued for construction account on extension lines	None.
Stock issued to represent purchased lines	None.
Other common stock issued—and for what?	None.
Stock subscribed by individuals in cash.....	\$140,100 00
Town of Platteville, Wis.....	32,000 00
Total common stock.....	172,100 00

PREFERRED STOCK ISSUED.

Amount of preferred stock.....	None.
Rate of preference and for what issued.....	None.
Total capital stock.....	172,100 00
Proportion of stock for Wisconsin.....	32,000 00

A list of the stockholders at the last election of directors, showing the name, residence and amount of stock owned by each, must be filed herewith.

[For list of stockholders see page 135 following this report]

When and to whom was the original stock, owned by the Company, sold and what was the cash value realized by the Company for the same?

The stock was paid by assessments from time to time, and the amount above was realized.

If any stock has been issued since the original, state the date or dates when the same was issued, to whom issued, in what manner the same was paid for, and the cash value realized by the Company for the same.

None issued.

FUNDED AND UNFUNDED DEBT.

Described severally all outstanding classes of bonds, including amounts, dates of issue, interest where and when payable.

First mortgage bonds of the company dated October 1, 1872, 7 per cent interest, due in 20 years, gold; all sold in Galena except 11,000 in Wisconsin	\$219,000 00
Amount of debt not secured by mortgage.....	
Bills payable.....	46,700 33
Floating debts.....	891 02
Total funded and unfunded debt.....	<u>266,591 35</u>
Net cash realized from bonded debt, above described. 219 bonds \$1,000 each, sold at 65 cts.....	<u>\$144,350 00</u>
Proportion of debt, bonded and floating.....	11 bonds.

COST OF ROAD AND EQUIPMENT.

Cost of right of way, not all paid for.....	\$3,025 50
Cost of real estate exclusive of right of way. All depot grounds except in Galena donated; also, all depots except Galena and Platteville donated.....	5,407 48
Cost of construction.....	315,493 18
Cost of equipment.....	27,107 72
All other items of expense for construction and equipment. Interest, exchange and discount on bonds.....	93,218 01
Total cost of entire line.....	<u>444,251 89</u>

In this is the cost of running survey-lines to Muscada, Shullsburg, Madison, &c.

ORIGINAL COST AND PRESENT ESTIMATED VALUE OF TOTAL PROPERT Y IN THIS STATE.

DESCRIPTION OF PROPERTY.

Lands for depots, stations, etc as per schedule.

All such lands in Wisconsin donated.

Masonry, as per schedule.....	1 tunnel.
Bridges, as per schedule.....	3, (wood.)
Iron rail, 20 miles. Lbs. wt. per yard.....	35 lbs.
Steel rail. Lbs. wt per yard.....	None.
Freight stations and fixtures and furniture, as per schedule.....	Five.
Engine and car shops, as per schedule.....	None.
Machine shops as per schedule.....	None.
Machinery and fixtures, as per schedule.....	None.
Engine houses, as per schedule.....	None.
Car sheds, as per schedule.....	None.
Turn tables, as per schedule.....	One.
Wood sheds and water stations, as per schedule.....	Two.

Fencing	Six miles.
Elevators, as per schedule	None.
Engineering expenses before and during construction, on whole line and beyond	\$17,662 40
Salaries of officers and agents essential during construction.....	None.
Total cost of engineering and official management during construction	\$17,662 40
Locomotives, as per schedule. Av. wt. tons, 15.....	2
Tenders, as per schedule	2
Snow plows, as per schedule	None.
Wreckers, as per schedule.....	None.
Passenger cars, 2d class. Av. wt. tons, 6.....	1
Baggage cars.....	None.
Mail cars.....	None.
Express cars	None.
Freight cars, closed. Av. wt. tons, 4.....	10
Platform cars. Av. wt. tons, 3.....	19
Hand cars. Av. wt., 500 lbs	5

As we have no engineer, and this being a home road, managed simply by men not accustomed to railroading, we have no one who can correctly answer these questions. We can only calculate that this road with side tracks is 31 miles long; 11 miles being in Illinois. This would leave 20.31 in Wisconsin. The cost of the whole line being about equal.

CHARACTERISTICS OF ROAD.

Length of main line of road from Galena to Platteville—	
Entire length.....	31 miles.
Length in Wisconsin	20 miles.
Weight of rail per yard.....	35 lbs.
Aggregate length of tracks operated by this company, <i>computed as single track</i>	30 miles.
Aggregate length of sidings and other track not above enumerated.....	1 mile.
What is the gauge of your lines?.....	3 feet.

DOINGS OF THE YEAR IN TRANSPORTATION.

CHARACTER OF SERVICE.	Number of persons employed.	Average salary per ann'm.
Division and assistant superintendents.....	None.	.....
Clerks in all offices.....	2	\$1,380 00
Master and assistant mechanics.....	None.	.....
Conductors.....	1	780 00
Engineers, 1 all the time, occasionally 2.....	1	900 00
Brakemen, 1 all the time, occasionally 2.....	1	480 00
Flagmen, switch-tenders, gate-keepers and watchmen....	1	480 00
Station agents, one of the clerks acts at Galena, balance receive no pay.....	25	390 00
Section men.....	.....	.....
Other employees? We pick up laborers as we need them.....	.....	.....

Number of miles run by freight and mixed trains per day, 60. In Wisconsin, 40.
 The highest rate of speed allowed for express passenger trains... 12 miles per hour.
 The highest rate of speed allowed for mail and accommodation trains.. Have none.
 The highest rate of speed allowed for freight trains..... Trains all mixed.

EARNINGS DURING THE YEAR ENDING JUNE 30, 1875.

Road not in operation at this time.

GENERAL BALANCE SHEET, 1st OF AUGUST, 1875.

Assets.	Amount.	Liabilities.	Amount.
CONSTRUCTION ACCOUNT.			
Grading	\$101,729 36	Stock receipts.....	\$177,247 90
Masonry	10,100 50	Bonds	218,000 00
Superstructure	145,428 11	Insurance receipts.....	1,401 80
Bridging	18,306 33	Bills payable.....	46,700 33
Engineering	17,662 40	Suspended pay roll.....	6,428 53
Cattle guards and crossings.....	1,068 42		
Right of way.....	3,025 50	Total	449,778 57
Real estate.....	5,407 48		
Locomotives and fixtures.....	14,757 00	R. E. Norris.....	\$549 04
Passenger and baggage cars.....	1,426 55	John Lorrain.....	507 63
Freight cars.....	10,221 29	C. N. Perkins (this is an advance on a bond not delivered).....	650 00
Gravel and hand cars.....	702 88	J. M. Ryan	25 00
Turn tables.....	643 10		1,731 67
Engine houses and shops.....	807 76	Total	451,510 24
Freight and passenger buildings.....	1,893 67		
Fencing.....	141 37	Freight receipts.....	4,470 99
Salaries	3,036 68	Passenger receipts.....	2,474 25
Office expenses, &c.....	2,535 56	Express	1 15
Wood and water stations.....	1,896 18	Baggage	50
Fuel.....	910 00		6,966 89
Tools and fixtures.....	82 66		
Oil and waste.....	250 13		
Interest and exchange and loss on bonds.....	92,244 21		
Road expenses.....	974 80		
Total	444,251 89		

GENERAL BALANCE SHEET—Continued.

Assets.	Amount.	Liabilities.	Amount.
Due from sundries.....	\$969 00		
Due E. Baily to pay fencing and right of way in Wis...	6,400 00		
Cash on hand.....	695 32		
Total	452,316 41		
TRANSPORTATION ACCOUNT.			
Engineers and firemen.....	\$1,004 42		
Conductors and brakemen.....	256 35		
Station agents.....	400 62		
Fuel.....	1,036 38		
Main rolling stock.....	756 09		
Main road.....	1,279 39		
General office expenses.....	434 38		
Station expenses.....	19,684 00		
Contingencies.....	45 65		
Water supplies.....	2 75		
Oil and waste.....	158 20		
Watch and switchmen.....	249 48		
Taxes and insurance.....	105 82		
Printing and advertising.....	73 05		
Damage to property.....	65 00		
Damage to persons.....	1 00		
U. S. Mail.....	30		
	6,083 62		

AGENCIES ACCOUNT.

Wm. Bell.....	\$6 00
Wm. Gillett &c.	6 50
James Buchan.....	14 85
John Stevens.....	37 56
E. Whitman.....	12 19

\$77 10

Total

458,477 00

Total.....

\$458,477 13

JOHN LORRAM, Secretary.

What regulations govern your employees in regard to crossings of other railroads, and are they found to be sufficient?

We do not cross any.

What regulations govern your employees in regard to crossing public highways? And are these regulations found to be sufficient?

We blow whistle and ring bell, and so far have found it sufficient.

What platform and coupler between passenger cars do you use?

The old common one.

What kind of brakes do you use on passenger trains?

The old common one.

U. S. MAIL.

What is the compensation paid you by the U. S. government for the transportation of its mails, and on what terms of service?

We have just commenced this service, and have not had our pay adjusted by the Post-Office Department.

EXPRESS COMPANIES.

What express companies run on your road, and on what terms, and what conditions as to rates, use of track, machinery, repairs of cars, etc.; what kind of business is done by them, and do you take their freights at the depot, or at the office of such companies?

American. Our balance sheet shows that it is of little value to this company.

TRANSPORTATION COMPANIES.

What freight and transportation companies run on your road, and on what terms, and on what conditions as to rates, use of track, machinery, repairs of cars, etc.? Do they use the cars of your company, or those furnished by themselves, and are their cars or their freight given any preference in speed or order of transportation, and if so, in what particular?

We are not connected with any.

SLEEPING CARS.

Do sleeping or dining cars run on your road, and if so, on what terms are they run, by whom are they owned, and what charges are made in addition to the regular passenger rates?.....

None.

ADDITIONAL QUESTIONS.

Date of original charter?

In the State of Wisconsin, March 2, 1857; in Illinois, January 26, 1853.

Date of foreclosure and sale, under which each road and each branch is now held, and terms and amount of each sale?.....

None.

Rates and dates of all cash dividends on stock of original and consolidated companies, so far as known?.....

None.

Rates and dates of stock and other dividends, not cash, of original and consolidated companies?.....

None.

Date when main line (giving termini and length) was completed and put in operation?

The main line is not completed, but this road is in operation to Platteville, Wis., 30 miles. We reached that point Dec. 31, 1874, but had to quit operations on account of snow, and did not run a train until we got the road in order, sometime in April, 1875.

Date of the commencement of operating each branch line, giving termini and length?

We have no branch lines.

Roads operated under lease, (whether temporary or permanent) giving name, termini, length, address of lessors, and terms of lease?.....

None.

What running arrangements have you with other railroad companies, setting forth the contracts for the same?.....

None.

What is the total number of acres of swamp or other State lands granted to your company by the State?

We have no lands of any kind, except tracts given us for depot grounds.

Amount of city, county, and town aid granted to company in exchange for stock, or otherwise? Specify particulars.

None except those of Platteville, (\$32,000,) for which stock was issued.

REMARKS.

We have had no accidents of any kind except killing one cow, two sheep, and one or two hogs. * * * * *

This little road is purely a home road, and built so far by the means raised among our people, and as we are few in number our progress will be slow. We have made it a rule that anyone who wishes a station on the line, can put up a building, and we will put in the side-track; provided they deeded the land and building to the company. All our depots from Platteville have been erected on these terms. This road is not completed, and only commenced running regular trips to Platteville in May of this year, with 70 men still working on the road bed.

JOHN LORRAM,
Secretary.

STATE OF WISCONSIN, *County of Grant, ss.*

John Lorrarn, Secretary of the Galena and Southern Wisconsin, Railroad Company, being duly sworn deposes and says that they have caused the foregoing statements to be prepared by the proper Officers and Agents of this company, and having carefully examined the same declare them to be a true, full and correct statement of the condition and affairs of said company, on the first day of August, A. D. 1875. to the best of my knowledge and belief.

JOHN LORRAM,
Secretary Galena & Southern Wis., R. R. Co.

Subscribed and sworn to before me, this 23d day of August, A. D. 1875.

C. W. HILL,
Justice of the Peace.

List of Stockholders.

Name.	Residence.	Stock.
Darius Hawkins	Galena, Ill.	24,200
Ralph Worington	Cleveland, O	7,400
Wood & Abbott	Philadelphia, Pa.	1,700
Wm. Dickson	Galena, Ill.	2,200
Mahoney & Rockford	do.	1,700
F. Stohl	do.	1,700
C. R. Perkins	do.	1,700
H. F. McClosskey	do.	100
B. Burrett	do.	2,000
Thomas Evans	do.	1,600
Wm. Blewett	do.	2,000
John Lorrarn	do.	900
Gas Company	do.	500
R. S. Norris	do.	500
Mary Riley	do.	1,400
A. C. Davis, estate	do.	2,100
J. M. Ryan	do.	12,200
M. G. Johnson	do.	700
D. W. White	do.	1,000
Sarah Bartlett	Baltimore, Md.	3,000
Chas. Vryette	do.	2,300
C. W. Hemstead	Chicago, Ill.	7,700
L. Massun	Galena, Ill.	1,000
W. F. Crummer	do.	100
H. V. W. Brom	do.	100
W. R. Holden	do.	1 00
A. J. Lempser	do.	1 00

List of Stockholders—Continued.

Name.	Residence.	Stock.
W. P. Corwith.....	Galena, Ill.....	100
E. Toole.....	do.....	200
F. B. Newhall.....	do.....	200
T. Hammel.....	do.....	100
John Halch.....	do.....	500
Henry Logan.....	do.....	100
T. McGun.....	do.....	100
J. H. Baldwin.....	do.....	100
W. R. Rowley.....	do.....	300
T. Oleary.....	do.....	300
G. O. Howard.....	do.....	100
Wm. H. Hardy.....	do.....	100
J. W. & J. B. Liddle.....	do.....	100
Geo. Altoud.....	do.....	100
Moses Annetus.....	do.....	100
L. Shessler.....	do.....	200
N. & J. Casserly.....	do.....	100
E. Weber.....	do.....	100
L. A. Rowley.....	do.....	100
J. P. Hoffman.....	do.....	100
N. Strott.....	do.....	100
R. Barrett.....	do.....	1,000
T. M. Ryan.....	do.....	500
D. Shuan.....	do.....	200
Chas. Gerger.....	do.....	100
J. Glennett.....	do.....	1,000
J. L. Crawford.....	do.....	100
R. Gesselrath.....	do.....	100
J. A. Muzel.....	do.....	100
J. Reede.....	do.....	200
A. Whitman.....	do.....	200
W. D. Howard.....	do.....	100
F. Reachs.....	do.....	100
C. Bench.....	do.....	1,000
Jos. & Jas. Coatsworth.....	do.....	100
M. Casserly.....	do.....	200
J. Edwards & Co.....	do.....	200
Jos. D. White.....	do.....	200
E. Harding.....	do.....	5,000
Town of Platteville, Wis.....	do.....	32,000
A. C. Melville.....	do.....	1,000
J. C. Colderward.....	do.....	100
Jno & Wm. Frederick.....	do.....	2,000
T. McMill.....	do.....	100
Ketton & McMill.....	do.....	100
Saml. Lehner.....	do.....	100
J. R. Patten.....	do.....	200
L. Ulrich.....	do.....	200
M. Dean.....	do.....	100
B. F. Felt.....	do.....	500
S. Crawford.....	do.....	200
G. R. Melville.....	do.....	6,200
F. Kempster.....	do.....	200
F. Butler.....	do.....	100
T. B. Brown.....	do.....	100
J. A. Lukley.....	do.....	200
B. F. Fowler.....	do.....	200

List of Stockholders—Continued.

Name.	Residence.	Stock.
S. Frazier.....	Galena, Ill.....	500
Jacob Fawcett.....	do.....	100
L. Schwab.....	do.....	500
C. Mathews.....	do.....	100
Henry Teeke.....	do.....	100
L. M. Brin.....	do.....	100
S. O. Stillman.....	do.....	500
W. W. Venable.....	do.....	100
T. P. Nack.....	do.....	100
John Moon.....	do.....	100
John Adams.....	do.....	100
Evans & Lewis.....	do.....	100
F. Monea.....	do.....	100
J. E. Corwith.....	do.....	500
A. Weirich.....	do.....	100
Phil. Brunner.....	do.....	300
Geo. Carlle.....	do.....	500
R. Seal.....	do.....	100
H. H. Chandler.....	do.....	600
J. G. Baker.....	do.....	100
J. Hornsing.....	do.....	100
B. R. Spensley.....	do.....	500
Smith, Wheeler & Smith.....	do.....	1,000
S. Marsden.....	do.....	500
Geo. H. Mars.....	do.....	300
Geo. Beck.....	do.....	100
Wm. Hany.....	do.....	100
D. Le Better.....	do.....	100
S. Cuckerman.....	do.....	300
F. Wagden.....	do.....	100
A. J. Lynchbum.....	do.....	200
T. M. & S. Roberts.....	do.....	500
Sheeser & Ambenster.....	do.....	1,000
Mary A. Cane.....	do.....	200
H. Schmidt.....	do.....	100
M. Leekley.....	do.....	200
F. Benneger.....	do.....	100
W. H. Snyder.....	do.....	500
W. P. Marsimer.....	do.....	100
J. M. Farmer.....	do.....	200
Geo. Whichman.....	do.....	100
E. Haas.....	do.....	100
J. P. Hilgert.....	do.....	100
B. Gross.....	do.....	100
J. Wersheny.....	do.....	100
C. L. Stepenson.....	do.....	100
A. Estey.....	do.....	1,000
Wm. Bill.....	do.....	500
B. Smith.....	do.....	300
Wm. Becker.....	do.....	100
J. Retter.....	do.....	300
G. Sander.....	do.....	500
G. W. Waggoner.....	do.....	100
F. Devery.....	do.....	200
G. Richardson.....	do.....	500
A. Brohany.....	do.....	100
J. A. Burntcher.....	do.....	2,000

List of Stockholders—Continued.

Name.	Residence.	Stock.
G. W. Fuller.....	Galena, Ill.....	200
S. U. Miner.....	do.....	200
J. G. Schemable.....	do.....	500
J. Bundle, Jr.....	do.....	500
De Very & Morgan.....	do.....	200
P. Tewateor.....	do.....	100
Wm. Dunn.....	do.....	200
J. H. Hellman.....	do.....	1,000
E. Kittol.....	do.....	200
A. Bohwell.....	do.....	100
H. Strohmeier.....	do.....	100
J. Bundle.....	do.....	200
J. McGoogle & D. P.....	do.....	200
W. Havick.....	do.....	100
J. M. Spratt.....	do.....	1,000
Barrows, Taylor & Co.....	do.....	2,000
R. Martin.....	do.....	1,000
Wm. Spensley.....	do.....	100
Foster & Stahl.....	do.....	400
W. Pittman.....	do.....	100
F. Kempter.....	do.....	100
A. Ringer.....	do.....	100
John Westwick.....	do.....	100
R. H. McClellan.....	do.....	1,000
J. Thude.....	do.....	100
A. Telford.....	do.....	100
F. Stryker.....	do.....	100
J. F. Brendle.....	do.....	100
Wm. Jory.....	do.....	200
W. R. Burkland.....	do.....	200
		172,100

Only the aid voted by Platteville belongs in the State of Wisconsin, \$32,000.

REPORT

OF THE

PHILIPS & COLBY CONSTRUCTION COMPANY, OPERATING THE WISCONSIN CENTRAL RAILROAD.

For the year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.
E. B. Philips, President.....	Milwaukee, Wis.
Henry Pratt, Secretary.....	Milwaukee, Wis.
L. S. Dixon, Solicitor.....	Milwaukee, Wis.
Chas. L. Colby, Treasurer.....	Milwaukee, Wis.
Henry Pratt, General Ticket Agent.....	Milwaukee, Wis.
J. E. Follett, General Freight Agent.....	Milwaukee, Wis.
Henry Pratt, Auditor.....	Milwaukee, Wis.

General offices at Milwaukee, Wis, and Boston, Mass.

Names of Directors.	Residence.
E. B. Philips.....	Milwaukee.
Chas. L. Colby.....	Milwaukee.
Henry Pratt.....	Milwaukee.

Executive Committee..... None.

Date of annual election of directors.
First Tuesday in March.

Name and address of person to whom correspondence, concerning this report should be directed.

E. B. Philips, Milwaukee, Wis.

CAPITAL STOCK.

Capital stock authorized by charter..... \$200,000 00

COMMON STOCK ISSUED.

Stock subscribed by individuals and other corporations paid in cash.. \$200,000 00

PREFERRED STOCK ISSUED.

Amount of preferred stock..... None.
Rate of preference and for what issued..... None.

A list of the stockholders at the last election of directors, showing the name, residence and amount of stock owned by each, must be filed herewith.

E. B. Philips, 950 shares; Chas. L. Colby, 950 shares; Henry Pratt, 100 shares.

When and to whom was the original stock, owned by the Company, sold and what was the cash value realized by the Company for the same?

To parties named above. Par value paid.

If any stock has been issued since the original, state the date or dates when the same was issued, to whom issued, in what manner the same was paid for, and the cash value realized by the Company for the same.

None.

COST OF ROAD AND EQUIPMENT.

Cost of right of way.
(See original cost, etc., below.)

ORIGINAL COST AND PRESENT ESTIMATED VALUE OF TOTAL PROPERTY IN THIS STATE.

DESCRIPTION OF PROPERTY.		
Clearing and grubbing		\$294,600 24
Right of way, as per accompanying schedule	}	
Land for depots, stations, etc., as per schedule		37,606 21
Grading, as per schedule	}	
Masonry, as per schedule		1,503,556 49
Bridging, as per schedule	}	
Ties and tying		670,807 68
Iron rail	}	
Steel rail		261,380 06
Chains, spikes, fish-bar, etc.,	}	
Laying track, complete		2,382,955 33
Ballast		144,939 49
Passenger stations, fixtures and furniture, as per schedule	}	
Freight stations and fixtures and furniture, as per schedule		166,988 49
Engine and car shops, as per schedule	}	
Machine shops, as per schedule		111,525 89
Machinery and fixtures, as per schedule		9,765 60
Docks, etc		86,469 25
Telegraph lines		15,864 91
Out-fit, trains, stations and track		14,798 77
Wood sheds and water stations, as per schedule		46,947 37
Fencing		47,325 34
Engineering expenses before and during construction		215,977 74
Salaries of officers, clerks and agents, rents and expenses essential during construction		343,181 05
Incidental expenses		90,418 08
Total original cost and present estimated cash value of line unequipped		6,445,107 99
	No.	
Locomotives, as per schedule	24	
Tenders, as per schedule	24	
Snow plows, as per schedule	1	
Passenger cars, 1st class	15	
Baggage cars	}	
Mail cars		9
Express cars	}	
Freight cars, closed		270
Platform cars		278
Hand cars		41
Total cash value of equipment		646,055 81
Grand total original cost and estimated present value of line equipped		7,091,163 80

CHARACTERISTICS OF ROAD.

Length of main line of road from Menasha to Worcester—		
Entire length		194 miles.
Length in Wisconsin		194 miles.
Weight of rail per yard		57 lbs.
Length of double track on main line, Ashland to Peknoee		None.

BRANCHES.

Milwaukee & Northern Railway, length of line leased—	
Entire length.....	129 miles.
Length in Wisconsin.....	129 miles.
Weight of rail per yard.....	57 lbs.
Total length of main line and branches.....	323 miles.
Aggregate length of tracks operated by this company <i>computed as single track</i> , earning revenue.....	294 miles.
Ashland to Penokee, isolated, and not earning revenue.....	29 miles.
Aggregate length of sidings and other track not above enumerated.....	21 $\frac{1}{2}$ miles.
Number of "common points".....	Four.
What is the gauge of your lines?.....	4 ft., 8 $\frac{1}{2}$ in.

DOINGS OF THE YEAR IN TRANSPORTATION.

CHARACTER OF SERVICE.

	Number per- sons empl'd.	Av. Salary pr annum.
Clerks in all offices.....	17	\$870
Master and assistant mechanics.....	50	660
Conductors.....	17	876
Engineers.....	19	950
Firemen.....	19	550
Brakemen.....	43	540
Flagmen, switch-tenders, wipers, and watchmen.....	20	525
Station agents and labor.....	70	500
Section men.....	146	432

MILEAGE AND TONNAGE,—Miles.

Number of miles run by passenger trains.....	140,329
Number of miles run by freight and mixed trains.....	295,874
Number of miles run by construction and other trains.....	115,210
Total mileage.....	551,413
Total number passengers carried.....	143,023
Total number tons freight carried one mile.....	14,730,688
Total number passengers carried one mile.....	5,340,070
Average distance traveled by each passenger.....	37.3
	Miles per hour.
The highest rate of speed allowed for mail and accommodation trains..	25
Schedule of same, including stops.....	22
The highest rate of speed allowed for freight trains.....	12
Schedule rate of same, including stops.....	9
Amount of freight carried per car.....	10 to 15 tons
Amount of freight carried per train.....	25 to 30 tons

TOTAL FREIGHT IN TONS.

Grain.....	14,835
Flour.....	9,736.5
Provisions.....	598
Salt, cement, water lime and stucco.....	1,331
Manufactures, including agricultural implements, furniture and wagons.	846
Live stock.....	3,978.5
Lumber and forest products.....	84,862.5
Iron, lead and mineral products.....	1,947.5
Stone, brick, lime, sand, etc.....	1,514
Coal.....	1,605
Merchandise and other articles.....	55,126
Total tons.....	176,380

EARNINGS DURING THE YEAR ENDING JUNE 30, 1875.

MONTHS.	MONTHLY EARNINGS FROM ALL SOURCES.										TOTALS.	
	PASSENGERS.		FREIGHTS.*		MAILS.		EXPRESS.		OTHER SOURCES.		Whole line.	Wisconsin.
	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.		
1874												
July	18,522 04		32,584 17		1,034 91		385 72		755 10		53,281 91	
August	12,226 80		31,362 43		996 58		462 79		590 09		50,638 69	
September	19,974 05		28,281 28		996 58		547 03		669 55		50,468 49	
October	17,952 08		35,425 74		5,205 72		460 52		685 91		59,729 97	
November	16,254 26		31,239 30		1,425 99		422 42		631 59		49,973 56	
December	14,515 26		27,904 85		1,425 99		404 12		718 86		44,969 08	
1875												
January	10,004 42		26,504 70		1,425 99		241 33		397 13		38,573 57	
February	6,087 57		12,307 89		1,425 99		167 31		211 11		20,199 87	
March	10,985 87		30,649 07		1,425 99		292 27		431 50		43,784 70	
April	16,763 46		45,900 04		1,425 99		429 44		3,793 40		68,312 33	
May	14,644 53		36,808 09		1,425 99		401 61		663 02		53,943 24	
June	15,639 59		38,676 53		1,425 99		460 89		675 88		56,878 88	
Total	178,569 93		377,644 09		19,641 71		4,675 45		10,223 14		590,754 32	

*Including car mileage.

Earnings per mile of road.....	\$2,009 37
Earnings per mile of road on freight.....	1,284 50
Earnings per mile of road on passengers.....	607 38
Earnings per train-mile run, on freight.....	1 ²⁷ / ₁₀₀ 6
Earnings per train-mile run, on passengers.....	1 ²⁷ / ₁₀₀ 6
Of the earnings of the entire line, what is the ratio of the passenger to the freight.....	1 to 2 ¹ / ₁₀
Average gross earnings per mile [294 miles] of road, exclusive of sidings	2,009 37
Average net earnings per mile [294 miles] of road, exclusive of sidings	807 56
Average net earnings per train mile.....	44

EXPENSES DURING THE YEAR ENDING JUNE 30, 1875.

PAYMENTS FOR CURRENT AND OPERATING EXPENSES.

Maintenance of way:		
Repairs of track, including new and re-rolled iron rail in place of old iron rail.....	\$82,945 00	
Repairs of bridges.....	1,126 35	
Repairs of fences.....	97 39	
New steel rail, valued only as iron rail.....		
Other expenses on way.....		
		\$84,168 74
Maintenance of buildings.....		2,641 75
Maintenance of rolling stock:		
Locomotives.....	19,620 84	
Passenger, baggage, mail and express cars.....	12,274 21	
Freight cars.....	17,604 90	
Shop tools and machinery.....	656 03	
		50,155 98
Conducting transportation, and general expenses:		
Management and general office.....	28,958 45	
Foreign agency and advertising.....	2,900 76	
Agents and station service.....	42,228 50	
Conductors, baggage and brakemen.....	31,105 48	
Engineers, and firemen.....	29,452 72	
Watch and wipers.....	9,104 34	
Train and station supplies.....	5,956 00	
Telegraph operating, repairs and supplies.....	3,003 91	
Fuel consumed.....	50,854 75	
Oil and waste.....	5,268 47	
Exchange and interest.....	373 05	
Losses, damage personal injury.....	874 00	
Losses, cattle killed.....	2,063 20	
Loss and damage to freight and baggage.....	247 02	
Legal expenses.....	36 54	
Car services.....	583 55	
		213,110 74
Current expenses:		
For insurance.....		3,255 56
		353,332 77
Lease or privilege of other roads whose earnings are included in this report, giving name and amounts paid.		
To Mil. & Nor., and Mil. & St. Paul.....		137,654 85
Total current operating expenses being 59 per cent. of earnings.		
Average operating expenses per mile of road, exclusive of sidings	1,201 81	
Average operating expenses per train mile.....	60.5	
Excess of earnings over operating and current expenses.....	237,421 55	
Cost of maintaining track and bridges per mile run.....	15.6	
Cost of repairs of engines per mile run.....	3.6	
Cost of engineers and firemen per mile run.....	5.5	
Cost of oil and waste per mile run.....	1.	
Cost of fuel per mile run.....	8.5	

What is your estimate of the cost to you, for the transportation of each passenger per mile?

Expenses for transportation of freight and passengers so blended that it is not possible to accurately separate them.

What is your estimate of the cost to you, per ton per mile, for the transportation of freight?

Same as above.

What regulations govern your employees in regard to crossings of other railroads, and are they found to be sufficient?

Trains stop 400 feet from all crossings, and only cross when way is known to be clear. No accident has happened.

What regulations govern your employees in regard to crossings of public highways? and are these regulations found to be sufficient?

Bell is rung before reaching crossings. We think the regulations are sufficient.

What platform and coupler between passenger cars, do you use?.....Miller's.

What kind of brakes do you use on passenger trains?.....Hand.

U. S. MAIL.

What is the compensation paid you by the U. S. Government for the transportation of its mails, and on what terms of service?

Milwaukee to Green Bay and Menasha.....	\$83 per mile.
Menasha to Stevens Point.....	70 per mile.
Stevens point to Colby.....	40 per mile.
Colby to Worcester.....	Undetermined.

EXPRESS COMPANIES.

What express companies run on your road, and on what terms, and what conditions as to rates, use of track, machinery, repairs of cars, etc.; what kind of business is done by them, and do you take their freights at the depot, or at the office of such express companies?

American Express, paying a specific rate per 100 pounds, taking their freight at depots.

TRANSPORTATION COMPANIES.

What freight and transportation companies run on your road, and on what terms and on what conditions as to rates, use of track, machinery, repairs of cars, etc.? Do they use the cars of your company, or those furnished by themselves, and are their cars or their freight given any preference in speed or order of transportation, and if so, in what particular?

None.

SLEEPING CARS.

Do sleeping or dining cars run on your road, and if so, on what terms are they run, by whom are they owned, and what charges are made in addition to the regular passenger rates?

Our own sleeping cars, charging \$1.50 per berth in addition to fare.

ADDITIONAL QUESTIONS.

Date of original charter of the road and that of any road consolidated with it, with the name of the companies.

Portage and Superior	May 5, 1864.
Winnebago Lake and Superior.....	May 5, 1874.
Portage & Stevens Point and Superior.....	March 16, 1870.
Manitowoc & Minnesota.....	April 20, 1868.
Milwaukee & Northern.....	Feb. 26, 1870.

Date of foreclosure and sale, under which road and each branch is now held and terms and amount of each sale.....	None.
Rates and dates of all cash dividends on stock of original and consolidated companies, as far as known.....	None.
Rates and dates of stocks and other dividends, not cash, of original and consolidated companies.....	None.

Date when main line (giving termini and length) was completed and put in operation.

Milwaukee & Northern opened to Menasha Dec., 1872..... 101 miles.

Wisconsin Central—not completed.

Opened from Menasha to Stevens Point, Dec. 1, 1871..... 63 miles.

Stevens Point to Worcester, Jan., 1874..... 101 miles.

Date of the commencement of operating each branch line, giving termini and length.

Milwaukee & Northern ——— to Green Bay, 26 miles, July 1, 1873.

Roads operated under lease (whether temporary or permanent) giving name, termini, length, address of lessors and terms of lease.

Milwaukee & Northern. Milwaukee to Menasha and Green Bay, 129 miles, paying 40 per cent. of gross earnings.

What running arrangements have you with other railroads, setting forth the contracts for the same.

Use the track of the Chicago, Mil. & St. Paul Railway from Milwaukee to Schwartzburg, paying for same and depot facilities at Milwaukee, 75 per cent. of gross earnings.

ACCIDENTS.

Number of accidents.	STATEMENT OF EACH ACCIDENT.	PASSENGERS.				EMPLOYEES.				OTHERS.			
		From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.		From causes beyond their control.		By their own misconduct or want of caution.	
		Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
1	Lawrence Hazellern, at Kiel, Oct. 22, 1874.....			1									
2	Indian George, Oct. 15, 1874 (Sec. 31), Sec. Mid. Div.....											1	
3	Lawrence Boden, Nov. 2, 1874, at Kiel.....							1					
4	*Joseph Burke, Nov. 2, 1874, at Stevens Point.....							1					
5	August Een, Nov. 29, 1874, at Amherst Junction.....											1	
6	†C. F. Russell, Dec. 12, 1874, at Stevens Point.....							1					
7	‡F. Hildebran, March 23d, 1875, LaCrosse cut-off, Milwaukee.....							1					
8	J. Kiessin, Feb. 24, 1875, Cedarburg.....											1	
9	— Thretes, Jan. 26, 1875, at Hilbert.....							1					
10	Frank Brodley, April 11, 1875, at Stevens Point.....							1					
11	Ambrose Breakhiemer, May 22, 1875, Elkhardt Lake.....							1					
12	Judson Bashford, June 8, 1875, Stevens Point.....									1			
13	Z. C. English, June 9, 1875, Sherwood.....									1			
14	Oscar Dodge, June 11, 1875, at Spencer.....											1	

Damages paid: *\$400; †\$40; ‡24.50.

Of the above accident those numbered as follows were caused by broken rails.....	}	None.
Of the above accidents those numbered as follows were caused by in- attention of employees.....		
Of the above accidents those numbered as follows were caused by collisions not properly coming under 2.....		
Of the above accidents those numbered as follows were caused by explosions.....		
Amount paid as damages on account of stock killed by trains.....		\$2,063 20
Amount paid as damages by fire from locomotives.....		Nothing.

STATE OF WISCONSIN, *County of Milwaukee, ss.*

E. B. Phillips, President of the Phillips & Colby Construction Company, operating Wisconsin Central Railroad, being duly sworn, deposes and says that they have caused the foregoing statements to be prepared by the proper officers and agents of this Company, and having carefully examined the same declare them to be a true, full, and correct statement of the condition and affairs of said Company, on the first day of July, A. D. 1875, to the best of his knowledge and belief.

E. B. PHILLIPS.

Subscribed and sworn to before me, a Notary Public, this thirtieth day of August, A. D. 1875.

GEO. H. NOYES,
Notary Public.

REPORT
OF THE
WISCONSIN VALLEY RAILROAD COMPANY.

For the Year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.	Salaries.
James F. Joy, President.....	Detroit, Mich.	No salary.
Jno. N. Dennison, Secretary and Treasurer ...	Boston, Mass.	No salary.
G. O. Cromwell, Asst. Treasurer and Asst. Sec'y, Tomah, Wis.	Tomah, Wis.	\$1,500
F. O. Wyatt, General Superintendent	Tomah, Wis.	2,500

Names of directors.	Residence.
John W. Brooks.....	Boston, Mass.
N. Thayer	Boston, Mass.
L. Bartlett	Boston, Mass.
J. Iasigi	Boston, Mass.
J. A. Burnham	Boston, Mass.
H. H. Hunnewell.....	Boston, Mass.
James F. Joy.....	Detroit, Mich.
J. Edwards	Port Edward, Wis.
H. W. Remington	Remington, Wis.
Seth Reeves.....	Grand Rapids, Wis.
J. C. Clark.....	Wausau, Wis.

Date of annual election of directors.
January 20, 1875.

Name and address of person to whom correspondence concerning this report should be directed.

G. O. Cromwell, A. T., Tomah, Wis.

CAPITAL STOCK.

Capital stock authorized by charter..... \$3,000,000 00

COMMON STOCK ISSUED.

Stock subscribed by municipalities paid in bonds.....	\$75,000 00
Stock subscribed by individuals and other corporations, paid in cash..	10,000 00
Stock issued for account of construction.....	None.
Stock issued for bonds of company cancelled.....	None.
Stock issued for dividends payable in stock.....	None.
Stock issued for payment of floating debt.....	None.
Stock issued for interest on bonded debt.....	None.
Stock issued for construction account on extension lines.....	None.
Stock paid for in land.....	25,000 00
Stock issued to represent purchased lines.....	None.
Other common stock issued—and for what; } } As a part of the consider- } ation for cash and for } bonds at 80 per cent.	441,000 00
Total common stock.....	551,000 00

PREFERRED STOCK ISSUED.

Amount of preferred stock.....	None.
Total capital stock issued.....	551,000 00
Proportion of stock for Wisconsin.....	<u>None.</u>

A list of the stockholders at the last election of directors, showing the name, residence and amount of stock owned by each, must be filed herewith.

[For answer see list at end of this report.]

If any stock has been issued since the original, state the date or dates when the same was issued, to whom issued, in what manner the same was paid for, and the cash value realized by the company for the same.

All of the above stock was issued during the construction of the road.

FUNDED AND UNFUNDED DEBT.

Describe severally all outstanding classes of bonds, including amounts, dates of issue, interest, where and when payable:	
Dated March 1, 1873, principal and interest at 8 per cent. payable at Boston, Mass., due March 1, 1893.....	\$1,790,000 00
Amount of debt not secured by mortgage.....	116,597 69
Total funded and unfunded debt.....	<u>1,906,597 69</u>
Net cash realized from bonded debt, above described.....	1,342,000 00
Proportion of debt, bonded and floating, for Wisconsin.....	<u>All.</u>

COST OF ROAD AND EQUIPMENT.

Cost of right of way.....	9,331 70
Cost of real estate, exclusive of right of way, cash.....	7,355 19
Cost of construction.....	1,620,161 69
Cost of equipment.....	264,693 53
Total cost of entire line.....	<u>1,901,542 11</u>

ORIGINAL COST AND PRESENT ESTIMATED VALUE OF TOTAL PROPERTY IN THIS STATE.

DESCRIPTION OF PROPERTY.

	Original cost.	Present cash value.
Right of way, as per accompanying schedule.....	\$9,331 70	\$9,331 70
Land for depots, stations, etc., as per schedule.....	7,325 19	7,325 19
Total cash valuation of all lands purchased....	<u>16,656 89</u>	<u>16,656 89</u>
Grading, as per schedule.....	129,455 62	129,455 62
Bridging, as per schedule, 36 (wood)	53,623 98	53,623 98
Total cash value of substructure.....	<u>183,079 60</u>	<u>183,079 60</u>
Ties and tying.....	30,754 85	30,754 85
Iron rails, 99.8 miles, 50 lbs. per yard.....	634,171 80	570,754 62
Steel rails.....	None.	None.
Chairs, spikes, fish-bars, etc.....	57,677 49	57,677 49
Laying track.....	11,469 23	.....
Total cash value of superstructure....	<u>734,073 36</u>	<u>670,656 19</u>

Passenger stations, fixtures and furniture, as per schedule	9	} 14,818 79	14,818 79
Freight stations and fixtures and furniture, as per schedule	1		
Engine and car shops, as per schedule	4	6,918 49	6,918 49
Machine shops, as per schedule	None.	.....	.....
Machinery and fixtures, as per schedule .....	.....	2,164 35	2,164 35
Car sheds, as per schedule	None.	.....	.....
Turn tables, as per schedule	3	3,269 64	3,269 64
Wood sheds and stations, as per schedule	6	10,956 15	10,956 15
Fencing .....	.....	1,172 06	1,172 06
Elavators as per schedule	None.	.....	.....
Total cash valuation of buildings of every sort.		<u>39,299 48</u>	<u>39,299 48</u>
Engineering expenses before and during construction ..		17,304 72	17,304 72
Salaries of officers and agents essential during construction		4,550 00	4,550 00
Total cost of engineering and official management during construction		<u>21,854 72</u>	<u>21,854 72</u>
Total original cost and present estimated cash value of line unequipped		<u>994,964 06</u>	<u>931,546 88</u>
Locomotives, as per schedule. 5. Av. wt. tons, 29..		65,256 94	65,256 94
Tenders, as per schedule 5. Av. wt. tons, 11..		Thrown in	.....
Passenger cars, 1st class 2. Av. wt. tons, 18 }		} 21,090 71	18,981 64
Passenger cars, 2d class 2. Av. wt. tons, 15 }			
Mail cars	2.	Av. wt. tons, 12 }	
Freight cars, closed	20.	Av. wt. tons, 9½ }	
Platform cars	250.	Av. wt. tons, 7 }	177,680 88
Hand cars	10.	Av. wt. tons, ¼..	665 00
Machinery and tools to accompany trains, repair track, etc., used by trackmen and others		144 49	144 49
Total cash value of equipment		<u>264,838 02</u>	<u>244,961 86</u>
Amounts paid for and present value of road not built by company		None.	None.
Grand total original cost and estimated value of line equipped		<u>1,259,802 08</u>	<u>1,176,508 74</u>

CHARACTERISTICS OF ROAD.

LENGTH OF ROAD.

Length of main line of road from Tomah to Wausau:		
Entire length		88.7
Length in Wisconsin		88.7
Weight of rail per yard		50
Branches		None.
Aggregate length of sidings and other track not above enumerated.		11.7 miles.
Number of "common points"		Can't say.
What is the gauge of your line		4 ft. 8½ inches.

DOINGS OF THE YEAR IN TRANSPORTATION.

CHARACTER OF SERVICE.

	Persons employed.	Salary per annum.
Division and assistant superintendents	1	\$2,500 00
Clerks in all offices	2	1,200 00
Master and assistant mechanics	1	1,440 00
Conductors	3	840 00
Engineers	4	1,200 00
Brakemen	6	540 00
Flagmen, switch-tenders, gate-keepers, and watchmen ...	1	540 00
Station-agents	10	642 00
Section-men	36	455 25
Other employees	10	570 00

MILEAGE AND TONNAGE.

	Whole line.	In Wisconsin.
Number of miles run by passenger trains	45,931.6	Same.
Number of miles run by freight and mixed trains	50,560.1	Same.
Number of miles run by construction and other trains ..		Can't say.
Total mileage	96,591.7	
Mileage of empty freight cars	Can't say.	
Total number passengers	14,675	Same.
Total number tons freight carried one mile	1,605,642.408	Same.
Total number passengers carried one mile	626,885	Same.
Average distance traveled by each passenger	42.6	Same.

Miles per hour.

The highest rate of speed allowed for express passenger trains.....	25
Schedule rate of same, including stops	20
The highest rate of speed allowed for mail and accommodation trains.	25
Schedule of same, including stops	20
The highest rate of speed allowed for freight trains.....	15
Schedule rate of same, including stops	10
Amount of freight carried per car	Can't say.
Amount of freight carried per train	Can't say.

TOTAL FREIGHT IN TONS.

	In Wisconsin.
Grain	1,840.83
Flour	470.20
Provisions	262.40
Salt, cement, water lime and stucco	203.81
Manufactures, including agricultural implements, furniture and wagons.	341.29
Live stock	9.50
Lumber and forest products	27,880.72
Iron, lead and mineral products .....	.83
Stone, brick, lime, sand, etc	330.47
Coal	137.97
Merchandise and other articles	5,388.03
Total tons	36,866.02

When and to whom was the original stock, owned by the company sold, and what was the cash value realized by the company for the same?

Already answered.

EARNINGS DURING THE YEAR ENDING JUNE 30, 1874.

MONTHLY EARNINGS FROM ALL SOURCES IN WISCONSIN.

Months.	Passengers.	Freight.	Mails.	Express.	Other sources.	Totals.
1874.						
July.....	\$1,894 57	\$4,927 53	.....	.....	\$25	\$6,847 10
August.....	1,828 79	3,529 40	.....	.....	25	5,383 19
September.....	2,709 37	6,255 91	.....	.....	34	7,999 28
October.....	2,476 75	4,289 80	.....	.....	25	6,791 55
November.....	3,003 28	4,781 28	.....	.....	525	8,309 56
December.....	2,643 18	4,843 68	\$2,595 65	.....	285	10,367 51
1875.						
January.....	1,839 62	3,999 28	600 00	\$33 98	25	6,497 88
February.....	1,602 08	2,988 13	37 00	22 37	25	4,637 58
March.....	2,294 34	7,334 12	.....	18 46	25	9,671 92
April.....	3,536 21	8,424 20	127 14	25 20	25	12,137 75
May.....	3,472 06	9,151 91	472 88	38 20	25	13,160 05
June.....	3,476 81	12,145 18	.....	41 40	25	15,688 39
Totals.....	30,777 06	71,670 42	3,795 67	179 61	1,069	107,491 76

Earnings per mile of road.....	\$1,211 85
Earnings per mile of road on freight.....	808 00
Earnings per mile on passengers.....	346 86
Earnings per train-mile, run on freight.....	1 41
Earnings per train-mile run, on passengers.....	60
Of the earnings of the entire line, what is the ratio of the passenger to the freight?.....	as 5 to 11 $\frac{31}{100}$
Average gross earnings per mile (88.7 miles) of road, exclusive of sidings.....	\$1,211 85
Average net earnings per mile (88.7 miles) of road exclusive of sidings.....	351 17
Average net earnings per train-mile.....	32

EXPENSES DURING THE YEAR ENDING JUNE 30, 1875.

PAYMENTS FOR CURRENT AND OPERATING EXPENSES.

Maintenance of way:	
Repairs of track, including new and re-rolled iron rail in place of old iron rail.....	\$18,050 22
Repairs of bridges.....	1,079 32
Maintenance of rolling-stock:	
Locomotives.....	\$1,814 44
Passenger, baggage, mail and express cars.....	973 48
Freight-cars.....	3,327 82
Shop-tools and machinery.....	399 74
	6,415 48
Conducting transportation, and general expenses:	
Management and general office.....	3,084 96
Foreign agency and advertising.....	313 26
Agents and station-service.....	6,745 91
Conductors, baggage and brakemen.....	5,687 63
Engineers, firemen, and wipers.....	9,060 71
Train and station supplies.....	1,869 01
Fuel consumed.....	12,282 50
Oil and waste.....	2,944 80
Personal expenses.....	720 15
Other general operating expenses, as per items below.....	6,403 43
	49,112 36

Current expenses:	
For taxes.....	\$1,585 05
<hr/>	
Total current operating expenses, being 70 per cent. of earnings	76,242 43
<hr/>	
Average operating expenses per mile of road, exclusive of sidings ...	88 ⁹ / ₁₀₀ cents.
Average operating expenses per train-mile	74 cents.
Excess of earnings over operating and current expenses	\$31,249 33
Cost of maintaining track and bridges per mile run.....	18 cents.
Cost of repairs of engines per mile run.....	1 ¹ / ₂ cents.
Cost of engineers and firemen per mile run.....	9 cents.
Cost of oil and waste per mile run	2 ⁹ / ₁₀ cents.
Cost of fuel per mile run.....	12 ¹ / ₂ cents.

EXPENSES, ETC.

PAYMENTS IN ADDITION TO OPERATING EXPENSES.

For interest on bonds....	\$46,556 17
Dividends on preferred stock)	
Dividends on common stock }	No dividend.
Total payments in addition to operating expenses.....	46,556 17
What amount of money have you expended for building roads out of the State, from proceeds arising from business done on your roads in this State	None.
Specify each patent in use on your road, and the amount paid as royalty for such patents, in separate items?.....	None.
How was amount of dividends paid the past year—cash, stock, or otherwise? Specify amounts and manner of payment?.....	None.

GENERAL BALANCE SHEET, 1st OF JULY, 1875.

Assets.	Amount.	Liabilities.	Amount.
Mortgage bonds.....	\$1,804,939 53	J. N. Dennison, Jr.....	\$20,097 03
Bills payable.....	116,597 69	Expense-account, Boston.....	37 04
H. H. Hunnewell.....	3,000 00	Interest.....	1,267 99
Donation-account.....	43,750 00	Coupon-account.....	13,842 09
Unpaid vouchers.....	16,501 41	Discount.....	37,030 00
Passenger earnings.....	16,221 12	Cash.....	8,697 98
Freight earnings.....	44,042 82	Tax-account.....	1,585 05
Miscellaneous earnings.....	150 00	Deposit, Marathon County.....	8,804 16
Mail earnings.....	1,202 00	Operating expenses.....	42,669 17
Express earnings.....	179 61	Construction.....	1,636,848 58
		Supplies on hand.....	6,266 45
		Equipment.....	264,693 53
		Foreign-ticket account.....	4,743 13
Total.....	2,046,582 20	Total.....	2,046,582 20

What is your estimate of the cost to you, for the transportation of each passenger per mile? Can't say.

What is your estimate of the cost to you, per ton per mile, for the transportation of freight? Can't say.

What regulation governs your employees in regard to crossings of other railroads, and are they found to be sufficient?

All trains come to a full stop at a sign 400 feet from crossing. and found to be sufficient.

What regulations govern your employees in regard to crossing, of public highways? And are these regulations found to be sufficient?

Whistle sounded and bell rung. Sufficient.

What platform and coupler between passenger cars, do you use?

Miller's patent platform-coupler and buffer.

What kind of brakes do you use on passenger trains? Common brake.

UNITED STATES MAIL.

What is the compensation paid you by the U. S. Government for the transportation of its mails, and on what terms of service?

Mail carried on compensation as per act of Congress, March 3, 1873.

EXPRESS COMPANIES.

What express companies run on your road, and on what terms, and on what conditions as to rates, use of track, machinery, repairs of cars, etc.; what kind of business is done by them, and do you take their freights at the depot, or at the office of such express companies?

American Express Company. Goods carried on local freight tariff, 1st class.

TRANSPORTATION COMPANIES.

What freight and transportation companies run on your road, and on what terms, and on what conditions as to rates, use of track, machinery, repairs of cars, etc. Do they use the cars of your company, or those furnished by themselves, and are their cars or their freight given any preference in speed or order of transportation, and if so, in what particular? None.

SLEEPING-CARS.

Do sleeping or dining cars run on your road, and if so, on what terms are they run, by whom are they owned, and what charges are made in addition to the regular passenger rates? None.

ADDITIONAL QUESTIONS.

Date of original charter of the road and that of any road consolidated with it, with the names of the companies.

Act approved October 3, 1856.

Date of foreclosure and sale, under which road and each branch is now held and terms and amount of each sale. None.

Rates and dates of all cash-dividends on stock of original and consolidated companies, as far as known? None.

Rates and dates of stock and other dividends, not cash, of original and consolidated companies? None.

Date when main line (giving termini and length) was completed and put in operation.

November 9, 1874. Tomah to Wausau, 88 $\frac{7}{10}$ miles.

Date of the commencement of operating of each branch line, giving termini and length. None.

Roads operated under lease (whether temporary or permanent) giving name, termini, length, address of lessors and terms of lease. None.

What running arrangements have you with other railroad companies, setting forth the contracts for the same.

None. Our passenger trains connect as near as possible at crossings with other passenger trains.

What is the total number of acres of swamp or other State lands granted to your company by the State? None.

What is the total number of acres United States lands granted to your company by Congress directly, or through the State? None.

What number acres received by your company, directly or indirectly? 200 000 acres.

What number acres sold and conveyed? None.

Average price, per acre, realized? Not priced.

To what corporations have you sold land? How much, and at what price? None.

Number of acres now held by company? 200,000 acres.

Average price asked for lands now held by company? Not priced.

Value of donations of right of way or other real estate?

\$65,000 for stock; \$50,000 for stock.

Amount of city, county, and town aid granted to company in exchange for stock, or otherwise? Specify particulars.

Marathon Co. subscribed for 500 shares which was paid for one-half in cash and the balance by 200,000 acres of land, and Wood Co. subscribed for 500 shares and paid in bonds; City of Wausau 80 shares, and town of Weston 20 shares, both paid in cash.

Total cash amount realized from such aid? \$35,000

Amount of land sold, but not conveyed, under contracts now in force? None.

The whole amount of cash, principal, and interest received for lands hitherto sold and conveyed. \$3,000

Whole amount of cash received, principal and interest on outstanding contracts in force None.

Whole amount of cash received, principal and interest, on contracts forfeited? None.

Whole amount of cash received for stumpage, trespasses, &c.? None.

What have been your total receipts from lands sold and contracted to be sold the past year? None.

What is the aggregate sum of receipts on account of lands, from all sources whatever, up to the present time? None.

What is the amount now due the company on lands sold, or contracted to be sold? None.

ACCIDENTS.

Thos. Murray killed at Junction City, Nov. 9, 1874, while under the influence of liquor, and attempting to get on a train while under motion.

Of the above accidents those numbered as follows were caused by broken rails None.

Of the above accidents those numbered as follows were caused by INATTENTION OF EMPLOYEES. None.

Of the above accidents those numbered as follows were caused by COLLISIONS not properly coming under 2 None.

Of the above accidents those numbered as follows were caused by explosions None.

Amount paid as damages on account of stock killed by train. \$521 00

Amount paid as damages caused by fire from locomotive None.

STATE OF WISCONSIN, *County of Monroe, ss.*

F. O. Wyatt, Superintendent, and G. O. Cromwell, Assistant Treasurer, of the Wisconsin Valley Railroad Company, being duly sworn, depose and say that they have caused the foregoing statements to be prepared by the proper officers and agents of this company, and having carefully examined the same declare them to be a true, full and correct statement of the affairs of said company, on the first day of July, A. D. 1875, to the best of their knowledge and belief.

F. O. WYATT, *Supt.*
G. O. CROMWELL, *A. T.*

Subscribed and sworn to before me, ——— this ——— day of ——— A. D. 1875.
EDWIN W. BEEBEE,
Notary Public.

A list of Stockholders at the date of the annual meeting for election of directors, January 25, 1875.

Names.	Shares	Names.	Shares
Aspinwall, John L.	15	Cordner, John.	3
Adams, Zenas L.	12	Clark, Emmons	3
Arnold, Anthony B.	3	Clark, Geo. R.	15
Anthony, Hezekiah.	3	Clement, Isaac	3
Ames, Fred. L.	3	Carmicheal, D. & W	3
Appleton, Frances H.	3	Church, Thaddeus H.	6
Abbe, F. R.	3	Clark, Rev. N. G.	3
Allen, Candee.	1	Chandler, Geo. B.	15
Brown, J. Proudfit.	12	Currier, Moody.	15
Barnes, A. S.	3	Colegate, Jas. B. & Co.	60
Binney, Mrs. Josephine A.	3	Coolidge, T. Jefferson.	75
Butler, Eliza, exec'r and trustee.	12	Colt, James D.	6
Butler, E. H.	3	Clark, John C., chairman, etc.	250
Blankenship, Peleg.	1	Chase, Nathan.	3
Brooks, Miss Catharine.	3	Converse, William.	3
Boutwell, C. C.	9	Carruth, Nathan.	3
Brown, Cicero.	6	Carruth, Charles.	3
Brooks, Shepherd.	60	Carruth Charles T.	3
Bullard, W. S.	3	Cleavland, C. D.	3
Bemis, Seth.	6	Davis, William F.	3
Bemis, J. W.	15	Day, H., & J. B. Stebbins, trust's.	15
Butte, Charles H.	15	Delafield, Maturin L.	15
Bronson, Henry.	3	Denman, estate of J. M.	3
Brooks, Lewis.	30	Denman, Mrs. Mary R.	3
Ball, True M.	6	Davis, James.	3
Baxter, J. H.	9	Damon, Mrs. Rebecca P.	12
Bickford, H. C.	3	Daniels, Leonard.	9
Bickford, Mrs. Maria R.	3	Durant, Mrs. Pauline A.	3
Bush, H. V.	3	Dexter, Benjamin.	3
Butte, Rodolphus.	6	Dixwell, J. J., trustee.	6
Bronson, Oliver.	15	Douglass, Robert.	6
Boyd, James.	15	Edwards, Walter.	3
Baker, Edward L.	30	Edwards, Oscar.	3
Bright, John J.	9	Englesby, Leavrett B.	3
Bottom, E. W.	6	Eastabrooks, J. W.	9
Bayliss, Mrs. Nathalie E.	6	Eldridge, John B.	15
Bartlett, Francis.	30	Emerson, Geo. B.	3
Bissell, M. C.	3	Ely, Anna C.	1
Burnham, John A.	267	Ferris, Mortimer C.	15
Bartlett, Sidney.	267	Forbes, John A., Trustee A. L. I.	15

List of Stockholders—Continued.

Names.	Shares	Names.	Shares
Forbes, J. M. & W. H., Trustees, P. S. F. C.	54	Kimball, Lemuel.....	6
Forbes, J. M., Trustee F. C. & G	9	King, William J.....	12
Forbes, John M.....	72	King, F. A. (Trustee).....	3
Foote, Caleb.....	6	Kempton, Caleb.....	3
Frothingham, Louisa D.....	3	Kitteredge, John.....	3
Fowl, Paulina C.....	9	Kempton, J. B.....	3
Frary, L. F.....	9	Kidder, Henry P.....	15
Fay, Richard L.....	15	Kirkpatric, Andrew.....	3
Frothingham, Richard.....	6	Kenedy, George W.....	3
Greene, Oeo. W.....	3	Lawrence, Francis W.....	6
Greene, Charles G.....	3	Leland, Francis.....	6
Gilman, Hannah F.....	3	Lyon, Horatio.....	3
Godding, W. W.....	6	Lafone & Frothingham.....	6
Goodnow, Henry.....	3	Lathrop, Horace A.....	3
Goddard, Mrs. Matilda.....	3	Lothrop, Cyrus.....	3
Goddard, Miss Rebeca.....	3	Lothrop, Henry F.....	3
Gibbs, O. A.....	3	Meredith, Mrs. Hannah.....	15
Gulliver, Samuel.....	6	Mathewson, John.....	18
Gibbins, Eliza.....	18	Miller, Ichabod R.....	3
Gilbert, Samuel.....	15	Miller, Frederick.....	45
Gilpatric, Anna A.....	3	Makenzie, John T.....	6
Glover, Thomas R.....	2	Mott, Alexander B.....	6
Henderson, Wm. H.....	3	May, Miss Abby W.....	3
Hart, William Howard.....	15	May, J. Russell.....	3
Hicok, Lily S.....	6	Mix & Miller.....	3
Hadley, Joseph E.....	1	Mentland, Phelps & Co.....	45
Hickling, Charles.....	3	Makepeace, L. B.....	3
Howland, P. C.....	3	Morgan, Miss Sarah R.....	3
Hemmenwell, H. H.....	267	Mercer, Rev. A. G.....	3
Hutchinson, William.....	15	Massy, Wm. H., executor.....	9
Hornblower, E. T.....	12	Newton, John M.....	3
Hooper, Nathaniel L.....	3	Nora, Mary.....	3
Holmes, Cyrus W.....	6	Nash, Charles.....	3
Hoskins, Charles C.....	9	Nash, Nathaniel C.....	15
Harding, Abner C.....	18	Nance, Hiram.....	3
Hicks, Andrew.....	15	Nelson, H. W.....	12
Hicks, John.....	15	Odlin, Woodbridge.....	3
Hale, Charles.....	6	Pierce, George A.....	3
Howland, James Henry.....	3	Page, Edward.....	15
Howard, William H.....	3	Pratt, Elliot W.....	6
Height, Joseph, Jr.....	15	Parker, Edwin C.....	3
Holland, E. M.....	3	Peabody, George.....	60
Haven, W. A.....	3	Pratt, Mary.....	60
Hodges, A. S.....	3	Payson, Edward H.....	3
Hall, A. T.....	30	Pratt, Mrs. Louisa Jane.....	3
Heyward, James T.....	6	Prince, Miss Mary E (Trustee).....	3
Hathaway, Horatio.....	30	Pickering, Edward.....	15
Headly, Stephen, D.....	1	Parrott, Robert P.....	9
Jasigi, Joseph.....	60	Palfry, F. W.....	15
Jones, Obediah W.....	6	Pike, James S.....	3
Johnson, Joseph C.....	3	Pratt, Wm. & E. R. Morse, (Trustees).....	6
Jewett, Jacob B. (Agent).....	6	Parker, Ward M.....	3
Jackson, Charles E.....	3	Prescott, Oliver.....	9
Jones, Edward C.....	30	Potch, William J.....	18
Joy, James F.....	267	Ruel, Edward.....	6
Ketchum, J. H.....	30	Rotch, Benj. S.....	30

List of Stockholders—Continued.

Names.	Shares	Names.	Shares
Rogers, Wm. B.	6	Tuckerman, Swains.	30
Russell, Charles H.	15	Tuckerman, Joseph.	3
Rivet, Joseph.	6	Tufts, Arthur W.	3
Robinson, J. S.	9	Tayer, Nathaniel.	522
Ross, James.	6	Thayer, Ebenezer.	15
Rice, R. N.	30	Tyler, Edward.	3
Richardson, A. L.	3	Tinker, E. G.	6
Rodman, Susan E.	3	Turner, Seth.	15
Randall, David.	3	Thompson, Benjamin.	12
Robeson, Mary A.	1	Train, Stephen G.	3
Russell, Henry G.	15	Upham, Henry.	15
Swain, O. B.	3	Von Hoffman, L. & Co.	30
Smith, Sarah C.	6	Vandervoort, Mrs. Mary F.	18
Small, Isaac.	6	Warriner, J. R.	6
Stebbins, John B.	15	Webb, Josiah.	3
Spalding, Edward.	15	Welch, Francis W.	3
Sears, R. W.	6	Wilbur, Mary M.	3
Shepherd, Miss Sophia.	3	Weld, William F.	150
Sargent, Henry W.	15	Wigglesworth, Thomas.	9
Sweetter, Isaac.	15	Wheeler, J. S.	3
Swan, Charles F.	3	Wood County, Wisconsin.	500
Sanders, Mrs. Mary A.	3	Wentworth, Mark H.	15
Stemton, J. O.	3	Washburn, Miles.	3
Suter, Hales W.	9	Whitney, H. A.	30
Stearns, Frank P.	3	Woodbury, Oliver A.	3
Stearns, Frank P., Trustee.	3	White, Rev. Will O.	3
Stone, Daniel P.	90	Wells, Owin.	15
Saville, Henry M.	3	Whittaker, Joseph, Executor B.	
Smith, Leland A.	3	Ingham.	45
Storrs, Elizabeth K.	3	Whittaker, Joseph.	45
Swift, Miss M. F.	3	Warren, Jonas.	3
Stemton, Alexandrine, Exce'trix,	3	Whitney, Edwin.	3
Sedyley, James.	6	Walbach, Mrs. Penelope R.	3
Stebbins, John B., and H. Alex-		Walker, Josett.	30
ander, Trustee.	3	Wausau, City of, Wisconsin.	80
Smith, Edward.	6	Weston, Town of, Wisconsin.	20
Sears, Sarah P.	3	Wing, N. H.	6
Sohier, E. D., and W. S. Dexter,			
Trustees.	9	Total.	5,260

REPORT
OF THE
SHEBOYGAN & FOND DU LAC RAILROAD COMPANY.

For the Year ending 30th of June, 1875.

OFFICERS AND OFFICES.

Names.	Address.	Salaries.
J. A. Bently, President.....	Sheboygan, Wis.....	\$3,600 00
A. G. Ruggles, 1st Vice President.....	Fond du Lac, Wis.....	See Treas'r.
Edwin Slade, Secretary.....	Glenbeulah, Wis.....	Not fixed.
A. G. Ruggles, Treasurer.....	Fond du Lac, Wis.....	Not fixed.
J. A. Bently, General Superintendent.....	Sheboygan, Wis.....	See Pres't.
L. Emerson, Gen. Ticket Agent and Assistant Superintendent.....	Fond du Lac, Wis.....	1,800 00
T. H. Malone, General Freight Agent.....	Fond du Lac, Wis.....	2,500 00
M. Ewing, Auditor and Cashier.....	Fond du Lac, Wis.....	1,200 00
Total salaries.....		9,100 00

General offices at Fond du Lac, Wis.

Names of Directors.	Residence.
A. G. Ruggles	Fond du Lac, Wis.
F. A. Foster.....	Fond du Lac, Wis.
Edwin Slade.....	Glenbeulah, Wis.
J. A. Bentley	Sheboygan, Wis.
Moses Taylor.....	New York City.
R. G. Rolston.....	New York City.
S. M. Barrett.....	Cincinnati, Ohio.

Date of annual election of directors.

Third Wednesday in January.

Name and address of person to whom correspondence, concerning this report, should be directed.

J. A. Bentley, President, Sheboygan, Wis.

CAPITAL STOCK.

Capital stock authorized by charter..... \$1,550,500 00

COMMON STOCK ISSUED.

Stock subscribed by municipalities paid in bonds.....	146,100 00
Stock subscribed by individuals and other corporations paid in cash.....	2,100 00
Stock issued for construction account on extension lines.....	1,000,000 00
Original stock on formation of the Company, under foreclosure of Sheboygan & Mississippi Co., first mortgage.....	250,000 00
Total common stock.....	1,398,200 00

PREFERRED STOCK ISSUED.

Amount of preferred stock.....	None.
Rate of preference and for what issued.....	None.
Proportion of stock for Wisconsin.....	All.

A list of stockholders at the last election of directors, showing the name, residence and amount of stock owned by each, must be filed herewith.

No such list preserved, but it is believed all stock was owned in Wisconsin, or by persons who were represented by local agents.

When and to whom was the original stock, owned by the Company, sold and what was the cash value realized by the Company for the same?

See answer to No. 11.

If any stock has been issued since the original, state the date or dates when the same was issued, to whom issued, in what manner the same was paid for, and the cash value realized by the Company for the same.

\$1,000,000 to S. M. Barrett, Alfred Wild and John A. Peck, one-third to each as payment for construction of line between Glenbeulah and Fond du Lac. \$167,100 issued to municipalities as follows, viz: \$11,900, town of Rosendale; \$9,400, town of Fond du Lac; \$39,800, city of Fond du Lac; \$30,000, city of Ripon; \$10,000 town of Ripon; \$20,000, town of Brooklyn; \$5,000, town of St. Marie; \$20,000, town of Princeton. To several individuals, paid for in cash, \$2,100.

FUNDED AND UNFUNDED DEBT.

Describe severally all outstanding classes of bonds, including amounts, dates of issue, interest, where and when payable:

7 per cent. bonds were issued to contractors mainly in construction of line from Glenbeulah to Fond du Lac, and maintaining old line, and were not sold for cash. Payable at the bank of North America. New York, June 1, 1884.....	\$750,000 00
Amount of debt not secured by mortgage.....	850,000 00
8 per cent bonds payable at Farmer's Loan and Trust Co., N. Y., Oct. 1, 1896.....	70,309 13
Total funded and unfunded debt.....	1,670,309 13
Net cash realized from bonded debt, above described.....	617,600 00
\$772,000, 8 per cent. bonds sold at 8 per cent.; \$78,000, 8 per cent. bonds, hypothecated.	
Proportion of debt, bonded and floating, for Wisconsin.....	All.

COST OF ROAD AND EQUIPMENT.....

Cost of right of way, estimated.....	\$125,000 00
Cost of real estate exclusive of right of way, estimated.....	40,000 00
Cost of construction.....	2,464,654 89
Cost of equipment.....	209,442 76

Amounts paid for road, or portions of road, not built by the Company (specifying amounts paid, and how paid, in each case and line acquired):

At time of foreclosure sale in 1861, line was constructed from Sheboygan to Glenbeulah and was sold for the face of the first mortgage bonds of the S. & M. Co., and interest. Stock issued to represent \$20,000 and included in above statement of cost of construction.

ORIGINAL COST AND PRESENT ESTIMATED VALUE OF TOTAL PROPERTY IN THIS STATE.

Can give no satisfactory answer to these in time for this report.

	No.	Av. wt. tons.
Locomotives, as per schedule.....	5	30
Tenders, as per schedule.....	5	15
Snow plows, as per schedule.....	2	.....
Passenger cars, 1st class.....	3	20
Passenger cars, 2d class.....	3	15
Baggage cars.....	2	} 15
Mail cars.....	2	
Express cars.....	2	
Freight cars, closed.....	76	9
Platform cars.....	68	7½
Hand cars.....	12	.....

CHARACTERISTICS OF ROAD.

Length of main line of road from Sheboygan to Princeton—	
Entire length.....	79 miles.
Length in Wisconsin.....	79 miles.
Aggregate length of sidings and other track not above enumerated.....	4 miles.
Number of "common points."	
Four. Ripon, Fond du Lac, Plymouth and Sheboygan.	
What is the gage of your lines?	
Four feet, eight and one-half inches.	

DOINGS OF THE YEAR IN TRANSPORTATION.

CHARACTER OF SERVICE.

	Number per- sons empl'yd.	Av. Salary pr annum.
Division and assistant superintendents.....	1	\$1,800 00
Clerks in all offices.....	3	600 00
Master and assistant mechanics.....	19	720 00
Conductors.....	3	780 00
Engineers.....	3	936 00
Firemen.....	4	499 20
Brakemen.....	6	516 00
Flagmen, switch-tenders, wipers, and watchmen.....	1	528 00
Station agents.....	12	612 00
Section men.....	38	456 00
Laborers.....	19	414 00
Other employees.....	3	1,566 00

MILEAGE AND TONNAGE.

Number of miles run by passenger trains.....	28,697
Number of miles run by freight and mixed trains.....	53,361
Number of miles run by construction and other trains.....	3,010
Total mileage.....	<u>85,068</u>
Mileage of empty freight cars.....	20,919
Total number passengers carried.....	56,300
Total number tons freight carried one mile.....	2,128,560
Total number passengers carried one mile.....	957,100
Average distance traveled by each passenger.....	<u>17 miles.</u>

	Miles per hour.
The highest rate of speed allowed for express passenger trains.	25
Schedule rate of same, including stops.	18 3-4
The highest rate of speed allowed for mail and accommodation trains..	15
Schedule of same, including stops.	11
The highest rate of speed allowed for freight trains.	15
Schedule rate of same, including stops.	11

TOTAL FREIGHT IN TONS.

Grain	10,751
Flour	1,160
Salt, cement, water lime and stucco.	135
Manufactures, including agricultural implements, furniture and wagons.	1,434
Live stock.	447
Lumber and forest products.	12,928
Stone, brick, lime, sand, etc., mdse. and other articles.	12,972
Coal	3,387
 Total tons.	 <u><u>*53,214</u></u>

*In giving you the tonnage of freights, I have been unable to get it up from June, 1874, to June 1875, as all our reports showing tonnage end January. I have therefore given you the tonnage, January 1, 1874, to June 1, 1875, substituting tonnage of the first six months of 1874 for the tonnage of the first six months of 1875, so that owing to the great depression of business from January to July this year, the tonnage which we report will be found to be considerably in excess of what the real figures will show.

J. A. BENTLEY, *President*,

EARNINGS DURING THE YEAR ENDING JUNE 30, 1875.

MONTHS.	MONTHLY EARNINGS FROM ALL SOURCES.										TOTALS.	
	PASSENGERS.		FREIGHTS.		MAILS.		EXPRESS.		OTHER SOURCES.		Whole line.	Wisconsin.
	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.	Whole line.	Wisconsin.		
1874.												
July	4,860 70		4,892 48		193 00		40 18		37 75		10,024 11	
August	5,159 18		4,446 23		668 72		51 18		2 85		10,038 26	
September	4,323 67		5,790 35		490 00		52 07		11 40		10,597 49	
October	3,600 04		6,923 60		400 13		39 43		5 91		11,036 11	
November	2,966 97		4,574 26		400 25		41 38				7,183 35	
December	2,624 18		3,886 35		400 25		31 81				6,942 59	
1875.												
January	2,286 47		3,166 59		400 25		33 62				5,886 91	
February	1,152 85		1,838 24		400 25		18 73				3,410 07	
March	2,453 44		3,164 86		400 25		12 69				6,031 24	
April	3,303 81		4,527 65		400 25		20 48				8,252 19	
May	2,981 54		5,554 25		400 25		31 28				8,957 32	
June	3,559 86		6,796 89		400 25		35 17				10,792 17	
Total	39,332 71		55,551 83		4,870 85		408 51		57 91		100,221 81	

Earnings per mile of road	\$1,268,630 00
Earnings per mile of road on freight	758 00
Earnings per mile of road on passengers	497,882 00
Earnings per train-mile run, on freight	1.141
Earnings per train-mile run, on passengers	1.37
Of the earnings of the entire line, what is the ratio of the passenger to the freight	39 to60
Average gross earnings per mile [79 miles] of road, exclusive of sidings	1,268.630
Average net earnings per mile mile of road, exclusive of sidings. No net earnings	
Average net earnings per train mile.	See page 8, blank form, for an explanation.

EXPENSES DURING THE YEAR ENDING JUNE 30, 1875.

PAYMENTS FOR CURRENT AND OPERATING EXPENSES.

Maintenance of way:	
Repairs of track, including new and re-rolled iron rail in place of old iron rail	\$30,924 29
Repairs of bridges	490 46
Repairs of fences	2,512 41
Maintenance of buildings	2,552 03
Maintenance of rolling stock:	
Locomotives	6,646 82
Passenger, baggage, mail and express cars	6,080 79
Freight cars	
Shop tools and machinery	808 56
Conducting transportation, and general expenses:	
Management and general office	17,684 93
Foreign agency and advertising	3,515 44
Agents and station service	3,361 95
Conductors, baggage and brakemen	4,026 68
Engineers, firemen and wipers	6,253 69
Train and station supplies	3,852 50
Fuel consumed	8,537 75
Oil and waste	476 66
Personal expenses	1,317 28
Damage to persons, incurred in February, 1873	700 00
Damage to property	569 25
Loss and damage to freight and baggage	479 55
Legal expenses	180 65
Current expenses:	
For taxes	4,278 12
For insurance	552 50
Lease or privilege of other roads whose earnings are included in this report, giving name and amounts paid	None.
\$105,783 ³¹ / ₁₀₀ , total current operating expenses, being nearly—per cent over earnings.	
Average operating expenses per mile of road, exclusive of sidings	1,339 02
Average operating expenses per train mile	1.243
Cost of repairs of engines per mile run	121 ¹ / ₈
Cost of engineers and firemen per mile run	063 ³ / ₄
Cost of oil and waste per mile run	01
Cost of fuel per mile run	09

EXPENSES, Etc.

PAYMENTS IN ADDITION TO OPERATING EXPENSES.

New steel rail, excess of cost over iron rail, old track	} None.
New rail on new track	
New equipment	
New bridges and culverts (not included in replacements)	
Real estate bought during the year	\$400 00
New tools and machinery, included in operating expenses.	

New buildings, included in operating expenses.
 Total paid for new investment on the length of the company's lines one year ago..... Nothing.
 Amounts paid in cash, stock, bonds, or otherwise, for extensions, new lines and branches, during the past year—specify particularly..... Nothing.
 Dividends on preferred stock..... } Nothing.
 Dividends on common stock..... }
 What amount of money have you expended for building roads out of State, from proceeds arising from business done on your roads in this State..... Nothing.
 Specify each patent in use on your road, and the amount paid as royalty for said patents, in separate items.
 This requires a more critical examination of all machinery and tools than I can give it. We pay no royalties outside of purchase price.
 How was amount of dividends paid the past year—cash, stock, or otherwise? Specify amounts and manner of payment..... None paid.

GENERAL BALANCE SHEET, 1ST OF JULY, 1875.

The financial year begins with us January 1st. Hereafter a balance may be taken off July 1st.

What regulations govern your employees in regard to crossings of other railroads and are they found to be sufficient?

Always stop before crossing 400 feet, and if two trains, one on each road, arrive at crossing at about the same time, the one which first coming to a full stop, first moves across the crossing at a rate of speed not exceeding six miles an hour. These regulations if properly observed are sufficient.

What regulations govern your employees in regard to crossings of public highways? and are these regulations found to be sufficient?

Blow whistle one short blast, eighty rods from crossing, and ring the bell until crossing is passed. This is sufficient.

What platform and coupler between passenger cars, do you use?
 Ordinary platform, and link and pin coupler.

What kind of brakes do you use on passenger trains?
 Ordinary hand brakes.

U. S. MAIL.

What is the compensation paid you by the U. S. Government for the transportation of its mails, and on what terms of service?
 \$60.00 per mile.

EXPRESS COMPANIES.

What express companies run on your road, and on what terms, and what conditions as to rates, use of track, machinery, repairs of cars, etc., what kind of business is done by them, and do you take their freights at the depot, or at the office of such express companies?

American Express Co. An apartment in a car is furnished for a messenger of the express company, and his goods. He simply travels with goods, taking charge of the same. Railroad company has nothing whatever to do with the goods, except to carry them. Their business is of a usual kind.

TRANSPORTATION COMPANIES.

What freight and transportation companies run on your road, and on what terms and on what conditions as to rates, use of track, machinery, repairs of cars, etc.? Do they use the cars of your company, or those furnished by themselves, and are heir cars or their freight given any preference in speed or order of transportation, and if so, in what particular?
 No such companies on the road.

SLEEPING CARS.

Do sleeping or dining cars run on your road, and if so, on what terms are they run by whom are they owned, and what charges are made in addition to the regular passenger rates?

None on the road.

ADDITIONAL QUESTIONS.

Date of original charter of the road and that of any road consolidated with it, with the name of the companies.

The Sheboygan and Mississippi R. R. Co., chartered March 8, 1852.

Date of foreclosure and sale, under which each road and each branch is now held, and terms and amount of each sale?

March 2, 1861, line from Sheboygan to Fond du Lac sold. Extension from Fond du Lac to Princeton built under authority of chapter 164, laws of 1871.

Rates and dates of all cash dividends on stock of original and consolidated companies, so far as known?

None were paid.

Rates and dates of stock and other dividends, not cash, of original and consolidated companies?

None were paid.

Date when main line (giving termini and length) was completed and put in operation?

Sheboygan to Plymouth 1858; Plymouth to Glenbeulah 1860; Glenbeulah to Fond du Lac 1868; Fond du Lac to Princeton 1872.

Date of the commencement of operating each branch line, giving termini and length?

See last answer.

Roads operated under lease, (whether temporary or permanent) giving name, termini, length, address of lessors, and terms of lease?

None.

What running arrangements have you with other railroad companies, setting forth the contracts for the same?

No arrangement except ordinary business interchange with all connecting lines, viz: With Chicago & Northwestern Railway at Fond du Lac. Chicago, Milwaukee & St. Paul Railway at Ripon; Wisconsin Central Railway at Plymouth; Milwaukee, Lake Shore & Western Railway and Goodrich Transportation Company at Sheboygan; also with steamer for Ludington, connecting with F. & P. M. R. R., at that place.

Connections for passengers are made with express trains at Fond du Lac, and with accommodations at Plymouth, Sheboygan, and Ripon.

What is the total number of acres of swamp or other State lands granted to your company by the State?

None.

What is the total number of acres United States lands granted to your company by Congress directly, or through the State?

None.

What number acres received by your company, directly or indirectly?

None except small strips for depot and right of way.

What number acres sold and conveyed?

None.

Average price, per acre, realized?

None.

To what corporations have you sold land? How much, and at what price?

Sold one Sheboygan city lot to Sheboygan Manufacturing Company for \$300

Number of acres now held by company?

None.

Average price asked for lands now held by company?

Nothing.

Value of donations of right-of-way or other real estate?

Three thousand dollars.

Amount of city, county, and town aid granted to company in exchange for stock, or otherwise? Specify particulars.

To the original company, Sheboygan & Mississippi R. R. Co., city of Sheboygan, \$200,000 in bonds. County of Sheboygan \$100,000 in bonds to the Sheboygan & Fond du Lac.

Total cash amount realized from such aid?

See below.

Amount of land sold, but not conveyed, under contracts now in force? None.

The whole amount of cash, principal and interest, received for lands hitherto sold and conveyed? \$300 00

Whole amount of cash received, principal and interest, on outstanding contracts in force?.....

Whole amount of cash received, principal and interest, on contracts forfeited?..... None.

Whole amount of cash received for stumpage, trespass, etc.....

What have been your total receipts from lands sold, and contracted to be sold, the past year?..... Nothing.

What is the aggregate sum of receipts on account of lands, from all sources whatever, up to the present time?..... \$300 00

What is the amount now due the company on lands sold or contracted to be sold?..... Nothing.

Company has received from—

City of Sheboygan.....	\$15,000
County of Fond du Lac.....	90,000
Town of Fond du Lac.....	9,400
City of Fond du Lac.....	39,800
Town of Rosendale.....	11,900
Town of Ripon.....	10,000
City of Ripon.....	30,000
Town of Brooklyn.....	20,000
Town of St. Marie.....	5,000
Town of Princeton.....	20,000

The town of Brooklyn bonds are in litigation and have never been delivered. \$2,000 St. Marie and \$8,000 Princeton bonds have not been delivered, not having been received according to the condition of the aid.

The amount of cash realized upon all this aid was about \$450,000, including aid to the old company.

ACCIDENTS.

No accidents.

Amount paid as damages on account of stock killed by trains..... \$269 25

STATE OF WISCONSIN, *County of Fond du Lac, ss.*

J. A. Bentley, President of the Sheboygan and Fond du Lac Railroad Company, being duly sworn deposes and says that he has caused the foregoing statements to be prepared by the proper Officers and Agents of this company, and having carefully examined the same declare them to be a true statement of the condition and affairs of said company, on the first day of August, A. D. 1875. to the best of his knowledge and belief, except as explained by accompanying letter dated Dec. 11, 1875.*

J. A. BENTLEY.

Subscribed and sworn to before me, a Notary Public, this 14th day of December A. D. 1875.

DANA C. LAMB,
Notary Public.

*See note under head "total freight in tons," in this report.

TABULATED STATEMENTS.

COMPILED FROM RAILROAD RETURNS OF 1874 AND 1874-5.*

- TABLE I.—Showing population, area and miles of railroads of the several States.
- TABLE II.—Mileage and cost of construction, &c., of railroads of the United States.
- TABLE III.—Showing per cent. of receipts to total capital and debt, &c.
- TABLE IV.—Railroad lines and parts of lines in Wisconsin, &c.
- TABLES V-XII.—Abstract from reports of railroads operated in Wisconsin in 1874.
- TABLE XIII.—Mileage of roads owned and operated, capital stock, &c.
- TABLE XIV.—Debt, totals of stock and debt.
- TABLE XV.—Characteristics—roadway.
- TABLE XVI.—Roadway; also buildings on Wisconsin lines.
- TABLE XVII.—Equipment.
- TABLE XVIII.—Cost of road and equipment.
- TABLE XIX.—Business of the year ending June 30, 1875.
- TABLE XX.—Passengers carried during 1874-5.
- TABLE XXI.—Freight carried during year 1874-5.
- TABLE XXII.—Tonnage of leading freights.
- TABLE XXIII.—Force employed in 1874-5.
- TABLE XXIV.—Monthly earnings during last half of 1874.
- TABLE XXV.—Monthly earnings during first half of 1875.
- TABLE XXVI.—Passenger earnings for 1874-5.
- TABLE XXVII.—Freight earnings for 1874-5.
- TABLE XXVIII.—Earnings from sources other than the passenger and freight business; also gross earnings, &c.
- TABLE XXIX.—Operating expenses, year 1874-5.
- TABLE XXX.—Operating expenses; also amount of taxes, insurance, rents, &c.
- TABLE XXXI.—Expenses per mile of road; per train-mile, &c.
- TABLE XXXII.—Operating expenses and interest compared with earnings.
- TABLE XXXIII.—Use made of excess of earnings.
- TABLE XXXIV.—Land grants and local aid.
- TABLE XXXV.—Accidents.
- TABLE XXXVI.—Comparative statistics showing financial condition and results of business operations during the year ending June 30, 1875.
- TABLE XXXVII.—Comparative statement of business during 1875-3, 1874-5.
- TABLE XXXVIII.—Comparative statement of earnings during 1873-4, and 1874-5.
- TABLE XXXIX.—Comparative statement of operating expenses, net earnings, taxes, insurance, and interest during 1873-4, and 1874-5.

* The statistics for 1874-5 are deduced from special returns made to the Commissioners for the year ending June 30, 1875.

TABLE I.—Showing the population, area and miles of railroads of the several States; also, the capital stock, debt, and total capital account of the several companies operating roads therein.*

	STATES.	Population.	Area square miles.	Miles railroad.	Inhabitants to miles railroad.	Square mile to mile railroad.	Capital stock.	Funded and other debt.	Total capital account.
1	Maine	640,000	35,000	957	669	36.6	\$16,100,024	\$24,979,694	\$41,079,718
2	New Hampshire	325,000	9,280	918	354	10.1	10,730,152	5,034,884	15,765,036
3	Vermont	336,000	10,212	778	432	12.1	9,333,900	18,421,384	27,755,284
4	Massachusetts	1,575,000	7,800	1,786	882	4.3	61,362,307	41,383,435	102,745,742
5	Rhode Island	245,000	1,306	173	1,416	7.5	3,832,017	2,418,864	6,250,881
6	Connecticut	575,000	4,750	897	641	5.3	35,767,515	18,928,550	54,696,065
	New England States	3,696,000	68,348	5,509	671	12.4	137,125,915	111,166,811	248,292,726
7	New York	4,600,000	47,000	5,250	876	8.9	278,998,316	204,959,079	483,957,395
8	New Jersey	1,016,000	8,320	1,438	707	5.8	81,993,415	94,964,490	176,957,905
9	Pennsylvania	3,775,000	46,000	5,687	664	8.0	251,342,899	309,292,315	660,635,214
10	Delaware	135,000	2,120	280	480	8.0	2,789,652	2,557,871	5,347,523
11	Maryland and Dist. Columbia ..	1,000,000	11,188	1,060	906	10.5	42,669,568	48,658,736	91,328,304
12	West Virginia	495,000	23,000	576	803	39.9	140,750	.....	140,750
	Middle States	11,001,000	137,628	14,291	769	9.6	657,934,601	660,464,491	1,318,399,092
13	Ohio	2,810,000	39,964	4,398	644	9.0	209,398,767	217,587,924	426,986,691
14	Michigan	1,370,000	56,457	3,361	408	16.9	46,065,988	86,940,132	133,006,120
15	Indiana	1,800,000	33,889	3,890	462	8.7	97,399,529	115,906,862	213,306,391
16	Illinois	2,875,000	55,410	6,759	429	8.2	210,546,899	189,421,375	399,968,274
17	Wisconsin	1,190,000	53,924	2,428	490	22.2	40,285,544	57,131,519	97,417,063
18	Minnesota	610,000	83,531	1,990	307	42.0	25,255,626	76,916,123	102,171,749

19	Iowa	1,425,000	55,045	3,765	378	14.6	50,784,951	46,464,768	97,749,719
20	Kansas	610,000	81,318	2,150	280	37.8	45,329,950	78,954,673	124,284,623
21	Nebraska†	225,000	75,995	1,107	203	68.7	54,916,000	97,114,008	152,030,008
22	Missouri	1,950,000	65,351	2,880	677	22.7	100,532,668	93,816,124	194,348,792
23	Wyoming Territory	55,000	97,883	459	120	214.9	.....	.....	.....
24	Utah Territory	115,000	84,476	459	250	184.0	4,800,000	4,365,000	9,165,000
25	Dakota Territory	36,000	150,932	275	130	54.9	1,500,000	1,200,000	2,700,000
26	Colorado Territory	100,000	104,500	682	147	153.2	12,214,300	7,329,114	19,543,414
	Western States	15,160,000	1,038,588	34,882	445	29.8	899,030,222	1,073,948,622	1,972,177,844
27	Virginia	1,240,000	38,348	1,638	757	23.4	34,947,528	61,376,890	96,324,418
28	North Carolina	1,120,000	50,704	1,315	851	38.5	21,606,300	14,793,396	36,399,696
29	South Carolina	720,000	34,000	1,320	550	25.8	15,955,134	15,575,346	31,530,480
30	Georgia	1,255,000	58,000	2,260	550	25.7	33,692,085	11,815,539	45,507,624
31	Florida	225,000	59,268	584	470	126.5	3,450,000	3,721,627	7,171,627
32	Alabama	1,040,000	50,722	1,722	604	29.3	25,747,957	43,169,447	68,917,404
33	Mississippi	870,000	47,156	1,018	854	46.2	8,610,501	19,812,206	28,422,707
34	Louisiana	765,000	41,346	539	1,420	76.7	18,002,650	34,721,457	52,724,107
35	Texas	960,000	274,356	1,650	500	166.5	12,026,068	52,534,274	64,565,342
36	Kentucky	1,400,000	37,681	1,326	1,060	28.5	21,565,478	30,916,057	52,481,535
37	Tennessee	1,320,000	45,600	1,630	310	28.0	10,690,467	13,453,836	24,144,283
38	Arkansas	550,000	52,198	700	800	74.6	7,500,000	7,820,000	15,320,000
	Southern States	11,465,000	789,375	15,602	735	50.6	213,794,148	309,715,075	523,509,223
39	California‡	675,000	188,981	1,328	508	142.3	83,112,600	76,220,109	159,332,709
40	Oregon	120,000	95,274	251	478	319.7	.....	.....	.....
41	Nevada	75,000	104,125	650	115	160.2	.....	.....	.....
42	Washington Territory	37,000	69,994	110	340	666.0	.....	.....	.....
	Pacific States	907,000	458,374	2,339	388	196.0	83,112,600	76,220,109	159,332,709
	Grand aggregates	42,219,000	2,492,316	72,623	581	34.4	1,990,997,486	2,230,766,108	4,221,763,594

*Taken from Poor's Manual for 1875-76.

†Including Union Pacific.

‡Including Central Pacific.

TABLE II.—*Mileage, cost of construction and equipment, business done, earnings, and profits, in 1874, of the railroads of the United States.**

STATES AND TERRITORIES.	Cost of road and equipment.	Cost of road per mile.	Receipts from passengers.	Per cent. of whole.	Receipts from freight.	Per cent. of whole.	Total earnings.
NEW ENGLAND STATES.							
Maine.....	\$39,078,909	\$39,431	\$1,706,971	37.1	\$2,575,791	56.0	\$4,600,836
New Hampshire.....	13,600,948	23,414	1,197,295	33.3	2,207,539	61.5	3,587,749
Vermont.....	26,632,167	35,638	1,436,280	32.2	2,856,248	64.0	4,463,678
Massachusetts.....	93,554,317	45,077	12,057,803	45.3	12,888,185	48.4	26,600,559
Connecticut.....	51,798,063	49,899	5,071,289	52.3	4,106,480	42.4	9,695,509
Rhode Island.....	6,092,634	47,083	648,146	58.0	441,534	39.6	1,116,443
MIDDLE STATES.							
New York.....	414,445,467	77,728	16,219,082	24.6	43,617,358	66.3	65,805,986
New Jersey.....	144,849,865	101,460	8,984,823	34.1	16,362,462	62.2	26,320,307
Pennsylvania.....	362,027,015	76,863	13,470,224	17.6	60,517,858	78.5	77,015,678
Delaware.....	5,210,381	25,050	211,267	34.8	360,973	59.4	607,434
Maryland and District of Columbia.....	82,892,854	69,658	2,814,475	16.8	13,749,085	82.3	16,705,831
West Virginia.....	20,352,472	35,322					
WESTERN STATES AND TERRITORIES.							
Ohio.....	382,007,189	61,414	13,088,889	24.5	37,547,871	69.7	53,827,808
Michigan.....	122,830,213	41,653	5,111,401	34.7	9,016,758	61.2	14,725,169
Indiana.....	209,543,023	49,553	7,105,050	28.8	16,016,866	65.0	24,632,946
Illinois.....	384,567,829	47,630	12,820,773	22.8	38,330,564	68.4	56,024,277
Wisconsin.....	93,865,747	35,717	2,822,465	23.4	7,594,152	67.9	11,181,149

Minnesota	80,799,295	44,938	978,546	22.2	3,150,084	71.5	4,402,385
Iowa	96,302,804	39,647	2,237,631	25.5	6,202,520	70.7	8,773,638
Kansas	117,657,781	45,203	2,995,094	30.4	6,131,321	62.1	9,865,077
Nebraska	26,686,126	33,737	4,412,586	36.3	6,674,523	54.8	12,171,160
Missouri	187,226,948	66,887	4,476,682	30.0	9,760,154	65.4	14,911,513
Wyoming Territory							
Utah Territory	7,220,000	31,947	430,000	27.8	985,000	63.8	1,543,859
Dakota Territory	19,482,600	43,548	54,667	34.6	96,131	60.8	1,058,147
Colorado Territory	2,700,000	44,685	459,662	43.9	514,768	49.2	1,041,063
SOUTHERN STATES AND TERRITORIES.							
Virginia	77,096,448	46,332	2,079,599	30.4	4,200,948	61.5	6,842,633
North Carolina	36,898,324	28,745	627,015	30.9	1,656,343	62.1	2,668,125
South Carolina	29,492,391	29,008	824,123	27.9	2,471,999	70.6	3,500,545
Georgia	40,895,832	22,329	1,408,677	20.2	5,307,816	76.0	6,898,357
Florida	6,991,627	18,496	191,895	35.3	343,905	63.3	542,930
Alabama	63,937,734	38,240	1,771,430	36.0	2,843,475	57.8	4,915,908
Mississippi	25,077,721	31,504	811,333	23.4	2,492,879	71.8	3,468,923
Louisiana	49,572,477	56,980	1,187,580	25.6	3,162,904	68.3	4,639,344
Texas	62,562,090	40,079	1,592,858	22.8	4,920,720	70.6	6,968,886
Kentucky	50,160,030	36,374	2,311,596	32.9	4,465,987	61.0	7,320,080
Tennessee	27,873,815	35,873	1,071,290	28.9	2,474,955	66.7	3,708,028
Arkansas	15,320,000	55,093	253,895	35.6	437,355	66.9	713,480
PACIFIC STATES AND TERRITORIES.							
California	37,522,309	89,981	6,272,666	37.4	10,478,961	62.4	16,774,086
Oregon							
Nevada							
Washington Territory							
Union Pacific	115,214,588						
Central Pacific	119,106,500						
Totals	3,749,149,383	60,425	140,999,081	27.1	347,016,874	64.8	520,466,016

* Collated from Poor's Manual, 1875-6.

DEDUCTIONS FROM REPORTS.

173

TABLE III.—Showing per cent. of receipts to total capital and debt, to one mile of railroad and to one inhabitant; also the operating expenses, net earnings, &c., of the railroads of the several States, and the dividends paid.

	STATES.	Per cent. of receipts to total capital and debt.	Receipts to mile of railroad.	Receipts to an inhabitant.	Operating expenses.	Per cent. of operating expenses to receipts.	Net earnings.	Per cent. of net earnings to receipts.	Per cent. of net earnings to total capital and debt.	Dividends paid.	Per cent. of dividends to capital stock.
1	Maine	11.2	\$4,643	7.19	\$3,117,980	67.8	\$1,482,856	32.2	3.6	\$276,314	1.72
2	New Hampshire.....	22.7	6,175	11.04	2,521,813	70.3	1,065,936	29.7	6.7	654,338	6.10
3	Vermont.....	16.1	6,002	13.36	2,681,107	60.0	1,782,571	40.0	6.4	208,356	1.13
4	Massachusetts	25.8	12,819	16.89	18,374,152	69.1	8,226,407	30.9	8.0	4,828,724	7.87
5	Rhode Island.....	21.6	9,151	4.75	641,501	57.5	474,942	42.5	7.6	231,090	6.03
6	Connecticut	17.7	8,814	16.86	6,015,029	62.0	3,680,471	37.9	6.7	2,313,149	6.73
	New England States.....	20.2	8,915	13.75	33,351,591	66.6	16,713,183	33.4	6.7	8,511,971	6.21
7	New York	13.6	12,342	14.31	43,535,470	66.2	22,270,516	33.8	4.6	9,407,551	3.37
8	New Jersey	14.9	18,413	25.90	16,792,453	63.8	9,580,254	36.2	5.4	5,903,076	7.20
9	Pennsylvania	13.7	16,373	20.40	45,688,706	58.5	31,926,972	41.5	5.7	20,125,701	8.01
10	Delaware	11.4	2,920	4.50	430,319	70.9	177,115	29.1	3.3	83,857	3.47
11	Maryland and Dist. of Columbia	18.3	14,039	16.70	10,433,194	62.4	6,272,637	37.6	6.9	2,079,969	4.79
12	West Virginia	36.4	10,240	0.11	29,324	57.3	21,278	42.7	15.6	.....	.....
	Middle States	14.1	14,486	16.95	116,309,466	62.3	70,188,972	37.7	5.3	37,600,154	5.71
13	Ohio	12.8	9,591	19.15	36,472,743	67.7	17,355,065	32.3	4.1	6,836,323	3.26
14	Michigan	11.1	5,175	10.75	9,996,696	67.9	4,728,473	32.1	3.6	63,754	0.14
15	Indiana.....	11.6	5,793	13.68	17,328,031	70.3	7,304,875	29.7	3.5	323,836	0.33
16	Illinois	14.0	6,939	19.48	34,871,776	62.2	21,152,501	37.8	5.3	7,836,427	3.72
17	Wisconsin.....	11.5	4,255	9.40	7,357,542	65.8	3,823,607	34.2	3.9	.....	.....

18	Minnesota	4.3	2,448	7.22	3,460,249	78.6	942,136	21.4	0.9	47,240	0.18
19	Iowa	7.9	3,151	5.45	6,173,067	70.3	2,600,571	29.7	2.7	849,142	1.67
20	Kansas	7.9	3,800	16.17	5,301,814	53.7	4,563,263	46.3	3.7	.....	.....
21	Nebraska	8.0	10,995	54.09	5,698,825	46.8	6,472,335	53.2	4.2	.....	.....
22	Missouri	7.7	5,430	7.64	9,633,196	64.6	5,278,317	35.4	2.7	349,120	0.34
23	Wyoming Territory . . . . .	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
24	Utah Territory	16.9	6,831	13.42	810,056	52.4	733,893	46.6	8.0	300,000	6.25
25	Dakota Territory	5.9	2,592	6.06	90,201	57.0	67,946	43.0	0.8	.....	.....
26	Colorado Territory	5.3	2,393	10.41	517,350	49.7	53,713	50.3	2.6	.....	.....
	Western States	10.9	6,103	14.17	139,322,782	64.9	75,546,695	35.1	3.8	16,605,842	1.92
27	Virginia	7.1	4,112	5.36	4,646,215	67.9	2,196,418	32.1	2.3	135,517	0.39
28	North Carolina	7.3	2,098	2.38	1,585,218	59.4	1,082,907	40.6	2.9	107,300	0.50
29	South Carolina	11.1	3,414	4.86	2,147,452	61.3	1,353,093	38.7	4.3	.....	.....
30	Georgia	15.3	3,803	5.56	5,160,874	73.9	1,819,483	26.1	3.9	707,887	2.10
31	Florida	7.5	1,486	2.41	387,513	71.4	155,357	28.6	2.2	.....	.....
32	Alabama	7.1	2,924	4.72	3,791,118	77.1	1,124,790	22.9	1.6	.....	.....
33	Mississippi	12.2	4,359	3.99	2,311,260	66.6	1,157,665	33.4	4.1	.....	.....
34	Louisiana	8.9	5,321	6.04	2,489,722	53.7	2,139,672	46.3	4.1	.....	.....
35	Texas	10.8	4,464	7.26	4,170,609	59.8	2,798,277	40.2	4.2	.....	.....
36	Kentucky	13.9	5,309	5.22	5,254,225	71.8	2,065,855	28.2	3.9	.....	.....
37	Tennessee	15.3	4,772	2.81	2,611,629	70.4	1,096,399	29.6	4.5	117,751	0.11
38	Arkansas	4.6	2,557	1.30	434,014	60.8	279,466	39.2	1.8	.....	.....
	Southern States	9.9	3,869	4.55	34,389,909	66.9	17,269,332	33.1	3.3	1,068,455	0.50
39	California	10.5	10,234	18.49	6,921,310	41.9	9,852,776	58.1	6.1	3,256,530	3.92
40	Oregon . . . . .	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
41	Nevada . . . . .	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
42	Washington Territory . . . . .	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	Pacific States	10.5	10,234	18.49	6,921,310	41.9	9,852,776	58.1	6.1	3,256,530	3.92
	Grand aggregate	12.3	7,344	12.32	330,895,058	63.6	189,570,958	36.4	4.5	67,042,942	3.37

DEDUCTIONS FROM REPORTS.

TABLE IV.—Railroad lines and parts of lines in Wisconsin, with their classification, locality, length of track, width of track, and weight of rail; also mileage of total lines in and out of Wisconsin, January 1, 1876.

	NAMES OF ROADS AND DIVISIONS OF ROADS IN WISCONSIN. (Leased Lines in Italics.)	Class.	LOCATION OF LINES.		Mileage of total lines operated.	Mileage of total lines operated in Wisconsin.	Mileage of divisions in Wisconsin.	Width of track, feet and inches.	Weight of rail in lbs. per yard.
			From—	To—					
1	CHICAGO, MIL. & ST. PAUL	A			1,458.00	724.17		4 ft. 8½ in.	50 to 60
	La Crosse Division	A	Milwaukee	La Crosse			196.00	do.	
	Prairie du Chien Division	A	Milwaukee	Prairie du Chien			193.00	do.	
	Madison Line	A	Watertown	Madison			37.00	do.	
	Northern Division	A	Milwaukee	Portage			96.00	do.	
		A	Horicon	Berlin			43.00	do.	
		A	Rush Lake	Winneconne			14.00	do.	
	Milwaukee and Northern	A	Milwaukee	Schwartzburg			6.17	do.	
	Southern Wisconsin Division	A	Milton	Monroe			42.00	do.	
	Wisconsin Union	A	Milwaukee	Illinois State Line			38.00	do.	
	<i>Madison and Portage</i>	A	Madison	Portage City			39.00	do.	
	<i>Oshkosh and Mississippi</i>	A	Ripon	Oshkosh			20.00	do.	
2	CHICAGO & NORTHWESTERN	A			1,990.78	564.28		do.	
	Wisconsin & Peninsula Div	A	Sharon	Menominee			220.85	do.	50, 56, 60
	Kenosha Division	A	Genoa	Kenosha			27.56	do.	
	Minnesota Division	A	Beloit	Winona Junction			176.60	do.	
	Chicago and Milwaukee	A	State Line	Milwaukee			40.00	do.	
	State Line and Union	A	Genoa	Geneva Lake			8.70	do.	
	<i>Northwestern Union</i>	A	Milwaukee	Fond du Lac			62.63	do.	
	<i>La Crosse, Trempe'u & Prescott</i>	A	Winona Junction	Winona			28.00	do.	
3	CHICAGO & TOMAH	B	Wauzeka	Reedstown	In progress	Incomplete	Incomplete	3 feet	
4	GALENA & SOUTHERN WIS	B	Galena	Platteville	31.00	20.00	20.00	do.	35
5	GREEN BAY & MINNESOTA	B	Green Bay	Winona	217.50	217.50	217.50	4 ft. ½ 8 in.	52 to 56
6	MIL., LAKE SHORE & WESTERN	B			125.60	125.60	125.60	do.	50 to 56
	Main Line	B	Milwaukee	Appleton				do.	
	Two Rivers Division	B	Manitowoc	Two Rivers				do.	

7	MINERAL POINT.....	B			51.00	49.00		4ft 8½in	56
	Main Line	B	Mineral Point	Illinois State Line.....			31.00	do.....	
	Dubuque, Platteville & Mil	B	Calamine	Platteville			18.00	do.....	
8	PRAIRIE DU CHIEN & MCGREGOR	B	Prairie du Chien.....	State Line.....	2.00	1.75	1.75	do.....	56
9	SHEBOYGAN & FOND DU LAC.....	B	Sheboygan	Princeton	79.00	79.00	79.00	do.....	45 to 56
10	SUPERIOR & ST. CROIX	B	Superior City.....	State Line.....	24.00	15.60	15.60	do.....	
11	WESTERN UNION	A			212.75	85.20		do.....	56
	Main Line	A	Racine	Beloit			68.70	do.....	
	Eagle Branch	A	Eagle.....	Elkhorn			16.50	do.....	
12	WEST WISCONSIN.....	B			228.50	228.50		do.....	50 to 58
	<i>West Wisconsin Proper</i>	B	Elroy	Hudson.....			177.50	do.....	
	<i>Chippewa Falls & Western</i>	B	Eau Claire	Chippewa Falls.....			11.00	do.....	
	<i>North Wisconsin</i>	B	North Wis. Junct.	End of track.....			40.00	do.....	
13	WISCONSIN CENTRAL	B			366.43	366.43		do.....	57
	Main Line {	B	Menasha	Worcester.....			194.00	do.....	
	{	B	Ashland	Pensaukee			29.00	do.....	
	{	B	Milwaukee	Schwartzburg				do.....	
	Milwaukee & Northern {	B	Schwartzburg	Green Bay			107.66	do.....	60
	{	B	Hilbert	Menasha			15.77	do.....	
	Stevens Point & Portage Branch.	B	Stevens Point.....	End of track.....			20.00	do.....	
14	WISCONSIN VALLEY	B	Tomah	Wausau	88.70	88.70	88.70	do.....	50
	Totals				4,875.26	2565.73	2,565.73		

*Mileage already included in Northern Division of C. M. & St. P. R. to which it belongs; used under a business contract.

TABLE V.—Abstract from reports of railroads operated in Wisconsin in the year 1874, made to the Secretary of State in conformity with the provisions of Chapter 119, Laws of 1872.

NAME OF COMPANY.	Capital stock subscribed.	Capital stock paid.	Length of road operated in Wisconsin.	Length of road operated elsewhere.	Whole length of road.	Total cost of road and equipment.	Dividends declared.
Chicago and Northwestern	¹ \$36,478,253 82	\$36,478,253 82	564.52	1,455 36	2,019.88	² \$56,592,841 64	³ \$371 87
Chicago, Milwaukee and St. Paul..	27,672,744 00	27,673,744 00	724.00	734 00	1,458.00	⁴ 54,591,871 34	860,000 00
Green Bay and Minnesota.....	927,300 00	748,000 00	213.50	.....	213.50	6,309,066 61	.....
Madison and Portage ⁵.....	.....	.....	39.00	.....	39.00	.....	.....
Milwaukee, Lake Shore and Western.....	.....	⁶ 3,000,000 00	126.60	.....	126.60	.....	.....
Mineral Point.....	.....	1,200,000 00	49.00	2.00	51.00	1,200,000 00	.....
Prairie du Chien and McGregor....	100,000 00	100,000 00	1.75	.25	2.00	799,610 00	.....
Sheboygan and Fond du Lac.....	1,267,000 00	1,267,000 00	78.40	.....	78.40	2,839,099 65	.....
Superior and St. Croix.....	734,000 00	407,000 00	15.76	9.00	24.75	39,657 18	.....
West Wisconsin.....	9,000,000 00	9,000,000 00	217.50	19.50	237.00	10,409,914 83	.....
Western Union.....	4,000,000 00	4,000,000 00	85.20	134.55	219.75	⁷ 7,982,543 96	.....
Wisconsin Central ⁸.....	.....	.....	323.00	.....	323.00	6,682,646 67	.....
Wisconsin Valley ¹⁰.....	.....	.....	.....	.....	.....	.....	.....
Totals.....	80,180,297 82	83,873,997 82	2,438.22	2,354.66	4,792.88	146,747,251 88	860,371 87

¹Whole road.²To December 31, 1873.³Adjustment of old dividends. ⁴Issued on construction.⁵Cost of 1,399 miles owned by Company in Wis. and elsewhere.⁶Operated by the C., M. & St. P. R. R. Co.⁷Engines and cars furnished by the C., M. & St. P. R. R. Co.⁸Of this amount \$7,000,000 was by purchase.⁹Operated by "Phillips & Colby Construction Co.¹⁰Not reported in time required by law, nor in time for this report.

TABLE VI.—Abstract from reports of railroads operated in Wisconsin in 1874, &c.—Continued.

NAME OF COMPANY.	RECEIPTS.					
	Passengers.	Mails.	Express.	Freights.	Other sources.	Total.
Chicago and Northwestern ¹	\$3,323,731 99	\$298,322 69	\$274,904 57	\$9,351,314 70	\$113,416 51	\$13,361,690 46
Chicago, Milwaukee and St. Paul....	1,933,664 98	142,484 68	168,461 46	6,137,151 84	571,254 15	8,953,017 11
Green Bay and Minnesota.....	88,514 16	9,789 08	1,682 96	235,275 96	.....	335,262 16
Madison and Portage.....	12,050 57	1,743 75	497 09	17,827 70	55 50	32,174 61
Milwaukee, Lake Shore and Western.	67,699 23	7,047 37	2,061 98	74,797 65	522 13	152,128 36
Mineral Point ²	17,685 92	2,585 24	1,200 00	103,214 83	.....	124,685 29
Prairie du Chien and McGregor.....	1,856 00	600 00	600 00	44,812 25	.....	47,868 25
Sheboygan and Fond du Lac.....	43,285 17	4,605 37	396 72	66,039 51	3774 62	115,101 39
Superior and St. Croix.....	.....	.....	.....	.....	.....	.....
West Wisconsin.....	251,756 22	21,790 65	20,846 70	497,604 91	1,948 53	793,947 01
Western Union.....	216,514 16	14,777 90	12,000 00	858,953 95	20,861 80	1,123,107 81
Wisconsin Central.....	189,571 54	16,653 41	4,534 69	378,997 50	6,793 29	596,550 43
Totals.....	6,146,329 94	520,400 14	487,186 17	17,765,990 80	715,626 53	25,635,532 88

¹C. & N. W. R. R. proper.

²Includes earnings of Dubuque, Platteville & M. R. R.

³Car service.

DEDUCTIONS FROM REPORTS.

TABLE VII.—Abstract from reports of railroads operated in Wisconsin in 1874, &c.—Continued.

NAME OF COMPANY.	Gross earnings in Wisconsin.	Amount due company.	EXPENDITURES.				
			Repairs.	Buildings.	Engines.	Cars.	Fuel.
Chicago and Northwest'n.	\$3,559,526 93	.....	\$2,083,473 62	\$109,049 70	\$643,624 12	\$1,238,217 56	\$1,105,968 12
Chicago, Mil. and St. Paul	5,588,925 56	\$1,645,521 13	1,507,098 80	93,135 31	348,343 30	493,829 14	800,818 68
Green Bay and Minn....	335,265 16	141,276 86	87,655 09	.....	.....	.....	42,848 66
Madison and Portage....	32,174 61	.....	5,969 00	9 93	1,125 57	360 89	5,501 00
Milwaukee, Lake Shore and Western.....	152,128 36	.....	25,863 88	53 94	6,749 45	5,459 19	11,423 19
Mineral Point.....	119,796 35	.....	41,246 97	1,541 26	.....	20,087 56	8,809 33
Prairie du Chien and Mc- Gregor.....	41,884 72	.....	2,240 00	.....	.....	.....	4,621 00
Sheboygan and Fond du Lac.....	115,101 39	71,445 06	28,175 94	3,136 07	10,034 18	7,377 88	12,500 87
Superior and St. Croix....	.....	.....	.....	.....	.....	.....	.....
West Wisconsin.....	793,947 01	.....	161,953 69	22,332 17	39,488 14	72,259 11	67,525 60
Western Union.....	435,443 85	74,828 14	154,169 82	21,629 46	68,456 88	67,359 84	87,738 65
Wisconsin Central.....	596,550 43	.....	81,862 72	4,061 86	17,488 22	25,830 11	55,218 50
	11,770,741 37	1,933,071 19	4,189,709 53	254,949 70	1,135,309 86	1,930,781 28	2,202,973 60

¹Interest owned in other roads.²Main line.

TABLE VIII.—Abstract from reports of railroads operated in Wisconsin in 1874, &c.—Continued.

NAME OF COMPANY.	EXPENDITURES—Continued.						
	Wages of employees.	Salaries of officers.	Total operating expensos.	Taxes.	Interest.	New construction.	Dividends.
Chicago and Northwestern.	\$2,405,579 90	\$106,676 98	\$8,156,983 23	\$419,712 88	\$2,266,005 13	\$2,008,716 98	¹ \$371 87
Chi., Mil. and St. Paul....	² 3,104,347 60	.....	6,346,572 83	270,690 42	2,076,326 36	³ 318,173 36	860,000 00
Green Bay and Minnesota..	154,744 28	247,000 00	532,248 03	4,657 58	301,910 47	.....	.....
Madison and Portage.....	13,630 25	.....	27,512 09	915 50	.....	.....	.....
Mil., L. Shore and Western.	34,669 85	10,700 00	94,919 50	2,723 11	.....	45,627 55	.....
Mineral Point.....	18,479 18	11,300 00	101,464 30	3,737 90	32,000 00	.....	.....
Pr du Chien and McG....	13,200 00	8,400 00	28,461 00	530 50	.....	.....	.....
Sheboygan and F. du Lac..	11,561 06	8,377 97	81,163 97	5,517 30	2,514 70	.....	.....
Superior and St. Croix.....	.....	.....	.....	.....	.....	.....	.....
West Wisconsin.....	146,605 23	54,872 50	564,996 44	30,829 58	.....	.....	.....
Western Union.....	² 379,838 74	² 11,525 00	790,718 39	41,045 47	256,807 42	³ 77,297 78	.....
Wisconsin Central.....	⁴ 127,369 02	.....	311,820 43	22,547 25	373 05	.....	.....
Totals.....	6,410,025 11	458,852 45	17,036,860 21	802,907 48	4,935,937 13	2,449,815,67	860,371 87

1 Adjustment of old dividends.
2 Included in other items.

3 With equipment.
4 Includes wages of employees and officers.

DEDUCTIONS FROM REPORTS.

TABLE IX.—Abstract from reports of railroads operated in Wisconsin in 1874, &c.—Continued.

NAME OF COMPANY.	EXPENDITURES—Continued.		Losses from casualties.	Indebtedness.	FREIGHT IN TONS.			
	Other purposes.	Total.			Lumber.	Wheat.	Oats, rye, and barley.	Corn.
Chicago and Northwestern..	\$1,109,262 70	\$13,961,052 79	.....	\$29,668,500 00	257,346	323,069	165,489	97,876
Chicago, Mil. and St. Paul.	2,219,568 48	9,297,170 30	\$58,212 12	27,563,830 80	281,166	615,223	20,034	10,483
Green Bay and Minnesota..	154,140 83	460,708 88	.....	5,451,689 49	30,347	30,769	365	504
Madison and Portage.....	1,955 99	29,468 08	641 55	.....	.....	.....	.....	.....
Mil. L. Shore and Western.	24,037 13	167,307 29	344 36	3,700,000 00	3,951	5,815	140	283
Mineral Point.....	7,086 80	144,463 99	.....	320,000 00	4,902	10,842	9,422	84
Pr. du Chien and McGregor	.....	28,991 50	5,300 00	.....	.....	.....	.....	.....
Sheboygan and Fond du Lac	27,266 86	116,462 83	.....	1,663,555 66	12,928	9,649	1,030	71
Superior and St. Croix.....	.....	.....	.....	2,596 70	.....	.....	.....	.....
West Wisconsin.....	84,320 73	680,146 75	6,960 79	8,956,641 50	12,234	41,841	1,154	875
Western Union.....	343,387 57	1,117,892 89	8,118 94	3,838,477 93	53,764	133,993	17,556	30,558
Wisconsin Central.....	38,925 89	373,676 62	.....	.....	85,114	16,856	1,329	665
Totals.....	4,009,952 98	26,377,346 92	79,577 76	81,165,292 08	741,752	1,188,057	216,519	140,904

¹For "Rental of leased roads," \$1,055,142.70; "Sinking fund," \$54,120. ²Included in "operating expenses." ³Included in report of C., M. & St. P. R. R. Co.

TABLE X.—Abstract from reports of railroads operated in Wisconsin in 1874, &c.—Continued.

NAME OF COMPANY.	FREIGHTS (IN TONS)—Continued.								No. of horses and cattle.	No. of sheep and hogs.
	Flour.	Farm impl'ts.	Lead.	Iron.	Coal.	Merchandise.	Miscellaneous.	Total.		
Chicago and Northwestern	107,610	32,999	.....	511,542	187,532	.....	.....	1,682,963	150,164	588,184
Chicago, Milwaukee and St. Paul.....	153,777	17,451	408	64,689	58,393	179,617	297,609	1,698,850	28,992	233,799
Green Bay and Minnesota.....	4,618	361	4	545	4,714	3,535	30,178	105,940	159	219
Madison and Portage ¹.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Milwaukee, Lake Shore and Western.....	1,269	328	.....	.....	628	5,619	25,616	43,654	154	63
Mineral Point.....	428	410	1,539	.....	2,977	6,398	21,713	58,715	5,780	36,792
Prairie du Chien and McGregor.....	.....	.....	.....	.....	.....	.....	.....	640,000	.....	.....
Sheboygan and Fond du Lac.....	1,160	322	.....	.....	3,387	3,667	10,832	43,045	414	2,356
Superior and St. Croix.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
West Wisconsin.....	30,880	2,016	100	716	1,000	41,021	36,423	168,260	449	329
Western Union.....	4,254	8,704	.....	5,857	50,441	17,993	68,126	391,245	7,229	140,554
Wisconsin Central.....	12,222	611	6	2,718	410	18,542	48,243	186,716	3,401	9,901
Totals	316,218	63,202	2,057	586,067	309,482	276,392	538,740	5,019,388	196,742	1,012,177

1 Freight included in report of C. M & St. P. R. R. Co.

DEDUCTIONS FROM REPORTS.

TABLE XI.—Abstract from reports of railroads operated in Wisconsin in 1874, &c.—Continued.

NAME OF COMPANY.	Number of through passengers.	Number of way passengers.	Total.	Rate per mile for through passengers.	Rate per mile for way passengers.	Number of passengers and others killed.	Number of employees killed.	Total killed & injured.
Chicago and Northwestern.....	357,192	2,390,564	2,747,756	.....	.....	2	7	9
Chicago, Milwaukee and St. Paul.....	29,468	1,022,059	1,051,527	.....	.....	12	11	23
Green Bay and Minnesota.....	842	53,946	54,788	.04	.04	.....	2	2
Madison and Portage.....	.....	.....	.....	.....	.....	.....	.....	.....
Milwaukee, Lake Shore and Western ¹.....	.....	56,262	56,262	.03 $\frac{60}{100}$	.03 $\frac{60}{100}$	.....	.....	.....
Mineral Point.....	9,230	15,456	24,686	.04	.04	.....	.....	.....
Prairie du Chien and McGregor.....	14,400	6,000	20,400	.....	.....	.....	.....	.....
Sheboygan and Fond du Lac.....	30	12,641	12,671	.03 $\frac{40}{100}$	.03 $\frac{40}{100}$	1	.....	1
Superior and St. Croix.....	.....	.....	.....	.....	.....	.....	.....	.....
West Wisconsin ¹.....	.....	126,860	126,860	.03 $\frac{98}{100}$	.03 $\frac{98}{100}$	.....	1	3
Western Union.....	2,654	210,866	213,520	.03 $\frac{69}{100}$	.03 $\frac{69}{100}$	.....	2	2
Wisconsin Central ¹.....	.....	148,608	148,608	.04	.04	3	3	6
Totals.....	413,816	4,043,262	4,457,078	.....	.....	18	28	46

¹Includes "Through passengers" also.

TABLE XII.—Abstract from reports of railroads operated in Wisconsin in 1874, &c.—Continued.

NAME OF COMPANY.	Number of passengers and others injured.	Number of employees injured.	Total.	Total number killed and injured.	CAUSES OF DEATH AND INJURIES.								
					Lying on track.	Getting on train.	Getting off train.	Crossing track.	Falling off train.	Coupling cars.	Trains running off track.	Walking on track.	Other causes.
Chicago and Northwestern.....	13	26	39	48	3	2	1	1	2	17	7	5	10
Chicago, Milwaukee and St. Paul.....	14	32	46	69	1	15	.....	10	3	15	2	10	13
Green Bay and Minnesota.....	.....	.....	.....	2	.....	.....	.....	.....	.....	.....	.....	.....	2
Madison and Portage.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Milwaukee, Lake Shore and Western.....	.....	3	3	3	.....	.....	.....	.....	1	2	.....	.....	.....
Mineral Point.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Prairie du Chien and McGregor.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sheboygan and Fond du Lac.....	1	1	2	3	1	.....	.....	.....	.....	.....	.....	.....	2
Superior and St. Croix.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
West Wisconsin.....	3	2	5	8	.....	1	1	.....	.....	2	.....	.....	4
Western Union.....	6	4	10	12	.....	.....	5	.....	.....	.....	5	.....	2
Wisconsin Central.....	.....	12	12	18	.....	1	1	.....	.....	6	1	.....	9
Totals.....	37	80	117	163	5	19	8	11	6	42	15	15	42

DEDUCTIONS FROM REPORTS.

ANALYSIS OF REPORTS OF RAILROADS OPERATED IN WISCONSIN DURING THE YEAR ENDING JUNE 30, 1875,
AS REPORTED TO THE RAILROAD COMMISSIONERS.

TABLE XIII.—Capital stock, as reported to the Commissioners.

NAME OF COMPANY.	Miles of road operated.	Miles of road owned.	Miles of road operated in Wisconsin.	Miles of road owned in Wisconsin.	Amount of capital stock authorized by charter.	Common stock issued.	Preferred stock issued.	Total amount stock.	Proportion of stock for Wisconsin.
Chicago, Milwaukee & St. Paul ..	1,458.00	1,399.00	724.00	665.00	.....²	\$15,399,261	\$12,274,483.00	\$27,673,744.00	\$13,154,424.42
¹ Oshkosh & Mississippi .....	.....	20.00	.....	20.00	.....	.....	.....	.....	.....
¹ Madison & Portage (now Chicago & Superior) .....	.....	39.00	.....	39.00	Not limit'd	394,300	None.....	394,300.00	394,300.00
Chicago & Northwestern.....	1,990.78	.....	564.28	.....	.....²	14,996,600	21,487,653.42	36,484,253.82	.....
Chicago & Tomah	No rep't	.....	.....	.....	.....	.....	.....	.....	.....
Galena & Southern Wisconsin ⁵ ..	.....	31.00	.....	20.00	.....⁶	172,100	.....	172,100.00	32,000.00
Green Bay & Minnesota.....	217.50	213.00	217.50	213.00	\$8,000,000	7,849,000	.....	7,849,000.00	7,849,000.00
Milwaukee, Lake Shore & West'n	No rep't.	.....	.....	.....	.....	.....	.....	.....	.....
Mineral Point.....	51.00	51.00	49.00	49.00	2,000,000	1,200,000	None.....	1,200,000.00	1,128,274.00
Prairie du Chien & McGregor....	2.00	2.00	1.75	1.75	100,000	100,000	None.....	100,000.00	87,500.00
Sheboygan & Fond du Lac	79.00	79.00	79.00	79.00	1,550,000	1,398,200	None.....	1,398,200.00	1,398,200.00
Superior & St. Croix.....	24.00	.....	15.60	.....	.....	.....	.....	.....	.....
Western Union.....	212.75	212.75	85.20	85.20	4,000,000	4,000,000	None.....	4,000,000.00	1,601,881.00
West Wisconsin.....	228.50	217.50	228.50	217.50	9,000,000	8,000,000	1,000,000.00	9,000,000.00	9,000,000.00
North Wisconsin .....	.....	40.00	.....¹	40.00	.....	.....	.....	.....	.....
³ Chippewa Falls & Western.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Central.....	323.00	194.00	323.00	194.00	2,000,000	.....	None.....	.....	.....
⁴ Milwaukee & Northern .....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Valley	88.70	88.70	88.70	88.70	3,000,000	551,000	None.....	551,000.00	551,000.00

¹Miles included in Chicago, Mil. & St. Paul. ²Composed of various lines, and therefore not definitely answered. ³Miles included in West Wis. ⁴Miles included in Wisconsin Central. ⁵Did not commence operations until April, 1875. ⁶Not to exceed amt expended on road. ⁷294 miles earning revenue.

TABLE XIV.—Debt, funded and unfunded—stock and debt, as per report of 1875.

NAME OF COMPANY.	FUNDED DEBT.		Unfunded or floating debt.	Net cash realized from bonds.	Total of funded and unfunded debt.	Proportion for Wisconsin.	Total of stock and debt.
	Total.	Proportion for Wis.					
Chicago, Milwaukee & St. Paul	\$27,098,500	\$14,814,718	\$454,397 39	.....	\$27,552,897 39	\$15,030,711 04	\$55,226,641 39
Oshkosh and Mississippi .....	.....	.....	.....	.....	.....	.....	.....
Madison and Portage	600,000	600,000	25,000 00	⁵ \$353,200	625,000 00	625,000 00	994,300 00
Chicago and Northwestern	30,382,000	.....	Not reported	.....	66,866,253 82	.....	.....
Chicago and Tomah	No report ..	.....	.....	.....	.....	.....	.....
Galena and Southern Wisconsin	219,000	11,000	47,591 35	⁶ 142,350	266,591 35	11,000 00	438,691 35
Green Bay and Minnesota	3,979,860	.....	1,461,301 49	2,967,480	5,441,161 49	5,441,161 49	13,290,161 49
Milwaukee, Lake Shore and Western	No report ..	No report ..	.....	.....	.....	.....	.....
Mineral Point	320,000	300,600	None	320,000	320,000 00	300,600 00	1,520,000 00
Prairie du Chien and McGregor	None	None	None .....	.....	None	None .....	.....
Sheboygan and Fond du Lac	1,600,000	.....	70,309 13	⁷ 617,600	1,670,309 13	1,670,309 13	3,068,509 13
Superior and St. Croix	No report ..	No report ..	.....	.....	.....	.....	.....
Western Union	3,500,000	.....	374,973 06	.....	3,874,973 00	1,551,811 00	7,874,973 00
West Wisconsin	6,140,000	.....	2,000,000 00	.....	8,140,000 00	8,140,000 00	17,140,000 00
Chippewa Falls and Western .....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Central .....	.....	.....	.....	.....	.....	.....	.....
Milwaukee and Northern .....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Valley	1,790,000	1,790,000	116,597,69	1,432,000	1,906,597 69	1,906,597 69	2,457,597 69

⁵ Bonds pledged for this amount and interest.

⁶ Sold at 65c.

⁷ \$78,000 8 per cent. bonds hypothecated.

DEDUCTIONS FROM REPORTS.

TABLE XV.—Characteristics—Roadway, as per reports of 1875.

NAME OF COMPANY.	Gauge, feet and inches.	Total miles of single track.	Total miles of double track.	Total miles of track, computed as single track.	Length of sidings.	Total miles of track, sidings included.	Number of railroad crossings.	Total miles laid with steel.	Miles laid with steel in Wis.	Weight of iron rail.	Weight of steel rail.
Chicago, Milwaukee & St. Paul.....	4 ft. 8½ in.	1,399.00	.....	.....	.....	.....	12	209.00	167.50	50 to 60	60
Oshkosh & Mississippi.....	do.	.....	.....	.....	.....	.....	.....	34.00	.....	.....	.....
Madison & Portage, (now Chicago & Superior).....	do.	39.00	.....	39.00	.....	.....	2	.....	.....	.....	.....
Chicago & Northwestern.....	do.	1,990.78	.....	.....	.....	.....	.....	345.10	34.10	50, 56, 60	60
Chicago & Tomah.....	do.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Galena & Southern.....	3 feet.	30.00	.....	30.00	.....	.....	.....	.....	.....	35	.....
Green Bay & Minnesota.....	4 ft. 8½ in.	217.50	.....	.....	10.00	227.50	7	.....	.....	52 to 56	.....
Milwaukee, Lake Shore & Western.....	do.	.....	.....	.....	.....	.....	.....	.....	.....	50 to 56	.....
Mineral Point.....	do.	51.00	.....	51.00	5.00	56.00	2	.....	.....	56	.....
Prairie du Chien & McGregor.....	do.	2.50	.50	2.50	.....	.....	.....	.....	.....	.....	.....
Sheboygan & Fond du Lac.....	do.	79.00	.....	79.00	4.00	83.00	4	.....	.....	45 to 56	.....
Superior & St Croix.....	do.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Western Union.....	do.	212.75	.....	212.75	23.24	235.99	9	.....	.....	56	.....
West Wisconsin.....	do.	228.50	.....	248.40	7½ ²⁰ / ₃₂₀	255½ ²⁰ / ₃₂₀	3	.....	.....	50 to 58	.....
Chippewa Falls & Western.....	do.	11.00	.....	11.00	.....	.....	.....	.....	.....	60	.....
Wisconsin Central.....	do.	194.00	.....	194.00	25.20	.....	4	11.00	11.00	57	.....
Milwaukee & Northern.....	do.	129.00	.....	129.00	.....	.....	.....	.....	.....	.....	.....
Wisconsin Valley.....	do.	88.70	.....	88.70	11.70	100.40	.....	.....	.....	50	.....

TABLE XVI.—Roadway continued; also building on Wisconsin lines, as per reports of 1874 and 1875.

NAME OF COMPANY.	No. tunnels in Wisconsin.	No. iron bridges in Wisconsin.	No. wooden bridges in Wisconsin.	Wooden trestles in Wisconsin.	Stone culverts in Wisconsin.	No. passenger stations in Wisconsin.	Freight stations in Wisconsin.	No. engine and car shops.	Engine and car shops in Wisconsin.	Machine shops.	Machine shops in Wisconsin.	Engine houses.	Wood sheds and water stations.	Water stations in Wisconsin.	Miles of fencing.
Chicago, Milwaukee & St. Paul.	1	.....	.....	.....	.....	114	114	.....	.....	.....	.....	20	42	.....	569
Oshkosh & Mississippi	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Madison & Portage	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chicago & Northwestern	3	2	399	.....	173	†81	†81	1	.....	1	.....	12	44	.....	532
Chicago & Tcmah	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Galena & Southern Wisconsin	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Green Bay & Minnesota	.....	.....	88	.....	10	†28	†28	.....	4	.....	.....	5	11	.....	.....
Milwaukee, Lake Shore & Western	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Mineral Point	.....	.....	8	.....	34	4	.....	.....	.....	.....	.....	.....	4	.....	47
Prairie du Chien & McGregor	.....	.....	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sheboygan & Fond du Lac	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Superior & St. Croix	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Western Union	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
West Wisconsin	1	.....	5	101	.....	19	18	2	2	2	2	5	14	14	97
Chippewa Falls & Western	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Central	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Milwaukee & Northern	.....	.....	.....	.....	.....	.....	.....	.....	5	.....	.....	.....	.....	.....	.....
Wisconsin Valley	.....	.....	.....	.....	.....	†9	†9	.....	4	.....	.....	.....	6	.....	.....

†Passenger and Freight stations together.

DEDUCTIONS FROM REPORTS.

TABLE XVII.—Equipment, as per reports of 1875.

NAME OF COMPANY.	Locomotives.	Passenger cars.	Business cars.	Baggage cars.	Mail cars.	Caboose cars.	Closed freight cars.	Platform cars.	Snow plows.	Wreckers.	Hand cars.
Chicago, Milwaukee & St. Paul*	199	96	.....	49	8	.....	3,007	671	8	.....	.....
Oshkosh & Mississippi .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Madison & Portage (now Chicago & Superior) .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chicago & Northwestern.....	342	169	.....	253	15	.....	4,677	2,982	.....	11	260
Chicago & Tomah .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Galena & Southern Wisconsin.....	2	1	.....	.....	.....	.....	10	19	2	.....	5
Green Bay & Minnesota.....	16	10	.....	3	.....	.....	375	125	10	.....	.....
Milwaukee, Lake Shore & Western.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Mineral Point	5	5	.....	2	.....	.....	26	26	.....	.....	.....
Prairie du Chien & McGregor.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sheboygan & Fond du Lac.....	5	6	.....	2	.....	.....	76	68	2	.....	12
Superior & St. Croix.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Western Union †.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
West Wisconsin	18	13	1	4	3	12	70	87	2	1	33
Chippewa Falls & Western.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Central.....	.....	15	.....	9	.....	.....	270	278	1	.....	41
Milwaukee & Northern.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Valley.....	.....	4	.....	2	.....	.....	20	250	.....	.....	10

*Proportion for Wisconsin, according to gross earnings for 1873.
 †Details of equipment not reported.

¹ And express cars.
² Used also as express and mail cars.

³ And express cars.
 41,957 of these being ore cars.

TABLE XVIII.—Cost of road and equipment, as per reports of 1875.

NAME OF COMPANY.	Cost of right of way. Total,	Real estate, exclusive of right of way.	Reported cost of construction.	Equipment	Other items.	Paid for roads not built by company.	Total reported cost of lines equipped.	Reported cost of Wisconsin lines.
Chicago, Milwaukee & St. Paul..	\$886,902 47		5,384,007 92	2,765,611 85		\$45,611,380 11	\$54,647,002 35	
Oshkosh and Mississippi.....								
Madison & Portage (Chi. & Su)	³	(³)						
Chicago & Northwestern.....			920,950 00			(⁶)		
Chicago & Tomah.....								
Galena & Southern Wisconsin....	3,025 50	5,407 48	315,493 18	27,107 72	\$93,218 01		444,251 39	
Green Bay & Minnesota.....	23,873 43	11,047 99	5,241,572 07	580,283 53	176,167 60		6,032,944 61	
Milwaukee, Lake Shore & West'n								
Mineral Point.....								
Prairie du Chicn & McGregor....	2,610 00		97,000 00			(⁵)	99,610 06	\$87,158 25
⁴ Sheboygan & Fond du Lac....	⁴ 125,000 00	40,000 00	2,464,654 89	209,442 76				
Superior and St. Croix.....								
Western Union.....							7,982,543 00	
West Wisconsin.....								
Chippewa Falls and Western....								
Wisconsin Central.....			6,445,107 99	646,055 81			7,091,163 80	
Milwaukee and Northern.....								
Wisconsin Valley.....	9,331 70	7,355 19	1,620,161 69	264,693 53			1,901,541 11	

¹ Included in right of way.

³ Included in cost of construction.

⁵ At time of foreclosure sale in 1861, the line was constructed from Sheboygan to Glenbeulah, and was sold for the face of the 1st mortgage bonds and interest. Stock issued to represent \$250,000, included in above statement of cost of construction.

² Interest, exchange and discount on bonds.

⁴ Estimated.

TABLE XIX.—Business of the year ending June 30, 1875—Movement of trains.

NAME OF COMPANY.	Total No. train-miles passenger.	In Wisconsin.	Miles run by freight and mixed trains.	In Wisconsin.	Miles run by con- struction and other trains.	In Wisconsin.	Total train-miles run.	In Wisconsin.	Total miles run by empty freight cars.	In Wisconsin.
	Chicago, Milwaukee & St. Paul.	1,063,316.00	614,636	3,160,752.00	1,957,091	315,530	189,481	4,539,598.00	2,761,208	13,159,921	8,828,007
Oshkosh & Mississippi			23,358.00	23,358	950	950	24,308.00	24,308	39,810	39,810
¹ Madison & Port., (Chi. & Su.)										
Chicago & Northwestern	2,720,856.00		6,378,271.00		422,876		9,522,003.00			
Chicago & Tomah										
Galena & Southern Wisconsin										
Green Bay & Minnesota	134,590.00		110,405.00		105,255		350,250.00		432,431	
Mil., Lake Shore & Western										
Mineral Point			53,836.00		4,200		58,036.00			
Prairie du Chien & McGregor ..	1,600.00	1,400	5,760.00	5,040			7,360.00	6,440		
Sheboygan & Fond du Lac	28,697.00		53,361.00		3,010		85,068.00		20,919	
Superior & St. Croix										
Western Union	230,211.00		452,911.00		43,970		727,092.00		2,703,006	
West Wisconsin ²										
Chippewa Falls & Western										
Wisconsin Central	140,329.00		295,874.00		115,210		551,413.00			
Milwaukee and Northern ³										
Wisconsin Valley	45,931.60		50,560.10				96,591.70			

¹Reported separately although leased to C. Mil. & St. Paul.
³Leased to Wis. Central. No separate report received.

²Reported "no record" on the items of this table.
⁴Construction trains, 12,000, other trains 103,210.

TABLE XX.—Transportation of passengers, as per report of 1875.

NAME OF COMPANY.	Total number of passengers carried	In Wisconsin.	Total number of passengers carried one mile.	Passengers carri'd one mile in Wisconsin.	Average mileage of each passenger.	In Wisconsin.	Highest speed of passenger trains.
Chicago, Milwaukee and St. Paul.....	1,026,229	670,472.00	53,847,931	32,615,594.00	52.00	49	.....
Oshkosh and Mississippi ¹							
Madison and Portage (Chicago and Superior) ²	12,562	12,562.00	298,865	298,865.00	24.00	24	.....
Chicago and Northwestern.....	3,084,307		106,123,087		34.33		.....
Chicago and Tomah.....							.....
Galena and Southern Wisconsin.....							312
Green Bay and Minnesota.....	56,884		2,540,608		44.00		425
Milwaukee, Lake Shore and Western.....							.....
Mineral Point.....	21,499		303,017		18.75		.....
Prairie du Chien and McGregor.....							.....
Sheboygan and Fond du Lac.....	56,300		957,100		17.00		25
Superior and St. Croix.....							.....
Western Union.....	213,028		5,820,730		27.32		25
West Wisconsin.....	No record..		No record..		No rec'd.		35
Chippewa Falls and Western.....							25
Wisconsin Central.....	143,023		5,340,070		37.30		.....
Milwaukee and Northern ³.....							.....
Wisconsin Valley.....	14,675	14,675.00	626,885	626,885.00	42.50	42.50	25

¹No separate report; leased to Chicago, Milwaukee and St. Paul. ²Separate report, although leased to Chicago, Milwaukee and St. Paul. ³All trains are mixed trains. ⁴No special passenger trains. ⁵No separate report; leased to Wisconsin Central.

TABLE XXI.—Transportation of freight, as per reports of 1875.

NAME OF COMPANY.	Total number tons carried on whole line.	Number tons carri'd in Wisconsin.	Total tons carried one mile.	Tons carr'd one mile in Wisconsin.	Average number tons per train.	Average number tons per car.	Highest speed per hour.
Chicago, Milwaukee & St. Paul.....	1,557,169.00	857,404.00	1232,530,091	1158,120,462	..... (2).....	² About 5.....	.....
Oshkosh & Mississippi ³.....	.....	.....	.....	.....	.....	.....	.....
Madison & Portage (Chicago & Superior).....	..... (4).....	.....	..... (4).....	.....	.....	.....	.....
Chicago & Northwestern.....	3,153,315.00	.....	454,546,468	.....	.....	.....	.....
Chicago & Tomah.....	.....	.....	.....	.....	.....	.....	.....
Galena & Southern Wisconsin.....	.....	.....	.....	.....	.....	.....	.....
Green Bay & Minnesota.....	91,790.00	.....	9,768,512	.....	179.00	.....	15
Milwaukee, Lake Shore & Western.....	.....	.....	.....	.....	.....	.....	.....
Mineral Point.....	⁵ 61,865.00	58,439.00	1,941,545	.....	.....	.....	.....
Prairie du Chien & McGregor.....	⁶ 400,000.00	.....	.....	.....	250.00	10	5
Sheboygan & Fond du Lac.....	53,214.00	.....	2,128,560	.....	.....	.....	15
Superior & St. Croix.....	.....	.....	.....	.....	.....	.....	.....
Western Union.....	389,895.00	.....	43,598,652	.....	.....	.....	15
West Wisconsin.....	.....	.....	.....	.....	(7).....	.....	15
Chippewa Falls & Western.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Central.....	176,380.00	.....	14,730,688	.....	25 to 30 cars	10 to 15	12
Milwaukee & Northern ⁸.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Valley.....	36,866.02	36,866.02	1,605,642 ⁴⁰⁸ / ₂₀₀₀	1,605,642 ⁴⁰⁸ / ₂₀₀₀	No data....	No data....	15

¹ Estimated.

² No statistics kept.

³ No separate report, leased to Chicago, Milwaukee & St. Paul.

⁷ No separate report, leased to Wisconsin Central.

⁴ Included in report of Chicago, Milwaukee & St. Paul.

⁵ Zinc ore, 13,941 tons; lead, 1,520; iron, 1,000.

⁶ 17 loaded cars.

TABLE XXII.—Tonnage of the several kinds of freight named, as per reports of 1875.

NAME OF COMPANY.	Grain.	Flour.	Provisions.	Salt, cement, wood lime, &c.	Manufactures, including ag'l imple'ts, furniture, and wagons.	Live stock.	Lumber and other products of the forest.	Iron and other minerals.	Stone, brick, coal, sand, &c.	Merchandise.	Total number tons carried.
Chicago, Mil. & St. Paul...	542,519.00	140,816.00	40,297.00	20,575.00	24,269.00	42,539.00	64,943.00	39,272.00	357,088.00	284,851.00	1,557,169.00
Oshkosh & Mississippi...											
Madison & Portage (Chicago and Superior) ² ...											
Chicago & Northwestern...											
Chicago & Tomah...											
Galena & Southern Wis...											
Green Bay & Minnesota...	26,590.00	4,157.00	555.00	2,267.00	1,859.00	212.00	45,905.00	135.00	2,241.00	7,869.00	91,790.00
Mil., L. Shore & Western...											
Mineral Point...	13,797.00	300.00	2,039.00	710.00	494.00	11,200.00	7,556.00	15,561.00	3,236.00	6,972.00	61,865.00
Prairie du C. & McGregor.											³ 400,000.00
Sheboygan & Fond du Lac.	10,751.00	1,160.00		135.00	1,434.00	447.00	12,928.00		16,359.00		53,214.00
Superior & St. Croix...											
Western Union...	172,121.00	4,256.00	6,306.00	2,467.00	14,286.00	22,382.00	67,949.00	4,692.00	55,913.00	38,533	389,895.00
West Wisconsin...	No record										
Chippewa Falls & West'n											
Wisconsin Central...	14,835.00	9,736.50	598.00	1,331.00	846.00	3,973.50	84,862.50	1,947.50	3,117.00	55,126.00	176,380.00
Milwaukee & Northern...											
Wisconsin Valley...	1,840.83	470.20	262.40	203.81	341.29	9.50	27,880.72	.83	468.44	5,388.03	36,866.02

¹No separate report; leased to Chicago, Milwaukee & St. Paul. ²Included in report of Chicago, Mil. & St. Paul. ³Estimated. ⁴Leased to the Wis. Central.

DEDUCTIONS FROM REPORTS.

TABLE XXIII.—Force employed in doing the business of the year, as per report of 1875.

NAME OF COMPANY.	No. Div. and Asst. Supts.	No. clerks.	No. master and asst. mechanics.	No. conductors.	No. engineers.	No. brakemen.	No. flagmen, switch'h gate-keepers, etc.,	No. station agents.	No. section-men.	No. other employees.	Total.	Total amount of salaries for the year.
Chicago, Milwaukee & St. Paul.....	8	440	6	133	189	337	150	221	1,725	2,031	5,240	.....
Oshkosh & Mississippi.....												.....
Madison & Portage (now Chicago & Superior)	1			2	1	2		5	23	3	37	.....
Chicago & Northwestern.....												.....
Chicago & Tomah.....		2				2			25		42	\$4,470.00
Galena & Southern Wisconsin.....		2	9	1	2		1					
Green Bay & Minnesota.....		6	3	10	15	16	2	24	169	156	401	15,669.27
Milwaukee, Lake Shore & Western.....												
Mineral Point.....	1	4	15	2	4	4	2	7	50	20	109	11,900.00
Prairie du Chien & McGregor.....	1	1		1	1	2	11					
Sheboygan & Fond du Lac.....	1	3	19	3	3	10	1	12	38	22	112	9,368.00
Superior & St. Croix.....												
Western Union.....	1	38	3	23	27	48	19	44	193	240	636	363,437.00
West Wisconsin.....												
Chippewa Falls & Western.....												
Wisconsin Central.....		17	50	17	19	43	39			216	401	5,903.00
Milwaukee & Northern.....												
Wisconsin Valley.....	1	2	1	3	2	6	1	10	36	10	72	9,927.25

¹ "No record" of this character.

TABLE XXIV.—Total earnings during year ending June 30, 1875—Monthly earnings.

NAME OF COMPANY.	JULY, 1874.		AUGUST, 1874.		SEPTEMBER, 1874.	
	Total lines.	Wisconsin lines.	Total lines.	Wisconsin lines.	Total lines.	Wisconsin lines.
Chicago, Milwaukee & St. Paul ¹	\$722,345 83	\$476,892 80	\$660,355 30	\$408,357 98	\$763,077 51	\$503,838 45
Madison & Portage (Chicago & Superior) ²		2,707 85		2,412 34		2,147 32
Chicago & Northwestern.....	1,011,685 05		1,118,370 66		1,254,255 36	
Chicago & Tomah.....						
Galena & Southern Wisconsin ³						
Green Bay & Minnesota.....	29,971 32		22,978 58		28,499 20	
Milwaukee, Lake Shore & Western.....						
Mineral Point.....	8,929 38		8,155 93		6,914 12	
Prairie du Chien & McGregor.....	4,881 00		2,623 00		6,390 00	
Sheboygan & Fond du Lac.....	10,024 11		10,038 26		10,597 49	
Superior & St. Croix.....						
Western Union.....	100,129 62		111,036 42		116,289 06	
West Wisconsin.....	68,026 34		66,791 91		83,886 03	
Chippewa Falls & Western.....						
Wisconsin Central.....	53,281 94		50,638 69		50,469 49	

¹ 65 per cent. of the earnings of the Oshkosh & Mississippi River Railway, which is leased to the C. M. & St. P. R'y Co., are included in these figures.

² Reported separately, although leased to Chicago, Milwaukee & St. Paul.

³ Not in operation June 30, 1875.

TABLE XXIV.—Total earnings, &c.—Continued.

NAME OF COMPANY.	OCTOBER, 1874.		NOVEMBER, 1874.		DECEMBER, 1874.	
	Total lines.	Wisconsin lines.	Total lines.	Wisconsin lines.	Total lines.	Wisconsin lines.
Chicago, Milwaukee & St. Paul ¹	\$813,030 52	\$523,959 62	\$661,090 50	\$450,495 05	\$651,121 35	\$434,119 39
Madison & Portage (Chicago & Superior) ² ..		2,838 06		2,044 10		2,076 83
Chicago & Northwestern.....	1,407,974 96		1,065,725 84		1,030,027 53	
Chicago & Tomah.....						
Galena & Southern Wisconsin ³						
Green Bay & Minnesota.....	42,188 55		36,786 10		19,929 26	
Milwaukee, Lake Shore & Western.....						
Mineral Point.....	9,552 45		12,523 69		12,163 36	
Prairie du Chien & McGregor.....	5,810 00		3,974 00		4,896 00	
Sheboygan & Fond du Lac.....	11,036 11		7,983 35		6,942 59	
Superior & St. Croix.....						
Western Union.....	122,201 20		95,899 35		87,316 28	
West Wisconsin.....	87,303 92		71,806 27		71,984 57	
Chippewa Falls & Western.....						
Wisconsin Central.....	59,729 97		49,973 56		44,969 08	

¹ 65 per cent. of the earnings of the Oshkosh & Mississippi River Railway, which is leased to the C. M. & St. P. Ry. Co., are included in these figures.

² Reported separately, although leased to Chicago, Milwaukee & St. Paul.

³ Not in operation June 30, 1875.

TABLE XXV.—Total monthly earnings.—Continued.

NAME OF COMPANY.	JANUARY, 1875.		FEBRUARY, 1875.		MARCH, 1875	
	Total lines.	Wisconsin lines.	Total lines.	Wisconsin lines.	Total lines.	Wisconsin lines.
Chicago, Milwaukee and St. Paul.....	\$454,070 83	\$304,802 79	\$309,878 05	\$203,402 75	\$486,081 53	\$294,908 04
Madison and Portage, (now Chi. and Su).....		1,674 34		941 29		2,029 08
Chicago and Northwestern	825,468 69		671,784 30		970,063 77	
Chicago and Tomah.....						
Galena and Southern Wisconsin						
Green Bay and Minnesota.....	15,811 05		14,437 72		20,219 95	
Milwaukee, Lake Shore and Western						
Mineral Point	8,987 36		8,426 81		6,725 13	
Prairie du Chien and McGregor.....	4,510 00		3,310 00		2,071 00	
Sheboygan and Fond du Lac.....	5,886 91		3,410 07		6,031 24	
Superior and St. Croix						
Western Union.....	72,226 72		60,720 54		78,550 91	
West Wisconsin	46,866 14		37,280 95		58,812 74	
Wisconsin Central.....	38,573 57		20,199 87		43,784 70	

DEDUCTIONS FROM REPORTS.

TABLE XXV.—Total monthly earnings—Continued.

NAME OF COMPANY.	APRIL, 1875.		MAY, 1875.		JUNE, 1875.		EARNINGS FOR THE YEAR.	
	Total lines.	Wisconsin lines.	Total lines.	Wisconsin lines.	Total lines.	Wisconsin lines.	Total lines.	Wisconsin lines.
Chicago, Milwaukee & St. Paul . . .	\$605,691 02	359,314 07	\$654,975 05	421,061 91	\$682,581 19	454,430 04	\$7,464,298 68	4,835,682 89
Madison & Portage, (now Chicago & Superior)		2,404 22		2,412 62		2,815 54		26,503 59
Chicago & Northwestern	1,024,389 26		1,164,458 67		1,052,890 52		12,597,094 61	No report.
Chicago & Tomah								
Galena & Southern Wisconsin								
Green Bay & Minnesota	18,706 50		28,855 93		25,499 16		300,883 38	
Milwaukee, Lake Shore & Western								
Mineral Point	7,622 81		7,148 83		8,371 79		104,721 66	101,383 55
Prairie du Chien & McGregor	3,207 00		4,430 00		4,450 00		54,083 00	47,285 00
Sheboygan & Fond du Lac	8,252 19		8,957 32		10,792 00		100,221 81	
Superior & St. Croix								
Western Union	72,170 29		79,128 60		90,449 98		1,086,118 97	
West Wisconsin	77,593 43		69,663 25		63,084 54		803,100 09	
Wisconsin Central	68,312 33		53,943 24		56,878 88		590,754 32	

TABLE XXVI.—Passenger earnings for the year ending June 30, 1875.

NAME OF COMPANY.	Total passenger earnings.		Passenger earnings per mile of road.		Passenger earnings per train mile.	
	Total line.	Wisconsin.	Total line.	Wisconsin.	Total line.	Wisconsin.
Chicago, Milwaukee & St. Paul.....	\$1,777,777 54	\$1,016,990 22		\$1,529 31		¹ \$1 65
Oshkosh & Mississippi.....						
Madison & Portage (Chicago & Superior).....	9,828 64	9,828 64	252 02	252 02	1 28	1 28
Chicago & Northwestern.....	3,184,788 25					
Chicago & Tomah.....						
Galena & Southern Wisconsin.....						
Green Bay and Minnesota.....	83,801 26		391 59		62	62
Milwaukee, Lake Shore & Western.....						
Mineral Point.....	16,197 29		317 59		30	
Prairie du Chien & McGregor.....	2,100 00	1,800 00				
Sheboygan & Fond du Lac.....	39,332 71		497 83		1 37	1 37
Superior & St. Croix.....						
Western Union.....	208,593 79		980 46		91	
West Wisconsin.....	272,084 53					
Chippewa Falls & Western.....						
Wisconsin Central.....	178,569 93		607 38		1 27	
Milwaukee & Northern.....						
Wisconsin Valley.....	30,777 06		346 86		60	

Earnings of elevators in Milwaukee not included.

1. To arrive at this result, the miles run by passenger trains.

DEDUCTIONS FROM REPORTS.

TABLE XXVII.—Freight earnings for the year ending June 30, 1875.

NAME OF COMPANY.	Total freight earnings.		Freight earnings per mile of road.		Freight earnings per train mile.	
	Total lines.	Wisconsin.	Total lines.	Wisconsin.	Total lines.	Wisconsin.
Chicago, Milwaukee & St. Paul	\$5,291,360 02	\$3,577,152 72	.....	\$5,379 18	.....	1.83
Oshkosh & Mississippi .....	.....	.....	.....	.....	.....	.....
Madison & Portage, (now Chicago & Superior)	14,331 22	14,331 22	367.47	367 47	.92	.92
Chicago & Northwestern	8,751,881 47	.....	.....	.....	.....	.....
Chicago & Tomah .....	.....	.....	.....	.....	.....	.....
Galena & Southern Wisconsin .....	.....	.....	.....	.....	.....	.....
Green Bay & Minnesota	203,368 11	.....	1,008.40	.....	1.95	1.95
Milwaukee, Lake Shore & Western .....	.....	.....	.....	.....	.....	.....
Mineral Point	84,739 33	.....	1,661.55	.....	1.57	.....
Prairie du Chien & McGregor	51,983 00	45,485 00	.....	.....	.....	.....
Sheboygan & Fond du Lac	55,551 83	.....	758.09	.....	1.14	.....
Superior & St. Croix .....	.....	.....	.....	.....	.....	.....
Western Union	830,500 18	.....	3,903.64	.....	1.83	.....
West Wisconsin	487,552 94	.....	.....	.....	.....	.....
Chippewa Falls & Western .....	.....	.....	.....	.....	.....	.....
Wisconsin Central	377,644 09	.....	1,284.50	.....	1.276	.....
Milwaukee & Northern .....	.....	.....	.....	.....	.....	.....
Wisconsin Valley	71,670 42	.....	808.00	.....	1.41	.....

¹Earnings of elevators in Milwaukee, are not included.

³Leased to C. Mil. & St. Paul. No separate report made.

²"To arrive at this result the mile run of freight and mixed trains were used."

⁴Including car mileage and mail and express matter.

TABLE XXVIII.—Earnings from all sources other than the passenger and freight business; also gross earnings, earnings per mile of road, &c.

NAME OF COMPANY.	MAILS.		EXPRESS.		RENT OF CARS AND OTHER SOURCES.		EARNINGS PER MILE OF ROAD.	
	Total lines.	Wisconsin.	Total lines.	Wisconsin.	Total lines.	Wisconsin.	Total lines.	Wisconsin.
Chicago, Milwaukee and St. Paul ¹	\$136,979 41	\$80,131 77	\$168,595 37	\$91,134 90	\$ 89,586 34	\$70,273 28	.....	\$7,271 70
Oshkosh and Mississippi	.....	.....	.....	.....	.....	.....	.....	.....
Madison and Portage (Chicago and Superior)	1,743 75	1,743 75	535 18	535 18	64 80	64 80	\$679 58	679 58
Chicago and Northwestern	264,532 98	.....	267,589 93	.....	128,301 98	.....	.....	.....
Chicago and Tomah	.....	.....	.....	.....	.....	.....	.....	.....
Galena and Southern Wisconsin	.....	.....	.....	.....	.....	.....	.....	.....
Green Bay and Minnesota	10,794 12	.....	1,637 09	.....	1,282 80	.....	1,405 99	.....
Milwaukee, L. Shore and West'n	.....	.....	.....	.....	.....	.....	.....	.....
Mineral Point	2,580 08	.....	1,200 00	.....	.....	.....	2,053 36	.....
Prairie du Chien and McGregor	.....	.....	.....	.....	.....	.....	20,000 00	.....
Sheboygan and Fond du Lac	4,870 85	.....	408 51	.....	57 91	.....	1,268 63	.....
Superior and St. Croix	.....	.....	.....	.....	.....	.....	.....	.....
Western Union	13,257 60	.....	12,000 00	.....	21,769 40	.....	5,058 14	.....
West Wisconsin	243,462 62	.....	No record	.....	.....	.....	.....	.....
Chippewa Falls and Western	.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Central	19,641 71	.....	4,675 45	.....	10,223 14	.....	2,009 37	.....
Milwaukee and Northern	.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Valley	3,795 67	.....	179 67	.....	1,069 00	.....	1,211 85	.....

¹ Earnings of elevator in Milwaukee are not included.

² "Mails, express, &c."

TABLE XXIX—Expenditures for the year ending June 30, 1875—Operating expenses, as per reports of 1875.

NAME OF COMPANY.	FOR MAINTENANCE OF WAY.		MAINTENANCE OF BUILDINGS.		MAINTENANCE OF ROLLING STOCK.	
	Total lines.	Wisconsin.	Total lines.	Wisconsin.	Total lines.	Wisconsin.
Chicago, Milwaukee & St. Paul.....	\$1,343,685 82	\$797,144 53	\$92,250 78	\$51,671 91	\$746,376 45	\$492,820 95
Oshkosh & Mississippi ¹						
Madison & Portage (Chicago & Superior) ..	9,683 81	9,683 81	85 20	85 20	1,475 57	1,475 57
Chicago & Northwestern	1,887,337 06		124,915 10		1,463,693 32	
Chicago & Tomah.....						
Galena & Southern Wisconsin ²						
Green Bay & Minnesota.....	37,449 86		2,570 21		48,244 09	
Milwaukee, Lake Shore & Western.....						
Mineral Point.....	63,057 23		1,193 11		16,193 91	
Prairie du Chien & McGregor.....	7,900 00				14,900 00	
Sheboygan & Fond du Lac.....	33,927 16		2,552 03		13,536 17	
Superior & St. Croix.....						
Western Union	149,603 86		17,539 50		141,039 87	
West Wisconsin.....	168,202 82		18,067 11		108,760 91	
Chippewa Falls & Western.....						
Wisconsin Central ⁴	84,168 74		2,641 75		50,155 98	
Milwaukee & Northern.....						
Wisconsin Valley	18,050 22		1,079 32		6,415 48	

¹ Included in Chicago, Milwaukee & St. Paul.

² Not in operation in time.

³ Leased to West Wisconsin.

TABLE XXIX.—Expenditures, &c.—Continued.

NAME OF COMPANY.	SUPPLIES—(TRAIN AND STATION FUEL, OIL, &C.)		SALARIES.		PERSONAL, LEGAL, AND OTHER EXPENSES.	
	Total lines.	Wisconsin.	Total lines.	Wisconsin.	Total lines.	Wisconsin.
Chicago, Milwaukee & St. Paul	\$860,129 82	\$542,853 18	\$1,423,944 04	\$891,122 39	1\$44,615 01	1\$27,675 87
Oshkosh & Mississippi ²						
Madison & Portage (Chicago & Superior) ..	6,303 82	6,303 82	15,851 86	15,851 86	33 00	33 00
Chicago and Northwestern	1,194,460 70		2,466,707 04		158,947 60	
Chicago and Tomah						
Galena and Southern Wisconsin ⁴						
Green Bay and Minnesota	50,916 21		88,055 34		17,761 54	
Milwaukee, Lake Shore and Western						
Mineral Point	11,610 99		32,986 00		3,999 69	
Prairie du Chien and McGregor	2,900 00		12,000 00		4,750 00	
Sheboygan and Fond du Lac	12,856 91		31,827 25		1,497 93	
Superior and St. Croix						
Western Union	110,224 61		209,939 21		21,300 02	
West Wisconsin	85,245 66		198,833 62		96,673 34	
Chippewa Falls and Western ⁵						
Wisconsin Central	65,083 13		140,849 49		1,093 14	
Milwaukee and Northern						
Wisconsin Valley	17,096 31		24,579 21		7,123 58	

¹ "Personal" expenses included in other items.

² Included in Chicago, Milwaukee & St. Paul.

³ Included in maintenance of way.

⁴ Rents, \$23,919.22; teaming, freight, baggage and mails, \$3,561.53; miscellaneous, \$57,162.92; car-hire over amount received, \$53,399.03; losses on account of Chicago fire, \$18,904.90.

⁵ Leased to West Wisconsin.

DEDUCTIONS FROM REPORTS.

TABLE XXX.—Operating expenses; also, amount of taxes, insurance, rents for use of other roads whose earnings are included in the reports of the following companies:

NAME OF COMPANY.	Foreign agencies and advertising.		Damages paid.		Taxes paid.	
	Total line.	Wisconsin.	Total line.	Wisconsin.	Total line.	Wisconsin.
Chicago, Milwaukee and St. Paul.....	\$92,467 96	\$54,016 60	\$52,177 86	\$25,497 79	\$380,046 53	\$297,734 38
Oshkosh and Mississippi ¹						
Madison and Portage (Chicago and Superior).....			628 35	628 35	457 75	457 75
Chicago and Northwestern.....	65,971 50		118,112 89		372,810 77	
Chicago and Tomah.....						
Galena and Southern Wisconsin ⁵						
Green Bay and Minnesota.....	172 33		4,269 90		2,328 79	
Milwaukee, Lake Shore and Western.....						
Mineral Point.....			272 98		4,854 27	
Prairie du Chien and McGregor.....					1,750 00	
Sheboygan and Fond du Lac.....	3,515 44		1,748 80		4,278 12	
Superior and St. Croix.....						
Western Union.....	2,831 76		7,575 60		38,109 42	
West Wisconsin.....	14,024 74		10,531 68		30,559 84	
Chippewa Falls and Western ³						
Wisconsin Central.....	2,900 76		3,184 22			
Milwaukee and Northern ²						
Wisconsin Valley.....	313 26				1,585 05	

TABLE XXX.—Operating expenses—Continued.

NAME OF COMPANY.	Insurance.		Paid on leases.		Total operating expenses.		Per cent. of whole exp'se.	
	Total line.	Wisconsin.	Total line.	Wisconsin.	Total line.	Wisconsin.	Total lines.	Wisconsin.
Chicago, Milwaukee and St. Paul.....	\$40,592 28	\$23,582 57	\$420,638 81	.....	\$5,182,876 81	\$3,275,753 55	69.4	67.7
Oshkosh and Mississippi.....	.....	.....	.....	.....	.....	.....	.....	.....
Madison and Portage (Chi. and Sup'r).....	.....	.....	.....	.....	34,519 36	34,519 36	130.0	130.0
Chicago and Northwestern.....	.....	.....	.....	.....	7,852,955 93	.....	.....	.....
Chicago and Tomah.....	.....	.....	.....	.....	6,083 62	.....	.....	.....
Galena and Southern Wisconsin.....	.....	.....	.....	.....	329,497 73	.....	.....	.....
Green Bay and Minnesota.....	1,600 00	.....	30,188 25	.....	.....	.....	.....	.....
Milwaukee, Lake Shore and Western.....	.....	.....	.....	.....	.....	.....	.....	.....
Mineral Point.....	.....	.....	.....	.....	134,168 18	.....	127.0	.....
Prairie du Chien and McGregor.....	3,000 00	.....	.....	.....	.....	.....	.....	.....
Sheboygan and Fond du Lac.....	552 50	.....	.....	.....	105,783 31	.....	.....	.....
Superior and St. Croix.....	.....	.....	.....	.....	.....	.....	.....	.....
Western Union.....	6,062 17	.....	68,700 79	.....	768,766 22	.....	71.0	.....
West Wisconsin.....	64 37	.....	9,600 00	.....	740,564 09	.....	.....	.....
Chippewa Falls and Western.....	.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Central.....	3,255 56	.....	137,654 85	.....	4353,332 77	.....	59.8	.....
Milwaukee and Northern.....	.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin Valley.....	.....	.....	.....	.....	76,242 43	.....	70.0	.....

1. Included with St. Paul, to which it is leased.
2. Included with Wisconsin Central, to which it is leased.
3. Leased to West Wisconsin.
5. Road not in operation until about April 1, 1875.

4. The report does not include in total operating expenses the sum of \$137,654.85 paid to Mil. & Northern and Mil. & St. Paul for use of their roads, the total being \$490,937.62, and the items of expenses numbered 6, 7, 8, 9, 10, 11, 12, 13 and 14 as given in the report, are calculated from the amount \$353,332.77.

DEDUCTIONS FROM REPORTS.

TABLE XXXI.—Operating expenses—Continued.

NAME OF COMPANY.	Operating expenses per mile road.		Op. Ex. per train mile.		Maintenance of track and bridges per mile run		Repairs of engines per mile run.		Engineers and firemen per mile run.		Oil and waste per mile run.		Fuel per mile run.	
	Whole road.	Wisconsin.	Whole road.	Wisconsin.	Whole road.	Wisconsin.	Whole road.	Wisconsin.	Whole road.	Wisconsin.	Whole road.	Wisconsin.	Whole road.	Wisconsin.
Chicago, Milwaukee & St. Paul	\$3,704 70	\$4,925 94	\$1 23	\$1 27	31 3	30 2	07 3	.076	.33 9	.09	.01 6	.01 9	.16 6	.....
Oshkosh & Mississippi . . . . .														.16 9
Madison & Port., (Chi. & Su.)	885 11	885 11	1 48	1 48	41 4	41 4	04 9	.049	.11	.11	.0 11	.01 1	.25 5	.25 5
Chicago & Northwestern														
Chicago and Tomah														
Galena & Southern Wisconsin														
Green Bay and Minnesota	1,539 71		94		.26		.05		.07		.01		.11	
Mil., Lake Shore and Western														
Mineral Point	2,630 74		2 33		.99		.30		.10		.02		.19	
Prairie du Chien & McGregor	13,775 00													
Sheboygan and Fond du Lac	1,339 02	1,339 02	1 24				.12 16		.06 75		.01		.09	
Superior and St. Croix														
Western Union	3,613 45		1 13		.27		.10		.09		.02		.12	
West Wisconsin														
Chippewa Falls and Western														
Wisconsin Central	1,201 81	1,201.81	6.55		15.6		.036		.05 5		.10		.08 5	
Milwaukee and Northern														
Wisconsin Valley	88.95	88.95	74	.74	.18	18	.01½	.01½	.09	.09	.02 9	.02 9	.12 5	.12½

¹This amount is reported, but in arriving at it, the item of \$137,664 85 paid for leased roads is not included in the amount given as the total operative expenses, and for which it is calculated.

²Road not in operation in time

TABLE XXXII.—Operating expenses and interest, compared with earnings.

14—R R C—II

NAME OF COMPANY.	INTEREST PAID ON BONDS.		OPERATING EXPENSES AND INTEREST.		Per cent. of operating expenses, taxes, insurance, leases and interest to whole receipts.	
	Total.	Proportion for Wisconsin.	Total.	Proportion for Wisconsin.	Whole.	Wisconsin.
Chicago, Milwaukee and St. Paul.....	\$1,981,273 49	\$1,088,994 00	\$7,164,150 30	\$4,364,747 55	96.100	90
Oshkosh and Mississippi.....						
Madison and Portage (Chicago and Sup'r)						
Chicago and Northwestern.....	22,230,439 68		10,083,395 61		80.100	
Chicago and Tomah.....						
Galena and Southern Wisconsin.....						
Green Bay and Minnesota.....	60,000 00		389,497 73		389.300	
Milwaukee, Lake Shore and Western.....						
Mineral Point.....	32,000 00				166.105	
Prairie du Chien and McGregor.....			27,550 00	24,106 25	51.100	
Sheboygan and Fond du Lac.....			105,783 31	105,783 31	106.100	
Superior and St. Croix.....						
Western Union.....	243,950 00		1,012,716 22		93.100	
West Wisconsin.....			740,564 09		92.100	
Chippewa Falls and Western.....						
Wisconsin Central.....			353,332 77		60.100	
Milwaukee and Northern.....						
Wisconsin Valley.....	46,556 17	46,556 17	122,798 60	122,798 60	123.107	

(Doc. 15)

DEDUCTIONS FROM REPORTS.

TABLE XXXII.—Operating expenses, &c.—Continued.

NAME OF COMPANY.	Excess of earnings over operating and current expenses.		Excess of operating and current expenses over earnings.	
	Whole road.	Wisconsin.	Whole road.	Wisconsin.
Chicago, Milwaukee and St. Paul.....	\$2,281,421 38	\$1,559,929 34	.....	.....
Oshkosh and Mississippi .....	.....	.....	.....	\$8,015 77
Madison and Portage (Chicago and Superior).....	.....	.....	\$8,015 77	.....
Chicago and Northwestern.....	.....	.....	.....	.....
Chicago and Tomah.....	.....	.....	.....	.....
Galena and Southern Wisconsin.....	.....	.....	.....	.....
Green Bay and Minnesota .....	.....	.....	28,614 35	.....
Milwaukee, Lake Shore and Western.....	.....	.....	.....	.....
Mineral Point.....	.....	.....	29,446 52	.....
Prairie du Chien and McGregor.....	26,533 00	23,216 34	.....	5,561 50
Sheboygan and Fond du Lac .....	.....	.....	5,561 50	.....
Superior and St. Croix.....	.....	.....	.....	.....
Western Union.....	317,352 75	.....	.....	.....
West Wisconsin	62,536 00	.....	.....	.....
Chippewa Falls and Western .....	.....	.....	.....	.....
Wisconsin Central.....	237,421 55	.....	.....	.....
Milwaukee and Northern.....	.....	.....	.....	.....
Wisconsin Valley.....	31,429 33	31,249 33	.....	.....

¹ Included with Chicago, Milwaukee and St. Paul. ² Including premium on gold-coupons and exchange. ³ Interest not included; none reported as paid.
⁴ Interest not included; and the item of \$137,654.85, paid for leases, is not included by the report in "total operating expenses."

TABLE XXXIII.—Use made of excess of earnings.

NAME OF COMPANY.	Paid for extensions.	Paid for lines purchased.	For steel rail.— Excess of cost over iron rail, and new rail in new track.	For new bridges and culverts.	For new equipment.	For new machinery.	For real estate.
Chicago, Milwaukee and St. Paul.....	\$14,546 31	.....	.....	\$35,505 33	\$50,934 50	.....	\$70,926 13
Oshkosh and Mississippi.....
Madison and Portage.....
Chicago and Northwestern*.....	Not reported.	No report.	\$501,967 84	113,447 13	33,759 06	\$4,611 39	14,424 20
Chicago and Tomah.....
Galena and Southern Wisconsin.....
Green Bay and Minnesota.....	25,500 00	.....	.....
Milwaukee, Lake Shore and Western.....
Mineral Point.....	3,950 00	.....	.....
Prairie du Chien and McGregor.....
Sheboygan and Fond du Lac.....	400 00
Superior and St. Croix.....
Western Union.....	69,545 68	.....	.....
West Wisconsin.....	4,192 07	4,982 77	18 00	26 99	.....
Chippewa Falls and Western.....
Wisconsin Central.....	Not reported.	.....	.....	.....	.....	.....	.....
Milwaukee and Northern.....
Wisconsin Valley.....

* Paid for new investment in the length of the company's lines one year ago, \$529,299.39.
 † Excess of cost over iron rail.

† Included in operating expenses.
 ‡ Not including replacements.

DEDUCTIONS FROM REPORTS.

TABLE XXXIV.—Land Grants—total amounts and total proceeds; also proceeds for total year ending June 30, 1875.

NAME OF COMPANY	Public lands granted to.—Acres	Public lands received by.—Acres.	Acres sold and conveyed.	Acres sold but not conveyed.	Acres sold or contracted during year.	Proceeds of lands sold during year.	Av. price realized from lands sold.	Total cash from lands to date.	Due on lands sold or contracted.	Acres of land held unsold.	Prices of lands held.
Chicago, Milwaukee and St. Paul	... (4) ...	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Madison and Portage	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chicago and Northwestern	... (3) ...	397,306.19	30,941.21	2,136.69	33,077.90	\$59,129 79	\$3 21	\$107,705 43	.....	364,228.29	² \$1 97
West Wisconsin	1,004,160	759,990.60	50,567.70	108,140.56	.....	\$23,299 17	4 23	961,091 19	\$413,707 22	601,282.34	.....
Wisconsin Central	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

¹July 1st, 1875.²Average as far as appraised.

³"Besides portions of right of way and depot grounds, &c., about 551,490.10 acres, of which 154,183.91 acres had been reserved by the Chicago, St. Paul and Fond du Lac R. R. Co., and sold by order of court on account of that Company's indebtedness, no part of the proceeds thereof having been reserved by the C. & N. W. R'y Co." (See report of R. R. Commissioners for 1874 for information on this subject.)

⁴"They received no swamp or other lands either from the State or general Government."

TABLE XXXV.—Municipal and private aid reported—amounts and proceeds.

NAME OF COMPANY.	Amount total of local aid.	Amount real- ized from local aid.	Cash received for stumpage, trespasses, etc.
Chicago and Northwestern.....			\$1,843 81
Galena and Southern Wisconsin.....	² \$33,000 00		
Green Bay and Minnesota.....	¹ 709,000 00	\$387,390 33	
Sheboygan and Fond du Lac.....		450,000 00	
West Wisconsin.....			54,029 79
Wisconsin Valley.....		35,000 00	

¹Particulars not specified.

²Aid from Platteville, for which stock was issued.

DEDUCTIONS FROM REPORTS.

TABLE XXXVI.—Comparative statistics of the principal railroad business operations during

PARTICULARS.	Chicago, Milwan- kee & St. Paul.	Chicago & North- western.	Galena & Southern Wisconsin.
1 Length in miles, total road.....	1,399	1,990.78	31
2 Length in miles, in Wisconsin.....	665	564.28	20
3 Locomotives, total number on road.....	1199	342	2
4 Passenger cars, total number on road.....	1107	169	1
5 Box freight cars, total number on road.....	13,007	4,677	10
6 Platform cars, total number on road.....	1671	1,025	19
7 Reported cost of equipment, total line.....	2,765,611	7,991,932.05	27,107.72
8 Reported cost of road and equipment, total line.....	54,647,902	57,369,713.55	444,251.89
9 Reported cost of road and equipment, in Wis... Cannot state	Not report'd	Not report'd	Not report'd
10 Cost of road and equipment per mile, total line.....	39,062	33,841	14,330.70
11 Cost of road and equipment per mile, in Wis... Not report'd	Not report'd	Not report'd	Not report'd
12 Common stock, total line.....	15,399,261	14,996,600	172,100.00
13 Preferred stock, total line.....	12,274,483	21,487,653	None.
14 Funded debt, total line.....	27,098,500	30,382,000	219,000.00
15 Unfunded debt, total line.....	454,397	Not report'd	47,591.35
16 Total stock and debt, total line.....	55,226,641	.....do.....	438,691.35
17 Number of men employed, total line.....	5,240	.....do.....	31
18 Miles run by passenger trains, total line.....	1,063,316	2,720,856	Not report'd
19 Miles run by freight and mixed trains, tot'l line.....	3,160,752	6,378,271	.....do.....
20 Total number passengers carried, total line.....	1,026,229	3,084,307	.....do.....
21 Total No. tons freight carried 1 mile, total line.....	232,530,091	451,546,468	.....do.....
22 Total No. passengers carried one mile, total line.....	53,847,931	106,123,087	.....do.....
23 Earnings from passengers, total line.....	1,777,777.54	3,184,788.25	2,474.25
24 Earnings from passengers in Wisconsin.....	1,016,990.22	Not report'd	Not report'd
25 Earnings from freight, total line.....	5,291,360.02	8,751,881.47	4,470.99
26 Earnings from freight in Wisconsin.....	3,577,152.72	Not report'd	Not report'd
27 Total earnings of company, total line.....	7,464,298.68	12,597,094.61	6,966.89
28 Total earnings of company in Wisconsin.....	4,835,682.89	Not report'd	Not report'd
29 Total earnings of company per mile, total road.....	1 7,271.70	.....do.....	.....do.....
30 Earnings per mile from freight, total road.....	1 5,379.18	.....do.....	.....do.....
31 Earnings per mile from passengers, total road.....	1 1,529.31	.....do.....	.....do.....
32 Earnings per train mile on freight, total road.....	1.83	.....do.....	.....do.....
33 Earnings per train mile on passengers, total r'd.....	1.65	.....do.....	.....do.....
34 Net earnings per mile, total road.....	2,345.76	.....do.....	.....do.....
35 Net earnings per train mile, total road.....	60 7-10	.....do.....	.....do.....
36 Cur'nt operating exp's, all purposes, total road.....	5,182,876.81	7,852,955.93	6,083.62
37 Cur'nt operating exp's, all purposes, in Wis... Not report'd	3,275,753.55	Not report'd	Not report'd
38 Operating expenses per mile, total road.....	3,704.70	3,748.00	196.24
39 Operating expenses per mile in Wisconsin.....	4,925.94	Not report'd	Not report'd
40 Operating expenses per train mile, total road.....	1.23	.....do.....	.....do.....
41 Excess of earn'gs over operat'g exp's, total line.....	2,281,421.87	5,135,854.35	883.27
42 Excess of earn'gs over operating exp's in Wis... Not report'd	1,559,929.34	Not report'd	.....do.....
43 Cost of maintain'g track & bridges, per mile run.....	31 3-10	.....do.....	.....do.....
44 Cost repairs of engines, per mile run.....	7 3-10	.....do.....	.....do.....
45 Cost engineers and firemen, per mile run.....	8 9-10	.....do.....	.....do.....
46 Cost of oil and waste, per mile run.....	1 6-10	.....do.....	.....do.....
47 Cost of fuel, per mile run.....	16 6-10	.....do.....	.....do.....
48 New equipment, total line.....	50,934.50	33,759.06	.....do.....
49 New bridges & culv'ts, not includ'g displ'mants.....	35,505.33	113,447.13	.....do.....
50 Real estate and expense of purchase, total line.....	70,926.13	14,424.40	.....do.....
51 Total new investment, total line.....	257,176.65	529,299.36	.....do.....
52 Total new investment in Wisconsin.....	130,489.94	Not report'd	.....do.....
53 Interest paid on bonds, total line.....	1,981,273.49	2,230,439.68	.....do.....
54 Interest paid on bonds for Wisconsin.....	1,088,994.00	Not report'd	.....do.....
55 Total paym'ts in add'n to oper'ng exp's t'l line.....	2,253,450.14	3,151,454.71	.....do.....
56 Total paym'ts in add'n to oper'ng exp's in Wis.....	1,219,483.94	Not report'd	.....do.....

1 For Wisconsin part of road.

DEDUCTIONS FROM REPORTS.

companies of the State, showing financial condition and results of the year ending June 30, 1875.

	Green Bay & Min- nesota.	Mineral Point.	Sheboygan & Fond du Lac.	Western Union.	West Wisconsin.	Wisconsin Central.	Wisconsin Valley.
1	217½	51	79	212.75	228.5	294	88.7
2	217½	49	79	85.20	177.5	294	88.7
3	16	5	5	.....	18	24	5
4	11	5	6	.....	13	15	4
5	375	26	76	.....	70	270	20
6	125	26	68	.....	87	278	250
7	580,283.53	101,300.00	209,442.76	.....	No record.	646,055.81	264,838.02
8	6,032,944.62	1,131,175.00	2,839,096.65	7,982,543.00	do	7,091,163.80	1,259,802.08
9	6,032,944.62	Not rep'd	2,839,096.65	Not rep'd	do	7,091,163.80	1,259,802.08
10	27,730.00	22,180.00	35,938.00	37,533.00	do	36,552.00	13,263.00
11	27,730.00	Not rep'ted	35,938.00	Not rep'ted	do	36,552.00	13,263.00
12	7,849,000.00	1,200,000.00	1,398,200.00	4,000,000.00	8,000,000.00	200,000.00	551,000.00
13	None.	None.	None.	None.	1,000,000.00	None.	None.
14	3,979,860.00	320,000.00	1,690,308.03	3,500,000.00	6,140,000.00	Not rep'ted	1,790,000.00
15	1,461,301.49	None.	70,309.13	374,973.00	2,000,000.00	do	116,597.69
16	13,290,161.49	1,520,000.00	3,068,509.13	7,874,973.00	17,140,000.00	do	2,457,597.69
17	401	109	112	636	No record.	401	74
18	134,590	Not rep'ted	28,697	230,211	do	140,329	45,931
19	110,405	53,836	53,361	452,911	do	295,874	50,560
20	56,884	21,499	56,306	213,028	do	143,023	14,675
21	9,768,512	1,941,545	2,128,560	43,598,652	do	14,730,688	1,605,642
22	2,540,608	303,017	957,100	5,820,730	do	5,340,070	626,885
23	83,801.26	16,197.29	39,332.71	208,593.79	272,084.53	178,569.93	30,777.06
24	83,801.26	Not rep'ted	39,332.71	Not rep'ted	Not rep'ted	178,569.93	30,777.06
25	203,368.11	84,739.33	55,551.83	830,500.18	487,552.94	377,644.09	71,670.42
26	203,368.11	Not rep'ted	55,551.83	Not rep'ted	Not rep'ted	377,644.09	71,670.42
27	300,883.38	104,721.66	100,221.81	1,086,118.97	803,100.00	590,754.32	107,491.76
28	300,883.38	101,383.55	100,221.81	Not rep'ted	Not rep'ted	590,754.32	107,491.76
29	1,408.99	2,053.36	1,268.63	5,058.14	No record.	2,009.37	1,211.85
30	1,008.40	1,661.55	758.09	3,903.64	do	1,384.50	808.00
31	391.59	317.59	497.88	980.46	do	607.38	346.86
32	1.95	1.57	1.14	1.83	do	1,276-1000	1.41
33	.62	.30	1.37	.91	do	1,27-1000	.60
34	None.	None.	None.	1,491.67	do	807.55	351.17
35	None.	None.	None.	.46	do	.44	.32
36	329,497.73	134,168.18	105,783.31	768,766.22	740,564.09	490,987.62	76,242.43
37	329,497.73	Not rep'ted	105,783.31	Not rep'ted	Not rep'ted	490,987.62	76,242.43
38	1,539.71	2,630.74	1,339.02	3,613.47	3,241.00	1,201.81	859.55
39	1,539.71	Not rep'ted	1,339.02	3,613.47	Not rep'ted	1,201.81	859.55
40	.94	2.33	1.24	1.13	do	65.5-10	.74
41	None.	None.	None.	317,356.75	62,535.91	237,421.55	31,249.33
42	None.	None.	None.	Not rep'ted	Not rep'ted	237,421.55	31,249.33
43	0.26.55	.998	Not rep'ted	.27	do	15.6	.18
44	0.04.68	27.9	12 1-6	.10	do	3.6	.01.1-2
45	0.07.09	.095	.06 3-4	.09	do	5.5	.09
46	0.01.49	.095	.01	.02	do	1.0	.02.9-10
47	0.11.24	.016	.09	.12	do	8.5	.12.1-2
48	25,500.00	3,950.00	None.	69,545.68	do	.....	.....
49	.....	.....	None.	.....	None.	.....	.....
50	.....	.....	.....	.....	None.	.....	.....
51	25,500.00	3,950.00	None.	.....	.....	.....	.....
52	25,500.00	.....	None.	.....	.....	.....	.....
53	60,000.00	37,000.00	None.	243,950.00	None paid.	.....	46,556.17
54	60,000.00	.....	None.	.....	None paid.	.....	46,556.17
55	85,500.00	35,950.00	None.	354,874.57	4,652.94	.....	46,556.17
56	85,500.00	.....	None.	.....	.....	.....	46,556.17

TABLE XXXVII.—Accidents—number and proportion to mileage, business done, force employed, and passengers carried one mile.

NAME OF COMPANY.	Passengers.		Employees.		Other persons.		Total of killed.	Total of injured.	Proportion of killed and wounded to miles of road.	Proportion of killed and wounded to passenger miles.	Damages paid for accidents to property.
	Kill'd.	Inju'd.	Kill'd.	Inju'd.	Kill'd.	Inju'd.					
Chicago, Milwaukee & St. Paul.		4	2	58	4	12	6	74	1 to 17.49	1 to 673,099	\$6,956 15
Oshkosh and Mississippi.											
Madison & Portage (Chi. & Su).....				1				1	1 to 39.00	1 to 298,865	340 25
Chicago & Northwestern.....		1	5	29	7	10	12	40	1 to 38.46	1 to 2,040,948	
Chicago & Tomah.....											
Galena & Southern Wisconsin.....											
Green Bay & Minnesota.....			2				2		1 to 108.00	1 to 1,270,304	1,531 00
Milwaukee, Lake Shore & West'n.....											
Mineral Point.....											
Prairie du Chien & McGregor.....											269 25
Sheboygan & Fond du Lac.....											
Superior and St. Croix.....											
Western Union.....			2	2		2	2	4	1 to 40.00	1 to 970,120	1,400 00
West Wisconsin.....		1		11	1		1	12			
Chippewa Falls and Western.....											
Wisconsin Central.....	1		2	7	4		7	7	1 to 23.00	1 to 38,143	2,062 20
Milwaukee and Northern.....											
Wisconsin Valley.....					1		1		1 to 88.70	1 to 626,855	521 00

TABLE XXXVIII.—Comparative statement of the freight carried upon Wisconsin railroads for the years 1873, 1874, and the year ending June 30, 1875.

NAME OF COMPANY.	TONS OF FREIGHT CARRIED.			NUMBER OF TONS CARRIED ONE MILE.		
	1873.	1874.	1874-5.	1873.	1874.	1874-5.
Chicago, Milwaukee and St. Paul.....	1,747,881	1,698,850	1,557,169	² 257,628,532	² 259,168,248	232,530,091
Madison and Portage.....	10,056		(⁷)			(¹)
Chicago and Northwestern.....	2,518,075	1,682,963	3,053,315	³ 366,475,430	⁴ 461,412,030	454,546,468
Chicago and Tomah.....						
Galena and Southern Wisconsin.....						
Green Bay and Minnesota.....	46,472	105,940	91,790			9,768,512
Milwaukee, Lake Shore and Western.....	24,328	43,654				
Mineral Point.....	60,053	78,715	61,865			1,941,545
Prairie du Chien and McGregor.....	108,000	640,000	⁵ 400,000			
Sheboygan and Fond du Lac.....	59,188	43,045	53,214	⁶ 1,775,610		2,123,560
Superior and St Croix.....						
Western Union.....	344,901	391,245	389,895	⁶ 26,173,371	⁴ 46,412,248	43,598,652
West Wisconsin.....	180,082	168,260	No record.			No report.
Chippewa Falls and Western.....						
Wisconsin Central.....	41,124	186,716	176,380			14,730,688
Milwaukee and Northern.....	81,235					
Wisconsin Valley.....	2,553		36,866			1,605,642
Totals.....	5,223,948	5,019,388	5,920,494			

1 Included in report of Chicago, Mil. & St. Paul R'y Co.
2 For the year ending Dec. 31, 1873.
3 For the year ending Dec. 31, 1874.
4 For the year ending May 31, 1873.

5 For the year ending May 31, 1874.
6 For the year ending June 30, 1873.
7 Included in report of C., M. & St. P.
8 Estimated.

TABLE XXXIX.—Comparative statement of passenger traffic, years 1873, 1874, and year ending June 30, 1875.

NAME OF COMPANY.	NUMBER OF PASSENGERS CARRIED.			NUMBER PASSENGERS CARRIED ONE MILE.		
	1873.	1874.	1874-5.	1873.	1874.	1874-5.
Chicago, Milwaukee and St. Paul.....	960,525	1,051,527	1,026,229	² 52,252,558	³ 58,260,429	53,847,931
Madison and Portage.....	9,876		12,562			298,865
Chicago and Northwestern.....	2,407,879	2,747,756	3,084,307	⁴ 111,071,927	⁵ 109,134,533	106,123,087
Chicago and Tomah.....						
Galena and Southern Wisconsin.....						
Green Bay and Minnesota.....	37,456	54,788	56,884			2,540,608
Milwaukee, Lake Shore and Western.....	25,060	56,262				
Mineral Point.....	17,291	24,686	21,499			303,017
Prairie du Chein and McGregor.....	9,000	20,400	No report.			
Sheboygan and Fond du Lac.....	62,249	12,671	56,300	2,239,704		957,100
Superior and St. Croix.....						
Western Union.....	185,068	213,520	213,028	⁴ 5,369,786	⁵ 5,862,049	5,820,730
West Wisconsin.....	121,335	126,860	No record.			No report.
Chippewa Falls and Western.....						
Wisconsin Central.....	45,991	148,608	143,023			5,340,070
Milwaukee and Northern.....	74,279					
Wisconsin Valley.....	7,029		14,675	2626,885		
Totals.....	3,963,039	4,457,078	4,628,507			

² For the year ending Dec. 31, 1873.³ For the year ending Dec. 31, 1874.⁴ For the year ending May 31, 1873.⁵ For the year ending May 31, 1874.

TABLE XL.—Comparative statement of earnings for the years 1873, 1874, and the year ending June 30, 1875.

NAME OF COMPANY.	TOTAL FREIGHT EARNINGS, TOTAL LINES.			TOTAL PASSENGER EARNINGS.		
	1873.	1874.	1874-5.	1873.	1874.	1874-5.
Chicago, Milwaukee & St. Paul	1 \$6,421,369 24	2 \$6,137,151 84	\$5,291,360 02	1 \$1,857,196 43	2 \$1,933,664 98	\$1,777,777 54
Oshkosh and Mississippi . . . . .	.....	.....	.....	.....	.....	.....
Madison and Portage . . . . .	.....	.....	14,331 22	.....	.....	9,828 64
Chicago and Northwestern	3 8,614,260 25	4 10,163,717 39	8,751,881 47	3 3,509,702 28	4 3,426,824 25	3,184,788 25
Chicago and Tomah . . . . .	.....	.....	.....	.....	.....	.....
Galena and Southern Wisconsin . . . . .	.....	.....	.....	.....	.....	.....
Green Bay and Minnesota . . . . .	.....	.....	203,368 11	.....	.....	83,801 26
Milwaukee, Lake Shore and Western . . . . .	.....	.....	.....	.....	.....	.....
Mineral Point . . . . .	.....	.....	84,739 33	.....	.....	16,197 29
Prairie du Chien and McGregor . . . . .	.....	.....	51,983 00	.....	.....	2,100 00
Sheboygan and Fond du Lac	1 80,774 80	2 66,039 51	55,551 83	1 45,832 51	2 43,285 17	39,332 71
Western Union	5 651,081 07	4 858,953 95	830,500 18	5 203,292 72	4 216,514 16	208,593 79
West Wisconsin . . . . .	.....	2 554,622 14	487,552 94	.....	2 280,503 28	272,084 53
Chippewa Falls and Western . . . . .	.....	.....	.....	.....	.....	.....
Wisconsin Central	1 98,864 14	2 378,997 50	.....	1 72,523 95	2 189,571 54	.....
Milwaukee and Northern . . . . .	.....	.....	.....	.....	.....	.....
Wisconsin Valley	1 13,800 00	2 71,670 42	.....	1 10,950 88	.....	30,777 06

DEDUCTIONS FROM REPORTS.

¹ For the year ending 31st December, 1873.

² For the year ending 31st December, 1874.

³ For the year ending 31st May, 1873.

⁴ For the year ending 31st May, 1874.

⁵ For the year ending 30th June, 1873.

TABLE XL.—Comparative statement, &c.—Continued.

NAME OF COMPANY.	EARNINGS FROM ALL OTHER SOURCES.			TOTAL EARNINGS.		
	1873.	1874.	1874-5.	1873.	1874.	1874-5.
Chicago, Milwaukee & St. Paul.....	\$409,161 48	\$571,254 15	\$89,586 34	\$9,046,123 57	\$8,953,017 11	\$7,464,298 68
Oshkosh & Mississippi.....						
Madison & Portage (Chicago & Superior)...	46 14	55 50	64 80	30,516 65	32,174 61	26,503 59
Chicago & Northwestern.....	157,187 64	113,416 51	128,301 98	14,044,425 15	13,361,690 46	12,597,094 61
Chicago & Tomah.....						
Galena & Southern Wisconsin.....						
Green Bay & Minnesota.....			1,282 80	155,252 75	335,262 16	300,883 38
Milwaukee, Lake Shore & Western.....	104 33	522 13	Not reported.	90,270 30	152,128 36	
Mineral Point.....				128,121 33	124,685 29	104,721 66
Prairie du Chien & McGregor.....				17,700 00	47,868 25	54,083 00
Sheboygan & Fond du Lac.....	4,250 00	774 62	57 91	135,777 28	115,101 39	100,221 81
Western Union.....	20,521 65	20,861 80	21,767 40	1,137,634 23	1,123,107 81	1,086,118 97
West Wisconsin.....	4,429 18	1,948 53		781,619 73	793,947 01	803,100 09
Chippewa Falls & Western.....						
Wisconsin Central.....	9,193 96	6,793 29	10,223 14	182,458 63	596,550 43	590,754 32
Milwaukee & Northern.....	487 58			264,395 10		
Wisconsin Valley.....	150 00		1,069 00	24,900 88		107,491 76

TABLE XLI.—Comparative statement of the expenses of Wisconsin railroads for the years 1873, 1874, and 1874-5.

NAME OF COMPANY.	TOTAL OPERATING EXPENSES.			AMOUNT OF TAXES, INSURANCE AND INTEREST.		
	1873.	1874.	1875-5.	1 1873.	1 1874.	1874-5.
Chicago, Milwaukee & St. Paul.....	\$4,172,513 58	\$6,346,572 83	\$4,762,238 00	\$2,174,584 82	\$2,347,016 78	\$2,401,912 30
Oshkosh & Mississippi						
Madison & Portage (now Chicago & Sup'ior)	11,508 06	27,512 09	34,061 61	1,147 25	915 50	457 75
Chicago & Northwestern	9,130,047 32	8,156,983 23	7,480,145 16	1,183,818 41	2,347,016 78	2,603,249 85
Chicago & Tomah						
Galena & Southern Wisconsin						
Green Bay & Minnesota	330,714 00	532,248 03	325,568 94	194,995 60	306,568 05	63,928 79
Milwaukee, Lake Shore & Western	52,292 95	94,919 50			2,723 11	
Mineral Point	86,302 03	101,464 30	128,228 49	35,600 15	35,737 89	37,939 69
Prairie du Chien & McGregor		28,461 00	22,800 00		530 50	4,750 00
Sheboygan & Fond du Lac	98,866 24	81,163 97	100,952 69	7,387 61	8,032 00	4,830 62
Superior & St. Croix						
Western Union	526,414 26	790,718 39	724,596 63	240,993 27	297,832 89	300,773 29
West Wisconsin	353,547 21	564,996 44	657,208 25	332,737 37	30,829 58	83,355 84
Chippewa Falls & Western						
Wisconsin Central	106,585 25	311,820 43	487,732 06	4,577 86	22,920 30	3,255 56
Milwaukee & Northern	74,256 78			110,945 21		
Wisconsin Valley	15,195 32		74,657 38			48,141 22
Totals	4,958,243 00	17,036,860 21	14,798,189 21	4,277,687 55	5,635,323 38	5,552,574 31

1 Taxes and interest only.

DEDUCTIONS FROM REPORTS.

TABLE XLI.—Comparative statement, &c.—Continued.

NAME OF COMPANY.	TOTAL OPERATING EXPENSES, INCLUDING TAXES, INSURANCE AND LEASES.			EXCESS OF EARNINGS OVER OPERATING AND OTHER CURRENT EXPENSES.		
	1873.	1874.	1875.	1873.	1874.	1875.
Chicago, Milwaukee & St. Paul	¹ \$5,360,073 90		\$5,182,876 81	¹ \$3,686,049 67		\$2,281,421 87
Oshkosh & Mississippi						
Madison & Port., (Chi. & Su.)						
Chicago & Northwestern	² 9,074,378 81	² \$8,883,720 00	7,852,955 93	² 3,662,227 94	\$5,473,804 00	5,135,854 35
Chicago and Tomah						
Galena & Southern Wisconsin			6,083 62			
Green Bay and Minnesota	¹ 330,714 00		329,497 73	Deficit.		
Mil., Lake Shore and Western			No report.			No report.
Mineral Point			134,168 18			
Prairie du Chien & McGregor						
Sheboygan and Fond du Lac	¹ 132,090 32		105,783 31	¹ 3,686 96		
Superior and St. Croix						
Western Union	⁶ 747,533 98	⁵ 768,164 21	768,766 22	⁶ 146,594 00	⁵ 354,943 60	317,352 75
West Wisconsin	⁴ 547,476 47	⁵ 697,107 54	740,564 09	⁴ 375,000 00	⁵ 187,812 56	62,535 91
Chippewa Falls and Western						
Wisconsin Central	¹ 100,580 56	⁵ 373,676 62	490,987 62	¹ 81,239 20	⁵ 222,873 31	99,766 70
Milwaukee and Northern						
Wisconsin Valley	¹ 15,195 32		76,242 43	¹ 9,705 56		31,249 33
Totals	¹ 16,308,043 36	10,722,668 37	15,687,925 94	7,964,503 33	6,239,433 47	7,928,180 91

¹ For the year ending 31st December, 1873.² For the year ending 31st May, 1873.³ For the year ending 31st May, 1874.⁴ For the year ending 28th February, 1874.⁵ For the year ending 31st December, 1874.⁶ For the year ending 30th June, 1873.

PORTIONS OF THE
COMMISSIONERS' CORRESPONDENCE.

LEASE OF OSHKOSH AND MISSISSIPPI R. R. TO THE MILWAUKEE
AND ST. PAUL R. R. CO.

General Manager S. S. Merrill to the Commissioners.

OFFICE CHICAGO, MILWAUKEE & ST. PAUL R. R. CO.,

MILWAUKEE, *January 21, 1875.*

DEAR SIR:—Enclosed you will find a copy of the lease which this company holds of the Oshkosh & Mississippi Railroad, which is sent in conformity to your request of December 31, to Hon. Alex. Mitchell.

Regarding the lease of our road between Schwartzburg and Milwaukee to the Wisconsin Central Railroad Company which you allude to and request a copy of, I would say, the road is not leased at all. It is still operated by this company, and the Wisconsin Central Company are allowed to run their trains over it in connection with ours, under a business contract of which, I take it, you do not desire a copy.

Yours, truly,

S. S. MERRILL,
General Manager.

H. A. TENNEY,
Secretary Board of R. R. Commissioners.

Copy of Lease of Oshkosh & Mississippi Railroad Company to Milwaukee & St. Paul Railway Company and other papers pertaining thereto.

Resolved.—That the president and secretary of this company be and they are hereby authorized to execute an agreement between this company and the Milwaukee and St. Paul Railway Company, and affix thereto the corporate seal of this company, in the words and figures following, to-wit :

This indenture made this 29th day of August, A. D., 1871, between the Oshkosh and Mississippi River Railroad Company of the one part, and the Milwaukee and St. Paul Railway Company of the other part, witnesseth :

The said Oshkosh and Mississippi River Railroad Company, in consideration of the agreements and undertakings hereinafter contained, agrees to build and fully complete its railroad from the city of Ripon, in the county of Fond du Lac, to the city of Oshkosh, in the county of Winnebago, within sixty days from the date thereof, or as soon thereafter as practicable, ready for operation, including the bridge over the Fox River in said city of Oshkosh; also to procure the right of way and sufficient depot grounds for all stations including depot grounds in the city of Oshkosh; to build a suitable round-house and freight and passenger depots in the city of Oshkosh, and fence said railroad; all under the supervision and according to the directions of the engineers of the Milwaukee & St. Paul Railway Company, and deliver the same free and clear of all incumbrances of every name and nature, except the mortgage hereinafter named, to the Milwaukee & St. Paul Railway Company, to be operated as hereinafter provided.

Second. The said Oshkosh and Mississippi River Railroad Company further agree to make a mortgage on said railroad from Oshkosh to Ripon, covering and including all its property, appurtenances, depots and franchises, to Russell Sage, as trustee, to secure the payment of two hundred and forty thousand dollars of bonds, due in twenty years from the first day of July, A. D., 1871, with interest at eight per centum per annum, payable semi-annually; and it further agrees to make, create or suffer no other lien or incumbrance whatever on said railroad during the term of this agreement.

Third. The said Oshkosh and Mississippi River Railroad Company hereby demises and leases said railroad from the said city of Oshkosh to said city of Ripon, together with all its property, buildings, depots, fixtures, appurtenances, and franchises to the Milwaukee & St. Paul Railway Company, from the time of its completion as aforesaid, to the first day of January, A. D. 1892, to be operated and used by said Milwaukee & St. Paul Railway Company in connection with and as a part of the railway of said Milwaukee & St. Paul Railway Company, for the rent hereinafter reserved.

Fourth. The Milwaukee & St. Paul Railway Company agree to accept the demise and lease of said railroad from said Oshkosh to Ripon, to equip the same with suitable and sufficient rolling-stock and to operate the same for the said lease in connection with and as a part of its railroad, and keep the same in good repair and condition during the whole term of said lease.

Fifth. The Milwaukee & St. Paul Railway company are to pay to the Oshkosh & Mississippi River Railroad Company as rent, thirty-five per cent. of the gross earnings of said Oshkosh & Mississippi River Railroad in the manner following: So much thereof as may be necessary is to be paid by taking up and cancelling the coupons

attached to said two hundred and forty thousand dollars of bonds above mentioned, and the balance of said thirty-five per cent. of gross earnings after paying said coupons, if any, is to be paid to said Oshkosh & Mississippi River Railroad Company annually, on the first day of February, in each year, and yearly statements, said gross earnings and of said per centage are to be furnished to the said Oshkosh & Mississippi Railroad Company by said Milwaukee & St. Paul Railway Company.

Sixth.—The Milwaukee & St. Paul Railway Company further agree, that in case said thirty-five per cent. of gross earnings shall at any time be insufficient to pay said coupons, then that said Milwaukee & St. Paul Railway Company shall advance the balance of the money that may be necessary to take up said coupons as they become due and payable, and take them up; and it is expressly agreed by and between the parties to these presents, that for all sums so advanced the Milwaukee & St. Paul Railway Company shall hold said coupons as a lien, and the same is hereby made and constituted a lien on all the property hereby demised and leased prior and superior to all other liens except the said mortgage, until the same shall be fully reimbursed with interest at seven per centum per annum out of said thirty-five per centum of said gross earnings, or otherwise, by the said Oshkosh & Mississippi River Railroad Company.

Seventh.—It is mutually agreed and understood that the gross earnings of said railroad, shall be all the earnings for business done over the same between Oshkosh and Ripon, and intermediate points, and a fair *pro rata* share of all other business transacted partly on said railroad and partly on the railroad of the Milwaukee & St. Paul Railway Company.

Eighth.—It is mutually agreed that the Milwaukee and St. Paul Railway Company shall ballast the said railroad from Oshkosh to Ripon after taking possession under this lease and charge the same against the rent reserved in this lease.

Ninth.—It is further mutually agreed that the Milwaukee and St. Paul Railway Company will not charge a higher rate for carrying agricultural products from Ripon to Oshkosh than they charge for carrying the same from a like distance out of Milwaukee to the city of Milwaukee.

In witness whereof, the parties to these presents have caused the same to be subscribed by their respective presidents and attested by their respective secretaries, and have caused their respective corporate seals to be hereunto affixed the day and year first above written.

THE O. & M. RIVER R. R. CO.,
By JAMES JENKINS,
Its President.

[SEAL.] Sealed and delivered in presence of G. W. Washburn,
Orville Beach.

As to signatures and execution by the Oshkosh & Mississippi River Railroad Company.

Attest:

GEO. GARY, *Secretary.*

THE M. & ST. PAUL R'Y CO.,
By ALEX. MITCHELL,
Its President.

[SEAL.] Sealed and delivered in presence of J. P. C. Cottrell,
A. L. Cary.

As to the signatures and execution by the Milwaukee & St. Paul Railway Company.

Attest:

R. D. JENNINGS, *Secretary.*

STATE OF WISCONSIN, }
Winnebago County, } ss:

Be it remembered, that on this 31st day of August, A. D. 1871, before me personally appeared James Jenkins and George Gary, to me known to be the president and secretary, respectively, of the Oshkosh & Mississippi River Railroad Company, and known to me to be two of the persons who executed the foregoing agreement, and that they severally acknowledged the same and the execution thereof to be their free act and deed, and the free act and deed of the Oshkosh and Mississippi River Railroad Company, for the uses and purposes therein mentioned.

And I further certify that the seal thereto annexed is the seal of the said Oshkosh and Mississippi River Railroad Company.

G. W. WASHBURN,
Notary Public.

STATE OF WISCONSIN }
Milwaukee County, } ss:

Be it remembered, that on this 27th day of September, A. D. 1871, before me personally appeared Alexander Mitchell, and R. D. Jennings, to me known to be the president and secretary, respectively, of the Milwaukee & St. Paul Railway Company, and known to me to be two of the persons who executed the foregoing agreement, and that they severally acknowledged the same and the execution thereof to be their free act and deed, and the free act and deed of the Milwaukee & St. Paul Railway Company, for the uses and purposes therein mentioned.

And I further certify that the seal thereto annexed is the seal of the said Milwaukee & St. Paul Railway Company.

J. P. C. COTTRELL,
Notary Public.

Revenue stamp, cancelled.

Milwaukee & St. Paul Railway Company and other Papers pertaining thereto.

OFFICE OF THE OSHKOSH AND MISSISSIPPI RIVER R. R. Co.
OSHKOSH, Wis., *August 31, 1871.*

I, George Gary, Secretary of the Oshkosh and Mississippi River Railroad Company, do hereby certify that I have compared the foregoing copy of resolution hereto attached with the original resolution adopted by the Board of Directors of said company at a meeting of said board, held at the office of the company in the city of Oshkosh, Wisconsin, on the 31st day of August, A. D. 1871, and now of record in the minutes of the proceedings of said board, and that said copy is a correct transcript from such original resolution, and of the whole thereof.

In witness whereof I have hereto set my hand and affixed the
[SEAL.] seal of said company at Oshkosh, aforesaid, this 31st day
of August, A. D., 1871.

GEORGE GARY, *Secretary.*

INQUIRIES.

APPLICATION OF AMENDED LAW TO "B" ROADS.

[Telegrams.]

Sup't W. G. Swan to the Commissioners.

HUDSON, *March, 8, 1875.*

To the RAILROAD COMMISSIONERS:

I understand that our company has been relieved from the limitation prescribed for roads in Class A., and that we are entitled to rate of four cents per mile on passengers. Also that we are limited in freight rates by our tariff current on the first day of June, 1873. Am I right? An early answer by wire will oblige me.

W. G. SWAN,
General Superintendent.

HUDSON, *March 9, 1875.*

To J. W. HOYT, *Commissioner:*

Would like much to receive your interpretation of the effects of the amendment of March 4, on the amendment of March 2. It looks to me as if all roads in the State were now subject to same restrictions as the Chicago & Northwestern and Milwaukee & St.

Paul roads, as regards freight rates, and it does not seem possible that such could have been intended by the honorable legislature. Please reply by wire.

W. G. SWAN,
Superintendent.

Commissioner Hoyt, in reply to Superintendent Swan.

Dispatch received. You are right. Under a literal construction of the law, all roads in the State are now subject to the same limitations upon their freight rates as are the Chicago, Milwaukee & St. Paul, the Chicago & Northwestern and the Western Union railroads. And all roads other than these above-named, may charge four cents a mile, for carrying passengers.

The assistant attorney-general agrees with me in this construction.

JOHN W. HOYT,
Commissioner.

W. G. SWAN, Esq.,
General Superintendent.

CONCERNING FACILITIES, RATES, PRE-PAYMENT AND RE-SHIPMENT.

J. T. Comstock to the Commissioners.

OCONTO, WIS., *March 20, 1875.*

GENTLEMEN.—When does the new law take effect? Under the Potter-law am I obliged to pre-pay freight for points on the St. Paul railroad, for instance Oconomowoc. They require me to pay here \$29 in advance. Under the new law what will be the rate to Oconomowoc, Edgerton, and MacFarland?

Is the Chicago and Northwestern bound to give me cars when requested to do so?

Can I insist on flats, and must they give them to me?

If yes, then can they make me wait two months or ten weeks on plea of bad weather?

Can the Chicago & Northwestern refuse to let their cars go off their road on to the St. Paul for points in this State?

Respectfully,

J. T. COMSTOCK.

To the RAILROAD COMMISSIONERS.

Commissoner Hoyt, in reply.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, WIS., *March 29 1875.*

DEAR SIR:— * * * On account of the absence of the Attorney-General, whose advice is needed on one or two points, we are unable to reply to all your inquiries at this moment, but will do so as soon as possible. The new law went into effect on the 11th instant. You cannot be legally required to pre-pay charges on freight unless the articles are perishable, or of but little value.

Distance from Oconto to Oconomowoc 152.8 miles; legal charges \$23. Distance to Edgerton 179.1; legal charges \$25. Distance to McFarland, 219.9; legal charges \$27.

A railroad company having cars at liberty is of course in duty bound to furnish them on demand. There is no specific provision of law relating to this subject, however.

During such a winter as we have had this year, it would of course be very difficult to say just how far "the weather" may be plead as an excuse for not answering demands for cars.

As to passing of car-loads of freight from one road to another, you will find full information in section 19 of chapter 273, laws of 1874, as amended by the last legislature. Copy forwarded herewith. No company can refuse to allow its cars to so pass.

Respectfully, yours,

JOHN W. HOYT,
Commissioner.

J. T. COMSTOCK, Esq., *Oconto.*

J. T. Comstock to Commissioner Hoyt.

OCONTO, WIS., *April 2, 1875.*

DEAR SIR:— Your favor of the 29th received. Please accept thanks for information, and advise me as soon as convenient on the points whether the railroad company must give me flat cars, and whether the Chicago & Northwestern are bound to let their cars run through to points on the Milwaukee & St. Paul, and much oblige.

Yours, truly,

J. T. COMSTOCK.

JOHN W. HOYT, Esq.,
Commissioner.

Commissioner Hoyt to J. T. Comstock, in reply.

OFFICE OF THE RAILROAD COMMISSIONERS,
MADISON, *April 6, 1875.*

DEAR SIR:—In answer to your letter of the 2d instant, I have to say, that I know of no statute under which you can compel a railroad company to provide rolling-stock of a definite kind or quality. Should they have cars which they could furnish if they would, and you should be able to prove that their excuses for not doing so were invalid, you could appeal to the common-law applicable to all common carriers.

I have consulted the Attorney-General, and the foregoing is his opinion as well as my own. Should your freight constitute a car-load, they cannot refuse, when it is once loaded, to allow it to pass without unloading upon any railway which has track connections with their own. (See section 19, Potter-law, as amended; copy forwarded the other day.)

Respectfully, yours,

JOHN W. HOYT,
Commissioner.

J. T. COMSTOCK Esq., *Oconto.*

CONCERNING RATES ON FREIGHT PASSING OVER TWO OR MORE
ROADS.

G. B. Holden to the Commissioners.

SPARTA, WIS., *March 10, 1875.*

GENTLEMEN :—Can you inform me if there has been a decision as to the legal rates for carrying lumber under the Potter-law where it passes over two roads?

I own lumber at Millston, on the West Wisconsin Railroad, a station about 28 or 30 miles, I think, from Camp Douglass, on the Milwaukee & St. Paul Railroad, and it is about the same distance from Camp Douglass to Sparta. In October last, I directed ten or twelve car-loads to be shipped from Millston to Sparta, with the understanding from the freight-agent in Sparta that the roads would carry according to the law as construed by the Railroad Commissioners. One car came in advance of the rest, about October 10, when they demanded \$26 per car of 5,000 feet pine lumber.

I refused to pay the \$26 per car, and tendered the freight-agent \$15, which he refused. He then unloaded the lumber, and said he should charge me \$2 for unloading. The lumber still remains where it was then piled.

Now, has it been decided what the legal freight is between the points mentioned? I am not certain as to the exact distance on either road.

For two years I have been trying to negotiate with railroad companies to carry my lumber at some reasonable price, but they will not "budge an inch." And this winter I have had it hauled by horse-teams, at a saving of \$2,50 per thousand feet. I am not able to litigate the matter with the railroads, but it is really quite a hardship for me to pay such prices as the railroad companies charge, or to do without my lumber in the summer-time. (The teams cannot haul in summer.) If you will be kind enough to give me any information by which I can be profited, you will greatly oblige,

Yours, truly,

G. B. HOLDEN.

Commissioner Hoyt in reply to G. B. Holden.

OFFICE OF THE RAILROAD COMMISSIONERS,
MADISON, *March 12, 1875.*

DEAR SIR:—Yours of the 18th is received. I do not find "Mills-ton," on either of our railroad maps, or on our table of distances, and hence can not now inform you of exact distance from that point to Sparta. It is manifest, however, that you have been over-charged.

The probability is that each company has charged without regard to the fact that rates are to be computed from the place where the lumber was received to the point of delivery, as *though it passed over but one line.*

We had trouble of this sort in several cases last year, on account of the lameness of the law, which made no provision for a division of earnings, where freight passed over two or more lines. The amended law, though inconsistent with itself, and otherwise faulty, contains a provision designed to supply this deficiency. We shall print it very soon and send you a copy.

The belief is that you have an adequate remedy, and that the railroad companies will not attempt to evade the law, now that its language is explicit and unmistakable.

If they should, please acquaint us with the fact, and we will endeavor to have justice done you.

Respectfully,

JOHN W. HOYT,
Commissioner.

G. B. HOLDEN, Esq., *Sparta.*

COMPLAINTS.

RATES ON "B" ROADS, FACILITIES, TRANSHIPMENT, THROUGH RATES.

Commissioner Hoyt to Mr. Pedrick, in reply.

OFFICE OF THE RAILROAD COMMISSIONERS,
MADISON, *March 26, 1875.*

DEAR SIR:—Your favor of the 24th is at hand. In answer I have to say that, touching the matter of rates chargeable by companies operating "B" roads (to which class the West Wisconsin belongs,) the provisions of chapter 273, laws of 1874, as amended, are of such a character that the Commissioners do not now assume to decide whether the rates applicable to "A" roads, should be applied to the "B" roads also, or not.

As to the facilities to be afforded by railroad companies, there is less room for doubt, and yet it is questionable whether under the present law any railway company can be compelled to furnish cars of a particular kind in response to each and every demand made upon it. The law does require, however, that when freight passes from one road to another in car-loads, "such delivery shall be in the same cars, without unloading."

It is also clear that the several roads over which freight is required to pass shall be treated as one continuous line, and that "advanced payment of freights shall not be required, except in cases of perishable articles and freight of little value."

I will immediately call the attention of the West Wisconsin Company to these provisions of the law, in the hope that the violations of which you complain will not be repeated.

I would be glad to know whether the over-charges of which you also complain were made by the West Wisconsin Railroad Company alone, or whether companies with whose roads their line connects, have also disregarded the law as amended, since March 11, when it took effect.

The Commissioners appreciate your circumstances and would be pleased to see you relieved from the embarrassments you suffer.

Respectfully,

JOHN W. HOYT,
Commissioner.

M. PEDRICK, Esq., *Fairchild.*

Pedrick to Commissioner Hoyt, in reply.

FAIRCHILD, WIS., *April 1, 1875.*

DEAR SIR :—Your esteemed favor of the 26th ult. is at hand, in answer to my communication of the 24th. There are certain kinds of freight that require certain kinds of cars. I have a quantity of long timber to ship, and unless I can have flat cars of course cannot ship it. Before engaging to furnish this timber to my customers, I obtained the promise from the station agent here that I should have flat cars to ship it on, and now after I have engaged to furnish the timber, and got it ready for shipment, Mr. Swan writes me that the West Wis. R. R. cannot furnish flat cars to go on to the C. M. & St. P. road. You will readily see that this puts me in a very unsatisfactory and awkward position. Can you see any remedy for me? I do not wish to put myself in opposition to the management of railroads, nor do I wish to complain unjustly, but it looks to me as if there might be a little spite mixed in this refusal to furnish the cars called for. I have only shipped one car load of lumber since the amended law went into effect, as I have been waiting to see if there would not be something arranged satisfactorily with the roads, so that we could know what to depend upon.

The car above mentioned was shipped from here about the 20th of March, billed to Fall River, on which (\$30) thirty dollars was demanded (and paid under protest) before the car would be shipped. The distance is 138 miles, which would make the freight only \$22.

If I understand you correctly, you do not undertake to say

whether or not this road comes under the regulations which prescribe the rate of freight charged on other roads.

If it is decided that this road is not governed by the same rate as other roads, it is doing shippers on this road a great injustice, as lumber shipped from here has to compete with that shipped from other points, at a less rate of freight, which would virtually kill our business.

Very respectfully, yours,

JOHN W. HOYT, *Commissioner.*

M. PEDRICK.

CONCERNING DEMANDS FOR PRE-PAYMENT, ETC.

Mason, Blood & Co., to the Commissioners.

APPLETON, *March 27, 1875.*

GENTLEMEN:—What is our remedy when the railroad refuses to take our cars loaded for the Waupun States Prison, unless freight is pre-paid? The charge is illegal. Advise us and oblige,

Yours, truly,

MASON, BLOOD & CO.

Commissioner Hoyt, in reply.

OFFICE OF THE RAILROAD COMMISSIONERS,

MADISON, *April 2, 1875.*

GENTLEMEN:—In answer to your letter of the 27th, which has only just come to hand, I have to say:

1. That "advance payment of freight shall not be required as a condition precedent to carriage, except in cases of perishable articles and freights of little value." This is the language of the law. (See section 4, chapter 334, laws of 1875.)

2. That, although the penalties for violation are in themselves ample, the remedy at present must be with the individual in the courts.

The injunction granted by the supreme court related to the matter of *charges* only, and to the then legal charges. The law having been amended, and the rates changed, may have had the effect to dissolve the injunction and leave the Chicago, Milwaukee

& St. Paul and the Chicago & Northwestern companies just where they were.

Should violations of the law as it now is be frequent, so as to demand action on the part of the State, it may become necessary to do the work of last summer over again.

I trust, however, that when these companies have come to fully understand what the law is, they will comply with its provisions. We shall bring your complaints to the notice of the Chicago & Northwestern Company, unless you desire that it be otherwise.

Very respectfully,

J. W. HOYT,
Commissioner.

Messrs. MASON, BLOOD & Co., *Appleton.*

Commissioner Hoyt to H. H. Porter.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *April 3, 1875.*

DEAR SIR:—Complaint is made that some of your agents are demanding pre-payment of charges on freights, neither “perishable,” nor of “little value,” in violation of law. (See chapter 334, of laws of 1875.)

Believing that such violations have been due to a want of full understanding on the part of your agents of what the new law is, in this particular, I deem it proper to call your attention to the facts, in order that all ground of such complaints may be removed.

In a few days, we shall send copies of the railroad laws of 1875, and of the Potter-law as amended, to each of your agents.

Very respectfully, your obedient servant,

JOHN W. HOYT,
Commissioner.

H. H. PORTER, *Gen. Manager.*

Commissioner Hoyt to W. G. Swan.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *April 6, 1875.*

DEAR SIR:—We have received communications from Mr. M. Pedrick, of Fairchild, making enquiries concerning the duties of B

roads under the amended law, and saying that, while "he does not wish to put himself in opposition to the management of the railroads, nor to complain unjustly," he is nevertheless suffering embarrassments on account of the non-supply of platform-cars, (he wishes to ship timber,) and of charges higher than he can afford to pay, as well as higher than he supposes are legal, and that must break up his business if continued.

He seems to fear that he is being punished for asserting his legal rights in the past.

In answering his communications I have plainly given him the terms of the law, but have at the same time expressed the conviction that if he were to appeal to the general officers of the company, he would find them not only superior to the motives he inclines to attribute to their agents, but willing to afford him any accommodations in their power.

Respectfully, yours,

JOHN W. HOYT,
Commissioner.

W. G. Swan to Commissioner Hoyt, in reply.

OFFICE OF THE WEST WISCONSIN R'Y Co.,
HUDSON, WIS., *April 8, 1875.*

DEAR SIR:—Your favor of the 6th instant is before me. I have received several letters from Mr. Pedrick, to all of which I made immediate and kindly reply. It seems that he sold some long timber to go on to the Milwaukee & St. Paul road, and that flats were required to load it upon.

We have but few flats on this road and they were all being used for our own or other purposes. I was unable to obtain Milwaukee & St. Paul flats, and Mr. Pedrick could not arrange for them himself.

Before receiving your letter, I had, at a *sacrifice of our own interests*, given him several flats.

Respectfully,

W. G. SWAN,
Superintendent.

Christian Obrecht to the Commissioners:

SAUK CITY, *April 12, 1875.*

As you will see by the enclosed letter from Rablin Bros. the railroad is yet charging me freight in advance, and the rate, \$31.00, from Centralia to Baraboo is above legal rates, to-wit: Wisconsin Valley Railroad \$7, West Wisconsin twenty-five miles to Elroy, and Northwestern Railroad from Elroy to Baraboo, thirty-seven miles; making sixty-two miles for which the charges should not be over \$16, in all \$23. This is my understanding of the law. Please inform me what I can do in the matter.

Truly, yours,

CHRISTIAN OBRECHT.

RAILROAD COMMISSIONERS, *Madison.*

GRAND RAPIDS, *Wis., April 8, 1875,*

Enclosed find invoice of lumber sent to Baraboo. We had to pay freight in advance and draw on you for the amount, \$31.00 which we trust will be satisfactory,

Yours, truly,

RABLIN BROS.,
Per REEVES.

C. OBRECHT, Esq.

Commissioner Hoyt to Christian Obrecht, in reply,

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *Wis., April 12, 1875.*

SIR:—In answer to your letter of this date, and the letter of Rablin Bro's to you, I have to say, that while the demand for payment of charges on lumber in advance of delivery is clearly a violation on the part of any railroad company of section 19 of the "Potter-law" as amended, and a violation for which all offending companies will be held accountable by the State authorities, the question of rates justly chargeable by "B" companies may not be so easily settled. If, however, the several roads over which your lumber passes, have charged you in violation of the law, which provides that they shall be treated as a *continuous line*, there would seem to be no doubt of their liability on this score, as well as for demanding prepayment of charges.

Your letter has been referred to the Attorney-General, who will take such action as he may deem proper.

Respectfully,

JOHN W. HOYT,
Commissioner.

CHRISTIAN OBRECHT, *Baraboo.*

Christian Obrecht to the Commissioners,

SAUK CITY, *April 13, 1875.*

Enclosed find copy of a dispatch sent to you from Baraboo to-day. I wish you would show the same to the Attorney-General, and let me know as soon as you can what rights I have, and what would be best for me to do.

The railroads have troubled me in this manner, now over six months, and all during that time they charged me \$26 per car from Rudd's to Baraboo, 74 miles, and pay in advance.

Respectfully,

CHRISTIAN OBRECHT.

RAILROAD COMMISSIONERS.

[Dispatch.]

ELROY, *April 10, 1875.*

To C. OBRECHT:—

Baraboo, I hold a car of lumber from Rudd's, consigned to you, with charges unpaid and no money furnished to pre-pay to Baraboo. Please forward me \$25.20 for that purpose.

F. P. WENTWORTH, *Agent.*

Commissioner Hoyt to H. H. Porter.

OFFICE OF RAILROAD COMMISSIONERS,

MADISON, *April 15, 1875.*

DEAR SIR:—We are having complaints that your agent at Elroy is demanding pre-payment of charges on lumber in transit from Rudd's to Baraboo, and that the charges so required to be paid are in excess of those authorized by the law. It appears that the charges on a load from the former to the latter place amount to \$26—\$10 in excess of the legal rates for the whole distance.

Before answering the communication just received, we deem it

proper to enquire whether the agent at Elroy is acting contrary to your wishes, or whether it is the settled purpose of your company to disregard those provisions of chapter 273, laws of 1874, as amended by chapter 334, laws of 1875, which forbid the demand of prepayment of charges, and which require that in the computation of charges for transportation over two or more roads, such connecting roads shall be treated as a continuous line. Have the goodness to reply at once, and believe me,

Very respectfully,

JOHN W. HOYT,
Commissioner.

H. H. Porter to Commissioner Hoyt, in reply.

OFFICE CHICAGO & NORTHWESTERN R. R. Co.,

CHICAGO, *April 19, 1875.*

DEAR SIR:—Your favor of the 15th together with yours of the 3d inst., are just received on my return from New York, where I have been unexpectedly detained. I will enquire into the matter referred to immediately, and take the necessary means to correct the error. I am obliged to you for calling my attention to it. At the same time I had noticed in the New York papers, as copied from those of Wisconsin, that the Governor and railroad commissioners had decided to construe the law as amended last winter in the mode which it was plain the legislature intended it to be construed, viz., that all roads in the State of Wisconsin with the exception of the Chicago, Milwaukee and St. Paul and Chicago and Northwestern were relieved from the details of the Potter-law so long as their rates were not higher than the tariffs which were in effect on those roads immediately previous to the passage of the original Potter-law.

If this is not so, the injustice of the State of Wisconsin to the poor railroads of the State has been increased by the legislation of the past winter, rather than relieved.

May I ask you to give me your view of the matter, and oblige,

Yours, truly,

H. H. PORTER,
General Manager.

Commissioner Hoyt to Christian Obrecht.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON *April 23, 1875.*

DEAR SIR:—After some delay, I have an answer to my letter to the general manager of the Chicago & Northwestern Railroad, concerning the violations of law by his agent at Elroy, (in making *unlawful charges* and demanding *pre-payment* of charges.) He says:

“Your favor of the 15th, together with yours of the 3d inst., are just received on my return from New York, where I have been unexpectedly detained. I will inquire into the matter referred to immediately, and take the necessary means to correct the error.

“I am much obliged to you for calling my attention to it.”

Respectfully,

JOHN W. HOYT,
Commissioner.

CHRISTIAN OBRECHT, Esq., *Baraboo.*

Christian Obrecht, in reply.

SAUK CITY, *April 25, 1875.*

RAILROAD COMMISSIONERS:

Received yours of the 23d; and, for further information, I send you this letter from Rablin Bros. It seems railroads care not how much nor how often they violate the laws of the State. I hope something may be done to bring them to terms. The existing state of affairs should not continue; they are ruinous to business.

Hoping to hear from you again, I remain,

Respectfully, yours,

CHRISTIAN OBRECHT.

[Enclosure.]

GRAND RAPIDS, *April 22, 1875.*

DEAR SIR:—We made the demand of the railroad company, (Wis. Val.), to-day, to ship your lumber, but they refused to ship it without pre-payment of charges. We made draft on you for \$155.00. Hope this will be satisfactory.

Yours, truly,

RABLIN BROS.

C. OBRECHT, *Sauk City.*

Commissioner Hoyt to F. O. Wyatt.

OFFICE OF RAILROAD COMMISSIONERS,

MADISON, WIS., *April 27, 1875.*

DEAR SIR:—We have complaints from parties at Sauk City and at Baraboo that the ruling of your agent at Grand Rapids, requiring charges on lumber to be pre-paid, occasions them inconvenience and loss. You are of course aware that such demand is contrary to the provisions of section 4, of chapter 334, laws of 1875, but it seems that such provisions have been overlooked by your agent. The particular shipment to which allusion is here made was from Rablin & Company of Grand Rapids, to Christian Obrecht of Baraboo.

This letter is written in the belief that you will immediately correct the error, and Mr. Obrecht will be advised to delay action until you have had ample time for that purpose.

Very respectfully,

JOHN W. HOYT,
Commissioner.

Commissioner Hoyt to Christian Obrecht.

OFFICE OF RAILROAD COMMISSIONERS,

MADISON, WIS., *April 27, 1875.*

DEAR SIR:—Your favor appended to the letter of the 22d from Rablin Bros., of Grand Rapids, is at hand.

Believing that the action of the Wisconsin Valley Railroad Company's agent is contrary to the interest of that company, as well as unjust to you, I have written to Superintendent F. O. Wyatt, acquainting him with the facts, and would now suggest that prosecution be delayed until we have official notice of the course he intends to pursue hereafter.

Respectfully, yours,

JOHN W. HOYT,
Commissioner.

CHRISTIAN OBRECHT, *Baraboo.*

F. O. Wyatt to the Commissioners.

OFFICE OF THE WISCONSIN VALLEY R. R. Co.,
TOMAH, WIS., *April 29, 1875.*

GENTLEMEN :—Yours of the 27th is at hand, notifying me of complaint of parties shipping timber, &c., from points on this road to Baraboo, Wis. Lumber going from stations on this line to Baraboo and other points on the C. & N. W. R. R. in Wisconsin is shipped via Valley Junction and Elroy, and is carried between the last named points by the West Wisconsin R. R. The trouble in this case arises from the fact that the West Wisconsin and Chicago & Northwestern Railways refuse to receive this freight until freights are prepaid. I shall be pleased to have this matter adjusted, as the present demands of these roads are detrimental to the interests of this road. I think there can be no question but that the value of a car load of this kind of freight will be sufficient to pay freight to any point in the State, in case it is refused by consignee. The board may rest assured that this company will comply with the law in the matter.

Respectfully,

F. O. WYATT,
Superintendent.

Complaint—Van Brunt & Davis to the Commissioners.

HORICON, WIS., *April 27, 1875.*

GENTS:—We enclose you two letters, one from O. E. Britt, and one from Dan. Atwood.

We bought lumber at Shiocton. It was shipped, and in a few days we received a telegram, stating we had two cars of lumber at Green Bay, held there for advance charges. Since then they have concluded to send them to Burnett Junction.

These two letters will explain the matter, and we want to know how to act. We also paid two freight bills of \$41.00 each, from Wonewoc. We think our customer paid it, and we paid him. Is there any way to correct this? We did not want our customer to be out, for he thought he was doing us a favor; so we paid it. Please advise, and oblige,

Respectfully, yours,

VAN BRUNT & DAVIS.

To the RAILROAD COMMISSIONERS.

[Telegrams.]

*Dan. Atwood to Van Brunt & Davis.*GREEN BAY, *April 23, 1875.*

DEAR SIRs:—Two cars of lumber consigned to you, are at Burnett Junction awaiting pre-payment of freight, before they can be forwarded from there. The lumber is from Shiocton, and the amount of freight from Schiocton to Horicon, claimed on each car, is \$38.

If you remit the amount, \$76, immediately to J. B. Cole, agent Northwestern road, at Burnett Junction, the cars will be forwarded to you; otherwise I fear the lumber will be returned or unloaded where it is. Will you please attend to the matter, and notify me at once what you have done.

Yours, truly,

DAN. ATWOOD.

MILWAUKEE, *April 24.*

Your two cars of lumber from Shiocton, now at Burnett Junction, are in the possession of the Chicago & Northwestern Railway, subject to advance charges of \$30 each car. We decline paying these charges, because the legal rate from Shiocton to Horicon is but \$21. We certainly cannot be expected to pay the other roads an over-charge of nine dollars, on each car, and haul the cars from Burnett to Horicon free. If you will settle these charges with the other roads, so as to deliver the lumber to us free, we will haul it from Burnett to Horicon at legal rates.

O. E. BRITT.

TO VAN BRUNT & DAVIS.

B. C. Cook to the Commissioners.

OFFICE OF CHICAGO & NORTHWESTERN RAILROAD COMPANY,

CHICAGO, *April 30, 1875.*

GENTLEMEN:—I wish to submit to you certain questions which have arisen in the practical working of the lines of this company, in the State of Wisconsin, under chapter 273, of the laws of 1874, as amended by chapters 113 and 334, of the laws of 1875. On the 19th instant, this company received two car-loads of lumber from the Green Bay and Minnesota Railroad Company. The lumber was shipped at Shiocton, on the last named road, and assigned to Horicon, on the Chicago, Milwaukee & St. Paul Railway.

Under the law, the Chicago and Northwestern Railway, and the Chicago, Milwaukee & St. Paul Railway are in Class A; the Green Bay & Minnesota Railway is in Class B. The rates upon lumber fixed by the law are the same for Classes A and B, as I understand it. These two car-loads of lumber if transported from Shiocton to Horicon would pass over a distance of 126 miles on three roads, and the amount of freight allowed by the law for the whole distance would be \$21 per car; and if the freight were pro-rated between the roads, the statement would be as follows:

Route.	Distance.	Pro-rata.
Shiocton to Fort Howard Junction.....	G. B. and M., 31 m.	25 per cent., \$5.25
Fort Howard Junction to Burnett.....	C. and N. W., 90 m.	71 per cent., 14.91
Burnett to Horicon.....	C. M. and St. P., 5 m.	4 per cent., 84
	126 m.	<u>\$21.00</u>

The G. B. & M. R'y brought the two cars of lumber to us at Ft. Howard and demanded \$12 on each car as their charges.

The C. M. & St. Paul R'y Co. have given this company formal notice that it will not advance charges on lumber delivered to its road by this company.

The questions I wish to submit to you are as follows:

1. Is this company bound to advance to the G. B. & M. Co. its charges upon car-loads of lumber consigned over any portion of the road of this company, or may this company require the G. B. & M. R'y Co. to wait for its charges until they are collected from the consignee?

2. If this company is bound to advance to the G. B. & M. Co. its charges, is it required to advance any more than the *pro-rata* proportion of the freight for the whole distance, or have we a right to refuse to receive the freight until the proportion coming to the G. B. & M. Railway shall have been settled by arbitration?

3. Have we a right to require the C. M. & St. P. Railway, when we deliver car-loads of lumber to it, consigned to points on its road, to pay us the charges we have advanced on other roads, and our charges, or are we required to surrender the control and custody of the freight and allow it to pass entirely from our possession without being entitled to the same lien upon it for freight and advance charges, which we have for freight consigned to points upon our own road?

4. In case different railway companies cannot agree upon the di-

vision of freight earnings, and the question is submitted to referees chosen in pursuance of the provisions of the law, will the ordinary rule prevail, that all the referees must unite in the finding, there being no provision in the law that a majority may make an award; or will the award of two be decisive in the absence of any provision in the law to that effect?

These questions are submitted in good faith, for the purpose of ascertaining the views of the commissioners in relation thereto. The decision of the questions is absolutely necessary to prevent trouble and confusion in the practical working of the road, and the case stated is only one of a large number of cases constantly occurring, in which the same principles are involved, and I have selected it only for the purpose of presenting clearly the questions upon which the company desire the opinion of your board, to which the State has submitted the supervision of the roads under the law.

The company desires and intends to obey the law fully, as far as it is able to understand its provisions, although the compensation provided in the law is unremunerative and the business done is unprofitable; and I suppose that either your board or the Attorney-General, at your request, will give a construction to the law that this company will be safe in following.

Very respectfully,

B. C. COOK,
General Solicitor.

To the RAILROAD COMMISSIONERS,
Of the State of Wisconsin.

Commissioner Hoyt to Van Brunt & Davis, in reply.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *May 1, 1875.*

GENTLEMEN:—Answer to yours of the 27th has been delayed a day, owing to the absence of the Attorney-General. Meantime letters have come to hand from Messrs. Blood & Mason, of Appleton, and the Solicitor of the C. M. & St. P. R. R. Co., both relating to this same case.

The attorney of the C., M. & St. P. R. R. Co. assigns as the reason why his Co. refuse to receive and transport the lumber to Horicon,

that this can only be done on condition of paying \$30 charges to B. Junction, which he says is \$9 more than the legal rates from Shiocton to that point. He adds that, if the G. B. & Minn. and the C. & N. W. R'y Co's. will confine their demands to legal charges his Co. will receive the lumber and carry it to Horicon at legal rates. The Attorney-General tells me that he is quite confidently expecting the Supreme Court to consider the points involved in this and two or three other cases of a similar character, in connection with the injunction suit now pending, and that such decision will probably be made within two or three weeks; after which it is believed that the railroad companies will yield obedience without further proceedings.

Respectfully,

JOHN W. HOYT,
Commissioner.

Messrs. VAN BRUNT & DAVIS, *Horicon.*

The Commissioners' reply to B. C. Cook.

OFFICE OF THE RAILROAD COMMISSIONERS.

MADISON, WIS., *May 3, 1875.*

DEAR SIR:—Referring to your esteemed favor of the 30th of April, we have the honor to make the following answers to the four several inquiries therein propounded.

1 and 2. The charges on lumber are not payable in advance; and hence the Chicago and Northwestern Railroad Company cannot hold the lumber and demand pre-payment of accumulated charges, as a condition of its delivery to the Chicago, Milwaukee & St. Paul Company. It is not bound to advance to the Green Bay & Minnesota Railroad Company anything at all.

Nor should it refuse to receive such freight "until the proportion coming to the G. B. & M. R'y. Co. shall have been settled by arbitration." You are simply bound to receive and carry.

3. The C. & N. W. R'y. Co., for the same reasons, cannot demand of the C., M. & St. P. R'y. Co. a settlement in advance of the delivery of the lumber at Horicon. There is no need of a "lien;" the law will protect the rights of the C. & N. W. R'y. Co.

4. In case the question of a fair division of earnings is submitted to arbitration, the award of a *majority* of the arbitrators will be

binding upon all the parties. (See revised statutes of Wisconsin, chapter 5, section 1, subdivision 3, which reads as follows: "All words purporting to give a joint authority to three or more public officers, or other persons, shall be understood as giving such authority to a majority of such officers, or other persons; unless it shall be otherwise expressly declared in the law giving the authority.")

We need not assure you that the official declaration made by you in the closing paragraph of the letter before us, namely, that your "company desires and intends to obey the law fully, so far as it is able to understand its provisions," is extremely gratifying and in all respects satisfactory.

Very respectfully,

JOHN W. HOYT,
JOSEPH H. OSBORN,
Railroad Commissioners.

[Commissioner Paul being absent.]

P. S.—We deem it proper to add that your letter of the 30th ultimo, as well as the foregoing, in response thereto, have both just been examined by the Attorney-General, and that he endorses the several answers of the Commissioners in every particular.

THE COMMISSIONERS.

J. L. Bush to Commissioners—Advance charges.

DOYLESTOWN, *May 17, 1875.*

GENTLEMEN:—I have been shipping lumber from Warren's Mills, on the West Wisconsin Railroad, to Doylestown, on the Milwaukee and St. Paul Railroad, and have been obliged to pre-pay freight to get my lumber passed over the road, which I have done under protest; and I have two or three hundred thousand more which I want to get through to the same place. I have also paid on 12 cars \$84.00 in excess of the lawful rates, as I understand the law. I call your attention to this matter, hoping that I can get my lumber over the roads without pre-paying freight, as it is inconvenient for me, besides rather more expensive.

Respectfully, yours,

J. L. BUSH.

Commissioner Osborn, in reply.

OFFICE OF RAILROAD COMMISSIONERS,

MADISON, *May 22, 1875.*

DEAR SIR:—Yours of the 17th is at hand. In reply I would state that several cases similar to your own, have been presented to the Board of Commissioners and referred to the Attorney-General for consideration.

Without doubt some decided action will be taken very soon to remedy such abuses as you complain of.

Truly, yours,

J. H. OSBORN,
Commissioner.

J. L. BUSH, Esq., *Doylestown.*

P. S. Your particular case will also be referred to the Attorney-General.

J. H. O.

Complaint.—J. L. Rood to Commissioner Osborn.

MONROE, WIS., *May 31, 1875.*

DEAR SIR:—I received your letter duly. I have just received a car of shingles from Oshkosh. The C. M. & St. P. Railway have charged nine dollars and eighty cents for the last thirty-five miles, being the distance from Janesville to Monroe, and would not receive the car at Janesville at all, unless the freight was pre-paid.

I want to ship several cars of lumber, and would like to know if there is any way by which I can get lumber shipped at the legal rate, and not be compelled to pay an excess on every car I ship.

Yours, very truly,

J. L. ROOD.

J. H. OSBORN, *Railroad Commissioner.*

Commissioner Osborn, in reply.

OFFICE OF RAILROAD COMMISSIONERS,

MADISON, *June 4, 1875.*

DEAR SIR:—Yours of May 31, I found awaiting my return to the office. Since last writing you I have been to the several railroad

stations of Oshkosh, Fond du Lac, and Janesville, and questioned the respective agents at those places upon the points raised in your letter. There is no doubt that the station-agents only follow the instructions received from the general office, and that their instructions are in direct violation of the law. The continued absence of the Attorney-General prevents the presentation of the subject for his consideration and action; but the earliest opportunity will be embraced to do so.

Very truly, yours,

J. H. OSBORN,
Commissioner.

J. L. ROOD, *Monroe.*

Hon. A. Scott Sloan to W. G. Swan,

OFFICE OF ATTORNEY-GENERAL,
MADISON, WIS., *June 9, 1875.*

DEAR SIR:—Complaints are made that you are disregarding the provisions of the "Potter-law" so-called, by charging \$8 for the first twenty-five miles on lumber which has come to you from another road, and which has already paid \$8 for the first twenty-five miles on such other road; and that you charge \$5 for a fractional part of the second twenty-five miles. If these complaints are well founded, legal proceedings will be commenced to restrain your company from making such illegal charges; and your attention is called to them, that you may make any explanation you desire, and correct the practice in the future.

Your immediate attention is requested.

Yours, truly,

A. SCOTT SLOAN,
Attorney-General.

W. G. Swan to Hon. Scott Sloan, in reply.

OFFICE OF WEST WISCONSIN R. R. Co.,
HUDSON, WIS., *June 10, 1875.*

DEAR SIR:—I am in receipt of your favor of the 9th inst., wherein you say that "complaints are made that you are disregarding the provisions of the "Potter-law," so-called, by charging \$8 for the

first twenty-five miles on lumber, which has come to you from another road, and which has already paid \$8 for the first twenty-five miles on such road, and that you charge \$5 for a fractional part of the second twenty-five miles." You conclude by saying "that if such charges are true, legal proceedings will be commenced to restrain this company from making such illegal charges," &c.

In reply, I beg to say that our rates were made to conform strictly to those prescribed by the so-called "Potter-law," nearly a year ago; and that I supposed they were giving entire satisfaction to our immediate patrons, as well as to the general public. At any rate, no complaint has, as yet, been made to me or to any subordinate officer of the road so far as I know, and I am at a loss, in absence of special suggestions from you, to know to what particular rates objection has been made.

Will you kindly furnish to me by early mail, a full statement of the facts upon which the complaints referred to by you, are based, together with the names of the complainants, in order that I may give to the subject my personal and immediate attention. I was in hopes that we might by fairly conducting the business of the company, meet the good will and confidence of all having business dealings with us, and so be relieved from any small and unreasonable persecutions from all sources.

I assure you that this company sincerely desires to avoid all legal entanglements with the people, or the State authorities, and shall await your further communication, with a view to their taking such action as this company's interests and the merits of the premises may seem to require.

Very respectfully, yours,

W. G. SWAN,
Gen'l Supt.

Hon. A. Scott Sloan to D. M. Kelly.

OFFICE OF ATTORNEY-GENERAL,
MADISON, WIS., *June 9, 1875.*

DEAR SIR:—Complaints are being received at the office of the Railroad Commissioners and at this office, that the Green Bay & Minnesota Railway Company, is not complying with the acts of the legislature of this State, known as the "Potter-law;" that when

freight is shipped on your road, which will pass over another road to reach its destination, pre-payment is demanded at rates higher than authorized by said law, viz: That your company demands \$8 per car (lumber) for the first 25 miles, and also \$8 per car for the first 25 miles over the other road, and that you refuse to receive and forward freight, unless payment is made at such rates.

If these complaints are well founded, it will be our duty to commence proceedings for the enforcement of the law.

Your attention is called to them, in the hope that the company will correct the wrong, and save us the necessity of legal proceedings. Will you please advise me at your convenience what course your company intend to pursue in regard to the "Potter-law."

Yours, truly,

A. SCOTT SLOAN,
Attorney-General.

D. M. KELLY, Esq., *General Manager.*

D. M. Kelly, to A. Scott Sloan, in reply.

OFFICE OF G. B. & MINN. R. R. Co.,
GREEN BAY, ——— —, 1875.

DEAR SIR:—I have your esteemed favor of the 9th inst., and have to answer as follows: Early in May we received information from the Chicago & Northwestern Railway Company that they would not receive freight from us at the eastern terminus of our road, destined for points on the Chicago, Milwaukee and St. Paul Railway, or other connecting lines, unless the charges of that company (the C. & N. W. R'y,) were pre-paid, and also that on such freight, so destined, that company would not pay us our charges on the receipt of the freight, and, accordingly, seeing no other way to secure to us our charges, and to insure the taking of the freight from us by the C. & N. W. R'y, we notified our agents regarding the requirements of the C. & N. W. R'y Co., and requested them to say to shippers that to insure delivery of freight to destination, it was necessary that charges should be pre-paid.

About the same time we also received a communication from the C. & N. W. R'y Co., which we construed to mean that that company would receive no more freight from us, at our eastern terminus, destined to points on its road, unless its charges were pre-

paid, and that it would not pay to us our charges on delivery of freight to it, and, accordingly, we felt obliged to notify our agents, as in the former instance.

Subsequently, however, we were notified by the C. & N. W. R'y Co., that it would pay our charges, and would take freight without pre-payment of its charges, and, accordingly, our agents were notified not to ask for or advise pre-payment on freight destined to points on the C. & N. W. R'y.

The condition of affairs at the present time is this: On freight originating at stations on our road, and going over the Chicago & N. W. R'y, to points of destination on the Chi., Mil. & St. P. R'y, the C. & N. W. R'y Co. requires pre-payment of its charges as a precedent to taking of the freight from us, and therefore, not only to secure our charges, but to insure the taking of the freight by the C. & N. W. R'y, we are obliged to advise shippers to pre-pay charges up to the point where a delivery is made by the C. & N. W. R'y Co. to the C., M. & St. P. R'y Co.

On freight originating at stations on our road and destined to points on the C. & N. W. R'y, no pre-payment is required and advised, as at present such freight is taken from us by the C. & N. W. R'y Co. without any pre-payment of freight on our part, and our charges are promptly settled.

I am advised that the action of the C. & N. W. R'y Co. regarding freight destined to points on the C. M. & St. P. R'y is made necessary by the refusal of the latter Co. to receive such freight subject to any charges.

The action of this Co. in regard to freight destined for points on the C. & N. W. R'y and the C. M. & St. P. R'y, has been dictated simply by a desire to protect itself in its business, and to take such a course as seemed right and proper, under the circumstances, for the interest of the shippers, and not with any intention or disposition to violate the laws of this State.

If the connecting R. R. Co. refuses to receive freight from us, unless its charges are pre-paid, and also refuses to pay us our charges, I can see no other way left open to continue our business, and to protect the interests of our shippers in securing a certain and prompt delivery of freight to destination, than to advise the pre-payment of charges.

If the C. & N. W. R'y Co. is willing to take freight from us, and

carry it forward to destination, our duty and course is plain; but if it utterly refuses to receive freight from us, destined to points on the C. M. & St. Paul R'y, or other connecting lines, unless its charges are prepaid, I see no way to compel that Co. to receive the freight from us without complying with its requirements.

Respectfully, yours,

D. M. KELLY,
Gen. Manager.

Hon. A. SCOTT SLOAN.

Hon. A. Scott Sloan to B. C. Cook.

ATTORNEY-GENERAL'S OFFICE,
MADISON, *June 10, 1875.*

DEAR SIR:—Complaints are being made that your company is charging higher rates than is allowed by the "Potter-law," that in cases where freight (lumber) is shipped on your road, to pass over another road to reach its destination, you charge \$8 for the first 25 miles on your road, and also \$8 for the first 25 miles on the other road, and insist upon pre-payment at those rates.

Your attention is called to the matter, in the hope that your company will take such action as to give no cause of complaint in the future, and and relieve this office of the necessity of instituting legal proceedings.

Yours, truly,

A. SCOTT SLOAN,
Attorney-General.

Hon. B. C. COOK.

B. C. Cook to Hon. A. Scott Sloan:

OFFICE CHICAGO & NORTHWESTERN R. R. CO.,
CHICAGO, *June 11, 1875.*

DEAR SIR:—I have received your letter of the 10th inst., wherein you say "complaints are made that in cases where freight (lumber) is shipped on your road and has to pass over another road to reach its destination, you charge \$8 for the first twenty-five miles on your road, and also \$8 for the first twenty-five miles on the other road, and insist upon pre-payment of these rates."

In reply I have to say that, if any such practice exists, it is not within the knowledge of the general freight agent, or other general officers of this company; and it is not sanctioned by them, and I should be obliged to you if you would specify any particular case in which it has been done.

The rule adopted by our general freight agent, is to charge \$8 for the first twenty-five miles only, and no instructions were ever given to charge \$8 per car-load for the succeeding twenty-five miles on a connecting road, nor to demand pre-payment of freight in any case, upon car-loads of lumber.

So far as the question of pre-payment is concerned, complaint may have originated from the following facts: The Chicago, Milwaukee & St. Paul Railway Company notified us in writing that it would not pay our charges upon lumber received by it from our road until the freight should have been collected from the consignee; or, in other words, that it would not pay our charges upon its receiving lumber from our road as is the ordinary course of business in regard to other freight. I advised our general freight agent that in my opinion, the law did not destroy the lien which we as common carriers had upon the lumber, for the legal freight, and that we had the legal right to insist upon the payment of the freight, before delivering the lumber. Some roads in your State are bankrupt. To compel this company to credit those roads for as large a proportion of its business, would render it impossible for us to do business at all.

The general freight agent advised the agents to inform the shippers of lumber, that when lumber was carried over our road, and was ready to be delivered to a connecting road, there might in some instances be delay, should the connecting road refuse to pay the freight earned by our road, and that any such danger would be obviated by pre-payment.

No agent has been instructed to demand pre-payment, and the explanation above was given only for the purpose of allowing the shipper the option of pre-paying, or not.

Probably the sole difference of opinion between this company and the commissioners is as to the right of the company to demand payment of freight before surrendering the possession of the property. That question I would be glad to have judicially determined in the most expeditious and inexpensive manner.

I fancy no such state of facts as indicated in your letter actually exists, and if it can be pointed out, it shall be remedied promptly.

Very respectfully,

B. C. COOK,
General Solicitor.

Commissioner Osborn to J. L. Rood, in reply.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *June 21, 1875.*

DEAR SIR:—Yours of the 19th is at hand. I will either see you or write to you in a few days. I will say, however, I feel assured the whole matter will be arranged immediately between the St. Paul and the Northwestern Railroads, either by an agreement as to the apportionment of the earnings, when both roads are used to convey freight, or by reference to an arbitration as provided by law,

A meeting is to be held at Madison for this express purpose at an early day.

Very truly, yours,

J. H. OSBORN,
Commissioner.

M. Pedrick to Commissioner Hoyt.

RIPON, WIS., *July 5, 1875.*

DEAR SIR:—Enclosed I send you a letter from F. B. Clark, general freight agent of the West Wisconsin Railroad. I wrote to Mr. Clark, stating that I could no longer guarantee the payment of freights on lumber shipped indiscriminately to parties all over the country, (said guarantee had previously been demanded and given,) as I had been compelled in two instances to pay the excess above the legal charges out of my own pocket.

We sell lumber delivered on the cars at our station, and ought not to be held responsible for the payment of the freight on the lumber. My foreman at Fairchild writes me that the station agent has been ordered not to give me any more cars to load, and they refuse to take out one that was already loaded, unless freight is prepaid. Now, Mr. Hoyt, I have waited very quietly for something to be done. My business has been entirely ruined by the excessive

charges demanded, and I have been repeatedly told that something would be done for my relief, but as far as I am able to ascertain there is nothing being done or likely to be done. It would seem as if those in charge of the railroad affairs were afraid of offending some one by compelling them to obey the laws. Please inform me what to do.

Very truly, yours,

JOHN W. HOYT, Esq.

M. PEDRICK.

Commissioner Hoyt, in reply.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, July 6, 1875.

DEAR SIR:—Your letter of the 5th, with inclosure from the hand of F. B. Clark, general freight agent West Wisconsin Railroad, came to hand this morning. Hitherto, we have cherished the hope that the several railway corporations would fulfil their oft-repeated pledges to obey the law, and that legal proceedings (which are always to be avoided if practicable) would be unnecessary.

While I am not surprised at the manifestation of some feeling on your part on account of what you consider leniency of treatment of the corporations by the State authorities, I am entirely certain that you misjudge the motives that have induced the delay of which you complain.

The sequel will show that they who have charge of railroad affairs are disposed to do their whole duty. But it was certainly natural that the sincerity of pledges made by railroad managers should be fairly and fully tested before involving the State in troublesome and expensive litigation.

Your communication is in the hands of the Governor and Attorney-General, and will have their careful consideration.

Very respectfully,

JOHN W. HOYT,
Commissioner.

M. PEDRICK, Esq.

Andrew E. Elmore to Commissioner Hoyt.

CHICAGO, *July 9, 1875.*

SIR:—Have just had a talk with Mr. Porter, about the complaint of Pedrick, at Fairchild Station. He says he has not heard any complaints previously, and would like to have you inform him just what the complaint is.

With respect to complaints on the C. & N. W. R'y., Mr. Porter informs me that the company are complying with the law, and if there are any more complaints, he would be glad to have you inform him at once.

Address H. H. Porter, C. & N. W. R'y Co., Chicago.

Yours, truly,

ANDREW E. ELMORE.

J. W. HOYT, Esq.

Commissioner Hoyt to H. H. Porter.

OFFICE OF RAILROAD COMMISSIONERS,

MADISON, *July 10, 1875.*

DEAR SIR:—In compliance with your request, made through Hon. A. E. Elmore, in a letter of July 8, I have the honor to make you acquainted with the nature of the complaint recently made by Mr. M. Pedrick, of Fairchild Station. See the copies of letters herewith enclosed. The complaints previously made were various, as of denial of flat cars for transportation of timber he had contracted to deliver, of illegal charges, and of demanding pre-payment.

He has undoubtedly suffered in his business, on some of these accounts. Superintendent Swan has twice or thrice, in correspondence with this office, recognized this fact, and expressed the purpose to grant him such relief as should be found practicable.

The law is so explicit on the subject of demanding payment in advance, that neither officers nor agents can mistake its provisions. And since the State authorities are in duty bound to enforce it, and without further delay, it is hoped that you will so instruct your agents on all divisions of the C. & N W. R. R. and on the W. W. R. R., as to insure a full and faithful compliance on their part.

Very respectfully,

JOHN W. HOYT,

Commissioner.

H. H. PORTER, Esq.

17—R R C—II.

(Dec. 15)

President H. H. Porter to Commissioner Hoyt, in reply.

OFFICE WEST WISCONSIN R. R. COMPANY,

CHICAGO, July 12, 1875.

DEAR SIR:—Your favor of the 10th instant is received. I beg to say that Mr. Elmore had informed me respecting the case to which your letter refers, and I have communicated with Mr. Swan, our General Superintendent, asking him to give your office all the facts.

When at Hudson a few days ago, I asked Mr. Swan if there were any complaints against the West Wisconsin Railway, and he answered me, "none whatever."

We intend to conform to the "Potter-law in cases where the shippers of freight themselves have not already agreed with us to pay our rates, and these I believe are almost universal. Please remember the fact that we are operating a bankrupt road which cannot run a day when its earnings are not equal to the expenses of that day, and that we must have all the latitude that the shippers over our road are themselves willing to give us, or stop running.

It is idle for us to try and conform strictly to the laws of the State of Wisconsin, where they are so unjust that the very men who do business on our road are willing to pay us more than the laws allow.

Any cases of complaint that are made to you we will at once correct, if you will kindly advise us what they are.

Yours truly,

H. H. PORTER,
President.

J. W. HOYT.

H. H. Porter to Commissioner Hoyt.

OFFICE W. W. R. R. Co.

CHICAGO, July 12, 1875.

DEAR SIR:—In regard to the C. & N. W. Railway, I do not understand that there are any complaints. That company is fortunately still solvent, although I am not clear how long it will remain so, while conforming to such laws as are now in force.

With regard to the West Wis. Company, it is bankrupt, and can very easily be forced to stop running of necessity, as it has no resources outside of its daily earnings.

I enclose for your perusal copies of telegrams received from W. G. Swan, our Gen'l. Supt. in answer to my enquiries about this complaint of M. Pedrick. We and M. Clark both agree that they have many times put themselves very much out of the way to conform to M. Pedrick's wishes and supply him with cars. But Mr. Pedrick appears to be one of those men who are bound to rule or ruin. I have forwarded all the papers to Mr. Swan, with instructions to correct the matter and communicate with you as to what he has done.

I necessarily have to do this to-day, as, by appointment, I am about leaving town.

Yours, truly,

H. H. PORTER,
President.

J. W. HOYT, Esq.

Supt. Swan's Telegram to President Porter.

OFFICE WEST WIS. R. R. Co.,
HUDSON, July 9, 1875.

Mr. Pedrick is the only lumberman on our line who has tried to embarrass us, and he has worked hard and long to do this.

I have at different times sacrificed our own interests in my efforts to conciliate him, but to no effect. My record will be found sound in all respects.

It is true that we have required pre-payment of our charges, because his shipments go to points on the M. & St. P. road, and that company notified us long ago that they would advance no charges on Pedrick's account, he having refused to pay his bills at destination. Shall I send you copies of the correspondence?

W. G. SWAN.

Commissioner Osborn to H. H. Porter.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, WIS., July 8, 1875.

DEAR SIR:—Serious complaint sare made to this office of the difficulties in the way of doing business on the West Wisconsin Railway, by reason of there having been no agreement between that company and the Chicago, Milwaukee and St. Paul Company as to the division of earnings, when freight passes over the roads of both

companies. Will you please inform me if any such agreement is in contemplation, as provided for by section 5 of chapter 273 of the laws of 1874, and section 2 of chapter 334 of the laws of 1875, of Wisconsin, and if we can assure complaining parties that such arrangements will be made as will secure them the protection intended by the passage of the laws referred to.

Very respectfully,

J. H. OSBORN,
Commissioner.

Commissioner Hoyt to M. Pedrick.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *July 10, 1875.*

DEAR SIR:—We have this day received assurances from Mr. H. H. Porter, President of the West Wisconsin Railway Company, that your case shall have prompt attention. Should this pledge not be fulfilled, the Attorney-General will deem it his duty to commence legal proceedings against the company at once.

Respectfully, yours,

JOHN W. HOYT,
Commissioner.

M. PEDRICK, Esq., *Fairchild.*

Commissioner Hoyt to H. Bowen, in reply.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *July 10, 1875.*

DEAR SIR:—When your communication of the 2d instant, came to hand, the Commissioners were in the midst of a series of correspondence and conferences, which promised to result in a practical compliance of the railroad corporations of the State with the law, not only as to rates, but also as to pre-payment of charges, the connection of trains, &c.; on which account it seemed better to postpone an answer until a definite result could be announced.

I am now able to inform you that the officers of the Chicago, Milwaukee & St. Paul and the Chicago & Northwestern Railway Companies, have just given us the assurance that they intend to conform to the law, and that they will be pleased to have notice of

any violation on the part of their agents and employees. This being the case, it is fair to presume that they will correct errors already committed.

Respectfully,

H. BOWEN, *Brodhead*:

JOHN W. HOYT,
Commissioner.

Commissioner Osborn, to S. S. Merrill.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *July 8, 1875.*

DEAR SIR:—Will you be kind enough to inform me if any conclusions have been arrived at between your company and the Chicago & Northwestern Railway Company, and between your company and the West Wisconsin Railway Company, and any other railway company which connects with yours, in relation to the division of earnings for the carrying over two or more railways (one of these being your own) within the limit of Wisconsin, as provided for by section 5, chapter 273, of the laws of 1874, and section 2, of chapter 334, of the laws of 1875?

Very, respectfully,

S. S. MERRILL.

J. H. OSBORN,
Commissioner.

S. S. Merrill to Commissioner Osborn, in reply.

OFFICE C. M. & ST. PAUL R. R. Co.,
MILWAUKEE, *July 12, 1875.*

DEAR SIR:—Replying to yours of the 8th instant I would say that an agreement was made between this Company and the C. & N. W. R'y whereby the earnings on lumber, &c., passing from their road to ours, or *vice versa*, are to be divided on a basis which is considered fair to both companies, notwithstanding the fact that the tariff allowed us by law on joint business is entirely too low, and in many cases far below the cost of doing the business.

This arrangement went into effect on the 28th of June, since which time all joint business between us and the C. & N. W. Co. has been done at legal rates for the whole distance.

We have proposed to make the same divisions with the West

Wis. and other neighboring companies, but up to this time we have had no definite answer, except from the Wis. Valley Co. Mr. Wyatt, of that Company, replies, that he cannot live at any less than his local rates.

I have been expecting a reply from the West Wisconsin Co., but it has not yet reached me. I can therefore only say, that so far as this Co. and the C. & N. W. are concerned, we are doing business at the legal rates and dividing the earnings (inadequate as they are), on a basis that is deemed to be fair to both companies.

Yours, respectfully,

S. S. MERRILL,
General Manager.

JAS. H. OSBORN, Esq.,

Commissioner Osborn to Superintendent Swan.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, July 8, 1875.

DEAR SIR:—Will you be kind enough to inform me if any conclusions have been arrived at between your company and others of Wisconsin, which connect with it, in relation to the division of earnings in cases of freight being carried within the limits of Wisconsin, over two or more railways, (one of them being your own,) as provided for by Section 5 of Chapter 273 of the Laws of 1874, and Section 2 of Chapter 334 of the Laws of 1875.

An early reply would oblige.

Very truly,

J. H. OSBORN,
Commissioner.

Superintendent Swan in reply to Commissioner Osborn.

OFFICE OF WEST WISCONSIN R. R. Co.,
HUDSON, WIS., July 12, 1875.

DEAR SIR.—In reply to your favor of the 8th inst., will say that this company has not as yet been able to agree with all connecting roads upon a basis that would be mutually fair for a division of through rates on lumber from points on its line to points on other lines in the State.

Will say, however, that I believe the rates charged on this line to junction points are giving general satisfaction to shippers.

Satisfactory divisions of rates on other staple products have been made, and the legal through rates are being charged.

Respectfully, &c.,

W. G. SWAN,
Gen'l Supt.

Commissioner Osborn to Superintendent W. G. Swan, in reply.

OFFICE OF THE RAILROAD COMMISSIONERS,
MADISON, *July 14, 1875.*

DEAR SIR:—Yours of the 12th inst., is received, you state that your company has not as yet been able to agree with all connecting roads upon a basis that would be mutually fair.

We are informed by the general manager of the Chicago, Milwaukee & St. Paul Railway that an agreement has been completed between that company and the Chicago & Northwestern Railway Company for a division of earnings on freight passing over the roads of both companies, and that a proposal to the same effect had been made by them to your company. Permit me again to call your attention to section 2, of chapter 334, laws of 1875, which provides for the selection of referees in case no agreement can be arrived at by the officers of companies concerned, and to urge that such referees be selected, and a decision reached with the least delay possible. I do so from the fact that this office is in receipt of complaints from parties who aver that their business has been entirely ruined by the excessive charges growing out of non-compliance with the law on the part of your company and others connecting with it.

Very truly,

J. H. OSBORN.

W. G. SWAN,
Gen. Sup't West Wisconsin R. R.

Superintendent Swan to Commissioner Osborn.

HUDSON, WIS., *July 19, 1875.*

DEAR SIR:—Upon my return home from Madison, I find your favor of the 14th inst.

You say that you are informed by the general manager of the C. M. & St. Paul Railway, that a proposal to divide rates on lumber going from points on this line to points on his road, had been made by him to this company.

I will say that such proposal has never been received by me, or any other officer of this road, and I believe Mr. Merrill is mistaken when he says that such a proposal has been made.

We shall be ready at any time to agree with him upon any basis that may do this company justice.

In view of the fact that he has stated to you that he made a proposal to us, I think it best to await the receipt of such proposal, or an explanation of the statement made to you, before offering suggestions leading to a further consideration of the subject by the two companies.

I much regret not having had the pleasure of meeting you at Madison on Saturday last, when, in company of Mr. Clark, our General Freight agent, I was prepared to more fully explain to you, the position we occupy and the desire to do what is right, considering all of the principles and interests involved, by which we are prompted.

You refer to complaints that have been made to you by several parties, in regard to excessive charges, whereby their business has been ruined, etc. Is it not possible that some other road has been the object of such complaints? I was under the impression that every lumberman on our line, with a single exception, was well pleased with our rates and treatment of their business. The single exception is Mr. Pedrick, who complains that pre-payment of charges is required, but not that our rates are unreasonable, so far as I have heard.

Your associate, Mr. Paul, understands the circumstances fully.

If it is true that other complaints have been made, please give me the facts, name of parties, etc., and they shall have full and immediate investigation.

Respectfully,

W. G. SWAN,
Gen'l Supt.

J. H. OSBORN, *Commissioner.*

Commissioner Hoyt, in reply.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, WIS., *July 20, 1875.*

DEAR SIR:—In the absence of Commissioner Osborn, to whom it was addressed, I have the honor to acknowledge your favor of the 19th instant, and to say in reply, that I will immediately convey to Gen'l Manager Merrill of the C. Mil. & St. Paul R. R., information of the non-receipt by you, or other officers of your company, of the proposal relative to a division of earnings which, in his letter of the 12th instant he claims to have made.

* * * I trust that the C., Mil. & St. Paul company will make satisfactory proposals as to division of earnings, and that the question of pre-payment will also be speedily disposed of, in conformity with the law.

Respectfully,

JOHN W. HOYT,
Commissioner.

W. G. SWAN, *General Superintendent.*

Commissioner Hoyt to Gen. Manager Merrill.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, WIS., *July 21, 1875.*

DEAR SIR:—In your letter of the 12th inst. to Commissioner Osborn, you say, in speaking of an arrangement for a division of earnings, finally made between your own and the C. & N. W. R. R. Co: "We have proposed to make the same division with the West Wisconsin and other neighboring companies, but up to this time we have had no definite answer. I have been expecting a reply from the West Wis. Company, but it has not yet reached us."

This fact was made known to the General Superintendent of the West Wisconsin, on the 4th, in the hope that it might lead to an easier settlement of the matter in question. But now we have a letter from Superintendent Swan, dated the 19th, in which he says to Commissioner Osborn: "You say that you are informed by the General Manager of the Chicago, Milwaukee & St. Paul Railway, that a proposal to divide rates on lumber going from points on this line to points on his road had been made by him to this company."

I will say that such proposal has never been received by me, or any other officer of this road.

We shall be ready at any time to agree with him upon any basis that may do this company justice. In view of the fact that he has stated to you that he had made a proposal to us, I think it best to await the receipt of such proposal, or an explanation of the statement, before offering suggestions leading to a further consideration of the subject by the two companies."

It is certainly important that the question involved in this controversy should be settled as soon as practicable, and I trust you will have pleasure in giving it your prompt attention.

Complaints are made from time to time, that your company, as well as others, habitually demand of shippers the *pre-payment of charges* upon lumber and other articles neither "perishable," nor of "little value," which demand, being clearly contrary to law, requires the attention of the State authorities.

Will you not also see that your agents are properly instructed on this point.

I remain, dear sir, very respectfully,

JOHN W. HOYT,
Commissioner.

S. S. MERRILL, Esq., *General Manager.*

General Manager Merrill, in reply.

OFFICE OF MILWAUKEE & ST. PAUL RY. Co.,

MILWAUKEE, *July 23, 1875.*

DEAR SIR:—Replying to yours of the 21st, I would say, Mr. Swan writes me that the message sent him by telegraph, asking if his company would be willing to adopt legal rates on joint lumber shipment, dividing the earnings on same basis as that adopted by us and the Chicago and Northwestern Company, never reached him, which accounts for his having made no reply at the date of my letter to Commissioner Osborn.

It is probable we shall have a meeting with the West Wisconsin people soon, for the purpose of adjusting this question, although, as I stated to Mr. Osborn, we are ready to adopt the legal rates with all neighboring roads, unreasonably low as the legal tariff on lumber is, and divide the through rates, on the same basis as that agreed on with the Chicago and Northwestern Railway Company, or any other fair basis.

With regard to the last portion of your letter, I would say that we hear no complaints from shippers because of our demanding pre-payment. We do not demand pre-payment, nor do we now decline to pay advance charges on freight coming from other roads. Our agents at junction points all understand this.

As lumber is the principle commodity passing from one road to another, about which any question about freights can arise, I will explain our present mode of doing that business.

On all lumber passing between stations on the Chicago and Northwestern road and ours, the legal rates are strictly in force, and the two companies are dividing on a satisfactory basis.

All lumber coming on to our road from the West Wisconsin Railroad, or Wisconsin Valley road, is taken by us, whatever charges there may be upon it, and forwarded to destination, at legal rates for the distance we carry it.

Yours, truly,

S. S. MERRILL,
General Manager.

JOHN W. HOYT, Esq.,
Railroad Commissioner.

M. Pedrick to Commissioner Hoyt.

RIPON, July 28, 1875.

DEAR SIR:—Have you ascertained any thing further in reference to what the West Wisconsin Railroad Company is going to do about carrying lumber under the law?

I have not been to Fairchild since you wrote to me that the president of the road had agreed to see that my case was attended to; but my foreman asked for cars, and at my last advice had not been able to get any. I go to Fairchild to-day; please write me there.

Yours, very respectfully,

M. PEDRICK.

J. W. HOYT, *Commissioner.*

Commissioner Hoyt, in reply.

OFFICE OF RAILROAD COMMISSIONER,
MADISON, July 30, 1875.

DEAR SIR:—Replying to your letter of the 28th, this moment received, I have to say:

1. That we have assurance from the officers of the W. W. R. R. Co. that they fully intend to do everything in their power to comply with the law and to accommodate their patrons.

2. That the W. W. and the C. M. & St. Paul Ry. Co.'s are now negotiating for the settlement of terms in accordance with which they are to make a division of earnings; which, when completed, will do away with the illegal practice of computing the rates, not from where the freight was originally received, (the evident intent of the law), but from the point where each company received it.

3. That both of the said companies have already agreed to obey the law as to pre-payments.

The non-supply of cars as demanded is a more difficult matter to deal with, for obvious reasons. So long as the officers of the companies tell us that they supply cars to the best of their present ability, while their nearly bankrupt condition prevents their enlarging facilities, we can do but little to relieve their patrons unless it can be shown beyond a question that they really fail to do the best they can; in which case they would have to be dealt with under the laws relating to the obligations of common carriers—a slow remedy, yielding nothing in the end more than actual damages.

I shall be at Hudson next week, and then give personal attention to your interests.

Very respectfully, yours,

JOHN W. HOYT,
Commissioner.

M. PEDRICK, *Fairchild.*

M. Pedrick to Commissioner Hoyt.

RIPON, WIS., *August 16, 1875.*

DEAR SIR.—I finally succeeded in getting one M. & St. P. car, and loaded it for this place. The roads charge on this car \$32 for one hundred eighty-eight miles, which is \$6 over charge. This is \$3 less than previously charged for the same distance. The W. W. R. R. charge \$12 and the M. & St. P. R. R. \$20, making \$3 less on the W. W. end for sixty-four miles, and the same old rate of \$20 on the M. & S. P. end for the one hundred twenty-four miles. I have made a tender of the \$26, which is the legal rate, and demand the lumber. Mr. Britt telegraphs the agent here to demand the

full rate, and, if I don't pay it, to unload the lumber and hold it for the freight.

I want the lumber for immediate use. What shall I do about it? I think it is time something should be done, and if the commissioners have no power to do anything, it is time the people should know it.

Yours, respectfully,

M. PEDRICK.

J. W. HOYT, Esq., *Commissioner*.

Telegram from Commissioner Hoyt to S. S. Merrill.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, August 17, 1875.

TO S. S. MERRILL, GENERAL MANAGER:

Mr. M. Pedrick, of Ripon, complains that your agent there refuses delivery of a car load of lumber, on account of non-payment of charges in excess of legal rates. Please have the matter righted.

JOHN W. HOYT.

Commissioner.

Commissioner Hoyt to M. Pedrick.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, August 17, 1875.

DEAR SIR:—Your letter of the 16th is at hand. You should understand that the Commissioners are themselves without power to enforce the law by proceedings in the courts. It is only by moral influence, and by laying grievances before the Attorney-General, that we can accomplish anything in the righting of wrongs in the nature of illegal charges. The Attorney-General (now absent for some days) has been embarrassed by the repeated assurance of railroad officials that they purposed a compliance with the law. I have telegraphed the substance of your letter to General Manager Merrill, at Milwaukee, asking him to set the matter right. I think he will do so. If not, it will become our duty to lay the complaint before the Attorney-General upon his return, and recommend that legal proceedings be instituted at once.

You understand, of course, that you can bring suit in your own name—the only remedy the framers of the law seem to have contemplated. I still hope that this will be unnecessary.

When at Hudson, last week, I was informed that the officers of the C. M. & St. Paul R'y. Co., and of the West Wisconsin R'y Co., were then in conference on the subject of making legal through tariffs for freight passing over both their lines, and that they were likely to arrive at a mutually satisfactory result.

Very respectfully,

JOHN W. HOYT,
Commissioner.

M. PEDRICK, Esq., *Ripon.*

Commissioner Hoyt to President H. H. Porter.

OFFICE OF THE RAILROAD COMMISSIONERS,

MADISON, *August 17, 1875.*

DEAR SIR:—As it has been represented to us, all along, until now, that shippers on your road, with scarcely more than a single exception were satisfied with charges made by your company, I am surprised to learn from your communication of the 14th inst., just received, that “there would seem to be a disposition on the part of every one shipping on the West Wisconsin Railway to demand the exact rates under the Potter-law,”

We have no reason to doubt the representations made by you of the financial condition of the West Wisconsin Railroad Company, but do not see how we can grant you any relief, or that we can safely make so much as a recommendation to that end.

We have deemed it our duty to deal as leniently as circumstances would warrant with all corporations manifestly needing the relief which the last legislature intended to grant them. But there are some provisions of the law so perfectly plain and reasonable, that we have no alternative, even if we desired one, but to insist on a compliance with them.

Among them is this provision, that “in computing the rates for carrying any freights, the distance for carrying such freight shall be computed from where it is (*was* originally) received, notwithstanding it may pass from one railroad to another.” In many cases, the total of charges made by two or more connecting com-

panies, where each company charges the rates allowed for a first haul, amounts to considerably more than the same companies demanded before the passage of the "Potter-law."

Certainly this disregard both of the law and of consistency and conceded justice will not be patiently submitted to by the public, nor should it be overlooked by the State authorities.

We have been led to hope that your company, as well as others, would co-operate with the "A" companies, in making a satisfactory solution of this vexed question. Indeed, when at Hudson, week before last, I was informed that officers of your own and of the C. M. & W. P. R. R. company were in conference on the subject, with a prospect of reaching a satisfactory result.

But a dispatch just received from Milwaukee informs me that nothing as yet has been accomplished. Do you deem an equitable division of earnings between the several corporations impracticable?

Yours, very truly,

JOHN W. HOYT,
Commissioner.

M. Pedrick to Commissioner Hoyt.

RIPON, August 30, 1875.

DEAR SIR:—Have you heard anything further from the railroad managers?

In your communication of the 17th instant, you stated that you had telegraphed to Mr. Merrill, asking him to set matters right. The railroad agent here has unloaded my car of lumber, and refuses to let me have it without full charges. I have been waiting to hear from them that matters had been arranged, but nothing seems to have been done. Of course I am aware that I can commence legal proceedings, but I have been repeatedly assured that unless the railroads complied with the law, as they had promised to, that the authorities would take the matter in hand, and prosecute.

I wish now to come directly to the point, and to know whether or not I may expect any thing from those in authority, in this matter.

Yours, truly,

M. PEDRICK.

J. W. HOYT, Esq.,
Commissioner.

*Commissioner Hoyt in reply.*MILWAUKEE, *September 1, 1875.*

DEAR SIR:—Your letter of the 30th ultimo received. I have just come from a very satisfactory interview with Messrs. Alexander Mitchell, president, and J. C. Gault, assistant general manager, Chicago, Milwaukee & St. Paul Railway, at which it was agreed by them that your car-load of lumber, improperly held for non-payment of charges at local rates, should be released, and that hereafter the agents of their company will demand on delivery of through freight, coming from other lines, no more than its proportion of the legal through rates, regardless of the compliance or non-compliance with the law by other companies operating connecting lines.

So far as the A roads are concerned this appears to be a final settlement of the vexed question of a pro-rata division of earnings between companies interchanging freight—a result we have long tried to secure, and one that can hardly fail of being very gratifying to you.

By the evening train I visit Chicago, to see what president Porter can do on behalf of the West Wisconsin Railroad Company.

Respectfully,

JOHN W. HOYT,
Commissioner.

M. PEDRICK, Esq., *Ripon.**H. H. Porter to Commissioner Hoyt.*CHICAGO, *September 2, 1875.*

DEAR SIR:—Herewith I beg to hand you impression copy of a letter that I have to-day sent to Mr. Swan, with the request that he show it to M. Pedrick.

Yours, truly,

H. H. PORTER, *President.*

President Porter to M. Pedrick.

OFFICE CHICAGO & NORTHWESTERN R. R. Co.,

CHICAGO, *September 12, 1875.*

DEAR SIR:—You are now one of the very few shippers of the West Wisconsin Ry., who insist upon sending their freight over

this road in connection with the other roads of the State of Wisconsin at the "Potter-law" rates, with the Quimby amendment which do not leave to this road the cost of doing the business. And while I, believe that the people are now satisfied that railroads cannot pay operating expenses under this law, and also that the legislature last winter intended, if they did not actually do so, to relieve the West Wisconsin and other weaker railroads from the operation of this law; and while you and I both know that the West Wisconsin Railroad has failed, and is owing to people in your section of the country many thousands of dollars, which it has no means of paying, as well as having defaulted in all its interest, in consequence of this unjust action towards it, I am still going to try and keep this road running until the next session of the legislature, by charging such rates as will let the road earn current expenses, and pay necessary repairs, to keep the road safe, allowing nothing for investment.

If you and the other customers of this railway company are not willing to help me, by paying such reasonable prices, but propose to continue to demand what the "Potter-law rates, with the Quimby amendment allows you," it will cease operating, and those who push it to this extremity must be responsible for the consequences.

It has no credit, and to secure the services of its employees I have been obliged to promise them personally that while it continued to operate they should be paid monthly, and when it would not earn enough to pay them for their daily work, they should be notified, and the road should stop.

I tell this frankly to you, that in case it stops, you may not claim before the people that you did not understand the situation. I have done all in my power to prevent this condition of affairs and can go no further.

Yours, truly,

H. H. PORTER, *President.*

N. B.—I have requested Mr. Swan to present this letter to you, and to ask you what action under this condition of affairs, you are willing to take, to held save this great disaster to your section of country.

H. H. P.

M. Pedrick to Commissioner Hoyt.

RIPON, *September 27, 1875.*

DEAR SIR:—Your favor of sometime since is received; also a long communication from President Porter, setting forth that the exact-ions of the law were ruinous, etc. But he fails to see that the ex-actions of the R. R. are such that it cuts off shipments in certain localities, so that they get no business from it. I shall probably see

Mr. Porter before many days, and hope to arrange matters in some way. * *

Very respectfully,

M. PEDRICK,

J. W. HOYT, *Commissioner.*

COMPLAINT OF PENALTIES IMPOSED FOR OVERLOADING CARS.

S. T. Brande to the Commissioners.

KENOSHA, WIS., *April 26, 1875.*

GENTLEMEN:—I ordered a car-load of cedar fence-posts by Chicago & Northwestern Railway Company, from Peshtigo, in this State, which the local agent, (as I suppose him to be) there billed at 2,000 pounds, \$27.00, and so advised me. The railroad company stated in the bill that the car exceeded 2,000 pounds by the amount of 300 pounds, that being the alleged excess, and charged us as follows:

From Peshtigo, car No. 3195; W. B. No. 56; car initials N. W.,; date of way-bill, April 23. Cedar posts; weight, 23,000; rates $13\frac{1}{2}$; \$31.05, excess of \$3.00—\$34.05; which I paid under protest.

Now I should like to know why I am compelled to pay \$3.00 because the consignor, not having the means of knowing the weight of a bulky article like cedar posts, simply filled the car, presuming it within the usual amount? and who authorized or authorizes this railroad company to inflict penalties on consignors in this way? To payment at the rate of $13\frac{1}{2}$ for the excess, I do not object to but I think the infliction of a penalty, nothing but extortion, as it is obvious that neither consignor or the consignee had the means of ascertaining the weight in the first instance. Since the passage of the law (the Potter-law, which, by the way, I did not favor,) I have had but little to do with railroads here in matter of freight. I used to think them reasonable in their charges here, but, since the passage of that law, I know there is no such thing as equity in their charges. I submit the above for your information, with the remark that if any evidence was wanting of necessity for restriction, it would be such practices as this.

Extracts from the instructions to agents: "Excess of 20,000 and not exceeding 22,000 pounds will be charged a proportionate rate

and in addition thereto an excess on penalty of 10 cents per 100 pounds, for the weight above 22,000 pounds.

Respectfully, yours,

S. T. BRANDE.

Commissioner Hoyt to H. H. Porter.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, Wis., *May 4, 1875.*

DEAR SIR:—Complaint is made by one of your patrons that he has been obliged to pay a *penalty* of \$3 on a load of fence-posts, billed to him as weighing 23,000 pounds. He did not object to paying a *pro-rata* charge for excess over a car load of 22,000 pounds, (assuming that to be the standard,) but paid the \$3 penalty under protest; claiming, that, inasmuch as he had no means of determining the weight of the car as loaded, and had no intention to over-load, or suspicion that he was doing so, anything in the way of smart money should be considered extortion.

It is conceded that regulations governing the matter of loading are proper, but they should be of such character as not to subject the shipper to penalties, regardless of his desire and purpose to comply with those regulations.

If facilities for determining the *actual weight* are not furnished, should not shippers be furnished with a standard scale of measurements, observance of which would save them from penalties, which are always odious and irritating? Granting that the standard classification of the M. & St. P. R. R. Company, of June 15, 1872, provides for third-class rates on lumber loaded in any one car in excess of 22,000 pounds," (Mr. Wicker's letter of November 13th, 1874.) still nothing is plainer to my mind than that such provision is a mere regulation of said company, not only without legal authority, but actually contrary to the letter and intent of chapter 273, laws of 1874, which place lumber in a special class, and only applies the Milwaukee & St. Paul "standard classification" to the *four general* classes.

Assuming the correctness of this position, it is plain that no regulations of any railway company fixing a penalty of the sort herein referred to could have the sanction of the courts, unless it could

be made to appear that it was based on reason and justice; was in fact essential to the protection of the company.

But again, allowing for the sake of the argument all that has been claimed by Mr. Wicker, and is now claimed by your agents, in justification of the rule fixing a penalty of ten per cent. on weights in excess of 22,000 pounds, regardless of the kind of freight and lack of facilities for weighing, your agent is still wrong in this particular case in that he admits the excess to be only 1,000 pounds, (23,000—22,000) and yet compels the payment of a penalty of \$3, which is not "ten" but *thirty* cents per 100 pounds of the weight in excess.

I have written at such length because of the principle involved in this question of penalties, and because of my faith in the declared purpose of your company to conduct its business in a manner that shall justly entitle it to the patronage and good will of the public.

Hoping to hear from you at your earliest convenience, I remain my dear sir,

Very respectfully,

JOHN W. HOYT,
Commissioner.

H. H. PORTER.

B. C. Cook to the Commissioners, in reply

OFFICE OF CHICAGO, & N. W. R. R. Co.,
CHICAGO, *May 16, 1875.*

GENTLEMEN:—Your letter of the 4th inst., to Mr. H. H. Potter, general manager, has been referred to me.

Complaint has been made that a party has been charged \$3 penalty for loading 23,000 pounds of lumber upon a car; and you say, "It is conceded that regulations governing the matter of loading are proper, but they should be of such character as not to subject the shipper to penalties regardless of his desire and purpose to comply with these regulations."

We fully agree to this proposition, and the rule which has been adopted by this company, I submit, is reasonable, and will not subject the shipper to any penalty if he has the desire and purpose to comply with the regulations. Our cars are constructed to carry 20,000 pounds. Any load over this amount, is dangerous, and an un-

necessary strain upon the cars, which very soon disables them. To guard against this the following rule has been adopted: "The rates are fixed for car-loads of 20,000 lbs., excess of 20,000 lbs., and not exceeding 22,000 lbs., will be charged a proportionate rate; excess of 22,000 lbs. and not exceeding 24,000 lbs. will be charged a proportionate rate [and, in addition thereto, an excess of penalty of 10 cents per 100 lbs. for the weight above 22,000 lbs.]"

You will observe that 2,000 lbs. is allowed for any error or mistake in judgment. This company has a right to require that its cars shall be loaded only to the extent of 20,000 lbs. I submit that it is reasonable to suppose that a person shipping lumber need not be mistaken more than 2,000 lbs. in the weight of a car-load; and you will also observe that no penalty is imposed until after there is an excess of 2,000 lbs., and then the penalty is only imposed upon that excess. The amount so charged, does not by any means compensate the company for the destruction of its cars caused by overloading.

You say, "If facilities for determining the actual weight are not furnished, should not shippers be furnished with a standard scale of measurements, observance of which would save them from penalties which are always odious and irritating?"

I answer that there can be no such thing as a standard scale of measurements, the difference in the weight of different kinds of lumber being so great that no uniform scale of measurement could be adopted, the weight of the lumber not depending upon the bulk together, but upon the kind and seasoning. Lumber is manufactured in Wisconsin, in so many places, and at some points in such small quantities that to furnish facilities for determining the actual weight of lumber at each point of shipment would cost the company more than any profit it would derive from the transportation of the lumber. I presume it is fair to assume that lumber dealers and shippers are familiar with the weights of the different kinds of lumber they ship.

It is easy for the shipper to determine for himself, the weight of a bundle of shingles, and so ascertain from the number of bundles, the weight of a car-load, or to determine the weight of a number of posts or boards, and so approximate very nearly to the weight of a car-load of the same material; certainly not making mistakes of over 2000 pounds in a car-load of 20,000 pounds.

It is a very significant fact that mistakes are never made upon the other side. If a car has ever been loaded with less than 20,000 pounds, I have never heard of it. There must be some power given to the company to prevent the overloading and consequent destruction of their cars.

If any plan can be suggested by which, under the rates allowed for receiving and transporting lumber, it is possible for the company to prevent this overloading of the cars, without incurring an expense which would make the transportation of lumber in the State of Wisconsin a greater tax upon the companies than it now is, it will be cheerfully adopted.

In the meantime we respectfully submit that the rule which the company has been working under is a reasonable rule, and will never injuriously affect any person who will exercise reasonable care in properly loading the cars.

I have received the answer of your Board to the questions which I had the honor to submit to you a few days since. It is fair for me to say, that I do not think with you that the law requires this company to part with the possession of the property which it has transported until its charges for the transportation of such property are paid, or that it deprives the company of the lien which the law gives to common carriers upon the goods transported for the charges of transportation.

The rule adopted by your Board, if applied to the relations of this company with several of the companies in Wisconsin which have become bankrupt within the past few months, would, in a great measure, have prevented this company from receiving freight earned by it in the transportation of goods which had been delivered to these roads.

Very respectfully,

B. C. COOK,
General Solicitor.

COMPLAINT THAT CAR-RATES ARE NOT FURNISHED FOR CAR-LOADS OF HEAVY ARTICLES AND MERCHANDISE.

Commissioner Hoyt to S. S. Merrill.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *September 9, 1875.*

DEAR SIR:—We have occasionally received complaints from man-

ufacturers and dealers that they were unable to get car-rates on car-loads of very heavy merchandise, such as iron and steel, stoves, nails, etc., etc. Just now I am in receipt of a letter from a hardware-dealer, at Fox Lake, who makes two points in this connection, namely:

First.—That he is not only refused car-rates on *car-loads* of nails, but that he is charged 27c. per 100 lbs., which he feels is hard to pay.

Secondly.—That he knows of shippers at Waupun who are only charged 15c. per 100 lbs. nails, distance about the same.

The law as it stands does not fix a rate for heavy articles of this class, but it does authorize the commissioners "to classify all articles of freight transported on any railroad or parts of railroads, except the articles placed in special classes "D," "E," "G," and "H," placing said articles in either of the general classes, or in any of said special classes, except classes "D," "E," "G," and "H," and they are further empowered to reduce said rates, either in general or special classes," etc.

As stated in our report to the legislature, we have not deemed it wise to make any reduction of rates in class, nor have we made any transfer of articles from one class to another, though the question has been raised whether the "heavy fourth-class articles in car-loads," mentioned in section 3, of the "Potter-law," should not be made to include articles of the kind above-mentioned.

Would it not be both just and judicious for your company to allow shippers the privilege of ordinary shipment of car-loads at car-rates when the articles are of this heavy class, are of one general description, and are not of such character as of right to exclude them from the privileges given articles in the special classes?

I anticipate the answer you will probably make on the basis of earnings, but what are the reasons applicable to car-loads of iron, that do not also apply to car-loads of brick, and shingles, salt, lime, etc.?

Respectfully, yours,

JOHN W. HOYT,
Commissioner.

S. S. Merrill to Commissioner Hoyt, in reply.

OFFICE CHICAGO, MIL. & ST. PAUL R. R. Co.,

MILWAUKEE, *September 15, 1875.*

DEAR SIR:—Replying to yours of the 9th inst., I would say that the merchant at Fox Lake, is not correctly informed in regard to our rate on iron and nails to Waupun.

We have not made a rate to any one in Waupun of less than twenty cents per 100 pounds on such articles, and that only to manufacturers.

As you frankly admit in your favor of the 9th, those articles are not included in any of the special classes, upon which the law fixes arbitrary rates, but are clearly in the four general merchandise classes, "as said articles were classified by the Milwaukee & St. Paul Railway, which classification went into effect on the 15th day of June, 1872." (Ch. 273, sec. 3.)

As a matter of fact, I desire to explain to you that it has, for some years past, been customary for us to give all manufacturers on our lines in this State, an abatement from the 4th class rate on iron, &c., used in their business.

We have done so willingly in order to enable them to manufacture in the interior, and sell their goods in competition with city and foreign manufacturers, who have no freight to pay on raw material.

But we have not in any case taken bar-iron and nails, even for manufacturers, at so low a price as any of the special classes to which you allude, for the reason that we cannot afford to do so.

While we have abated our 4th class rate about five cents per hundred to manufacturers, we have not reduced our rate to merchants, for the reason that they have no particular competition to meet.

It has been our aim to encourage manufacturing in this State, and to make no discrimination as between merchants; but to charge all alike who are engaged in the same line of business.

It is true section 13, chapter 273, gives the Commissioners power to change the classification as suggested by you, but not unless, in the judgment of the board, "it can be done without injury to such railroad," and I desire to say that no railroad company can afford to do the business of a country-merchant who ship few cars of iron and

nails during the year, at the same rates they can afford to carry iron ore, brick, sand, coal and such articles which usually go in large quantities, and are loaded and unloaded by the owner, and upon which the risk of damage is very small.

Would it not be consistent and proper for you to reply to the merchant at Fox Lake that the law, as it now stands, does not fix rates on bar iron, nails, hardware, and other classified freight?

We certainly cannot afford to do the business you speak of at any less rates than we are now charging.

Yours, respectfully,

S. S. MERRILL,
General Manager.

JOHN W. HOYT, *Commissioner.*

COMPLAINTS RELATING TO CONNECTION OF PASSENGER TRAINS.

Commissioner Hoyt to D. A. Olin.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *October 26, 1875.*

MY DEAR SIR:—Complaint has been made that your noon train going west, passes Beloit some 15 minutes before the arrival of the C. & N. W. train, so that passengers wishing to go west, *via* the C. & N. W. and the W. Union Railways, are obliged to lie over several hours at the place above named. The difference in time is so short that it would seem practicable that close connection should be made. If, upon inquiry into the matter, you find it possible to make the change desired, please do so; if not, have the goodness to acquaint the Railroad Commissioners with the reasons, and oblige,

Yours respectfully,

JOHN W. HOYT,
Commissioner.

D. H. OLIN, *Gen'l Supt.*

D. A. Olin to Commissioner Hoyt, in reply.

OFFICE WESTERN UNION R. R. Co.,
RACINE, WIS., *October 29, 1875.*

DEAR SIR:—Yours of the 26th instant in relation to passenger

connections with the C. & N. W. R'y at Beloit, is received. I would like very much to make connections there, both east and west, but I see no way that I can do so, (as C. & N. W. trains now run) without the breaking of more important connections both east and west of Beloit.

The westward bound train makes close connections with the C. & N. W. at Fulton, also with the C. R. P. & P. R. R., at Rock Island; also eastward bound train makes close connections at Rock Island and Fulton with the trains from Omaha.

My schedule of time for these trains is as fast now as it should be. Going west, our train would have to wait at Beloit 40 minutes beyond the present time, for passengers to get over from the C. & N. W. depot, and get baggage checked, etc. I could make my train going west 10 minutes later than now, but this would be of no use unless the C. & N. W. train could get to their station at about 11:15, so as to give 30 minutes time for passengers to get to our train from theirs.

Coming east, I think there is over an hour's difference in time of arrival at Beloit, and I could not make the connection, (without breaking connections at Rock Island and Fulton,) unless the C. & N. W. train arrives at Beloit later than now—say at about 3:20, P. M. Our eastward-bound train now makes close connection with the C. & N. W. train at Clinton for Chicago. Trusting that this explanation will be satisfactory, I remain,

Yours, truly,

D. A. OLIN,
Gen'l Supt.

JOHN W. HOYT, *Commissioner.*

Commissioner Hoyt to Superintendent Olin.

OFFICE OF THE RAILROAD COMMISSIONERS,

MADISON, *November 1, 1875.*

DEAR SIR:—On my return from Chicago, where I saw Superintendent Hughitt, on the subject of the connections at Beloit, I find your favor of the 28th, in answer to mine of recent date.

Superintendent Hughitt manifested a disposition to co-operate with you, and said it seemed quite practicable to make the morning connection with your train going west if you could divide time with

them, as proposed by me at our recent interview. The afternoon connection, with the difference of an hour, seemed more difficult, in view of the connections imperatively necessary at Camp Douglas and Watertown, on the part of the Green Bay and St. Paul trains respectively. But he said he would correspond with you and arrange it if possible. If that could not be accomplished he would arrange such connections at Rockford and Caledonia, as would enable persons taking the morning train on the Mineral Point Railroad, to reach Madison at 4 o'clock the same day, via. Freeport, Rockford, Caledonia and Beloit.

While in Grant, Iowa and La Fayette counties, I was strongly urged by prominent citizens to effect some arrangement by which they could get to the capital on the day of departure from points on the southwestern railways.

Is it not practicable to arrange for the transfer of passengers from one train to another at Beloit with the loss of less time than you name?

I suggested that a platform be made at the crossing for the accommodation of passengers wishing to change cars there. Mr. Hughitt thought this difficult. It would involve some extra expense, but I am unable to see that it would be impracticable. It would certainly make a saving of time to both passengers and trains, and form a connection that would be appreciated by the travelling public.

Please do the best you can to remove the cause of complaint, and believe me,

Very truly, yours,

JOHN W. HOYT,
Commissioner.

D. A. OLIN, Esq.,
Sup't. W. U. R. R.

Commissioner Hoyt to F. O. Wyatt.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *October 26, 1875.*

DEAR SIR:—Complaint is made that your passenger train for Wausau passes Junction City twenty-four minutes after departure of the Wisconsin Central train for Worcester.

Can you not make arrangements for a close connection of these trains?

It would seem to be possible, and it is certainly desirable.

A similar inquiry will be addressed to the Wisconsin Central Company.

Respectfully,

JOHN W. HOYT,
Commissioner.

F. O. WYATT, *Superintendent.*

F. O. Wyatt to the Commissioners, in reply.

OFFICE OF WISCONSIN VALLEY R. R. Co.,

TOMAH, WIS., *October 27, 1875.*

GENTLEMEN:—Yours of the 26th is at hand. We have to rely for our passenger business mainly upon the Chicago, Milwaukee & St. Paul Railway, at Tomah, and the West Wisconsin and Chicago & Northwestern Railways, at Valley Junction. We have no other connections for western travel.

Enclosed I send you time-card No. 11, in force this season (summer of 1875.) Upon examination thereof you will observe that we are running train No. 1 from Tomah to Junction City, (the crossing of the Wisconsin Central Railroad,) sixty miles in three hours and four minutes, stopping at eight regular stations and four flag stations.

We also stop with this train at three railroad crossings, and once for wood and water. This makes the actual running time of the train, fully twenty-five miles per hour. The trains on the Wisconsin Central road pass the crossing twenty-one minutes before this train arrives there; thus making the connection for passengers going north and west. You will I think agree with me, that I am running the trains on this road, for that connection, as fast as safety of the passengers will admit of; and that the connections at Tomah and Valley Junction, are of more importance to the travelling public than the one at Junction City. The trains going south on the two roads connect at the crossing.

With these explanations, I leave the matter for your consideration, feeling assured that upon investigation your board will be-

come satisfied that this road is doing all that can be justly required for the accommodation of the travelling public.

Yours, respectfully,

F. O. WYATT,
Superintendent.

The RAILROAD COMMISSIONERS.

Commissioner Hoyt to Supt. F. O. Wyatt.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *November 1, 1875.*

DEAR SIR:—Accept our thanks for your esteemed letter of the 27th ult., touching the connection of your own and the Wisconsin Central trains at Junction City.

If the time of leaving Tomah is at present as early as you can make it, without sacrificing more important connections with the Chicago, Milwaukee & St. Paul trains, we must concede the validity of your explanation, and turn to the Wisconsin Central Railroad Company for relief.

Respectfully, yours,

JOHN W. HOYT,
Commissioner.

Commissioner Hoyt to Vice-President Colby.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *March 1, 1875.*

DEAR SIR:—Complaint has been made that your morning train going north passes Valley Junction some twenty-one minutes in advance of the arrival of the Wisconsin Valley train from Tomah. Having myself experienced the inconvenience of a failure to connect at that point, I am the better able to appreciate their complaints, and accordingly wrote the Superintendent of the Wisconsin Valley Railroad on the subject.

In answer he tells me that since their time of departure from Tomah is controlled by the movement of trains on the Chicago, Milwaukee & St. Paul Railway, and since running his present rate of speed (25 miles an hour,) is as great as they dare make, it is out of his power to gain the twenty-one minutes in question.

As you have no connections to make above that point, could you not arrange to make this connection? Please try to do so, and oblige the complainants.

Respectfully yours,

JOHN W. HOYT,
Commissioner.

CHAS. L. COLBY, *Vice-President.*

E. B. Phillips to Commissioner Hoyt.

OFFICE OF WISCONSIN CENTRAL RAILWAY Co.,
MILWAUKEE, WIS., *November 2, 1875.*

DEAR SIR:—Yours of the first to Mr. Colby has been handed to me.

The complaint of the failure to make connection at Junction City has already received attention, and I hope at the next change of time card, (which will be soon) to remedy the difficulty.

We are now in correspondence with Mr. Wyatt, of the Valley road, and if we can arrange for a little variation in their train in the other direction, we can accomplish it.

Yours, truly,

E. B. PHILLIPS,
President.

JOHN W. HOYT, *Commissioner.*

Chas. L. Colby to Commissioner Hoyt.

OFFICE OF WISCONSIN CENTRAL R. R. Co.,
MILWAUKEE, *December 3, 1875.*

DEAR SIR:—A short time ago, in conformity to your suggestion, we changed our time table so as to make connections with the Valley Railroad at Junction City.

They now inform us that they will change their tables in a few days so as to break the connection, and by arriving there later than we, they can take our passengers but give us none.

I hereby mention this that you may understand that any failure to connect there, is not our fault.

It will be impossible for us to connect with them. as they now

propose to run, as it would break our connections further east and south.

Yours, respectfully,

CHAS. L. COLBY.

Commissioner Hoyt to F. O. Wyatt.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *December 4, 1875.*

DEAR SIR:—Some weeks ago I requested of the managers of the Wisconsin Central Railroad, a change in time of the arrival of passenger trains at Junction City, so as to enable northward bound passengers on your road, to make close connections at that point. This request was made because of the representation you made of your inability to increase your speed.

The Wisconsin Central recognizing the validity of this reason, made arrangements to have their northward trains arrive at Junction City enough later to accommodate your passengers.

It now appears from a letter just received from the Wisconsin Central office at Milwaukee, that you have changed your time so as to break the connection thus formed; and that it will be impossible for them to connect with you, and yet maintain their connections further east and south. Is this action on your part unavoidable? Please answer, and oblige,

The Commissioners regret to observe that, in many cases, timetables are changed, not only without necessity so far as the public can discern, but without previous conference with, or even notice to, the managers of connecting lines. It is this kind of procedure more than excess of charges that irritates the public and leads to legislative interference. I do not charge that you have so acted in this case, but urge the importance of co-operations in making the connection, if it can be done.

Yours, respectfully,

JOHN W. HOYT, *Commissioner.*

Supt. F. O. Wyatt to Commissioner Hoyt, in reply.

OFFICE OF WIS. VAL. R. R. CO.,
TOMAH, WIS., *Dec. 14, 1875.*

DEAR SIR:—Yours of the 4th is at hand, and has just been read

by me upon my return this morning after an absence of several days.

On Dec. 5th, the C., M. and St. Paul road changed time, making us wait in Tomah twenty minutes for our passengers by that road longer than by our former time. Our time card No. 12 was made for summer running time, and was much faster than we can possibly run with safety, during the winter. It is simply impossible for us to make the connection at Junction City. This company will use every reasonable endeavor to do so, because it is for our interest to do so, and we lose by missing the connection; but under existing regulations now in force on the C., M. & St. Paul R'y, and Wis. Central roads, it is impossible for us to make the connection with the Wis. Central trains, at Junction City, without running our trains at a dangerous rate of speed.

Respectfully,

F. O. WYATT, *Supt.*

JOHN W. HOYT, *Commissioner.*

Commissioner Hoyt to Chas. L. Colby, in reply.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, December 4, 1875.

DEAR SIR—The Commissioners are under obligations to you for your favor of the 3d instant, relating to the connection of passenger trains at Junction City.

I have communicated the substance of the letter to Superintendent Wyatt, of the Wisconsin Valley Railway, and requested a reconsideration of his decision.

Respectfully,

JOHN W. HOYT,
Commissioner.

CHAS. L. COLBY, *Vice-President.*

[Enclosure.]

Resolutions forwarded by Dodge County Patrons of Husbandry to Hon. A. Scott Sloan.

Whereas, the officers of the St. Paul Road, have, on the Northern division of said road, so arranged their time-tables as to greatly inconvenience the traveling public, by not making close connections

at Portage City, thereby causing great delay and expense to travelers; and,

Whereas, We believe the whole proceeding is malignant in its design. We desire to state a few facts in confirmation of our belief, to-wit:

The train starts from Portage City east, by way of Horicon R. R. soon after the western bound train, on the southern division, leaves there going west, meeting the eastward bound train at Lewiston, about six miles distant; thus getting out of the reach of the traveling public desiring to go east by the Horicon division, by only a very few minutes; thus compelling travelers to remain in Portage twenty-four hours, or run the whole circuit of their road, via Milwaukee, thereby taking a whole day, when only a few hours, and a short distance would be necessary. Also, that the west bound train on the southern division passes Portage only a short time before the west bound train on the northern division arrives there; thus compelling the traveler who wishes to go further west, to remain in Portage over night. Moreover we desire to call your attention to the fact, that most of the time, only one train a day, is run upon this branch of the road, to-wit; the Horicon division.

Whereas, The other portion of the road operated by the same company, is crowded with business, when these two tracks should be considered practically, as a double track road from Portage City to Milwaukee. Therefore,

Resolved, That in the opinion of this council, said grievances are a proper subject for the Railroad Commissioners to investigate and correct. We therefore request you to present the same to the said Commissioners, as the sense of the Patrons of Husbandry of Dodge county, and request them if possible to correct the evil.

N. E. ALLEN,
A. LOCKWOOD,
A. F. BURGESS,

Committee.

HIRAM SAWYER,

Master Dodge Co. Council P. of H.

A. H. EDWARDS,

Secretary Dodge Co. Council P. of H.

Commissioner Hoyt to S. S. Merrill.

OFFICE OF RAILROAD COMMISSIONERS,

MADISON, December 7, 1875.

DEAR SIR:—Complaint is made by citizens of Dodge County, living on the line of your northern division, that the passenger trains on said division so far fail of proper connections at Portage, with the passenger trains on the La Crosse division, as to occasion great inconvenience and loss of time.

To state the case more definitely, and in the language of the complainants:

“The train starts from Portage City, east by the way of the Horicon road, soon after the westward bound train on the southern division leaves there going west, meeting the eastward bound train at Lewiston, about six miles distant, thus getting out of the reach of the traveling public desiring to go east by the Horicon division by only a few minutes, and compelling travelers either to remain in Portage twenty-four hours, or run the whole circuit of the road via Milwaukee, at the loss of a whole day, when only a few hours and a short journey would be necessary. Again, the western bound train on the southern (La Crosse) division leaves Portage only a short time before the westward bound train on the northern division arrives there, thus compelling the traveler who wishes to go further west, to remain in Portage over night.”

The complainants further say:

“Moreover, we call your attention to the fact that most of the time only one train a day is run upon this (the Horicon & Portage) division of the road, whereas the other is crowded with business, when these two tracks should be considered practically as a *double-track* road between Portage and Milwaukee.”

Without assuming to judge the case, on this ex-parte statement, we risk nothing in saying that, if the facts are as reported, they constitute a grievance that must have been overlooked by the officers in charge of that branch of your company's business, and one that I doubt not they will have pleasure in removing, or at least mitigating, as soon as it is brought to their notice.

I acquaint you with the alleged grounds of complaint, in the belief that you will give to the matter your early and careful attention.

Very respectfully,

JOHN W. HOYT,
Commissioner.

S. S. MERRILL, *Gen. Manager.*

Commissioner Hoyt to S. H. Edwards.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *December 7, 1875.*

DEAR SIR:—I have just received from the hand of the Attorney-General a formal complaint signed by Messrs. N. E. Allen, N. Lockwood and N. F. Burgess, Committee; Hiram Sawyer, Master, and yourself as Secretary of the Council, setting forth certain facts concerning the failure of trains on the La Crosse and Northern divi-

sions of the Chicago, Milwaukee and St. Paul Railway to make proper connections at Portage City; also alleging that there is not such frequency of trains on the said Northern Division of said railway as is demanded by the interests of the traveling public.

In pursuance of your request, the attention of the officers of the C., M. and St. P. Ry. Co. has been called to the matter, and I doubt not that immediately steps will be taken to remove all just cause of complaint.

Very respectfully,

JOHN W. HOYT, *Commissioner.*

A. H. EDWARDS,
Sec. Dodge Co. Council, P. of H.

Manager S. S. Merrill, to Commissioner Hoyt.

OFFICE CHICAGO, MIL. & ST. PAUL. R. R. Co.,
MILWAUKEE, *December 9, 1875.*

DEAR SIR:—Replying to your favor of the 7th, I would say, the complaint received by you from parties in Dodge County was no doubt made previous to the publication of our winter arrangement of trains on the northern division, taking effect on the 5th inst.

For a short time previous to that date we were compelled to discontinue trains Nos. 9 and 10 on account of lack of business sufficient to warrant running them. At the request of several business men on that line, we resumed the running of those trains on the 5th inst., taking through freight off of La Crosse division trains for that purpose. I dare say the party or parties who made the complaint to you are satisfied with the present arrangement of our trains on that division.

I desire to state that our plan of running passenger trains on the northern division is the best we can adopt for the accommodation of the people residing, and doing business on that division.

We do not have business enough to run more than one passenger train each way daily; and we run that train so that people living at Oshkosh, Berlin, Winconne, Portage and Beaver Dam can leave home in the morning, reach Milwaukee at 12:30 p. m., and have nearly three hours to attend to business, and return home the same night, leaving Milwaukee at 3 p. m.

This arrangement is greatly to the advantage of a large majority of the people who wish to travel on the road.

Our leaving Portage before the La Crosse division train arrives from the west is bad; but still it is a matter of *necessity*; the distance *via*. Horicon being greater than *via*. Watertown, we are compelled to leave earlier than the train which runs *via*. Watertown, because trains from Oshkosh, Berlin, and Winneconnee unite with the Portage train at Horicon and form one train through to Milwaukee, and we must arrive there in season to connect with the Chicago train.

Moreover, the people of Beaver Dam and other stations in Dodge County desire to arrive in Milwaukee as early as possible, so as to have sufficient time to transact business and return home the same afternoon. Not being able, therefore, to hold our passenger train at Portage until the train from the west arrives, we have now put on a mixed train, Nos. 9 and 10, which makes connections at Portage with both the east and west bound trains on the La Crosse division. I am certain that the business men of Beaver Dam and other stations on the Horicon line are well satisfied with our present arrangement of trains.

As to running one of our St. Paul trains *via*. that line, instead of by way of the Watertown line, we cannot do it and make our through connections.

Yours, truly,

S. S. MERRILL,
General Manager.

Commissioner Hoyt to A. H. Edwards.

OFFICE OF RAILROAD COMMISSIONERS,

MADISON, *December 8, 1875.*

DEAR SIR.—I have this moment received a letter from General Manager S. S. Merrill, of the Chicago, Milwaukee & St. Paul Railway Company, in answer to mine of late date, written in the interest of yourself and other complainants.

We infer from the statements therein made that the arrangements tately perfected will remove the principal grounds of complaint, and that the explanation given for non-connection of passenger trains

on the La Crosse Division with eastward-bound trains on the Northern Division, will be accepted by you as reasonable.

That the managers of the railway company may be fully represented, I enclose herewith a copy of Manager Merrill's letter.

Should the explanations therein made be less than satisfactory, have the goodness to notify me of the exceptions taken, in order that further effort may be made by the Commission, in behalf of complainants.

Very respectfully,

JOHN W. HOYT,
Commissioner.

A. H. Edwards to Commissioner Hoyt.

BEAVER DAM, *December 11, 1875.*

DEAR SIR.—Your favor of the 7th inst, was received on the evening of the 9th inst, also your kind favor containing General Manager S. S. Merrill's favor to you of the 9th instant was received by last evening's mail.

The explanations made and the alterations therein reported I doubt not will prove satisfactory to most if not all interested, as I trust no one desires to be unreasonable in his complaints.

Thanking you for your prompt action, I remain as ever,

Yours, truly,

A. H. EDWARDS,
Secretary.

CONCERNING RAILWAY REPORTS.

D. M. Kelly to the Commissioners.

OFFICE OF GREEN BAY AND MINNESOTA R. R. Co.,

GREEN BAY, *August 11, 1875.*

GENTLEMEN:—Your communication of July 29th, to H. Ketcham, Esq., president of this company, has been forwarded to me, and I have to answer as follows: Before referring directly to the subject matter of your letter, let me give you some little account of the history and present condition of this company.

In 1871 forty miles of our road were built and put in operation; in 1872 one hundred and ten miles more of the road were constructed and put in operation; in 1873, sixty-one miles more were constructed, and in December of that year the road was first operated through to the Mississippi at Winona.

The company had no land-grant, and from the local aid obtained from municipal corporations realized less than \$2,000 a mile of road built.

The road was constructed rapidly, through a new and sparsely settled country, and since its completion the company has had to contend with hard-times and adverse State legislation; and the latter cause far more than the former has prevented an extension west of the Mississippi, which promised much to that part of the the State through which this road runs, as well as to the company itself.

From the first to the present time the earnings of the road have not been sufficient to meet the operating expenses, and the five millions of dollars (about) which the road has cost, in cash, has so far been entirely unproductive to the directors. This much that you may understand our situation at the present time.

You now ask this company to make to you a report during the present month, giving you in detail full information regarding its condition, cost of its road, repairs, business, contracts, etc., etc.

We have always been obliged to study and practice economy in our office expenses, as well as in other particulars, and our accounts have not been kept in a way to enable us to fill out the report required by you without great labor, expenditure of much time and employment of extra help, and we are not in a condition to be put to such expense. It would take six clerks at least a month to fill up the details, and get our accounts in shape to fill the items of the report, and we have not the means to pay for their services.

The force now in the general office is barely sufficient to do the current business of the company, and to further reduce expenses a reduction of the force is to be made during the present month. Our books and papers are open to your examination; and the hard times, and particularly the adverse legislation for the past two winters in this State have imposed so many burdens on us, in common with all other new roads, that we rather court than avoid scrutiny of our affairs and condition, knowing that investigation will show

how foolish and destructive to its best interest has been the policy of this State in inaugurating and adhering to a system of legislation which has crippled and stunted great and important enterprises, instead of extending to them wise, generous, and encouraging protection and support.

I am, gentlemen, respectfully yours,

D. M. KELLY,
General Manager.

Commissioner Hoyt to D. M. Kelly, in reply.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, WIS., *August 13, 1875.*

DEAR SIR:—Your letter of the 11th inst., in reply to ours of the 29th of July, requesting a report from your company, in conformity with the blank form previously forwarded, is at hand. We understand pretty well the financial condition of your company, and fully appreciate the skill and economy with which its road has been constructed and managed. We have also pointed out the serious objections that may be urged against the "Potter-law," and are free to admit, that this law has been made the occasion of such representations and misrepresentations as have increased the difficulty of borrowing money for railroad purposes. But inasmuch as the law has only in a very small degree affected your receipts, and the misrepresentations which have damaged the credit of the State are largely the fruit of un wisdom on the part of railroad officials, we are unable to see matters in just the light in which they evidently appear to you. As you will see by our published report, as well as by our several communications and the blank form herein referred to, we attach great importance to full and explicit reports from all railroad companies. Had such reports been made by them from the beginning many errors into which some companies have fallen would have been avoided, and it is even probable that the radical legislation of which you complain would not have been. The people are naturally jealous and suspicious of great corporations, and certainly the easiest way to disarm them is by making the fullest possible showing of all business transactions.

It is upon this theory that we have adopted the form of report approved by the Commissioners of Illinois, Minnesota and Wisconsin.

sin in conference, and now urge upon all the companies of the State the importance of a compliance with our request for answers to the questions therein contained.

We have authority to subpoena witnesses and compel answers to be made, but do not wish to resort to this method where it can be avoided.

So far as your company is concerned, we are frank to say that we are especially desirous of a full report for the reason that in some respects your road is likely to afford us a good standard of comparison with others.

We are aware that a compliance will involve some additional trouble and expense. But it is altogether probable that reports such as these we now ask for will be required in the future, and will cost but little if any more than the incomplete reports now annually submitted.

When the system of keeping railway accounts and records has once been adapted to the new form, we trust that you will do the best you can to fill out the blanks in question.

No other company has declined to do so, and some have already sent in their returns.

Respectfully,

JOHN W. HOYT,
Commissioner.

D. M. Kelly to Commissioner Hoyt.

OFFICE OF G. B. & MINN. R. R. Co.,
GREEN BAY, WIS., *August 18, 1875.*

DEAR SIR:—I am in receipt of your letter of the 13th inst., and have carefully noted its contents.

When, in referring to the Potter-law, you state "But inasmuch as the law has only in a very small degree affected your receipts," you do not justly estimate the damage suffered by this company because of the anti-railroad legislation of the last two winters in this State.

The location of our road is such that we are obliged to compete with the Chicago and Northwestern Company and with the Milwaukee and St. Paul Railway for freight and passengers at and for a number of points, and we are therefore obliged, in order to so

compete, to adopt the rates prescribed for these roads by the Potter-law. Then, the freight carried by us is nearly all of a heavy, coarse nature, on which the Potter-law makes the lowest figure and the greatest deduction.

I notice that you are inclined to charge up the damaged credit of the State and the unwillingness of eastern capitalists to further invest in railroads in this State rather to the lack of wisdom on the part of railroad officials, and to misrepresentations regarding the legislation referred to, rather than to that legislation itself. It is a fact, I believe, that capital in as well as out of the State, cannot now be secured for the construction and operation of railroads, and having negotiated, by personal effort, within the last five years in the Eastern States, for mortgage and municipal bonds to the amount of five million dollars, I speak understandingly when I say that the refusal of eastern capitalists to invest more of their money in railroads in this State is caused not so much by a fear that railroads can not pay if operated under the present rates established by law as by a feeling that the recent railroad legislation indicates a lack of conscience and business morality in the people, and a disinclination to protect foreign capital invested here. However, I do not desire to discuss the merits or demerits of the Potter-law with you at this time. It covers too much ground, and the railroad side of the question has been already fully presented by abler railroad men than myself.

Regarding the report which you desire our company to make, of course, if your board insist upon it, we will do the best we can with it, and will forward it at the earliest possible moment. We feel, however, that under the circumstances it is asking too much of us, and will put us to unnecessary expense and trouble.

Respectfully, yours,

D. M. KELLY,
General Manager.

JOHN W. HOYT,
Railroad Commissioner.

Commissioner Hoyt to D. M. Kelly.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, WIS., *August 24, 1875.*

DEAR SIR:—Although your esteemed favor of the 18th does not

necessitate an answer, I have pleasure in reassuring you of the unwillingness of this Commission to do your company any injustice, by making unreasonable demands in the matter of reports, or in any other respect. Make the returns as full and complete as you can without undue sacrifice therefor, and we shall be satisfied.

As the Potter Law can hardly be considered in controversy between us, I will only say that we differ principally in this:

That I trace that "piece of unwise legislation," to corporate frauds and mismanagement, instead of inherent injustice on the part of the people; that I ascribe our loss of State credit in part, to misrepresentations by railroad companies of the character and purposes of our people, whom I believe to be generally just; and lastly, that I attribute the present cramped and suffering condition of railway corporations of the country largely to general causes, which I have elsewhere recited, instead of wholly to the law in question.

If I have under-rated the injury you have suffered from the law in consequence of the competition to which you allude, I shall be most happy to correct my estimate.

We are anxious to deal justly with the corporations as well as with the people whom we serve, and if in any case we fail it will not be through prejudice or ill will. In our judgment, the first step to be taken by the corporations, in order to an improved condition, and to future immunity from severe legislation, is the adoption of a policy that will inspire the public with confidence in their management.

This demands that there shall be fullness, thoroughness, and uniformity of accounts and reports. Hence the urgency of my request in the former letter.

I remain, my dear sir, very respectfully,

JOHN W. HOYT,
Commissioner.

D. M. Kelly to Commissioner Hoyt.

OFFICE GREEN BAY & MINNESOTA R. R. Co.,

GREEN BAY, WIS., *August 28, 1875.*

DEAR SIR:—I take pleasure in acknowledging the receipt of your

favor of the 24th instant, and in expressing my sense of your fairness and courtesy in expressing a willingness to accept a report from us which shall be as full and complete as we can make it without undue sacrifice on our part. We are now at work on the report, and will forward it to you in a few days.

I note particularly what you say regarding the Potter-law, which you rightly state to be a piece of unwise legislation, and although it may be that railroad companies and railroad managers are responsible in some degree for the passage of the law referred to, yet after personal [contact with the class of men who insisted upon [the passage of that law, I cannot but be convinced that the fear which prevails among eastern capitalists as to the lack of business, honor and morality among a large portion of the voters of our State is well founded, and in keeping with the exact truth. In connection with the building of the railroad of this company, I have had occasion to deal largely with municipal corporations; and, with a few honorable exceptions, I have found the people comprising such corporations disposed to shirk and to render invalid their just financial obligations. The spirit of repudiation is abroad in our State, and railroads have suffered from its manifestation, and must continue to suffer in the future; and the passage of the adverse legislation in this State during the past two years, is one phase of the repudiation distemper which is so largely affecting our people.

I have lately seen an estimate showing that the inhabitants of this State have invested but about six millions of dollars in railroad enterprises. I do not now think of a single railroad in this State which was not built before the business of the country through which it passes required it, and to the railroad interest, more than any other interest, is the State indebted for its present wealth, importance, and standing among its sister States.

It is not strange, then, I think, that the parties interested in these railroads should complain because such radical and sweeping legislation was inflicted without consideration or knowledge on the part of the legislature, or that the capitalists who have invested the eighty millions of dollars, and who have invested nearly all the money which has built up the railroad system of this State, should feel that the people of this State are disposed to deal unjustly with them, and ignore their claims to considerate treatment, to protection of their property, and to a fair return on their outlays.

It, is perhaps, hardly in place for me to discuss this matter in this shape, at this time, with you; but the men who, like myself, have imperilled their fortunes, their business reputation, and their business future, in new railroad enterprises in this State, who have been the means of bringing into this State a large amount of capital, and who by their efforts in this direction have largely contributed towards the prosperity and growth of this State, feel keenly the injustice of the legislation referred to, and the apparent lack of honesty and integrity in a large portion of the people. We cannot but hope, however, that the matter will be righted in time, but yet in the meantime many have suffered beyond redemption, and likely many more will so suffer.

I note your willingness to correct your estimate, if you have underrated the injustice suffered by this company from the passage of the "Potter-law," and I am convinced that further consideration will indicate many ways which have not before occurred to you, in which the railroad enterprises in this State have indirectly and largely been the sufferers through the passage of the "Potter-law."

Respectfully, yours,

D. M. KELLY,
Gen. Manager.

JOHN W. HOYT, Esq.

RAILWAY ACCOUNTS AND REPORTS.

Commissioner Hoyt to Albert Fink.

OFFICE OF THE RAILROAD COMMISSIONERS,

MADISON, August 12, 1875.

DEAR SIR.—Remembering the great value of the statistics pertaining to your railway, which you were so kind as to show me, in manuscript, on the occasion of my late visit to you at Louisville, I beg to remind you of the desire I then expressed for a copy of the report of which they were to form a part.

I agree with you fully as to the necessity for a more scientific and thorough system of railway accounts than any now in general use, and shall be most happy to contribute to that end by any means in my power. The manner in which you have kept the accounts of the several roads of which you have charge, appeared to me admirable, and I cannot doubt that the circulation of your

forthcoming report will tend greatly to promote a general reform in respect of accounts and reports among the railway companies of the country.

Again thanking you for your great kindness and courtesy, I have the honor to remain,

With great respect,

JOHN W. HOYT,
Commissioner.

ALBERT FINK, Esq., *Vice-President.*

Albert Fink to Commissioner Hoyt.

OFFICE LOUISVILLE, N. & G. S. R. R. Co.,

LOUISVILLE, KY., *August 20, 1875.*

DEAR SIR:—I have mailed you the last annual report of this company, and wish to call your special attention to that portion of it referring to railroad accounts, and to bespeak for it a close examination.

Nothing could be more desirable than to have a uniform system of railway accounts, and if the Railway Commissioners of the several States would agree upon such a system, they would do much to bring about such a result.

You have no doubt experienced great difficulty in getting satisfactory information from railway reports. The greater portion of the information that we find condensed in these reports is of no value, unless it be accompanied by other information, and without which no deductions can be drawn.

The first thing should be to ascertain what we really desire to know, and then have the details of such information fully presented.

Another difficulty that presents itself in most railway reports is to make any use of them, without expending considerable time and labor.

I would call your attention to table one in the report, which I think contains everything to be known in the operating expenses of a road, and the results of such operation.

With a few additional items showing the capital stock, bonded debt, and other matters bearing upon the financial status, the table would be complete, and if the several roads in the State were to have their accounts condensed into a similar table as the roads op-

erated by the Louisville & Nashville now have their accounts presented, the result would be that all desired information could be gathered at a glance, and a comparison be readily instituted.

I would be glad to aid you in any manner to bring about a perfect uniform system of accounts for the railways of the country.

Yours, very truly,

ALBERT FINK,
V. P. & Gen. Sup't.

J. W. HOYT, Esq.

SALE OF MILWAUKEE AND LAKE SHORE AND WESTERN RAILROAD UNDER FORECLOSURE.

The Commissioners to Gen. C. S. Hamilton.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *December 1, 1875.*

DEAR SIR:—Noticing in the newspapers the recent sale of Milwaukee, Lake Shore & Western and Manitowoc & Green Bay Railroads by your office, I write by the direction of the Railroad Commissioners to request copies of the proceedings in the case, if in your power to furnish them, and any facts covering such foreclosure you may deem essential to a history of the case.

On receipt of the same here, all legal charges will be paid under the provisions of the statutes of the State in such cases provided. If you have not the records at command, will you please refer us to the proper parties from whom they can be obtained?

I am, very truly, yours,

H. A. TENNEY,
Clerk Board Commissioners.

GEN. C. S. HAMILTON.

Gen. C. S. Hamilton to Commissioners.

GENTLEMEN:—In the pressure of business in my office I have found time only to make the accompanying brief abstract of proceedings, but as they cover all leading points, they give you a history of the cases; but only in the briefest manner.

For any closer report, you will have to apply to the clerk for copies of papers and process.

Yours, truly,

C. S. HAMILTON.

ABSTRACT OF RECORD.

In re. THE UNION TRUST COMPANY OF NEW
York
vs.
THE MILWAUKEE, MANITOWOC & GREEN
Bay Railroad Company. } In equity.

Complaint in above case, filed in circuit court for east district Wisconsin, August 14, 1875, alleging that the company executed 2,500 bonds of \$1000 each, dated July 1, 1871, principal payable in 1891, bearing gold interest at seven per cent. payable July 1, and January 1, of each year, and mortgage or trust-deed as security therefor, bearing same date, to trustee, covering road from Milwaukee to Manitowoc and Two-Rivers, and to Green Bay, with all tolls and property. etc., etc.

Mortgage on record with Secretary of State, Madison, volume 3, Railroad Mortgages, pages 62 and 71. Condition of bonds if default is made in payment of any interest, or in payment of sums to be set aside for sinking fund; and said default continues for 90 days, then the whole principal to become due. No part of interest has ever been paid—or sums paid for sinking fund. The railroad barely pays operating expenses, and is insolvent; prays for appointment of receiver and decree of foreclosure and sale.

Sept. 13, 1875.—Order of court appointing F. W. Rhineland, Racine, with authority to issue certificates of indebtedness to the amount of \$40,000 to settle suits and claims and otherwise protect the interest of bondholders.

Receiver's bond filed Oct. 1, 1875.

Decree of foreclosure and sale issued Oct. 12, 1875.

Sale took place Dec. 10, 1875.

Railroad bid in by committee of bondholders for sum of \$2,509, 478.20, of which \$2,500,000 was paid in bonds at face—balance in cash.

UNION TRUST Co.,
vs.
MIL. M. & G. B. R'Y Co., MIL., LAKE SHORE
& W. R. R. Co., Appleton & New Lon-
don R'y Co. } As one corporation.

Similar complaints were filed at same time; same process issued at same dates; sale to same parties, at same time, for sum of \$1, 222,988.70, of which \$1,213,000 was paid in bonds, balance in cash.

CONDITION OF CHICAGO & NORTHWESTERN.

*Commissioner Hoyt to President Keep.*OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *December 21, 1875.*

DEAR SIR:—I understand that you have published an official statement contradicting the damaging reports recently made and widely circulated concerning the management and financial condition of your road. If you have communicated anything to the public on this subject, will you not favor us with a copy, or acquaint us with the publication and issue in which it appeared.

I remain, very respectfully, yours,

JOHN W. HOYT,
*Commissioner.*ALBERT KEEP, Esq.,
President C. & N. W. R'y Co.

*President Keep to Commissioner Hoyt, in reply.*OFFICE OF C. & N. W. R. R. Co.,
CHICAGO, *December 22, 1875.*

DEAR SIR:—Referring to your favor of the 21st, I would say that you have been misinformed as to the publication of any formal official statement in regard to the condition of our company. The true state of the case is as follows: Our morning papers published some "special dispatches" from New York, attacking the credit of the company, as well as the condition of the road and its equipment; and representatives from the papers publishing the dispatches called at my office when I verbally stated to them that the reports were untrue—the financial affairs of the company being easy, and the condition of the road and its equipments being excellent. I also vouched for the correctness of the statement contained in our annual report (to which I referred them for information,) which was given to the public in August last.

The substance of my denial was published in our daily press, though with some inaccuracy.

This is all there is of that matter. I have noticed with some regret a disposition on the part of some parties in the State of Wisconsin to make any statement as published a ground of assertion

that our company was so prosperous, as not to need any relief from the restrictions of the "Potter-law."

I think it will be apparent to you, and to any candid person, that while we have been able to preserve the credit of the company, it does not follow that we are receiving a fair compensation for our business in the State of Wisconsin, because this has been done at the expense of our stockholders who have not, in the last two years, received a dollar of income from their very large investment in the stocks of our road; and I believe this statement holds good as to every road in the State of Wisconsin. It should also be remembered that less than one third of the lines of road operated by this company are located in your State.

Yours, truly,

ALBERT KEEP,
President.

RATES ON THE WEST WISCONSIN R. R.

Commissioner Hoyt to President Porter.

OFFICE OF RAILROAD COMMISSIONERS,
MADISON, *December 17, 1875.*

DEAR SIR:— * * * Were your efforts last autumn to adjust the matter of rates with the people on the West Wisconsin Railroad so far successful that they were induced to declare their acquiescence in the charges made? We are receiving no complaints now, and I would be glad to know whether it is because of a general acceptance of the representations made to them by you, in person and by circular, or for other reasons.

Very respectfully,

JOHN W. HOYT,
Commissioner.

H. H. PORTER, Esq., *President.*

20—R R C—II

(Doc. 15.)

President Porter to Commissioner Hoyt, in reply.

OFFICE OF WEST WISCONSIN R. R. Co.,

CHICAGO, *December 24, 1875.*

DEAR SIR:—I have just returned from the east, and find your favor of the 17th, inst.

To your inquiries 1 and 2, I am informed Mr. Keep has replied, as they relate to Chicago and Northwestern matters.

In answer to your third question, I beg to say, that when I could personally meet customers of the West Wisconsin Railway, and explain to them our situation, they were inclined to acquiesce in the charges made. * * * * *

I am receiving no complaints now, and matters seem to work quietly. But the earnings of the West Wisconsin Railway Company, unless improved by increased rates, cannot keep the road alive, and it will deteriorate and go out of existence.

Yours truly,

H. H. PORTER, *President.*

J. W. HOYT, *Commissioner.*

APPENDIX "A."

RAILROAD LAWS OF 1874-1875.

CHAPTER 273—LAWS OF 1874.

[The "Potter-Law."]

AN ACT relating to railroads, express and telegraph companies in the state of Wisconsin.

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

SECTION 1. All railroads in the State of Wisconsin are hereby divided into three classes, to be known as Class A, Class B, and Class C. Class A shall include all railroads or parts of railroads in the State of Wisconsin now owned, operated, managed, or leased either by the Milwaukee and St. Paul Railway Company, the Chicago and Northwestern Railway Company, or the Western Union Railway Company. Class B shall include all railroads or parts of railroads owned, operated, managed or leased by the Wisconsin Central Railway Company, the Green Bay and Minnesota Railway Company, or the West Wisconsin Railway Company. Class C shall include all other railroads or parts of railroads in said State.

SECTION 2. Any individual, company, or corporation owning, operating, managing or leasing any railroad or part of a railroad in the several classifications as herein prescribed, shall be limited to a compensation per mile for the transportation of any person with ordinary baggage, not exceeding one hundred pounds in weight, as follows: Class A, three cents; Class B, three and one-half cents; Class C, four cents; *provided*, that no such individual, company, or corporation shall charge, demand or receive any greater compensation per mile for the transportation of children of the age of twelve years or under than one-half of the rate above prescribed; *and provided further*, that the rates for transportation herein prescribed may be reduced as hereinafter provided.

SECTION 3. All freights hereafter transported upon any railroad or part of a railroad in this State are hereby divided into four general

classes, to be designated as first, second, third and fourth classes, and into seven special classes, to be designated as Class D, E, F, G, H, I, and J. Class D shall comprise all grain in car-loads; Class E shall comprise flour in lots of fifty barrels or more, and lime in lots of twenty-four barrels or more; Class F shall comprise salt in lots of sixty barrels or more, and cement, water-lime, and stucco in lots of twenty-four barrels or more; Class G shall comprise lumber, lath and shingles in car-loads; Class H shall comprise live-stock in car-loads; Class I shall comprise agricultural implements, furniture, and wagons; Class J shall comprise coal, brick, sand, stone, and heavy fourth-class articles in car-loads; and in addition to the several articles in the said special classes, shall be added other articles as, and in the manner hereinafter prescribed, except into classes D, E, G, and H; and all articles not above enumerated are [or] subsequently set into said classes as hereinafter provided, shall be placed in and belong to the four general classes, to be classified by the railroad commissioners hereinafter provided to be appointed, as said articles were classified by the Milwaukee and St. Paul Railway, which classification went into effect on the 15th day of June, 1872.

SECTION 4. No individual, company, or corporation, owning, operating, managing, or leasing any railroad or part of a railroad designated in section one as class A or B, shall charge for or receive a greater or higher rate for carrying articles named in the several special classes herein designated than is hereinafter provided, namely: class D, not exceeding six cents per 100 lbs. for the first twenty-five miles, and not exceeding four cents per 100 lbs. for the second twenty-five miles, and not exceeding two cents per 100 lbs. for each additional twenty-five miles, or fractional part thereof, unless the fraction shall be less than thirteen miles, in which case the rate shall be one cent for said fractional part, unless the whole distance be over two hundred miles, when no greater rate than one-half per cent. per 100 lbs. shall be received for such twenty-five miles over said first-mentioned distance. Class E, not exceeding twelve cents per barrel for the first twenty-five miles, and not exceeding eight cents per barrel for the second twenty-five miles, and not exceeding four cents for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the route [rate] shall not exceed two cents per barrel for said fractional part, unless the whole distance be over two hundred miles, when no greater rate than one cent per barrel shall be charged for such additional twenty-five miles, over said two hundred miles. Class F, not exceeding fifteen cents per barrel for the first twenty-five miles, and not exceeding six cents per barrel for the second twenty-five miles, and not exceeding three and one-half cents per barrel for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one and one-half cents per barrel for said fractional part. Class G, not exceeding eight dollars per car-load for the first twenty-five miles, and not exceeding five dollars per car-load for the second twenty-five miles, and not exceeding two dollars per car-load for each additional twenty-five

miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one and one-half dollars per car-load for such fractional part. Class H, not exceeding ten dollars per car-load for the first twenty-five miles, and not exceeding seven dollars per car-load for the second twenty-five miles, and four dollars per car-load for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed two dollars per car-load for such fractional part. Class I, not exceeding eleven dollars per car-load for the first twenty-five miles, and not exceeding six dollars per car-load for the second twenty-five miles, and not exceeding three dollars per car-load for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one dollar and fifty cents per car-load for such fractional part. Class J, not exceeding eight dollars per car-load for the first twenty-five miles, and not exceeding six dollars per car-load for the second twenty-five miles, and not exceeding two and one-half dollars per car-load for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one dollar per car-load for such fractional part.

SECTION 5. No individual, company, or corporation, owning, operating, managing, or leasing any railroad mentioned in classes A and B, in the first section of this act, shall receive a greater or higher rate for carrying any freight under the four general classes named in the third section of this act, than was charged for carrying freights in said four general classes on said railroad on the first day of June, 1873; and no individual, company, or corporation owning, operating, managing, or leasing any railroad mentioned in class C, in the first section of this act, shall receive a greater or higher rate for carrying freight than was received by said individual, company, or corporation for carrying such freight on the first day of June, 1873. In computing the rates for carrying any freights according to the provisions of this act, the distance for carrying such freight shall be computed from where it is received, notwithstanding it may pass from one railroad to another.

SECTION 6. In no instance shall any such individual, company, or corporation, lessee, or other person charge or receive any greater rate of compensation for carrying freight or passengers than hereinbefore provided, and any individual, company, or corporation violating, or in any way evading the provisions of this act shall forfeit all right to recover or receive any compensation whatever for the service rendered wherein such violation is attempted, and every agent of any such corporation, lessee, or other individual operating any railroad within this state who shall refuse to receive for transportation over the road for which he is agent, in the usual way, any of the articles hereinbefore mentioned on account of the compensation hereinbefore prescribed being too low, or receiving any such articles of freight, shall charge or attempt to charge for the transportation of the same, any greater sum than herein fixed, or shall in any manner violate or attempt to violate or evade the provisions

of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall pay a fine of not exceeding two hundred dollars for each and every offense, and the injured party shall have a right of action against said agent, or against the railroad company or other persons operating the railroad, or both, in which he shall be entitled to recover three times the amount taken or received from him in excess of the rates prescribed by this act.

SECTION 7. Justices of the peace shall have concurrent jurisdiction with the circuit court in all prosecutions for violations of this act, with full power and authority to impose fines, and to the same extent as the circuit court, and the defendant shall have the right of appeal as in other cases tried before justices of the peace, and justices of the peace shall also have jurisdiction in all civil cases under this act whenever the amount claimed does not exceed two hundred dollars.

SECTION 8. The governor shall, on or before the first day of May, 1874, by and with the consent of the senate, appoint three railroad commissioners, one for a term of one year, one for a term of two years, and one for a term of three years, whose term of office shall commence on the first day of May, and shall each year thereafter, on the first day of May, appoint one railroad commissioner for the term of three years, said railroad commissioners to be confirmed by the senate next convening after said appointment; but no person owning any bonds, stock, or property in any railroad, or in the employ of any railroad company, or in any way or manner interested in railroads, shall be so appointed.

SECTION 9. Said railroad commissioners shall have power to administer oaths or affirmations, to send for persons, or papers under such regulations as they may prescribe, and shall at any and all times have access to any and all books and papers in any railroad office kept for and used in any railroad office by any railroad company in this state.

SECTION 10. Said railroad commissioners, in making any examination as contemplated in this act, for the purpose of obtaining information pursuant to this act, shall have power to issue subpoenas for the attendance of witnesses by such rules as they may prescribe. In case any person shall willfully fail or refuse to obey such subpoena, it shall be the duty of the circuit court of any county, upon the application of the said commissioners to issue an attachment for such witness and compel such witness to attend before the commissioners and give his testimony upon such matters as shall be lawfully required by such commissioners, and said court shall have power to punish for contempt as in other cases of refusal to obey the process and order of such court.

SECTION 11. Any person who shall willfully neglect or refuse to obey the process of subpoena issued by said commissioners, and appear and testify as therein required, shall be deemed guilty of a misdemeanor and shall be liable to arraignment and tried [trial] in any court of competent jurisdiction, and on conviction thereof shall be punished for such offense by fine not less than fifty dollars nor more than five hundred dollars, or by imprisonment of not more

than thirty days, or both, in the discretion of the court before which such conviction shall be had.

SECTION 12. Said railroad commissioners shall, during the month of January in each year, ascertain and make return to the state treasurer as hereinafter provided. 1st. The actual cost of each railroad in this State up to and including the 31st day of the next preceding December, and if such railroad shall be partly in and partly out of this State, then the actual cost of so much thereof as is in this State. 2d. The total gross receipts resulting from the operation of every such railroad during the next preceding year ending on the 31st day of December, or of that part of the same which is in this State. 3d. The total net earnings resulting from the operation of any such railroad during the next preceding year, ending on the 31st day of December, or of that part of the same which is in this State. 4th. The total interest-bearing indebtedness of the company owning or operating such railroad, and the amount of interest paid by such company during the next preceding year ending on the 31st day of December, and if any part of such indebtedness has been incurred in consequence of the construction, maintenance, repair, removal, or operation of any part of such railroad which is not in this State, or for equipment for such part, such railroad commissioners shall ascertain and determine in such manner as they shall think just and equitable how much of its indebtedness is justly chargeable to that part of said railroad that is in this State, and how much interest shall have been paid by such company during such year ending on the 31st day of the next preceding December, or [on] that part of such indebtedness which is justly chargeable to that part of said railroad that is in this State. The board of commissioners shall prescribe the form and manner in which all reports required from railroad companies under the provisions of this act shall be made, and suitable blanks for that purpose, as by said commissioners directed, shall be provided (*for*) by the secretary of state. The records of said board shall at all times be open to inspection by the governor, secretary of state, attorney-general and legislature.

SECTION 13. Said railroad commissioners shall have power to classify all articles of freight transported on any railroad or parts of railroads, except the articles herein placed in special classes D, E, G, and H, placing said articles in either of the general classes herein provided for, or in any of said special classes, except classes D, E, G, and H, and are further empowered and authorized to reduce said rates on any of said railroads or parts of railroads, either in general or special classes, when in their judgment, or a majority of them, it can be done without injury to such railroad.

SECTION 14. Any individual, company, or corporation, owning, operating, managing or leasing any of said railroads or parts of railroads, shall be bound by the decision of such railroad commissioners, or a majority of them, with reference to said rates, and every violation by said individual, company, or corporation charging a greater or higher rate shall be deemed guilty of a misdemeanor, and on conviction thereof shall pay a fine of not exceeding

two hundred dollars for each and every offense, and the injured party shall have a right of action against said individual, railroad company, or corporation operating said railroad, in which he shall be entitled to recover three times the amount taken or received from him in excess of the rates prescribed by this act, to be recovered as provided in section seven of this act.

SECTION 15. Before entering upon the duties of his office, each of said commissioners shall make and subscribe and file with the secretary of state an affidavit in the following form: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of the State of Wisconsin, and that I will faithfully discharge the duties of railway commissioner according to the best of my ability; that I am not a stockholder, officer, or employe of any railroad or freight company, or in any way interested therein;" and shall enter into bonds, with security to be approved by the governor in the sum of twenty thousand dollars, conditioned for the faithful performance of his duty as such commissioner.

SECTION 16. Each of said commissioners shall receive for his service not exceeding twenty-five hundred dollars per annum, payable quarterly, and three dollars per day for traveling expenses for each and every day actually traveled in the performance of the duties herein required; he shall be furnished with an office, furniture, and stationery and necessary books and maps at the expense of the State. The office of said commissioner shall be kept at Madison, and all sums of money authorized to be paid by this act out of the State treasury only on the order of the governor; *provided*, that the total sum of money to be expended by said commissioners for office-rent, furniture, and stationery, shall in no case exceed the total sum of eight hundred dollars per annum.

SECTION 17. The commissioners shall have the right of passing, in the performance of their duties concerning railroads, on all railways and railway-trains in this State free of charge.

SECTION 18. Nothing contained in this act shall be taken as in any manner abridging or controlling the rates for freight charged by any railroad company in this State for carrying freight which comes from beyond the boundaries of the State, and to be carried across or through the State, but said railroad companies shall possess the same power and right to charge such rates for carrying such freight as they possessed before the passage of this act.

SECTION 19. This act shall take effect and be in force from and after its passage and publication.

Approved March 11, 1874.

CHAPTER 341—LAWS OF 1874,

AN ACT in relation to railroads.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. All railroads which have been heretofore or may be hereafter created by virtue of any general or special act within the limits of this State, are hereby declared to be public highways; and all railroad or other transportation companies heretofore or hereafter to be created, incorporated or organized by any law, general or special, of this State, are hereby declared common carriers, and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without unreasonable delay or unjust discrimination, and perishable property shall have the preference in transportation.

SECTION 2. All individuals, associations, and corporations shall have equal right to have persons and property transported over railroads, and no undue or unreasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State or coming from or going to any other State; but excursion and commutation tickets may be issued at special rates.

SECTION 3. No railroad or other corporation, or the leasees, purchasers or managers of any railroad corporation shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control any other railroad corporation owning or having under its control a parallel or competing line, nor shall any officer of such railroad corporation act as an officer of any other railroad corporation, owning or having the control of parallel or competing lines, and the question whether railroads are parallel or competing lines shall, when demanded by the complainant, be decided by a jury as in other civil issues; *provided*, that the provisions of this section shall not apply to any contract now existing where one corporation has become responsible for the liabilities of another, either by advances theretofore made, or by guaranty of bonds previous to the passage of this act.

SECTION 4. No president, director, officer, agent, or employee of any railroad or transportation company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company.

SECTION 5. No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor of either by abatement, drawback or otherwise, and no railroad company or any lessee, manager or employer thereof shall make any preference in furnishing cars or motive power.

SECTION 6. Railroad, railway and transportation companies are

hereby prohibited from granting free passes or passes at a discount to any State officer, judge of the supreme court, judge of the circuit court, or judge of any court of record, or member of the legislature, or to any such State officer, judge, or member of the legislature elect; *provided*, that this section shall not be construed to prohibit any one from purchasing one thousand (1,000) mile tickets, or other commutation tickets at the regular established rates.

SECTION 7. Any officer, agent or employee of any railroad or transportation company violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine or imprisonment, or by both fine and imprisonment, such fine not to be less than five hundred dollars (\$500) nor to exceed five thousand dollars (\$5,000,) and such imprisonment to be not less than thirty days nor more than one year.

SECTION 8. Any State officer, judge of the supreme court, judge of the circuit court, or judge of any court of record, or member of the legislature, or any State officer, judge, or member of the legislature elect, who shall accept any free pass or pass at a discount from any railroad, railway or transportation company, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine or imprisonment, or by both fine and imprisonment, such fine not to be less than twenty-five (\$25) nor to exceed one hundred dollars (\$100,) and such imprisonment to be not less than ten days nor more than thirty days.

SECTION 9. If any railroad company organized or doing business within this State, or which may hereafter do business within this State, shall charge, collect, demand or recover [receive] more than a fair and reasonable rate of compensation upon any line or road within this State, which it has the right, license or permission to use, operate or control, the same shall be deemed guilty of extortion, and upon conviction thereof shall be fined in any sum not less than five hundred dollars (\$500) nor more than two thousand dollars for each offense, with costs of suit, and reasonable attorney's fees, to be fixed by the court; *provided*, that in all cases under this act either party shall have the right of trial by jury.

SECTION 10. All acts and parts of acts contravening or conflicting with the provisions of this act are hereby repealed.

SECTION 11. This act shall take effect and be in force from and after its passage and publication.

Approved March 12, 1874.

CHAPTER 6—LAWS OF 1875.

AN ACT relating to the Wisconsin Central Railroad, and amendatory of sections three and eight, of chapter three hundred and sixty-two, of the private and local laws of 1866, entitled, "An act to incorporate the Portage and Superior Railroad Company and to execute the trust created by an act of Congress, entitled 'An act granting lands to aid in the construction of certain railroads in the State of Wisconsin,'" approved May 5, 1864—approved April 9, 1866.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section three (3), of chapter three hundred and sixty-two (362), of the private and local laws of 1866, entitled "An act to incorporate the Portage and Superior Railroad Company, and to execute the trust created by an act of Congress, entitled, "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin'"—approved May 5, 1864—approved April 9, 1866—is hereby amended so as to read as follows: Section 3. The company hereby created is authorized and required to locate and construct the line of road authorized by this act to be constructed from the said city of Portage, in Columbia county, to Stevens Point, in Portage county, on the most direct feasible route, and thence to Bayfield and to Superior, on Lake Superior.

SECTION 2. Section eight (8), of said chapter three hundred and sixty-two (362), is hereby amended so as to read as follows: Section 8. The company hereby created shall commence the construction of its railroad at the aforesaid city of Portage, and for the purpose of estimating the amount of lands to which said company may be entitled on account of building such road, the said city of Portage shall be deemed the point of commencement, and the company shall be entitled to land in the manner specified by the act of Congress, and as herein provided, as the road progresses from the said city of Portage, but in no other manner; *provided, however,* That when the Wisconsin Central Railroad Company, either by itself or its assigns, shall complete twenty consecutive miles of road south from Stevens Point, or twenty consecutive miles north from Portage, it shall be the duty of the Governor of this State to issue a certificate of that fact, and the company shall be entitled to the lands properly applicable to such section of twenty miles of road; and to receive the lands accruing on any other section of its road then completed north of Stevens Point, in accordance with the agreement or stipulation entered into between said Wisconsin Central Railroad Company and the Secretary of the Interior; and when it shall have built a second section of twenty consecutive miles of road, either south from Stevens Point, or twenty consecutive miles north from Portage, it shall be entitled to receive the lands properly applicable to that section of twenty miles, and to receive the lands accruing on any other section of twenty miles then completed north of Stevens Point; and it shall be the duty of the Governor of this State to certify to the completion of this second section between Portage and Stevens Point, when it shall have been thus completed.

And when it shall have completed a third section of twenty consecutive miles between Stevens Point and Portage, so as aforesaid, it shall be entitled to the lands properly applicable to such section, and to receive the lands accruing on any other section of twenty miles north of Stevens Point then completed, and the Governor shall certify to the completion of this third section when so completed. And when it shall have completed a fourth section of twenty consecutive miles, or the remaining portion of the line between Stevens Point and Portage, it shall be entitled to the lands properly accruing to said fourth section, and to receive the lands accruing on all the sections of its road then completed or as they may be thereafter completed. And the Governor shall certify to the completion of this fourth section when so completed, and also to the completion of each and every section of twenty consecutive miles when completed and as provided by law.

SECTION 3. When the said railroad or any part thereof, between Portage City and Stevens Point, shall be constructed and the Chicago and Superior Railroad Company shall have constructed a road between Grand Rapids and some point intersecting said line between Portage City and Stevens Point, then the Chicago and Superior Railroad Company shall have the right to run its trains over said road between said point of intersection and Portage City; and the Wisconsin Central Railroad Company shall have the right to run its trains over the road between said point of intersection and Grand Rapids, under such reasonable regulations and upon paying such reasonable compensation as may be just and equitable. And if the said two railroad companies cannot agree as to the regulations under which each and both of said companies shall run its trains over the road of the other and as to the compensation which shall (*shall*) be paid therefor, then the Railroad Commissioners of the State or such other parties as may be mutually agreed upon, shall make such regulations and fix such compensation therefor, as they shall after hearing the proofs and allegations of said parties, deem just and reasonable, and both of said companies shall be bound by such regulations and compensation so fixed.

SECTION 4. It is hereby declared to be the true intent and meaning of this act to allow the Wisconsin Central Railroad Company to build its line of road between Portage and Stevens Point on the most direct and feasible route, and to receive the balance of the land grant conferred upon said company when it shall have earned it by so building the road between Portage and Stevens Point, and to ratify and confirm the stipulation entered into between the Secretary of the Interior and the Wisconsin Central Railroad Company by Gardner Colby, its President, on the 24th and 25th days of March, 1874, as far as possible.

SECTION 5. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

SECTION 6. This act shall take effect from and after its passage and publication.

Approved February 10, 1875.

CHAPTER 24—LAWS OF 1875.

AN ACT to require the several railroad companies in this State to provide for the safety of passengers.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. All railroad companies in the State who run passenger or other cars for the conveyance of passengers therein, shall provide and have placed in some conspicuous place in each car so used for the conveyance of passengers, an axe with handle ready for use, together with a hand saw.

SECTION 2. Any railroad company failing or refusing to comply with the provisions of the foregoing section, shall be liable on conviction before any justice of the peace through whose county such road or any part thereof may run, to a fine of twenty-five dollars and costs of suit, for each and every day of failure or neglect to comply with said section, one-half of said fine to go to the informer being the complainant against such road, before any such justice of the peace, the other half into the school fund of the county in which such conviction may be had.

SECTION 3. This act shall take effect and be in force thirty days from and after its passage and publication.

Approved February 17, 1875.

CHAPTER 25—LAWS OF 1875.

AN ACT to amend section 50, of chapter 119, of the general laws of 1872, entitled "An act in relation to railroads and the organization of railroad companies."

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section fifty (50,) of chapter one hundred and nineteen (119,) of the general laws of 1872, entitled, "An act in relation to railroads and the organization of railroad companies," is hereby amended so as to read as follows: Any railroad company incorporated by or under the laws of this State, may, by a majority vote of all its shareholders, change its corporate name and adopt such other corporate name as the shareholders shall designate in the vote or resolution. In the event of any railroad company changing its name as above authorized, the secretary of said railroad company shall file in the office of the Secretary of State, a copy of the resolution, certified under his hand and the seal of the company, changing the name as aforesaid, and shall publish the same for three successive weeks in the official State paper, and such change shall take effect from the time when the same is filed with

the Secretary of State. A transcript of such resolution, or of the record thereof, at any time heretofore or hereafter certified by the Secretary of State in due form of law, shall be sufficient evidence of such change of name and of the name adopted, in any and all courts, and in any and all proceedings, all acts and things done or undertaken to be done for the benefit and in behalf of the company, or for which the company shall have been before liable in any way under its former name, shall be to the same and as full extent binding and obligatory in favor of and upon the company under the new name adopted by it.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved February 17, 1875.

CHAPTER 29—LAWS OF 1875.

AN ACT to authorize the Mineral Point Railroad to move its station at Riverside, and locate the same at a point herein named.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Mineral Point Railroad is hereby authorized and empowered to remove its station and depot at the village of Riverside, in La Fayette county, in this State, and in lieu thereof locate and maintain a station and depot on or near a point on their line, between the village of Riverside and the village of Gratiot, ten chains north of the south line of section number four (4.) town one (1.) range four (4.) east of the fourth principal meridian, in La Fayette county aforesaid.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved February 19, 1875.

CHAPTER 39—LAWS OF 1875.

AN ACT to amend chapter 273, of the laws of 1874, entitled "An act relating to railroad, express and telegraph companies in the State of Wisconsin.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section eight, of chapter two hundred and seventy-three, of the laws of 1874, entitled "An act relating to railroads,

express and telegraph companies in the State of Wisconsin," is hereby amended by striking from the seventh line of said section, the words "first day of May," and inserting in lieu thereof, the words "on or before the second Monday of February;" and further, by striking out of the ninth and tenth lines thereof, the words, "next convening after said appointment," and writing in place thereof, the words "in session at the time of such appointment," so that said section when so amended, shall read as follows: Section 8. The Governor shall, on the first day of May, 1874, by and with the consent of the Senate, appoint three railroad commissioners, one for a term of one year, one for a term of two years, and one for a term of three years, whose term of office shall commence on the first day of May, and shall each year thereafter, on or before the second Monday of February appoint one railroad commissioner for the term of three years, said railroad commissioners to be confirmed by the Senate in session at the time of such appointment, but no person owning any bonds, stock, or property in any railroad, or in the employ of any railroad company, or in any way or manner interested in railroads, shall be so appointed.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved February 20, 1875.

CHAPTER 54—LAWS OF 1875.

AN ACT to appropriate certain sums of money authorized to be paid by chapter two hundred and seventy-three (273), laws of 1874.

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

SECTION 1. There is hereby appropriated out of any money in the general fund not otherwise appropriated, all sums of money authorized to be paid or contracted to be paid under the provisions of chapter two hundred and seventy-three, (273,) laws of 1874, entitled, "An act relating to railroads, express, and telegraph companies," and chapter two hundred and ninety, (290,) laws of 1874, entitled, "An act to authorize the board of railway commissioners to employ a clerk."

SECTION 2. The preceding section of this act shall be deemed to include the appropriation of a sufficient sum to compensate registers of deeds or other persons for transcribing official records and other documents necessary for the board of railroad commissioners; *provided*, that no register of deeds or other person shall be paid a larger price for such service than is now allowed by statute for similar service.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved February 24, 1875.

CHAPTER 113—LAWS OF 1875.

AN ACT to amend chapter two hundred and seventy-three, general laws of 1874, entitled, "An act relating to railroads, express, and telegraph companies in the State of Wisconsin.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one, of chapter two hundred and seventy-three, of the general laws of 1874, entitled, "an act relating to railroads, express, and telegraph companies in the State of Wisconsin," is hereby amended to read as follows: All railroads in the State of Wisconsin are hereby divided into two classes, to be known as Class A and Class B. Class A shall include all railroads or parts of railroads in the State of Wisconsin, now owned or operated, managed or leased, either by the St. Paul Railroad Company, the Chicago and Northwestern Railway Company, or the Western Union Railway Company, except the Madison and Portage Railroad. Class B shall include all other railroads or parts of railroads in said State, and all the provisions relating to class "C," in the act of which this is amendatory, shall be applied to those railroads which by this amendment are Class "B."

SECTION 2. All those railroad companies whose lines of road are now incomplete or are in process of construction, and to aid in the building of which the General Government has donated grants of land, and which are not exempted from taxation on said lands for the next five years, are hereby exempted from the payment of the license-fees required by law for said five years.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 2, 1875.

CHAPTER 117—LAWS OF 1875.

AN ACT to encourage the building of narrow-gauge railroads, and to secure cheap transportation to the people.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Any county, town, incorporated city or village in this State, is hereby authorized and empowered to aid in the construction of any narrow-gauge railroad in this State, to be constructed by any company, under and by authority of any law of this State, as provided by an act entitled, "An act to authorize municipal corporations to aid in the construction of railroads," approved March 25, A. D. 1872, and all acts amendatory thereof.

SECTION 2. Any municipal corporation named in the foregoing section, may, by agreement between the railroad company and such municipality, take first mortgage bonds or capital stock, or part first mortgage bonds and part capital stock, on the railroad so aided, in lieu of the stock of such company for the aid so subscribed. The agreement between such railroad company and such municipality shall be arrived at as provided in section three (3) and four (4,) of the act aforesaid, and all the conditions, restrictions, provisions, instructions, forms and requirements, of every kind and nature, in the act hereinbefore mentioned, shall apply to this act, and be complied with, both on the part of the railroad company and the municipality subscribing such aid, meaning and intending hereby only to change said act, approved March 25, A. D. 1872, so as to authorize the receiving of first mortgage bonds, by municipal corporations subscribing aid to narrow-gauge railroads, in lieu of the stock of such company, the better to secure such municipalities against any possibility of loss in subscribing aid to narrow-gauge railroad companies.

SECTION 3. And to further secure the people against extortionate rates of freight and passenger fare, all railroad companies, before asking aid under this act, shall, by resolution of their board of directors, fix the maximum rate of passenger fares and rates of freight of all classes, to be charged by such company for the period of ten years from the date of such resolution; *Provided*, The passenger fare and rates of freight so fixed shall at no time exceed the rates fixed by the laws of this State; and such company shall cause such resolution to be recorded in the recorder's office of each county of this State through which their road shall pass, and the rates and fares so fixed shall be binding upon such company, its successors or assigns, for the time so fixed in such resolution. That is to say, such company shall not exceed such maximum rate as determined by their resolution, but may, at their option, lower or reduce either passenger fare or rates upon freight, and such resolution by the railroad company shall be made a part of the proposition to, and agreement with, the municipality subscribing aid to said company.

SECTION 4. And be it further enacted, that each county, town, incorporated city or incorporated village subscribing aid to narrow guage railroads under this act, shall from year to year, and each year for the period of ten (10) years, in proportion to the aid each municipality shall subscribe for the capital stock of such railroad, receive from the State Treasurer the money paid to the State by the railroads so aided for license or tax.

SECTION 5. It shall be the duty of the proper officer of each municipality subscribing aid to narrow guage railroads under this act, at the time of issuing their bonds to the railroad company, in payment for the capital stock of such railroad company, to forward to the State Treasurer a statement showing the number of each bond, date, par value, interest it bears, and when payable. And it shall be the duty of the State Treasurer to keep a record of the same, in a book kept for that purpose in his office, and each year for the period of ten years from the date of said bonds, and immediately

upon receiving the license or tax money from the railroad company so aided, to ascertain the amount due each municipality, upon the basis of the amount subscribed by each municipality in aid of such company, and shall pay the amount so ascertained to the proper officer of each municipality, taking therefor his receipt; *provided*, No county, city, town, village, school-district or other municipal corporation, shall grant to said railroad companies an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes previous to the incurring of such indebtedness.

SECTION 6. This act shall take effect and be in force from and after its passage and publication.

Approved March 2, 1875.

CHAPTER 119—LAWS OF 1875.

AN ACT to prevent gambling in railroad-cars.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Any person, corporation or company, running or operating any railroad in this State, who shall suffer the game called three-card monte, or any game or games whatsoever, to be played for gain, or by means of any gaming device or machine of any description or denomination or name whatever, in his or their cars, depots, station-houses, or in any building or place of which he or they have the care, custody or possession, the person or corporation so offending shall be liable to a penalty of not less than fifty, nor more than two hundred dollars (\$200,) for each and every offense.

SECTION 2. And it shall be the duty of conductors, brakemen, and other railroad officers or employees, and they shall have and possess the power and authority to arrest any person or persons which they or either of them shall find in the act of gaming, as mentioned in the preceding section, and bring him or them before any court of competent jurisdiction, upon his or their complaint, forthwith, without warrant; and any such person or persons, so convicted, shall be punished by imprisonment in the county jail not less than six months, or by fine not exceeding five hundred dollars (\$500) nor less than fifty dollars (\$50,) with costs of prosecution.

SECTION 3. Any person giving information and making complaint of any violation of the provisions of this act, shall be entitled to one-half the penalty recovered.

SECTION 4. This act shall be in force from and after its passage and publication.

Approved March 2, 1875.

CHAPTER 168—LAWS OF 1875.

AN ACT to authorize municipal corporations to aid in the construction of railroads.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Any county, town, incorporated city or village in this State, is hereby authorized and empowered, and may aid in the construction of any railroad to be constructed to, through, or near to such county, town, or incorporated city or village, as follows: The said corporation and the railroad company may agree upon the terms upon which such aid shall be granted in the same manner as is provided in chapter one hundred and eighty-two, of the laws of 1872, and the acts amendatory thereof, except that it shall be provided in said agreement that said aid shall consist in a tax, not exceeding in amount five per centum of the valuation of the taxable property therein, as the same shall appear upon the last previous assessment roll, or as fixed by the last previous board of state equalization. In case of a county proposing to grant such aid, and in case such agreement shall be made, an election shall be held as provided in said chapter one [hundred] and eighty-two, of the laws of 1872, and if a majority of the legal voters who shall vote at such election, shall vote for the railroad proposition, a tax to the amount of aid so voted shall be entered upon the next assessment roll for such county, town, city or village, in a separate column, and the same shall be collected in all respects as the other taxes, but shall be kept separate, and the money collected shall be paid over to such railroad company; and in case such railroad tax levied and assessed upon any piece or parcel of land shall not be paid, but such land shall be sold for the non-payment of taxes thereon, including the tax for railroad aid, the said company shall have the right to purchase at the tax sale, any such lands which shall be sold for the non-payment of taxes, including the tax for railroad aid, and have the price bid therefor applied on payment of the aid so voted; and in case any land shall be bid in by the county which was sold for non-payment of said railroad aid-tax, including other taxes, said company shall have the right to select and have endorsed and transferred to them a sufficient amount of such certificates of sale to make up the amount of aid so voted. It being the intent and meaning of this act that such company shall be entitled to the proceeds of such tax voted and assessed as aforesaid, whether in money collected or certificates of sale to the amount of the aid so voted; but the same shall in no event be an indebtedness on the part of such county, town, city or village so voting aid, and nothing herein contained shall be taken or deemed to create any liability on the part of such county, town, city or village to such company. Nothing herein shall repeal or in any way affect said chapter one hundred and eighty-two, of the laws of 1872, or any act amendatory thereof.

SECTION 2. This act shall take effect and be in force from and offer its passage and publication.

Approved March 3, 1875.

CHAPTER 173—LAWS OF 1875.

AN ACT to define the liabilities of railroad companies in relation to damages sustained by their employees.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Every railroad company operating any railroad or railway, the line of which shall be situated in whole or in part in this State shall be liable for all damages sustained within this State by any employee, servant or agent of such company while in the line of his duty as such, and which shall have been caused by the carelessness or negligence of any other agent, employee, or servant of such company, in the discharge of, or for failing to discharge their proper duty as such; but this act shall not be construed so as to permit a recovery where the negligence of the person so claiming to recover materially contributed to the result complained of.

SECTION 2. That no contract, receipt, rule, or regulation between any employee and a railroad company shall exempt such corporation from the full liability imposed by this act.

SECTION 3. This act shall take effect from and after its passage and publication.

Approved March 4, 1875.

CHAPTER 191—LAWS OF 1875.

AN ACT to amend chapter four hundred and forty-six (446,) of the private and local laws of 1868, entitled, "An act to incorporate the Wisconsin Railroad Farm Mortgage Land Company."

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section two, of chapter four hundred and forty-six, (446,) of the private and local laws of 1868, entitled, "An act to incorporate the Wisconsin Railroad Farm Mortgage Land Company," is hereby amended so as to read as follows: Section 2. The commissioners shall, as soon as may be, prepare or cause to be prepared an accurate duplicate list of all the names of the mortgagers of the said La Crosse and Milwaukee Railroad Company and the Milwaukee and Horicon Railroad Company, whose mortgages have been accepted and used by either of said railroad companies to aid in the construction of said railroads, one of which list they shall deposit in the office of the Secretary of State, and the other to be kept with one of said commissioners; and in making such lists where it is known that the maker of any such mortgage is dead or has sold the mortgaged premises, subject to the mortgage, or has assigned

his right to or interest in the stock to which he was entitled in such company, to any other person, or in case any other person has paid upon or settled such mortgage with the holder thereof, the said commissioners shall make an entry in all such cases in said list, showing the names of the persons equitably entitled to such interests, with the amount actually paid for such interest, and in such lists shall express the amount actually expended in the payment or settlement of such mortgages respectively; or the amount actually due or unpaid thereon, and the name of the person or persons entitled to receive any sum or sums to be paid or distributed by said commissioners under this act. The said commissioners may make and adopt such rules and regulations in regard to making such lists, and the manner and kind of proof to be made by any person claiming an interest in any such mortgage to entitle the same to be placed on said list, and shall give public notice of where and when such commissioners will meet to prepare said lists, in such newspapers printed and published on the line of said railroad as in their judgment will cause the most general notice thereof to be obtained by said mortgagors. And the names of the persons contained in such lists, when fully made and corrected, shall constitute the persons who shall be entitled to receive the benefits under this act, and the sums to be applied and distributed by said commissioners; *provided, however,* that each and every such person shall pay to the said commissioners the sum of ten cents in cash for each one hundred dollars which he shall have paid upon the settlement or liquidation of and such mortgages, or the amount actually due and unpaid thereon, before his name shall be entered upon said list, and no person shall be entitled to any benefit or dividend under this act, until such payment shall be made, nor unless he shall apply to said commissioners to have his name put upon said list within three years from the passage of this act. *Provided, further,* that any person entitled to the benefits of the provisions of said chapter four hundred and forty-six (446,) having failed to have his name put upon the list by making the application as required by the second section of said chapter four hundred and forty-six (446,) may now have his name put upon said list by making the application as in said section two, required, before the first day of October next; and such persons shall be paid by said commissioners on or before the first day of January next, or as soon thereafter as a sufficient fund is accumulated, the same dividend as has been previously paid to persons before entitled thereto; and thereafter be entitled to the same benefits under said act, as though their names had been put upon said list within the time first limited by said section two. *Provided, further,* That said commissioners shall each be allowed one dollar per day in addition to the compensation now allowed by law for services rendered hereafter in behalf of said company.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 4, 1875.

CHAPTER 207—LAWS OF 1875.

AN ACT relating to side-tracks to Railroads in certain cases.

The people of the State of Wisconsin, represented in the Senate and Assembly, do enact as follows:

SECTION 1. Whenever any town, by a majority of its electors voting thereon, shall, in its corporate capacity, refuse to aid any railroad company in building a depot in such town, it shall be lawful for any person who shall build a warehouse in such town for the purpose of doing a storage, forwarding and commission business, to construct from his warehouse, a railroad track and connect the same by switch at his own expense, and it shall be the duty of such railroad company to permit and allow such construction. Such side-track and switch shall at all times be under the control and management of, and kept in repair by such railroad company. *Provided*, That the party for whose benefit such side-track and switch shall be constructed shall pay to such railroad company the actual cost of maintaining and operating such side-track and switch, which payment shall be made monthly; and in case such payment shall not be made as above provided, then and in that case the obligations of this section upon such railroad company shall from and thereafter cease and be inoperative as against it, until such costs and expenses are fully paid. *Provided further*, That no such side-track shall be built within four miles of a station on such railroad.

SECTION 1. This act shall take effect and be in force from and after its passage and publication.

Approved March 4, 1875.

CHAPTER 208—LAWS OF 1875.

AN ACT in relation to the Wisconsin Railroad Farm Mortgage Land Company.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Commissioners of the Wisconsin Railroad Farm Mortgage Land Company shall be and are hereby required to furnish a list of all lands held by them in each county in this State, describing each piece by forty-acre lots, or fractional parts thereof, and designating, by description, what lands have been disposed of during the year 1874, to the county clerk of each county in which such lands are located, on or before the first day of April, 1875.

SECTION 2. Said commissioners shall annually, hereafter, report to the county clerk of the county in which such lands are located, what part, if any, of said lands have been sold, describing the same, up to the first day of April in each year.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 4, 1875.

CHAPTER 241—LAWS OF 1875.

AN ACT authorizing the Governor to procure maps, plats, and lists of the lands granted to the State of Wisconsin, to aid in the construction of railroads, by the acts of Congress approved June 3, 1856, and May 5, 1864.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Governor is hereby authorized and directed to procure from the United States such full and complete maps, plats and lists of of the lands granted to the State of Wisconsin to aid in the construction of railroads, by acts of Congress approved June 3, 1856, any May 5, 1864, as will show what sections and parts of sections have been reserved from sale by the general government under said acts, to be approved to the State for the purposes aforesaid.

SECTION 2. There is hereby appropriated out of the fund derived from trespass on said lands, a sufficient sum, not exceeding five hundred dollars (\$500,00), to pay all expenses incurred under this act; and the secretary of State is hereby directed to draw his warrant on said fund for the amount of said expenses upon the presentation to him of an itemized account thereof, approved by the Governor.

SECTION 3. This act shall be in force from and after its passage and publication.

Approved March 4, 1875.

CHAPTER 248—LAWS OF 1875.

AN ACT relating to the fencing of railroads.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. All railroad companies in this state, whose roads have been in operation two years or more, in carrying goods and passengers over the same, or over any portion of such roads, are hereby required to fence the same, and to construct the necessary farm crossings and cattle guards, whenever said roads or portions thereof have been so running through enclosed lands, or through lands that may hereafter be enclosed.

SECTION 2. Any owner or occupant of such enclosed land, or lands that may hereafter be enclosed, if the railroad company, whose track runs through such lands, refuses or neglects to comply with the requirements of the foregoing section, may give notice in writing to such company to fence its road so running through his premises, and to construct the necessary farm crossings and cattle

guards thereon, and if such company, after being so notified shall refuse or neglect for the space of six months to fence its road and to construct the necessary farm crossings and cattle guards, it shall be liable to pay to the owner or occupants of such premises the sum of ten dollars for each and every train of cars, or for each locomotive that may thereafter pass through such premises and over such road, to be recovered in an action of trespass against the railroad company so offending.

SECTION 3. The notice mentioned in the foregoing section shall be signed by the person owning or occupying the land, and shall contain a description of the premises so owned or occupied, and may be served on the president, general manager, or superintendent of such road, or on any agent having charge of a station on such road, by leaving a copy thereof with any of said officers.

SECTION 4. Upon the trial of any action arising under this act against such railroad company, it shall not be necessary for the plaintiff to prove ownership of the land, but the proof of possession of the premises shall be deemed sufficient to entitle him to sustain such action.

SECTION 5. Every justice of the peace shall have concurrent jurisdiction with the circuit court of the county wherein such action may arise against any railroad company not complying with the provisions of this act.

SECTION 6. All acts and parts of acts contravening the provisions of this act are hereby repealed.

SECTION 7. This act shall be in force from and after its passage and publication.

Approved March 4, 1875.

CHAPTER 280—LAWS OF 1875.

AN ACT to restore section one, (1,) two, (2,) three, (3,) and seven, (7,) of chapter seventy-nine (79), of the Revised Statutes of 1858.

The people of the State of Wisconsin, represented in Senate and Asembly, do enact as follows:

SECTION 1. That section one (1), two (2), three (3), four (4), five (5), and seven (7), of chapter seventy-nine (79), of the Revised Statutes be and the same are hereby revived, restored and re-enacted and declared to be in full force and effect; subject, however, to the provisions of section three (3), of chapter 341, of the laws of 1874, entitled, "an act in relation to railroads."

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 5, 1875.

CHAPTER 303—LAWS OF 1875.

AN ACT to encourage the construction of railroads in and through the State of Wisconsin.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Green Bay and Minnesota Railroad Company, formerly known as the Green Bay and Lake Pepin Railroad Company, is hereby authorized and empowered to build and construct a bridge across the Mississippi River, commencing at the most feasible point in Buffalo county, for the purpose of crossing the same with a railway track or tracks; *provided*, such bridge [is] so constructed, with sufficient draws, that the navigation of the river shall not be unnecessarily incommoded thereby; *provided, further*, that said bridge shall be so constructed as to comply with all the restrictions and requirements of the act of Congress approved July 25th, 1866, entitled, "An act to authorize the construction of certain bridges and to establish them as post roads." And the said company is hereby invested with full power and authority to issue certificates of stock or bonds, to be secured upon the line of its road or bridge, to an amount equal to the cost of construction thereof, and to use such issue of stock or bonds in payment and satisfaction for such construction, and the said Green Bay and Minneseta Railroad Company is hereby authorized and empowered to build, construct, or purchase and complete any railway to be hereinafter, in whole or in part, constructed in the State of Minnesota, having its terminus on the Mississippi River opposite, or nearly so, to any present or future terminus of the Green Bay and Minnesota Railroad, and to use for the building or purchases and completion of such railroad sufficient of its stock or bonds, secured by mortgage as aforesaid, to an amount equal to the cost of such building, or purchase and completion, as the case may be.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved March 5, 1875.

CHAPTER 305—LAWS OF 1875.

AN ACT to re-enact chapter 533 of the general laws of 1865, entitled, "An act to accept the grant of land made to the State of Wisconsin by act of Congress approved June 25, 1864, to aid in the construction of a military road from Wausau to Lake Superior."

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Whereas, it has been established by the decisions of

the United States Courts, that the title to lands granted by Congress to the State of Wisconsin for specific purposes of improvement, remains in the State subject to its disposition for the specific purposes designated by such grants, notwithstanding the time for the completion of such improvements has expired; now therefore, chapter five hundred and thirty-three (533,) of the general laws of this State for the year 1865, approved April 10, 1865, and entitled, "an act to accept the grant of lands made to the State of Wisconsin, by act of Congress approved June 25, 1864, to aid in the construction of a military road from Wausau, Marathon county, to Lake Superior," is hereby re-enacted and declared to be in full force and effect.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 5, 1875.

CHAPTER 312—LAWS OF 1875.

AN ACT to appropriate a certain sum of money to Chicago, Milwaukee and St. Paul Railway Company.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is hereby appropriated to Chicago, Milwaukee and St. Paul Railway Company, out of any money in the treasury not otherwise appropriated, the sum of thirty-one thousand three hundred and twenty-two dollars and seventy-eight cents, in full for taxes and interest erroneously paid by said company into the state treasury.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 5, 1875.

CHAPTER 328—LAWS OF 1875.

AN ACT in relation to the election of directors of the Chicago, Milwaukee and St. Paul Railway Company.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The term of office of each and all of the directors of the Chicago, Milwaukee & St. Paul Railway company, as such directors, shall expire at twelve o'clock noon of the day on which the annual meeting of the stockholders of said company is required by law to be held in June, A. D. 1875, and on that day the stockhold-

ers of said company shall elect a full board of thirteen directors who shall serve as directors thereof for one year then next ensuing said election; and annually thereafter there shall be elected by said stockholders a full board of thirteen directors of said company.

SECTION 2. At the annual meeting of the stockholders for the election of directors of said company in June next and before the poll for said election shall be opened, the question of the acceptance of this act shall be submitted to a vote of the stockholders. If at such election a majority of all the stockholders voting upon said question shall vote in favor of the acceptance of this act, the same shall be accepted and be in full force and binding upon said company from and after such vote; but if a majority of all the stockholders voting upon said question shall vote against such acceptance, then this act shall be of no force or effect; *provided, however,* if for any cause the election provided for in this section is not held as herein provided and the result declared before the poll for the election of directors is opened, then and in that case the first section of this act shall be in full force and effect and binding upon said company, and a full board of directors shall be elected as therein provided.

SECTION 3. The secretary of said company shall make a certificate under the seal of the company certifying the result of said vote on the question of the acceptance of this act, and file the same in the office of the Secretary of State of the State of Wisconsin within ten days after said election.

SECTION 4. Section 1, of chapter three hundred and thirty-five (335,) of the private and local laws of the year 1869, and all other acts or parts of acts contradicting or conflicting with the provisions of this act, are hereby repealed.

SECTION 5. This act shall take effect and be in force from and after its passage and publication.

Approved March 5, 1875.

CHAPTER 334—LAWS OF 1875.

AN ACT to amend chapter two hundred and seventy-three [273] laws of 1874, entitled, "An act relating to railroads, express, and telegraph companies in the state of Wisconsin.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 4, chapter 273, of the general laws of 1874, is hereby amended to read as follows: Section 4. No individual, company, or corporation owning, operating, managing, or leasing any railroad or part of a railroad, designated in section one as class "A" or "B," shall charge for or receive a greater or higher rate for carrying articles named in the several special classes herein designated, than is hereinafter provided, namely:

Class D, not exceeding six cents per 100 pounds for the first twenty-five miles, and not exceeding one and six-tenths mills per hundred pounds per mile for the distance actually carried for the second twenty-five miles; and not exceeding three cents per hundred pounds for the third twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall be one and one-half cents per hundred pounds for said fractional part, and not exceeding two cents per hundred pounds for each additional twenty-five miles or fractional part thereof, unless the fraction shall be less than thirteen miles, in which case the rate shall be one cent for said fractional part, unless the whole distance be over two hundred miles, when no greater rate than one-half cent per 100 pounds shall be received for each twenty-five miles over said first two hundred miles.

Class E, not exceeding twelve cents per barrel for the first twenty-five miles, and not exceeding three and two-tenths mills per barrel per mile for the second twenty-five miles, and not exceeding six cents per barrel for the third twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed three cents per barrel for said fractional part, and for each additional twenty-five miles a sum not exceeding four cents per barrel for each twenty-five miles or fractional part thereof unless the fraction be less than thirteen miles, in which case rate shall not exceed two cents per barrel for such fractional part, unless the whole distance be over two hundred miles, when no greater rate than one cent per barrel shall be charged for each additional twenty-five miles over said two hundred miles.

Class F, not exceeding fifteen cents per barrel for the first twenty-five miles, and not exceeding two and four-tenths mills per barrel per mile for the distance actually carried for the second twenty-five miles, and not exceeding five cents per barrel for each additional twenty-five miles, or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed two and one-half cents per barrel for such fractional part.

Class G, not exceeding eight dollars per car-load for the first twenty-five miles; and not exceeding twenty cents per mile per car-load for the distance actually carried for the second twenty-five miles, and not exceeding three dollars per car-load for the third twenty-five miles, or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one and one-half dollars per car-load for such fractional part thereof, and for each additional twenty-five miles or fractional part thereof not exceeding two dollars per car-load, unless the fractional part be less than thirteen miles, in which case the rate shall not exceed one dollar per car-load for each fractional part thereof.

Class H, not exceeding ten dollars per car-load for the first twenty-five miles, and not exceeding twenty-eight cents per mile per car-load for the distance actually carried for the second twenty-five miles, and not exceeding four and one-half dollars per car-load for each additional twenty-five miles, or fractional part thereof; unless the fraction be less than thirteen miles, in which case the rate shall

not exceed two dollars and twenty-five cents per car-load for such fractional part.

Class I, not exceeding twelve dollars per car-load for the first twenty-five miles, and not exceeding thirty-two cents per car-load per mile for the second twenty-five miles, for the distance actually carried, and not exceeding five dollars per car-load for each additional twenty-five miles, or fractional part thereof, unless the fraction shall be less than thirteen miles, in which case the rate shall not exceed two dollars and fifty cents per car-load for such fractional part.

Class J, not exceeding eight dollars per car-load for the first twenty-five miles, and not exceeding twenty-four cents per car-load per mile for the distance actually carried for the second twenty-five miles, and not exceeding three and one-half dollars per car-load for the third twenty-five miles, or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed two dollars for such fractional part; and for each additional twenty-five miles not to exceed two and one-half dollars per car-load for such twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one dollar and twenty five cents per car-load for such fractional part.

SECTION 2. Section 5, of said chapter 273, of the laws of 1874, is hereby amended by adding thereto the following, viz: And when freights shall so pass from one railroad to another, the amount received for such transportation shall be divided between the companies rendering such service, in such proportion as the officers thereof may agree upon. In case the officers of such corporation shall not agree as to such division, then each of said corporations shall choose an impartial person familiar with railroad management, and the persons thus chosen shall choose one or more to join them in order to make an odd number, and the written award of the persons thus selected shall be conclusive and binding upon all parties. In case either of said railroad companies or corporations shall neglect or refuse to select such referee, then upon application of the other party or parties, any court of record in this State may appoint such referee.

SECTION 3. Section 6, of said chapter 273, is hereby amended by striking out of the ninth line in said section the words, "agent of any," and by inserting in the eleventh line of said section after the word "state", the following: "and every officer, agent, or employee thereof, who shall unreasonably refuse to furnish to any person cars to be loaded with freight for transportation over their respective roads, or shall discriminate against any person in furnishing such cars," so that said section shall read as follows: Section 6. In no instance shall any such individual, company, or corporation, lessee or other person charge or receive any greater rate of compensation for carrying freight or passengers than is hereinbefore provided, and any individual, company or corporation, violating, or in any way evading the provisions of this act shall forfeit all right to recover or receive any compensation whatever, for the service render-

ed wherein such violation is attempted, and every such corporation, lessee, or other individual operating any railroad within this State, and every officer, agent, and employee thereof who shall unreasonably refuse to furnish to any person cars to be loaded with freight for transportation over their respective roads, or shall discriminate against any person in furnishing such cars, or who shall refuse to receive for transportation over the road for which he is agent, in the usual way, any of the articles hereinbefore mentioned on account of the compensation hereinbefore prescribed being too low, or receiving any article of freight, shall charge or attempt to charge for the transportation of the same, any greater sum than herein fixed, or shall in any manner violate or attempt to violate or evade the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall pay a fine not exceeding two hundred dollars for each and every offense, and the injured party shall have a right of action against said agent, or against the railroad company or other persons operating the railroad, or both, in which he shall be entitled to recover three times the amount taken or received from him in excess of the rates prescribed by this act.

SECTION 4. Chapter 273, of the act aforesaid, is hereby amended by adding to said chapter the following, to be known as Section 19. Every company, corporation, lessee, or individual owning, operating, managing, or leasing any railroad or part of railroad in this state, shall receive and forward, in the usual manner, all articles and freights delivered to them or either of them for transportation over their respective roads. And in all cases when such articles or freights will pass over any other railroad or part of railroad to reach the point of destination, the company, corporation, or individual receiving the same shall deliver the same to such other road. If in car-loads, then such delivery shall be in the same cars without unloading; and if in quantities less than a car-load, then such delivery shall be in the usual course of business, as the same has been practiced by said roads respectively, previous to the year 1874. And all railroad companies and other persons operating any railroad or railroads within this state shall provide and maintain at all places where their respective roads are intersected by another railroad, connecting tracks by which cars may be transferred from one road to the other, except when the crossing roads shall be of different gauge, and in all cases such companies or persons shall provide and maintain at or near the place of crossing, convenience for the transfer of freights from one road to the other; and all such companies and persons operating any railroad shall receive for shipment and forward as directed, with all convenient dispatch, all transportable articles of freight which are commonly transported by rail, offered to them for shipment, and deliver the same to consignee or the next connecting carrier as the case may be; and for the purpose of facilitating the transportation of freights, every railroad company or other person operating any railroad within this state, are hereby required to receive at junctions and places of crossing other roads of the same gauge loaded or empty cars, and forward them without delay to their destination. Advanced pay-

ment of freights shall not be required as a condition precedent to carriage, except in case of perishable articles and freights of little value. Any individual, lessee, company or corporation, violating, or in any manner evading the provisions, or either of the provisions of this section, shall forfeit all right to recover or receive any compensation for the service rendered; wherein such violation is attempted or accomplished, and every agent, clerk, or employee of any such corporation, company, lessee, or other individual, operating any such railroad or part of railroad, who shall refuse or neglect, when requested, to receive for transportation over the road for which he may be acting or to forward in the usual manner, any of the articles of freight mentioned in this chapter, on account of the charges or rates not being paid in advance, or on account of the same having to pass from one railroad to another, shall be deemed guilty of a misdemeanor, and on conviction thereof shall pay a fine not exceeding two hundred dollars for each and every offense, and the injured party shall have a right of action against such agent, clerk or employee, or against the said company, corporation, or individual owning, operating, or managing said road, or both, in which action the said injured party shall be entitled to recover treble the amount of all damages which he shall sustain by reason of any such neglect, refusal, or evasion.

SECTION 5. Said chapter 273 is further amended by adding thereto the following to be known as section 20. Wheresoever two or more railroads approach, connect with, or cross each other at a point, or points of general travel in this state, it shall be the duty of the companies or individuals operating such roads to make close running connections at such points [so] as to accommodate the traveling public, and in case they fail to do so the said railroad commissioners shall examine into the matter, and if they shall think proper, give notice to such companies to present to said commissioners the reasons for not making such running connections, and if no good and sufficient reasons satisfactory to said commissioners shall be given for failing to make such connections, it shall be the duty of such commissioners, or a majority of them, to order such connections to be made as in their judgment shall be just and such as shall accommodate the traveling public; and shall cause a copy of such order to be served on each of said companies, and if the said companies or individuals operating said roads or either of them, shall neglect or refuse to comply with such order for more than one week after the service thereof, the company or individual so neglecting or refusing to comply with said order shall be deemed guilty of a misdemeanor and on conviction thereof, before any court of competent jurisdiction, shall be subject to a fine of one hundred dollars for each and every day they shall so neglect or refuse.

SECTION 6. Section nineteen, of chapter two hundred and seventy-three, aforesaid, shall hereafter be known and designated as section twenty-one of this chapter.

SECTION 7. This act shall take effect and be in force from and after its passage and publication: *provided*, that no offense commit-

ted, and no penalty, forfeiture, or damages received [incurred] or sustained, and no action or right of action which has already accrued, shall be affected by the provisions of this act; and no prosecution for any offense, or the recovery of any penalty, forfeiture, or damages, or the enforcement of any right now pending, shall be affected by the provisions of this act; but the same shall proceed to trial, hearing, and final judgment in the same manner and to the same purpose and effect as though the statute upon which the same is or shall be founded was contained [continued] in full force, virtue, and effect to the time of such trial, hearing, and final judgment.

Approved March 5, 1875.

RESOLUTIONS AND MEMORIALS OF 1875 CONCERNING RAILWAYS.

No. 1.

MEMORIAL to Congress that the line of the Land Grant road between Portage City and Stevens Point be changed to most direct feasible route.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

That by an act of congress entitled, "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved May 5, 1864, certain lands were granted to the State of Wisconsin for the purpose of aiding in the construction of a railroad from Portage City, Berlin, Doty's Island or Fond du Lac, as said State might determine, in a northwestern direction to Bayfield, and thence to Superior, on Lake Superior; that the Legislature of the State of Wisconsin, to provide for the execution of the trust imposed upon the State by the said act of Congress in respect to the lands thereby granted, fixed upon the city of Portage as the point of commencement, and provided that the road should be built *via* Ripon, in the county of Fond du Lac, and Berlin in the county of Green Lake. That the Congress of the United States by its joint resolution, approved 1866, consenting to the change of route of said railroad, and provided that it should be built on the line specified in the act of the Legislature. That the line so provided for is more than thirty miles out of a direct line between the points named; that the Wisconsin Central Railroad Company, upon which company the grant was conferred, has constructed about one hundred and forty miles of said road, between Stevens Point and Ashland; that it finds itself embarrassed to procure means for building the circuitous route *via* Ripon, etc., and is desirous of straightening the line, and building the road in the manner authorized by

the original act of Congress. And your memorialist would further represent, that the interests of the people of Wisconsin and of the railroad company would both be promoted in a great degree by authorizing the railroad company to build its road on the direct route between said city of Portage and Lake Superior, thereby saving more than thirty miles in the distance, and greatly decreasing the cost of transportation of the products of the mine and forest to a market south, and of the products of the farmers to a northern market.

Your memorialists, therefore, respectfully pray that the Congress of the United States, by resolution, or the proper act, to be speedily passed, may give its assent to changing the line of said road between the city of Portage and Lake Superior, so that it may be built on a shorter and more feasible route, and in the manner authorized by the original act of Congress, and upon such terms and under such restrictions as are imposed, or may be imposed by the Legislature, not inconsistent with the act of Congress in making the grant for such road.

Approved February 12, 1875.

No. 2.

JOINT RESOLUTION asking Congress to straighten line of land grant road between Portage City and Stevens Point.

WHEREAS, The people of the State of Wisconsin, represented in Senate and Assembly, have passed an act to change the line of the land grant road between Portage City and Lake Superior, provided for by the act of Congress, approved June 3, 1865, and the laws of the State of Wisconsin, accepting the grant, and agreeing to execute the trust, so as to allow the said road to be built between the city of Portage and Stevens Point on the most direct feasible route; therefore,

Resolved by the Senate, the Assembly concurring, That our Senators and Representatives in Congress are hereby requested to secure the passage by Congress, at the earliest practicable moment, of a joint resolution or law giving its assent to said change of route.

Approved February 12, 1875.

No. 3.

JOINT RESOLUTION requesting an extension of time for the construction of the railroad from Lake St. Croix to Superior and Bayfield.

WHEREAS, Congress, by an act approved June 3, 1856, made to the State of Wisconsin a grant of lands to aid in the construction of a railroad from Madison or Columbus by way of Portage City, to

the Lake or River St. Croix, and from thence to the west end of Lake Superior and Bayfield, which grant was accepted by said State; and

WHEREAS, The said State prior to 1864, secured the construction of a portion of said road and made provisions for the construction of the remainder; and

WHEREAS, Congress, by act approved May 5, 1864, made to said State an additional grant of four sections of land per mile, to aid in the construction of the portion of said road from Tomah to Lake Superior, which additional grant was also duly accepted; and

WHEREAS, The time for the construction of the portion of the road between Tomah and Lake St. Croix, was in 1868 extended by resolution of Congress to May 5, 1872, which portion of said road was completed within said extended time, making at least two-thirds of the entire road in aid of which said grant was made; and

WHEREAS, The state made strenuous efforts to secure the completion of the portion of said road between Lake St. Croix and Lake Superior before the expiration of the time limited by Congress, to-wit: May 5, 1869, but without success; and

WHEREAS, After the decision of Associate Justice Miller, and Circuit Judge Dillon, that notwithstanding the failure to complete said road within the time limited, the legal title to said lands remained in the State of Wisconsin, and could not be divested save by act of Congress, or judicial proceedings in behalf of the United States, the State of Wisconsin, in the full faith that the Federal Government would not seek the divesture of the title to the remaining portion of the grant after the State had so far in good faith executed the trust, conferred the grant upon railway companies under heavy bonds to complete the road if the time was extended by Congress, under which legislation of the State over forty miles of said road have been constructed; and

WHEREAS, The Supreme Court of the United States has recently affirmed the decision of Judges Miller and Dillon, holding the legal title to said lands to be in the State of Wisconsin, subject to divesture only by legislative action or judicial proceedings; and

WHEREAS, It would be repugnant to every principle of justice for the Federal Government to take away either by act of Congress or otherwise, the legal title to these lands, thereby denying to the State the opportunity to complete the execution of her trust, and to secure the construction of the remainder of this road, needed for manifold reasons; and

WHEREAS, Justice to the thousands of settlers who have paid the United States double the minimum price for the even numbered sections within said grant, because of the anticipated construction of said railroad, imperatively demands the completion thereof; and

WHEREAS, It is deemed by the Legislature of Wisconsin absolutely essential to the commercial interests of this and several other States, that this road should be speedily completed, affording thereby a great through competing line to the lake, promoting the cause of cheap transportation; and

WHEREAS, It is obviously impossible for the railway companies selected by the State to complete this road, to negotiate their securities based upon a land grant which might be revoked by legislative action or perfected by judicial proceedings in behalf of the United States; and

WHEREAS, If a reasonable extension is granted, the State of Wisconsin pledges her faith to secure the completion of said road, which, when completed, is a post-road of the United States for the transportation of troops and property free of charge; Now, therefore, be it

Resolved by the Assembly, the Senate concurring, That the House of Representatives is most earnestly requested to pass, at the present session, the Senate bill now pending in said House, extending the time for the completion of said road from Lake St. Croix to Superior and Bayfield.

Resolved, That the Senators and Representatives of this state be, and they are hereby requested to urge, and secure, if possible, the passage of said bill before the end of the present session.

Resolved, That the Governor is hereby requested to transmit immediately a copy hereof to the Speaker of the House of Representatives, with the request that it be laid before said House. Also, a copy to each of our Senators and Representatives in Congress.

Approved February 19, 1875.

APPENDIX "B."

LEGAL PROCEEDINGS.

IN THE SUPREME COURT OF WISCONSIN.

THE ATTORNEY GENERAL VS. THE WEST WISCONSIN RAILWAY COMPANY.

[Reprinted from advance sheets of Wis. Reports, Vol. XXVI, by permission of the Reporter.]

RAILROADS: CHARTER. (1-3) Charter of defendant company construed, as to location of southern terminus. (4) Power given by its charter to change location of road does not include power to change termini. (5) Effect of act authorizing extension of road. (6) Power to change termini under general railroad law, considered. (7, 8) Charter a contract with State; duty of company to maintain and operate its road. Ch. 31 of 1873. (9) Forfeiture of charter by breach of duty.

1. Under chapter 243, Laws of 1863, the defendant company was chartered as the "Tomah & Lake St. Croix Railroad Company," to build a road between the two terminal points named in said title, being a part of the land-grant road originally located by the La Crosse & Milwaukee R. R. Co.; and so much of the land grant as was applicable to the construction of such road from Tomah to Lake St. Croix, was resumed by the legislature from the La Crosse & Milwaukee Company, and bestowed upon defendant; and the road which defendant was to build is several times designated in sec. 14 of said charter, as a road from Tomah to Lake St. Croix. By the terms of sec. 5, defendant was authorized to locate, construct and operate a railroad "from such point as the directors should determine in the town of Tomah, in the county of Monroe, *or* on the track of the Milwaukee & La Crosse Railroad, or of any other railway running out of Tomah," to a point on Lake St. Croix. *Held*,
(1) That if the language of sec. 5 as to the southern terminus of the road be construed literally, there is a positive contradiction between it and sec. 14.
(2) That in view of the whole tenor of the act, the first "*or*" in sec. 5 must be construed as having a *copulative* and not a disjunctive force; and as requiring the southern terminus of defendant's road to be in town of Tomah, *and* on the track of some other railroad running out of that town.

2. Ch. 232, Laws of 1865, makes a further grant of land to defendant "for the purpose of aiding the construction of a road from the town of Tomah * * to the St. Croix river or lake," and confirms the former grant made to the company "to aid in the building of *said railroad*." *Held*, that this is a legislative construction of the charter, or operated as an amendment of the description in sec. 5, if such amendment was necessary.
3. At some time after its organization (apparently in 1866) defendant located its southern terminus on the line of the La Crosse & Milwaukee Railroad, in the town of Tomah. *Held*, that, this location being a valid one, the point so selected became and remained the fixed terminal point of the road, as much as if it had been specifically designated as such in the charter.
4. The original charter authorized the company to locate, and change the location of, its road, "on such route as it should think proper" between the terminal points named; but this gave it no power to change the termini themselves.
5. Defendant constructed its road from the southern terminus above described, northward through Warren's Mills, etc., to St. Croix, and received from the State the land grant, as provided, for every twenty miles so built, including some ten miles from the southern terminus to Warren's Mills. Ch. 516, Laws of 1870, authorized it "to extend the line of said road to the south line of this State." The board of directors then *passed a resolution* to extend the line of its road along the line of the La Crosse & Milwaukee road to Camp Douglas, and thence southwardly to Elroy in this State, the actual terminus of the road of another company leading from Chicago. Thereupon the defendant built the road from Camp Douglas to Elroy, intending to make a temporary arrangement for the use of the La Crosse & Milwaukee road from Tomah to Camp Douglas, and ultimately to build its own road between these points; but, said arrangement soon failing, it altered and straightened the line of its road so as to run direct from Warren's Mills to Camp Douglas, and discontinued and took up its road from the former place to Tomah. *Held*,
 - (1) That the power to extend its road southward to the state line could be exercised only by building a road continuously from the fixed terminal point at Tomah.
 - (2) That a mere *resolution* to extend the road from Tomah southward was not an exercise of the power.
 - (3) That as there was an actual extension of the road southward from Tomah, so as to acquire a new southern terminus for such road at Elroy, defendant could not straighten its road between Warren's Mills and Elroy, under any power to change the "location" or the "route," given by sec. 5 of the original charter, nor under the power conferred by sec. 23 of the general railroad act of 1872.
 - (4) That even if the road were extended southwardly as contemplated by the act of 1870, such extension would still be *accessory* to the principal road, whose southern terminus is fixed by the charter at Tomah.

6. The power to change the "route" of its road, conferred by the act of 1872 on each railroad company organized under it, is a power to change it *between* the terminal points specified in the patent, and not to change the termini themselves; and it is matter of doubt whether such change can involve a change of the *counties* specified in the articles of association.]
7. Defendant's charter, being granted in perpetuity, and being a contract *upon a consideration proceeding from the State to the corporation*, is binding in perpetuity, unless sooner determined by law; and until the law governing it is changed, defendant cannot evade the duty of maintaining and operating its road, without breach of contract.
8. The road (from Warren's Mills to Tomah) which defendant is required by ch. 31, laws of 1873, to relay and equip is part of its chartered road, which it had built and was bound to maintain.
9. Defendant's act in discontinuing and taking up its road from Tomah to Warren's Mills, is such an offense against the provisions of its charter, and such a violation of public law, as works a forfeiture under R. S., ch. 160, sec. 4 subds. 1 and 2.
10. A demurrer to defendant's answer was sustained on the grounds above stated, and leave given defendant to answer over to the information by the first day of next term.

Action in the nature of *quo warranto*, commenced in this court in August, 1873 by the Attorney General, on leave granted by the court, to have a forfeiture of defendant's charter adjudged, and the corporation dissolved. A decision of the court upon a demurrer to the complaint will be found reported in 34 Wis., 197-217; and reference is made to that report for a somewhat full statement of the complaint. After its demurrer was overruled, defendant filed an answer, which, in addition to a general denial, alleged in substance the following facts: By ch. 516, P. & L. Laws of 1870, the legislature of this state amended defendant's charter so as to authorize the company to extend its railroad to the south line of this state. The amendment was accepted by the company, and on the first of September, 1871, the board of directors, being expressly authorized thereunto by the stockholders, duly adopted a resolution extending the line of defendant's railway from Tomah to the south line of this state, and also adopted a resolution instructing D. A. Baldwin, the president of the company, "to cause immediately the line of said extended road to be surveyed and finally located," from Tomah, upon the most direct and feasible route to Elroy, in the county of Juneau, in this state, and to proceed with the immediate construction of said road as far as Elroy, "and to cause the said extended line to be surveyed and finally located" from Elroy to the south line of the state at the earliest practicable period. Pursuant to the instructions of the board, the president of the company caused seven or eight lines to be run by competent locating engineers, with a view to extending said line of road from Tomah to Elroy by the most direct and feasible route; and said engineers, by reason of the character of the country between the two points, were unable to find a proper and practicable route be-

tween them, except by running for twelve or thirteen miles parallel with the Milwaukee & St. Paul Railway, (formerly the La Crosse & Milwaukee Railroad), a road running out of Tomah; and it was ascertained that a railroad could not be constructed in a direct, or even tolerably direct, route southerly from Tomah to Elroy without an expense of near a million of dollars in tunneling alone, and without such grades as to render the road, if constructed, "difficult of operation without constant, burdensome, permanent and extraordinary expense and delays." Thereupon "the said extended line of road was surveyed and finally located" from Tomah along and parallel with the Milwaukee & St. Paul Railway to Camp Douglas, a station on said last named road, and from thence in a southerly direction to Elroy; "which location and line was the only possible and practicable one from Tomah to Elroy;" and was duly adopted by the defendant company. Immediately thereafter, defendant condemned "the portions of the right of way needed for said extended railway" between Camp Douglas and Elroy, and proceeded immediately with the construction of said road thereon, and made the embankment and prepared it for the iron track, at an expense of about \$130,000. This location was made in perfect good faith, with the intention of constructing the road thereon; and negotiations were immediately entered upon for the temporary use, under contract, of the track of the Milwaukee & St. Paul Railway between Tomah and Camp Douglas; and it was understood by the officers of the defendant company that said negotiations had resulted in the consent of the officers of the Milwaukee & St. Paul Company to the use of their said track by defendant until the succeeding spring; and for this reason defendant duly resolved to postpone the construction of that portion of its said road lying between Tomah and Camp Douglas until said succeeding spring, to wit, the spring of 1873, and to construct immediately only that portion lying between Camp Douglas and Elroy. Afterwards, in July, 1872, defendant ascertained that it would be impossible to make the arrangements above stated with the Milwaukee & St. Paul Company, for the use of its track, except upon terms which would defeat the successful operation of defendant's road during the time it was using said track; and it therefore became necessary for defendant to construct immediately "the whole of its said extended line of road." The line of said road "so surveyed and finally located and partially constructed and operated" from Warren's Mills to Elroy, by way of Tomah and Camp Douglas, was circuitous, extremely crooked and indirect, and some miles further than a direct line from Warren's Mills to Elroy by way of Camp Douglas. Accordingly, at a meeting of the board of directors duly held on the 5th of August, 1872, the following preamble and resolutions were adopted, more than two-thirds of the whole board voting therefor: "*Whereas, the West Wisconsin Railway Company* has extended, as authorized by ch. 516 of the private and local laws of the State of Wisconsin for the year 1870, its railway from the village of Tomah, in Monroe county, in said State, to the village of Elroy, in the county of Juneau, by way of Camp

Douglas on the Milwaukee & St. Paul Railway; and *whereas*, the portion of this route from Warren's to Camp Douglas is extremely and unnecessarily crooked; and *whereas*, it appears to the directors of the company that said portion of the line or route of said railway will be materially straightened and improved by altering the same as surveyed and partially constructed and in operation, so as to run direct from Warren's to Camp Douglas aforesaid: Therefore, *resolved*, that for the purpose of straightening and improving the line of the West Wisconsin Railway, that portion thereof located and partially constructed and operated between Warren's station and Camp Douglas on the Milwaukee & St. Paul Railway be, and the same is hereby, changed and altered, so as to run direct from said Warren's to said Camp Douglas, as shown by the map hereto annexed." A copy of said preamble and resolutions, with the map therein referred to, was duly certified and filed in the office of the clerk of the circuit court of the proper county on the 8th of November, 1872. A copy of the same map is also made a part of the answer; and it is averred that the line of said road was greatly improved and straightened, and the distance between Warren's Mills and Camp Douglas and Elroy materially lessened by the alterations so made. Under the resolution above recited the line of said road as changed was duly located, and the location duly adopted, so as to run in an air line from Warren's Mills to Camp Douglas, and the road so altered was constructed in good faith at a necessary cost of about \$380,000. The cost of the road from Tomah to Camp Douglas, as located before said change, would have been \$125,000. After the construction of said altered line of road, defendant took and removed the ties and the iron rails from that portion of its road lying between Warren's Mills and the village of Tomah, and laid the same upon the altered line of said road from Warren's Mills to Camp Douglas, and ran its rolling stock thereon, and has since operated the same as a part of the main line of its railway, and has not used the embankment lying between Warren's Mills and Tomah. Defendant built no new road and removed no iron and ties from any of its road during the year 1872, except as hereinbefore stated. Defendant's railway never extended into the *village* of Tomah; and that village never extended any aid to the road. Long prior to the aforesaid alteration in its line, defendant had constructed its whole road to the city of Hudson, and had received patents from this State and the United States for all lands enuring to it under the acts of Congress of June 3, 1856, and May 5, 1864, and the acts of the State legislature above mentioned. Said change in the line of its road made a more direct line between Madison and Portage and the termination of defendant's road to Hudson. And defendant denies that it has in any manner violated the provisions of its charter, or of any law of the State applicable to and binding upon said company.

The answer contained various other allegations, tending to show that the relaying of its track between Warren's Mills and Tomah, and the operation of a road between those places, would be expensive to and oppressive upon the defendant, and would not be war-

ranted by the business which could be done thereon; and that the village of Tomah was otherwise supplied with ample railroad facilities. It further set forth the facts relative to the execution of a trust deed upon the defendant's property and franchises, in pursuance of authority granted by the legislature, and insisted that the trustees named in the deed were necessary parties to this action.

The plaintiff demurred to the answer as not stating a defense.

H. L. Palmer, of counsel with the attorney general:*

I. The complaint states a case under R. S., ch., 160, sec. 4. 1. Defendant changed the terminus of the road from Tomah to Camp Douglas, and abandoned that part of its road, as originally located and constructed, extending from Tomah to Warren's Mills, without authority from the legislature. (a) There is nothing in its charter to authorize such change or abandonment. The southern terminus of the road having been duly established, as authorized by sec. 5 of the charter, in the town of Tomah, there was no provision in the charter for changing such terminus. The only authority given the company to locate, construct, alter, or operate a railroad, is expressly limited to a road extending "from such point as the directors shall determine in the town of Tomah," etc., "to such point on Lake St. Croix, between townships 25 and 31, as the directors shall determine." The whole power conferred was limited to some line between these two points. (b) Ch. 58, Laws of 1859, in force when defendant's charter was granted, prohibits railroad companies from taking up or removing any part of their tracks, except under certain circumstances, and contains a proviso that the act "shall not be construed so as to prevent such company * * from straightening or changing their track, such alteration not to change the general line of the established track, or discommode the original termini or stations." It may be claimed that this act was repealed by ch. 119 of 1872. Sec. 56 of the latter expressly repeals sixteen entire chapters and one section of another chapter, of the general laws; but ch. 58 of 1859 is not among these. The prohibition contained in it against changing the original termini of railroads is not repealed by the act of 1872, unless by implication; and it will not be held by this court to be impliedly repealed, "if both acts may consist together." *Att'y Gen'l v. Brown*, 1 Wis., 513, and cases there cited. But the two statutes, so far as they affect the right to change the established termini of railroads, may well stand together. The words "route of their road" in the law of 1872, have reference only to the course or direction of an existing road, between established termini, and the words "any part of their road" refer to the track and roadbed along the route or course authorized to be changed. Any other construction of the language would lead to absurd consequences. A railroad company would have the right to change both termini of its road, and construct and operate an entirely different road, between entirely different points from those authorized

* *Mr. Palmer's* brief was prepared and reported as a part of the argument on defendant's demurrer to the complaint (34 Wis., 204); but that demurrer having been treated merely as one to the jurisdiction, so much of the argument then made as is pertinent to the present demurrer, is here reported more fully.—REP.

by its charter. (c.) But if the several acts of the legislature are to be so construed as, by their terms, to confer upon the defendant power to change the terminus of its road from Tomah to Camp Douglas, then it is insisted that it was incompetent for the Legislature of Wisconsin, without the consent of Congress, to grant any such power. Counsel here recited various provisions in the acts of Congress granting the lands to the State, and in the acts of the State legislature in conferring the grant upon the defendant company, and argued that the lands were granted and accepted in trust for the construction of a road from Tomah to Lake St. Croix, and that it was not in the power of the legislature to dispose of the lands except in strict conformity with the trust. 2. If the acts of defendant in changing its terminus and abandoning a part of its road as originally constructed, were done without legislative authority, they constitute such an offense against the provisions of its charter, and of the several acts of the legislature affecting the company, as will support this action under sec. 4, ch. 160, R. S.

II. A complete case for the relief here sought is made by ch. 31, laws of 1873, if that is a valid enactment. And sec. 1, art. I, of the constitution of this State, which relates to corporations "without banking powers or privileges," expressly authorizes such legislation, by providing that "all general laws or special acts enacted under the provisions of this section, may be altered or repealed by the legislature at any time after their passage." Where an absolute power to alter, annul, or repeal acts of incorporation has been reserved to the legislature, the power to repeal is unqualified. 1 Am. Law Rev, 151; *Miller v. The State*, 15 Wall., 478, 488; *Penn. College Cases*, 13 id., 190, 213; *Olcott v. Supervisors*, 16 id., 678, 694; *Sherman v. Smith*, 1 Black 587; *Agricultural Branch R. R. Co. v. Winchester*, 13 Allen, 29; *Comm. v. Eastern R. R. Co.*, 103 Mass., 254; *Nazro v. Merchants Mut. Ins. Co.*, 14 Wis., 295; *Chapin v. Crusen*, 31 id., 209, 215; *Att'y Gen'l v. R. R. Cos.*, 35 id., 425.

L. S. Dixon, of counsel with the Attorney-General, contended: 1. That sec. 5. of defendant's charter did not authorize a change of terminal points; that it fixed both the termini of the road within certain limits, subject to the discretionary power vested in the board of directors to determine the particular points, within those limits, from which the road should start, and at which it should end; and such power having been exercised, the terminal points fixed and the road built between them, the authority of the directors in this behalf was exhausted; that the termini were thus definitely and finally fixed by the legislature through the action and determination of the directors specially authorized for that purpose; that this is confirmed by the language of the act of Congress of May 5, 1864, and by that of sec. 1, ch. 232 of 1865; and that the power to "alter, change the location of, reconstruct," etc., given by the charter, is only a power to make such changes in a road between two fixed termini. 2. That the power given the directors of railroads by the general railroad law (sec. 23, ch. 119, laws of 1872,) upon a vote of two-thirds of their whole number, "to alter or change the route or any part of the route of

their road, if it shall appear to them that the line can be improved thereby," does not include a power to alter the terminal points of the road and destroy its identity. It is an *improvement* of "the line" as constructed, and not its destruction and a creation of a different line. The line of a company's road, as constructed, is an ascertained, definable thing, having a certain place of beginning and ending. Cut loose from terminal points in the interpretation of this statute, and we shall have no "lines" of railroads in this State, but only rows "of magic shadow shapes that come and go;" dissolving views of roads that run in any and every direction, or none at all, at the caprice of boards of directors. 3. That the provision of sec. 3, ch. 516, P. & L. laws of 1870, which authorizes the company "to extend the line of said road to the south line of this State," refers to "the line" of road then built and in operation from Lake St. Croix to Tomah. "To "extend" the line of that road as authorized is obviously not to build a new line from Lake St. Croix, or any place north of Tomah, to the State line, but to prolong or continue the line referred to as an existing integral line. Webster's Dic., "Extend." And when the legislature authorized extending the line of said road, certainly an *actual* and not a mere *paper* extension was intended. Looking at the facts as they existed respecting defendant's road at the time the track in question was removed, it must be seen and held that Tomah was then the true and only southern terminus of the road. And if so, then the removal of the road from Tomah was an unlawful act, for which the franchises of the company are liable to forfeiture under the general statute (R. S., ch. 160, sec. 4; Tay. Stats., 1808, § 8), as well as under ch. 31, laws of 1873. The real effect of the latter statute was, conditionally to relieve the company from the forfeiture already incurred. Sec. 5 of the charter, and sec 23, ch. 119. Laws of 1872, by authorizing certain changes in the line of road to be made in certain specific ways, impliedly prohibited every other change; and this was equivalent to an express prohibition. And it is confidently submitted that neither at the common law nor under the statutes can a corporation of this kind, in whose favor the power of eminent domain has been exercised, *abandon* any considerable portion of its road, or of its franchise, without working a forfeiture of its corporate rights, at the election of the State, or of the sovereign legislative power that created it.

Vilas & Bryant, for respondent, argued substantially as follows:

A. As to the right of State to maintain this action under sec. 4, ch. 160, R. S.

I. The legislation of the State, prior to 1873, in terms authorized the acts complained of. 1. The charter never fixed Tomah as a terminus, or even as a station on this railway. It provided that the road should be located "from such point as the directors shall determine in the town of Tomah in the county of Monroe, *or* on the track of the Milwaukee & La Crosse Railroad, *or* of any other railroad running out of Tomah." And after the location was actually made in the *town* of Tomah, no positive provision of the charter required that location to be perpetually maintained. . If any provision

lay in the law for continuing the line of the road as originally located, or for not proceeding beyond that place as a terminus, it was of a negative kind, resulting from exhaustion of chartered rights by a single location of the track, and the want of a grant of power to proceed further south than that town, or the track of the Milwaukee & La Crosse Railroad. But sec. 5 of the original charter provides that "said company shall have power to connect its railroad with any other railroad in this state, and to operate the same in connection with such other railroad." This is not a grant of power to connect with such roads merely as should be reached or crossed by this in its original course, because the case is fully provided for earlier in the same section, and the scope of the words quoted is manifestly design to be much greater. "To connect its railroad with *any* other railroad *in this State*," necessarily implies the construction of a track over the country lying between its road and such other, no matter what the distance, provided only it be within this State. Any limitation upon this construction would be an arbitrary restraint imposed upon words which are so plain as not to admit of interpretation, and would as well exclude power to connect with a road one mile distant as with one fifty miles distant. *Belleville R. R. Co., vs. Gregory*, 15 Ill., 20; *Newhall vs R. R. Co.*, 14 id., 273. 2. To "make assurance doubly sure," however, the company obtained the act of 1870 (ch. 516, P. & L.) which in terms authorized it "to extend the line of said road to the south line of this State." Accordingly, in September, 1871, as the answer shows, the board of directors, with the express authorization of the stockholders, adopted a resolution for the purpose of making such extension of the road to the south border of the State, and instructed the president of the company to cause an immediate survey and location to be made of the line south from Tomah, and to proceed immediately to construct the road as far as Elroy, where it might connect with the Chicago & Northwestern road then building; and a line was actually surveyed and located from Tomah to Elroy, upon the only feasible route, via Camp Douglas, a point on the M. & St. P. Railway, and the road was actually constructed from Camp Douglas to Elroy, in the expectation of using the track of the M. & St. P. Railway from Tomah to Camp Douglas until a track could be constructed by defendant between these points the following year. Thus, by the law of the State, and the action of the company under it, Tomah, never possessing any positive right of its own, lost all title to be designated or regarded as a *terminus* of defendant's railway; Elroy becoming the southern terminus and Tomah an intermediate station. 3. The company now met an obstacle to the fulfilment of its plan in the refusal of the M. & St. P. Company to permit the use of its track from Tomah to Camp Douglas; and the directors, looking to the convenience of the stockholders and the interests of the general public, shortened and perfected this part of its route by reconstructing the road in a direct line from Warren's Mills to Camp Douglas. Did the law authorize this change? (1) The charter empowered the company "to survey, locate, construct, *complete*, alter, *change*

the location of, reconstruct, maintain and operate a railroad" from any point, to be determined by the directors, in the town of Tomah, or on the track of any railroad running out of that town. Camp Douglas was a point on the line of a road running out of Tomah. So, also, by the change defendant connected its road with the Wisconsin Valley road running out of Tomah. Thus, two points were reached, either of which might have been originally selected by the directors under the charter. The language above quoted plainly indicates that the company, after having once constructed and completed its road, might change its location and reconstruct it. How much of the road, as once constructed and completed, could thus be relocated and reconstructed? In other words, what limits were intended to be placed upon the power so clearly granted? Obviously, the original limits mentioned in the charter, for the construction of the road. It was granted the directors once to review their own action, and to exercise again the discretion originally extended to them respecting the line of the road. *Boston & Prov. R. R. Co. v. Midland R. R. Co.* 1 Gray, 340. We say once, because the grant of power to change and reconstruct seems to be exhausted by a single use, upon the same principle that a power to first construct is so exhausted. The company, then, had power to take up the track it had once laid, to abandon the first location, provided that it reconstructed its road in such a manner as to make it accomplish the ends pointed out by its act of incorporation. (2) The acts complained of have sufficient warrant in the general railroad law, ch. 119, Laws of 1872. By sec. 55 of that act every existing railroad company was subjected to its provisions, and invested with all the power and privileges conferred by it. By sec. 23, a general power is granted to directors of any railroad company, to "at any time alter or change the route, or any part of the route, of the road, or any part of their road as constructed, if it shall appear to them that the line can be improved thereby," subject to certain limitation, none of which are applicable here. To escape the effect of this provision as a perfect warrant for the action of the company here complained of, it is claimed that the act of 1859, so far as it relates to termini, is still in force. But, (a) sec. 23 of the act of 1871, is manifestly a revision of the entire subject matter of the act of 1859, and therefore repeals that act wholly, although it be not wholly inconsistent with it. *Lewis v. Stout*, 22 Wis., 234, 236. The rule is specially applicable here because it is manifest from the statute, and otherwise known as a fact, that this act of 1872 was adopted, after much consideration, as a general railroad law, for the purpose of compiling into one act all previous provisions, and thoroughly revising the entire subject of the incorporation and the corporate franchises and powers of railroad companies; and during the same session similar acts were passed relating to other corporations, upon the spur of the recently adopted constitutional amendment against special legislation. See also *Burlander v. M. & St. P. Ry Co.*, 26 Wis., 76. (b.) The act of 1859 is clearly repugnant to that of 1872. It is claimed that there may remain of it a provision against changing termini. But that act established no substan-

tive rule against changing termini; the words "termini" and "station" being introduced in an exception to an exception—a limitation to a proviso ingrafted on the substantive enactment. The act, as a whole, is swept away. It is manifest that under the act of 1872, stations may be abandoned when cities, towns and counties may; any part of the track may be taken up. Does *one* word of the act stand—a word not used to express a rule established, but only an exception to that rule? It is argued that under the act of 1872, standing alone, a road constructed from Milwaukee to Madison might be changed to one between Racine and Portage City; and this is claimed to be an absurd consequence. It is not legally absurd, but directly within the spirit of the law; although it may be answered better that such a proceeding would be more than a change. A company formed under that law may at any time surrender its corporate franchises. So any body of men may at any time form a company under that law and build a railroad. Having been a company engaged in operating a road between two given points, the same men may lawfully surrender that franchise, and become a company operating a railroad between two other points, and may employ their iron and cars upon the new route. Such a general opening up of the railroad business to any that will engage in it, precisely as manufacturing is opened, constitutes the leading feature of the law. The power to change part of a road, constructed, is a less power, to some extent contained in the other, within the whole spirit of the law, and only limited by obligations to municipal corporations which have acquired vested rights by giving corporate aid. (c.) Whether the act of 1859 be absolutely repealed or not, both the charter of the company (acts of 1863 and 1870) and the act of 1872 authorized it to do the act complained of. (d.) We have already shown that before the change of location Tomah had ceased to be the terminus of defendant's road; and the provision of the act of 1859 relating to termini, if still in force, had no application to the case.

II. It was competent for the legislature of this State to grant to the company the power which it has exercised. The language of the acts of Congress of 1856 and 1864, as to the purpose to which the lands granted thereby should be applied, was manifestly intended merely to secure their application to the construction of a railroad; and it was provided that, unless that purpose should be realized, the United States might refuse patents, declare a forfeiture, and recall the grant. If that purpose was fulfilled, the title was to be passed to the railroad company. When so vested, it vested freed from this condition, *because the condition must have been fulfilled*. The United States imposed no condition with respect to the future maintenance of the track in any particular place; and it may be doubtful whether the sovereign control of the State over its own corporative creature could have been so limited. The objection now taken to the power of the State legislature, if maintainable to the extent claimed, would also prevent the legislature from repealing the charter of the company. It must also prevent the destruction of the company,

and of its railroad, by the prosecution of this suit. For the lands granted, many, perhaps, all of which have been sold to individuals, cannot be recalled, nor can the property in the land, iron and cars, be taken from the stockholders; and therefore a judgment of ouster must destroy the road. Conceding, however, for the argument's sake, that the route fixed by congress must be maintained, this is to be taken reasonably. Taking the two acts of 1856 and 1864 together, it is manifest that the route designated by congress was from Madison *via* Portage City to Lake St Croix. The change now made is no diversion from the general route. It falls within that class of changes which, upon all the authorities, a corporation may make, in furtherance of, not departure from, the original general plan, without releasing a stock subscription or other contract based upon an anticipation of benefits to be derived from a certain route. 1 Redf. on R. W., 211. sec. 8; *Kenosha etc. R. R. Co. v. Marsh*, 17 Wis., 13. Before an act of the legislature can be declared unconstitutional, some provision of the constitution must be plainly violated. With at least equal reason it may be insisted that before an act of the legislature in regulation of the franchises of its corporate creatures shall be held invalid, the repugnant provision of an act of congress, claimed to have that effect, must be very clear.

B. As to the right of action under ch. 31 of 1873, counsel argued, *inter alia*, that if the previous conduct of the defendant in abandoning its old track from Warren's Mills to Tomah was lawful, the right of way acquired by the company over lands between those points had been surrendered, and the lands relieved from the servitude, and the track could not be again laid on that route without a new exercise of the right of eminent domain. The question presented by the act of 1873, stated most favorably for the plaintiff, is, whether the legislature can procure a railway company, having a line of road already built under a charter granted by the State, to construct, maintain, and operate another and entirely independent road within a limited time; to declare that a failure to do so shall work judicial forfeiture of its charter; and to require the court to pronounce that judgment. The law is clearly an outrage upon every line of the constitution designed to protect the vested rights of property, to support contract obligations, to prevent retrospective condemnation of lawful acts, and to confine within appropriate bounds the legislative power. But it is claimed to be an exercise of the reserved right to "alter or repeal" acts of incorporation. The existence of this suit demonstrates that the power to *repeal* was not exercised. The act does not profess to repeal, and does not repeal, anything, either absolutely or conditionally. Is it an exercise of the power to *alter*? 1. The history of the act, its language and all the circumstances out of which it grew, show that it was passed because it was supposed to be the preservation, not the alteration, of the chartered route. It was a legislative decree of specific performance to enforce a legal duty of restoring an alteration. It has been shown that all this was erroneous—that in fact the new line was a lawful and authorized one. The theory of the act is thus destroyed. To endeavor to sustain it an amendment

and an alteration, is to overturn the idea of the legislature; to attribute to their act a character which they did not give it, and to seek to support it upon a power which they never designed to exercise. 2. The power to alter differs from that to repeal in that it is limited within some bounds. Just what these are may be very difficult to determine in many cases. But "when it comes to the question of embarking in a new enterprise, the legislature cannot impose this as a duty on any corporation." PAINE, J., in *Kenosha etc. R. R. Co. v. Marsh*, 17 Wis., 13; a case which is approved as expressing the true limits of the power, in *Attorney Gen'l v. Railroad Companies*, 35 Wis., 425. In this case the old road, i. e., the one lawfully existing when the act of 1873 was passed, is not to be changed, but is to remain and be operated. The one required to be newly constructed from Warren's Mills to Tomah is to be *in addition* to the other. The question which Judge PAINE was considering was that of the legislative power to *substitute* a new enterprise for that first chartered. If the legislature has not this power, still less can it compel a railroad company to build an additional railway after it has once constructed one as chartered, and prescribe judicial *forfeiture* as a penalty for the *offense* of neglect. This is not to "alter." 3. Again, both the power to repeal and the power to alter relate to the franchises and *privileges* which the State grants to the corporation. They may be taken away altogether. But to charge it upon a company to build a road additional to that which it has lawfully constructed, is not to alter the franchises and privileges which it already enjoys. To impose new franchises and compel new expenditures as a condition of not forfeiting existing rights, is unauthorized. *Miller v. The State*, 15 Wall., 478.

JOHN C. SPOONER, for the defendant, spoke as follows : *

I.

The company acted within the authority given by its charter. 1. Section 5 of the original charter fixed no terminus. It left the directors to establish the northern terminus at such point as they might think proper, on Lake St. Croix, between townships thirty-six miles apart. As to the southern terminus it also left them a liberal discretion. The legislature obviously had but one care as to that terminus, viz., that it should be so established as to make the road, when constructed, practically and substantially a part of the continuous line of road from Madison or Columbus *via* Portage City, to the lakes St. Croix and Superior, contemplated by the act of Congress of June 3, 1856. That the legislature recognized no ground of public policy calling for the location of the terminus in the township of Tomah, is apparent from the previous legislation on the subject. In the act of Congress, the only point named on

*By an oversight for which MR. SPOONER is not responsible, his brief in this case did not come to my hands in time to be noticed in the report of this case in 36 Wis. Reports. I am gratified, therefore, by the opportunity which the railroad commissioners have given me to do MR. SPOONER such measure of justice as remains possible, by preparing for this volume the outline of his argument here given.

the line between Madison or Columbus and the St. Croix river or lake, was Portage City; and ch. 122, laws of 1856, conferring the land grant on the La Crosse & Milwaukee railroad company, was silent as to the township of Tomah. Indeed, section 1 of the act provided for the construction of the line from Madison and Columbus on the most direct and feasible route, *via* Portage City to the St. Croix; and for the fact that the road ever touched its limits, Tomah is indebted to a disregard, by the La Crosse & Milwaukee company, of the policy of the State as to the proper line of road; and to the execution of that company's design not to construct in good faith the land-grant road, but to make the land grant construct as much as possible of a road connecting Milwaukee with the Mississippi river at La Crosse. The act of 1863 incorporating the defendant and annulling the grant to the La Crosse & Milwaukee company, indicates no change of State policy in that regard. The terminal point must, under that act, be in the town of Tomah, where it would necessarily connect with the La Crosse & Milwaukee road, or on the line of that road outside of Tomah, etc. Clearly it need not have been in the town of Tomah, nor even in the county of Monroe. 2. No act of the legislature was ever passed modifying the provisions of the charter as to the southern terminus of the road. Chapter 232, laws of 1868, was obviously intended for no such purpose, but was passed solely for the purpose of confirming the grant contained in the charter, and conferring the additional grant made by the act of May 5, 1864. It is bare recital, and indicates no intention to take from the company any of the powers and privileges given it by the charter. The grants are made and confirmed to it on the terms and conditions of both the acts of Congress; and the later of these (that of 1864,) is expressed; in the act making it, to be upon the same terms and conditions as that of 1856. Suppose, that prior to 1864, the La C. & M. Co. had constructed the road by way of Camp Douglas and Warren's Mills to Black River Falls, and the grants made by chapter 232, of 1865, had been made to that company; could it be reasonably said that the reference in the act to the township of Tomah indicated an intention to require the company to change the line of its constructed road so as to pass through Tomah. Or if defendant had located its line from Camp Douglas north as authorized by its charter, and had constructed and completed its road thereon as far as Eau Claire, could this court hold that the recital in the act of 1865 was intended to require as a condition of the additional grant, that the company should change its constructed road so as to run from somewhere in the town of Tomah? If the legislature had considered the act of May 5, 1864, as necessitating a modification of the charter, and a curtailment of the powers given by it, and had intended so to modify the franchise, it is fair to presume that it would have said so in the language reasonably adequate to express such a design. 3. Defendant might lawfully have made Camp Douglas its southern terminus in the first instance; it might lawfully remove that terminus from Tomah to Camp Douglas. The language of the

charter necessarily excludes the conclusion that by its election to locate and construct the road from Tomah in the first instance, defendant exhausted its power as to the selection of a terminal point. The company was authorized "to survey, locate, construct, complete, alter, change the location of, re-construct, maintain, and operate" its road. The words are carefully chosen, and properly collocated. They indicate a clear intention on the part of the legislature and give it plain expression. The words "re-construct," has no reference to repairs or replacements; the word "maintain" would be sufficient for the purpose, if any express authority were needed. A road cannot be "re-constructed" until it has first been constructed; and the collocation of the words "alter, change the location of, re-construct," after the words "survey, locate, construct, complete," shows readily that the company is empowered, after its road is surveyed, located, constructed, and completed, to change its location and re-construct it upon its altered route. *Harrington v. Smith*, 28 Wis., 67; *James v. Dubois*, 1 Har. (N. J.) 285, 293; *Hutchen v. Niblo*, 4 Blackf., 148; 22 Pick., 571; 7 Mass. 523; *Green v. Cheek*, 5 *Barber* (Ind.) 105. Observe the significant contrast between the grant of power above recited and that made to the La. C. & M. Co. by ch. 122, of 1856, by which the latter company was merely authorized to "survey, locate, construct, complete, and perpetually have use, maintain, and operate" its roads; the words "alter, change the location of, reconstruct," being inserted in the subsequent act chartering the defendant, evidently with a deliberate design to confer a new and distinct power. The defendant, then, being thus authorized, after completing its road as first located, to change the location thereof and reconstruct the road, are there any limits as to the portion of the road which may be re-located and re-constructed? None is to be found in the charter. The road from Warren's Mill was as much a part of the road that might be altered, the location of which might be changed, as any other. We need not argue that this power could be exercised so as to establish the terminal points in disregard of the limits indicated in the charter. What we contend, is, that the power might be lawfully exercised at least once, within those limits.

II. Defendant was authorized to make the change complained of, by sec. 23, ch. 119, laws of 1872, known as the general railroad law. It is said that this act does not authorize any change in the road which would involve an abandonment of an established terminus. Without accepting this proposition, we are not required to controvert it in order to justify under sec. 23 the change made by defendant. Ch. 516 P. & L. laws of 1875, authorized defendant to extend its road to the south line of this State. The answer herein, confessed by the demurrer to be true, shows that this amendment of the charter was accepted by defendant in 1871, (before the passage of said sec. 23) and that at the same time the extension from Tomah was resolved upon and directed, and the immediate location and construction of the road ordered; that the line was surveyed and finally located, pursuant to that action, from Tomah by way of Camp Douglas (the only practicable route) to Elory; that this final

location was duly adopted by the company in good faith, with the honest purpose of constructing the road thereon, and the right of way condemned, and the road partially constructed on that part of the route from Tomah to Elroy, which lay between Camp Douglas and the latter point. The answer also shows the change of circumstances under which the company afterwards determined to exercise the power granted it by sec. 23 of the general law, by altering its road, in the interest of the stockholders and the general public, so as to make it run directly from Warren's Mills to Camp Douglas. We insist that in so doing it acted strictly within both the letter and the spirit of that section. It did nothing more than alter or change "a part of the route of its road," and a "part of the road as constructed," for the purpose of improving the line thereby, and that without the abandonment of any established terminus. Manifestly the line or route of its road, at the time of this change, was from Hudson to Elroy by way of Tomah and Camp Douglas. It certainly is not necessary, in order to constitute the line or route of a road, that it should be wholly constructed. A railroad may have established termini, and a route or line between these, without a mile of the road being constructed or completed. A final location adopted fixes the route or line, and establishes the termini so firmly that it is not within the power of the company to change either without the authority of the law. And after such a location, if a part only of the road is constructed, the end of such constructed part is not in legal contemplation the terminus of the road. When, therefore, the line of defendant's road was finally located from Tomah to Elroy via Camp Douglas, Tomah was not in legal contemplation the southern terminus of the road any more than Black River Falls was its northern terminus when the constructed road reached that point. The terminus at the south line of the state had not yet been established. Elroy was the end of the extended line, twelve miles of which, reaching that point, were constructed and ready for the iron. Elroy must surely be regarded either as the terminus or as a station. If the former, the alteration made was made to improve the line between a station and the terminus. If the latter the alteration was to improve the line between two stations. The power given by Sec. 23, is not merely to change "any part of the road as constructed," but also to change "the route or any part of the route," if it shall appear that "the line" can be improved thereby. What line? The legislature manifestly recognize a distinction between the "route" and the "road as constructed," and use the word line as applying to either or both, and apply the power to alter or change to either or both. If defendant had completed its road from Tomah to Camp Douglas, there would be no question that Tomah would no longer have been in any sense the terminus of the road, or that the company might, under Sec. 23, have lawfully done what it did to improve its line. Can it be possible that it was necessary for the company to construct the road from Tomah to Camp Douglass in order to render it legal to straighten "and improve its line, under that section?

This involves the absurdity that a company must construct its road upon an unsatisfactory and bad line, in order to obtain authority to shorten and improve it. For if the authority given by the section does not extend to the located line of partly constructed road, because the unconstructed portion is only a "paper line," it could not apply to a line finally located and entirely uncompleted, because that would be all on paper. Such a construction of the act not only does violence to the language, but must in many cases utterly defeat the intention of the legislature, viz.: the straightening, shortening and improving of railway lines. When this act was passed, it was well known that by reason of the adoption of the constitutional amendment prohibiting special legislation, the only authority that could be given to any company organized after its passage, to straighten and improve its line, must of necessity be derived from a general law like this. It was also then, and has since been generally understood, that no corporate power or privilege could be given by any special act to any railway corporation in this State existing when the act was passed, to change or straighten its line, no matter how much the public interest or the interest of the stockholders might require it. So the authority given was liberal, and it was extended to all the roads in the State, the legislature probably relying upon the facts, that the straightening and improvement of lines was in the public interest, and that a railway company would hardly undertake such improvement, especially at the expense of changing a constructed road, unless it was for its interest to do so, and that it could not be for its interest unless also in the interest of the general shipping and traveling public.

It has been argued that so much of ch. 58, Laws of 1859, as is necessary to render the change in defendants track illegal, is still in force. But the charter of this company was subsequent to the act of 1859, and so far as inconsistent with it, repealed it. In any event, the act of 1859 was entirely abrogated by chapter 119, of 1872. (1) The latter statute was a revision of the subject matter of the former, and a substitute for it. [Counsel here compared the acts to show the truth of this statement.] Being a revision, it works a repeal without express words to that effect: *Lewis vs. Stout*, 22 Wis., 234; *Burlander vs. M. & St. P. R. R. Co.*, 26 id., 76; *Moore vs. S. & St. C. R. R. Co.*, 34 id., 173. (2) The two acts are entirely repugnant to each other. [Counsel here compared the acts at length.]

The action of Congress in granting lands to aid in constructing defendant's road, and the action of the State in accepting such grants, have nothing to do with this case. (1) If the State legislature had, by a special enactment, expressly authorized defendant to do just what it did, and defendant had made the alteration, pursuing strictly the authority so given, and this action had then been brought, would it not have been sufficient for the company to exhibit the legislative warrant for the change? Could the State have said, "Yes, we gave you authority to do it, and you are responsible to us, and not to the United States, for the manner in which you use your franchise; but in giving you the authority, we violated an agreement with the United States (of which, however, the United

States do not complain,) and though you pursued literally the authority which we gave you, yet, as a penalty for so doing, we hereby annul your corporate existence?" A singular attitude that would be for a sovereign State to assume toward her own creatures. (2.) The land grant acts of congress of 1856 and 1864 are *in pari materia*, and must be read together. It will then appear that the change here complained of, far from violating any trust, was but a more complete and efficient execution of the trusts created by the acceptance of the grants. The grant of 1856 was expressly made "for the purpose of aiding in the construction of a railroad from Madison or Columbus by way of Portage City to the St. Croix river or lake, between townships twenty-five and thirty-one, and from thence to the west end of Lake Superior and to Bayfield." The act of 1864 declares that there is thereby granted to this State, "for the purpose of aiding in the construction of a railroad from the town of Tomah in the county of Monroe, in said State, to the St. Croix river or lake between townships twenty-five and thirty-one, every alternate section of public lands for ten sections in width on each side of said road, deducting any and all lands that may have been granted to the State of Wisconsin for the same purpose," by the act of 1856, "upon the same terms and conditions as are contained" in said last mentioned act. This was merely an additional grant of four sections to the mile, and it was not in aid of any new enterprise. It was additional aid for carrying out the original purpose, the construction of a continuous line of road from Madison or Columbus to the west end of Lake Superior and to Bayfield, a portion of which had been completed from Columbus. The history of the grant of 1856 furnishes a perfect explanation of the reason why the town of Tomah was mentioned in the act of 1864. The La C. & M. Co., had built to Tomah, and had then made a detour to the Mississippi River at La Crosse. The state had in 1863 conferred upon the defendant that portion of the grant thus abandoned by the La C. & M. Co. Congress, for obvious reasons, did not wish to add anything to the grant from Madison or Columbus to the point where the line was abandoned. The additional grant must commence somewhere.—The natural point was the township named; and it is plain from the act that it was named only for the purpose of indicating where the ten sections to the mile should be reckoned from, not for the purpose of tying the road for all time to the township of Tomah as a terminus fixed by Congress. It seems unreasonable to say that while Congress left the terminal points on Lake St. Croix and Lake Superior as indefinite as before, it intended to fix the town of Tomah absolutely as terminus of the road. It is impossible to imagine any reason for naming that town, save as a proper point for the commencement of the additional grant, in aid of the continuous line. And the lands were all faithfully applied to the construction of this continuous line of road. This court held in *West Wis. Ry v. Supervisors of Trempealeau Co.*, 35 Wis., 257, that when any continuous twenty miles of road were completed, and the lands pertaining thereto acquired by the company, the trust as to those

lands was executed. The entire road having been constructed and all the lands acquired, before this change in the question was made, the trust was executed as to all the lands granted. Even if the legislature could not legally authorize any change in the line of the defendant's road which would make a break in the line of the land-grant road from Columbus to Lake St. Croix, still a legislative grant of authority to defendant to make a change which shortens the distance between Columbus and Lake St. Croix several miles, and places the line of the road where it might and should have been placed under the act of congress of 1856, is not a violation of the trust, but a more efficient and honest execution of it. (3.) We deny that the State can, by accepting a grant from the United States to aid in constructing a railroad, surrender its sovereignty as to any corporation which it creates, so as to preclude the legislature from granting privileges or imposing duties which it might otherwise grant or impose. [Counsel argued this proposition at some length.]

III. Is the abandonment of a portion of the franchise of a corporation ground for the forfeiture of the whole? In *The Peoples B. & R. Turnpike Co.*, 24 Wend., 237-245, *Cowen, J.*, after citing many authorities, concludes (p. 245) "that a single act of abuser or willful nonfeasance in a corporation may at the common law be insisted on by the government as a ground of total forfeiture." And he adds that he is inclined to think that as to causes of forfeiture generally, no discrepancy will be found between the common law and the New York statute (2 R. S. of N. Y., 2d., § 39); that statute being the same as ours. In *The People v. K. & M. Turnpike Co.*, 23 Wend., 211, *Nelson, C. J.*, says: "The rule at the common law is, that if the franchises are not dependent upon each other, the misuser of one does not forfeit all, (Crause, 305, tit. Franchise, § 85; Finch, 165); and our statute may, I think, admit of a construction to a similar effect." See also *Couvier's Law Dic.*, tit. *Quo Warranto*, subd. 4, p. 405. We suppose the law to be that if the corporation violates any express condition of the trust upon which it holds the franchise, that is sufficient ground to work a forfeiture of the charter. But we submit that if the court should be of the opinion that upon the whole the better construction of the charter and the law of 1872, would not warrant the act of defendant here complained of, yet is further of opinion that it is a close question, and the construction placed by defendant on said legislation not without support in reason; that defendant acted in good faith, without willfulness; and that, though guilty perhaps of a technical offense, it has done nothing impairing its usefulness or tending to defeat the usefulness of its creation—then the demurrer should be overruled. The information in the statute of *quo warranto* is a "criminal method of prosecution," and visits on the offending corporation the extreme penalty. "The leaning of the law is against the party claiming a forfeiture." *NELSON, C. J.*, in the case above cited, says that where the conditions of the franchise are implied, "and of course undefined except by construction of law, a more indulgent consideration may well be given. We are not, then, tied down to the letter of the statute. Their mate-

riality to the great end of the institution may be regarded, and enter into the judgment of the court." Counsel further referred, upon this point, to the opinion of COWAN, J., above mentioned, *pp.* 235 *seq.*, and the authorities therein cited; and argued from the averments of the answer, admitted by the demurrer, that no sufficient ground was shown for a judgment of forfeiture, under the rule established by those authorities, even if the defendant was mistaken as to its legal authority to make the change in question.

A judgment of forfeiture should not be rendered by virtue of ch. 31, laws of 1873. Either (1) that act was a legislative judgment that defendant was not authorized by law to change its track, and therefore required it to be relaid; or, (2) it was an attempt, in the exercise of the reserved power over corporations, to compel defendant to build, maintain, and operate a road in addition to that theretofore authorized and constructed according to law. The legislature may have had either purpose, but not both; the two being inconsistent. 1. The language used in the title and in every section of the act, proves unmistakably that the former is its true character. The act was based entirely upon the assumption that the company had acted illegally in changing its line and removing its track, and the requirement to relay, etc., was based entirely upon the assumed correctness of the legislative judgment upon the questions of law involved. But we have a right to appeal to this court for a determination of these questions; and if this court is of opinion, that the laws in force at the time, authorized the change, then we insist that the only legitimate effect which can be given to the act, is as a mandate to the Attorney-General to try the question in the forum. (2) But if the act is an attempt to exercise the reserved power over charters, can it be sustained as such? Certainly the act is not an exercise of the power to repeal. [Counsel argued this point briefly.] The question then turns entirely upon the power to alter.

If the change made by defendant was warranted by law, the only road which it was authorized to operate when the act now in question was passed, was the road as changed. The changed line was the "original enterprise," and a road from Warren's Mills to Tomah was as foreign to that enterprise as a road from Warren's Mills to Winona would have been. The question then is, whether, under the power to "alter," the charter, the legislature can compel a railroad company to build, maintain, and operate a new road, or, what is the same thing, lateral roads or branches. That the power to "alter" charters is not without limit, has, we believe, been universally conceded by all courts which have had occasion to pass upon the subject. Where better can this limit be placed than upon this court placed it in *Kenosha, Rockford, & Rock Island R. R. Co., v. Marsh*, 17 Wis., 132; that decision confines it to such changes as would not be fundamental,—as would not relieve stock subscribers. There would seem to be neither reason nor justice in holding that under this power the legislature may require a corporation to do what the corporation cannot require its stockholders to furnish the money to enable it to do; nay, what this court would be obliged, at the suit of a non-assenting stockholder, to enjoin the directors

from using the corporate funds to accomplish. This would be requiring the expenditure of corporate funds and at the same time sealing the corporate treasury; demanding the out-lay of the stockholder's money, and by the same act releasing him from the liability to pay. As to the question what is such an alteration as will release the stock-subscriber, counsel cited *Woodward, J.*, in *Everhart v. Railway Co.*, 28 Pa. St., 336; *Nelson, C. J.* in 5. *Hill*, 383; and the opinion of Paine, J., in the case above cited from 17 Wis. The first defines the alterations in the charter which do not impair the contract of subscription to be "modifications and improvements * * * useful to the public and beneficial to the company and in accordance with what was the understanding of the subscribers as to the real objects to be effected." The second admits that "mere formal amendments, or those which are clearly enough beneficial or at least not prejudicial to his interests," would perhaps not release the subscriber. From the third opinion it is clear that only such alterations as are really in aid of the original enterprise, those which are "tributary to it" and tend to "make its operation more perfect and successful," those which "experience may show to be necessary for its most successful prosecution," those which are "in furtherance of the original undertaking, and incidental to it," and which leave it substantially the same, can be upheld as not fundamental and therefore not releasing stock subscribers. The new road from Tomah to Warren's Mills is clearly not such a change. It is admitted by the demurrer that its construction would require a large amount of money; that its operation would involve the continued, exclusive and separate use of several locomotives and cars, freight and passenger; that there is and will be no business between Warren's Mills and Tomah; that it will connect with no road at Tomah but the M. & St. P. road, with which defendant's road now connects only twelve miles away; that it would be of no use in connection with the general traffic, through or local of defendant's road, and that it would be a constant and burdensome expense, for which there would be no return in added business. Upon no known principle applicable to the subject can this be regarded as anything less than a radical change in the enterprise. One such alteration as this might easily change the original enterprise, yet new and struggling, from one of fair prospective profit to one of sure prospective loss. Counsel further suggested that while it might not be possible in all cases to distinguish between an alteration fundamental, and one not so, yet a reasonably fair test might perhaps be found in the inquiry whether the thing required to be done by the alteration be such that in the nature of things it can efficiently and properly be done only by the holders of the original franchise, or such that it may with equal propriety be intrusted to a separate and independent corporation. In the latter case there is certainly the addition of a new franchise, in its nature distinct and separate. [Upon this ground, as well as others, counsel distinguished 109 *Mass.*, from the present case.] The road from Tomah to Warren's Mills could be as well constructed and operated by an independent organization as by de-

fendant. Its construction and operation involve the exercise of a franchise distinct from that now held by defendant. It is admitted, and would be manifest if not admitted, that defendant could not operate that road as a part of its present road. We submit, therefore, that if the directors were about to enter, without the consent of the stockholders, upon the construction of that road, and to employ the corporate funds for that purpose, the law would afford the stockholders a prompt preventive remedy; and that a call upon the stock subscriber for money to be so used would be completely met by the answer, "*Non hæc in fœdera veni.*"

RYAN. C. J. I. It was understood on the argument of the demurrer, that, prior to 1863, the La Crosse & Milwaukee Railroad Company had located and built, as part of the land-grant road under ch. 122, Laws of 1856, the road from Portage City to Tomah, and had located the line of the land grant road northward from Tomah to Lake St. Croix, but had failed to build any part of the land grant road beyond Tomah; and had built its road westward from Tomah to La Crosse, outside of the land-grant route, and wholly distinct from it.

Thereupon the legislature, by ch. 243 of 1863, repealed so much of the franchise and grant to the La Crosse & Milwaukee Company as was applicable to the road from Tomah to Lake St. Croix, and incorporated the defendant by the name, afterwards changed, of the Tomah and Lake St. Croix Railroad Company; endowing it, for the purpose of aiding it in the construction of the road which it was thereby authorized to construct, with so much of the land-grant as was applicable to the road from Tomah to Lake St. Croix, resumed from the La Crosse & Milwaukee Company.

It is very manifest from the general scope and tenor of the charter, that it was the purpose of the legislature to substitute, as its agent or trustee under the grant of congress, *pro tanto*, a new company, for the insolvent and almost extinct La Crosse & Milwaukee Company, so as to secure so much of the land-grant road as the charter covers, which the latter company had virtually abandoned: that is, the road from Tomah to Lake St. Croix; placing the new company, *quoad hoc*, in the very position abandoned by the old. The road which the defendant was authorized by sec. 5 to locate, construct and operate, is afterwards some three times designated in sec. 14 as a road from Tomah to St. Croix; corresponding exactly with the franchise of the La Crosse & Milwaukee Company repealed in sec. 18, with the grant resumed from that company and conferred on the defendant, and with the terminal designations in the name of the defendant.

In sec. 5, however, the express authority to the defendant is to locate, construct and operate a road from such point as the directors should determine in the town of Tomah, or on the track of the La-Crosse & Milwaukee Railroad, or of any other railroad running out of Tomah, by way of Black River Falls, to such point on Lake St. Croix between townships 25 and 31, as the directors should determine.

Laying out of view the contingency of other railroads running

out of Tomah, if this choice of the southern terminus is to be taken literally, uncontrolled by other parts and the general tenor of the charter, the directors might have located it at Mt. Milwaukee, or at La Crosse, or at any intermediate point of the La Crosse & Milwaukee Railroad. This is so palpably and strangely inconsistent with the whole scope and tenor of the charter, and with its language elsewhere, that it is difficult to accept it as the intention of the legislature. It is plain throughout the statute that the legislature intended the southern terminus to be within the town of Tomah. And a choice of it outside of the town, might have been so made as to baffle the whole policy of the statute. Indeed there is a positive contradiction between sec. 5 and sec. 14; and one or the other must give way. But while it is so difficult to comprehend why an election of terminus should be given outside of Tomah, it is very easy to understand why the legislature should require the southern terminus within the town to be connected there with another railroad, so as to make a connected line to other points. This suggested to us that the entire difficulty would disappear by reading *and* for *or*. It struck us so forcibly that this must be the true reading that we referred to the enrolled act; but there we found the same word as in the printed volume.

In such a case, in a private document, there would be no difficulty in construing *or* in the sense of *and*. In deeds, agreements, wills, and other private papers, the word *or*, said to be one of the most equivocal in the language, should be construed in a copulative and not in a disjunctive sense, when necessary to the spirit and intent of the document. In such papers, *and* and *or* are readily convertible words according to the sense required by the context; and ever since what is called the leading case of *Fairfield v. Morgan*, the rule has been familiar to the profession. See *Mallory's Case*, 5 Coke, 111 b.; *Denn v. Kemeys*, 9 East, 366; *Right v. Day*, 16 id., 67; *Fairfield v. Morgan*, 5 Bos. & Pul., 38; *Jackson v. Topping*, 1 Wend., 388; *Hunt v. Hunt*, 11 Met., 88; *Englefried v. Woelpart*, 1 Yeates, 41; *Griffith v. Woodward*, id., 316.

It is not very apparent why the same rule should not be equally applied to statutes, yet it does not appear to have been often done; and Mr. Dwarris seems to question whether it should be done except to support a settled construction. Dwarris, 772. But he seems to have overlooked *Hall v. Philips*, 1 Ventris, 62, in which *or*, in a penal statute, was held to mean *and*. In *White v. Commonwealth*, 1 S. & R., 139, the court held *or* to be copulative not disjunctive, and equivalent to *that is to say*.*

And, seeing no other way to reconcile the apparent inconsistencies of the defendant's charter, and seeing this way of putting all its provisions in perfect accord with each other and with the evident design of the legislature, we feel warranted by authority in holding *or* in the phrase in question in section 5 to be equivalent to *and*; so that it shall read—"in the town of Tomah and on the

*See *Winterfield v. Stauss* 24 Wis., 394, and *O'Connell v. Gillespie*, 17 Ind., 459, there cited, which were overlooked when this opinion was written. See also *Farrrell v. Lamar*, 1 Wis., 8.

track of the La Crosse & Milwaukee railroad or of any other railroad running out of Tomah:" corresponding with the description of the road in section 14.

Any doubt which there might be about this construction, is cured by ch. 232 of 1865, making a further grant of lands conferred by Congress on the State, for the purpose of aiding the construction of a road from the town of Tomah to the St. Croix river or lake, and confirming the original grant to the defendant to aid in building the said railroad. This seems to have been a timely legislative construction of the charter; an amendment of the description in section 5, if such amendment were necessary.

We hold therefore that the choice of the southern terminus of the road was limited to a point on the La Crosse & Milwaukee railroad or other road running out of Tomah, within the town of Tomah.

And, accordingly, the directors located the terminus of the line of the La Crosse & Milwaukee Railroad, adjoining the village of Tomah, in the town of Tomah. When this was done does not very plainly appear in the pleadings; presumptively in 1866, subject to the act of 1865. This was certainly a valid location, according to any construction of the charter; and the point so selected and determined became and remained the fixed terminal point of the road, as much as if it had been specifically so designated in the charter. It seems to us very certain that the designation then of Camp Douglas, in another town and another county, as the southern terminus of the road, would have been unwarranted by the charter, and invalid.

We say that the point selected became and remained the fixed terminal point, because the charter, giving express power to change the location of the route of the road, withholds power to change the termini, once determined. The power to locate the termini, once exercised, was at an end. And all the power of the charter to change the route of the road, is expressly to change the route between the termini. All the franchises of the charter are dependent on the franchise to locate, construct and operate the road between the termini. The legislature gave to the defendant continuing power of change between the termini; but none over the termini, once fixed. There are, as argued, very ample words in the section going to the power to change, but the whole power goes to the route between the ends, and not at all to the ends themselves. This is too plain for argument. The mere reading of the section is conclusive.

It appears that the defendant constructed the road from this southern terminus northward by way of Warren's Mills and Black River Falls to St. Croix, and filed the necessary plat of the road to entitle it to the land grant, and did entitle itself to the land grant northward from the southern terminus, and did receive it from the State for every twenty miles of road built, including the road from the terminal point in Tomah to Warren's Mills, a distance of about ten miles.

By ch. 516 of 1870, the defendant received authority to extend the line of its road to the south line of the State.

The defendant pleads that under this authority, it caused several lines for the extension of its road south to be surveyed from the terminus in Tomah to Elroy in this state, the actual northerly terminus of the road of another company leading from Chicago, and that a practicable route could not be found direct from Tomah to Elroy; and that the only practicable route between those points was found to be along the line of the La Crosse & Milwaukee road, some twelve or thirteen miles, to Camp Douglas, and thence southerly to Elroy,—a route alleged and appearing on the map annexed to the pleading to be an indirect and inconvenient one; that it finally passed a resolution locating the southerly extension of its road on that line; and that thereupon it built the road from Camp Douglas to Elroy, intending to make a temporary running arrangement over the La Crosse & Milwaukee road from Tomah to Camp Douglas, and ultimately to build its own road between those points; that the contemplated arrangement with the La Crosse & Milwaukee road failed; that thereupon the defendant altered and straightened its line of road, so as to run direct from Warren's Mills to Camp Douglas, which was accordingly done by the construction of a new road on the new route, making a direct route from Warren's Mills to Elroy, excluding Tomah, which is alleged to be, as it appears on the map, a shorter and better route; and that thereupon it discontinued the road from Warren's Mills to Tomah, and moved the rails and ties from it.

These transactions are verified by oath, and their *bona fides* is admitted by the demurrer; or it might have been difficult to understand that, failing a practicable route direct from Tomah to Elroy, there ever was a serious purpose of extending the defendant's road from Tomah *via*. Camp Douglas to Elroy. It is worthy of notice that it is not pleaded that there was any attempt or failure to find a practicable route from Tomah to the south line of the state, but to Elroy only, as if the defendant had substituted Elroy for the south line of the State as the southerly end of the extension. All this was probably good railroad policy, if such policy were independent of franchise; but it was not compliance by the defendant with the law of its creation.

Taking the facts just as they are pleaded by the defendant, we cannot hold them to be within the authority to extend the line of the defendant's road to the south line of the State. The power which the defendant took was, not to build a new road from any point on its old road, to the south line of the State, but to extend its old line of road there, that is, to extend the whole road. And the line of road which the defendant was authorized to extend is expressed in all the statutes relating to it to be the road from Tomah to St. Croix. And the terminal point in Tomah being once fixed, the authority to extend was to extend from that very point; for extension must begin at the end of the thing extended, so that the line extended and the extension shall form a continuous line. The authority to extend was as well limited to the point in Tomah, as if it had been so nominated in the statute authorizing the extension. It is so expressed in the word extend. And it is difficult to

understand how this road was extended by a process which did not add a rail to it, but made its extension impossible until it should be itself restored, by obliterating the end of the road to be extended.

It is not pretended that the road from Warren's Mills to Camp Douglas was an extension. That road is claimed to be a change of route after extension. And surely the road from Camp Douglas to Elroy was not an extension of a road which it did not reach by some twelve or thirteen miles. Assuming, as we are bound on the demurrer to assume, that it was built to form a part of the proposed extension, it could become a part of it only upon the extension of the road from Tomah to it. Hiatus annihilates the essential condition of extension. In such a case, lines not connecting may be intended to be connected, and thereupon will form one continuous line, the new being an extension of the old; but until then they are separate and distinct lines, not parts of one line. And the legislature did not intend a theoretical or intentional extension, but an actual and practical extension, over which trains could pass continuously, without encountering a gap of several miles furnished only with an intentional track.

We lay out of view the arrangement to run over the La Crosse & Milwaukee road, which rather appears to us to be equivocally pleaded; because it is difficult to see how such an arrangement would have been a compliance with the authority, and because it was never consummated, but rested altogether in proposition. Indeed it seems to be pleaded only by way of apology for what was done.

Nothing appears to have been done looking towards the construction of the road from Tomah to Camp Douglas, except the naked resolution of the directors to make it the line of extension. And this is set up as an execution of the power to extend. And it is claimed that, the road being thus extended, Tomah ceased to be a fixed terminal point, Elroy taking its place for the time as the terminus of a road with which it was not connected; and that the extension of the road from Warren's Mills by Camp Douglas to Elroy was a legitimate exercise of the power to change the location of the road under sec. 5 of the charter, and under sec. 23 of the general railroad act of 1872.

We have indicated the fallacy of the position that a mere resolution to extend the road operated to extend it. What the legislature authorized was an extension by a road, not by a resolution. The resolution looked towards extension but did not extend. It was the line of actual road that was to be extended, and the extension could be only by actual road. The legislature looked to a highway for the carriage of passengers and goods, not to the resolution of a board or the plat of an engineer: to a fact, and not to a theory: to a thing, and not to an intention. Extension of anything must be of the quality of the thing extended. A resolution may extend a resolution: a line on paper may be extended by a line on paper: but a railroad can be extended only by a railroad. The extension of a railroad by a declaration of intention seems to partake of the quality of Mr. Harold Skimpole's philosophy of payment. A reso-

lution to extend a road extends it, just so much as a resolution to fence a road fences it. And the resolution rested wholly within the power of the directors, to alter or rescind, as virtually happened with this resolution, obliterating the extended railroad with the motion of the pen. Where one power is made dependent on the execution of another, the former cannot be put in motion by a resolution to execute the latter. Promise cannot take the place of performance. If there were power granted to the defendant to alter the road away from Tomah, after the extension, the extension must precede the alteration. Tomah certainly remained the actual terminus of the road, when the alleged alteration was made. And it was a change of terminus, not of route.

Were this otherwise — had the road been legally extended, — we cannot say that the power to change the route of the road away from Tomah would have followed. The principal road, the road extended, would still be the road from Tomah to St. Croix: the extension going from Tomah. The franchise would still be to build and operate an extension from Tomah. The extension would still be dependant on the road extended: an accessory to its principal. If the statute authorizing the extension should be repealed, where would the franchise of the defendant under the original charter end, as applicable to the actual road as it is to day? We are inclined to think at Warren's Mills, because the extension really proceeds from there. And there is no doubt that, in that case, the defendant would have, as it now has, a franchise to restore and operate its road from Warren's Mills to Tomah. We see nowhere indication of legislative intention to authorize the defendant to abandon the terminus of the road once fixed under its authority.

So far as the charter of the defendant is concerned, we have already shown that the power to alter the road is limited to alteration between the termini. The general railroad act of 1872, as amended, confers on the defendant, in addition to the powers of its charter, the powers contained in that act itself. That requires parties seeking incorporation under it, to execute articles of association stating, amongst other things, the places from and to which their road runs or is intended to run, the length of the road, and the counties through which it is made or intended to be made, but no particular or other statement of its route. These articles are the basis of incorporation, to be filed in the Secretary of State's office. Upon these articles is issued the State patent of incorporation to construct, maintain and operate the road from one terminal point to the other, without stating the counties through which it is to run. And the corporation takes a franchise for a road between the terminal points specified, and for no other road. In the body of the act power is given to the corporation to change the route or any part of the route of their road, or any part of their road; filing in the office of the clerk of the circuit court of the proper county a certificate of the change.

Here also we take the power to change the route of the road to be a power to change it between the terminal points specified in the patent, "their road;" and not to change the termini themselves.

The jurisdiction of the State officers to issue the patent rests on the articles of association; and both the articles and the patent are limited by the terminal points stated. Neither are to give the route in detail, which is not jurisdictional; and therefore power is given to change the route for convenience of the road between the terminal points. And when such change is made, the certificate of it, going to local arrangement and not to the fundamental franchise, is filed in the local office and not in the secretary's office. It is even matter of doubt whether the change of route authorized can involve a change of the counties specified in the articles.

This view seems to us to be necessarily implied in the word *route*, which, as the dictionaries tell us, implies passage to and from. The word is a French one, and we find it defined in Fleming & Tibbins' standard French dictionary, as "a way used for going from one place to another." And, corresponding with its defined meaning, its common acceptance excludes terminal points, and makes it dependent on them.

We feel quite satisfied that the legislature, in giving liberal power to change the route for convenience, intended to give no power to change the places between which the road is to run, and so to leave railroad corporations free, by a little management, to change specific charters into roving commissions throughout the state. The legislation of the state is liberal enough of franchise to these corporations, in all conscience, to leave them without excuse for licentious construction of their charters.

Were the position of the defendant well founded, we can see no reason why, in this case, the defendant might not have changed the whole road, abandoning it from its terminus on Lake St. Croix, and selecting at will any route to the south line of the state; wholly disregarding the legislative policy in its creation, and overlooking that the operation of the road chartered was a public trust committed to it and accepted with its charter. This follows logically from the position taken, and involves the absurdity that authority to extend a road operates as authority to abandon and remove the road to be extended, and to build a road different in all respects except one terminal point, to be in turn abandoned and deserted in a future reformation of the route of the new road, making railroads, as suggested by the defendant's counsel, chartered vagrants.

It will be noticed that we have not rested our conclusions on any of the provisions of ch. 58 of 1859; and that the question of the repeal of that statute by ch. 119 of 1872 is not involved or considered in this case.

Neither have we taken any aid from the view that the defendant's road is a land-grant road, for the construction of which the state has paid a consideration. It is said that, the road being built, the contract is executed. If this implies that, having obtained the grant, the defendant is at liberty to discontinue the road, we cannot assent to it. The charter, being in perpetuity, and being a contract upon consideration proceeding from the state to the corporation, appears to us to be binding in perpetuity, unless and until sooner determined by law. And, until determined, or until it be so changed by the

law governing it, we do not perceive how the defendant can evade the duty of maintaining and operating the road, without breach of contract. It would be a strange disposition of the bounty of the United States and of the State, for the endowed company to build twenty miles of road and receive corresponding twenty miles of grant; take up the twenty miles of road built, build other twenty miles of road and receive other twenty miles of grant; take that up in turn, and so on to the end; absorbing the whole grant and leaving no vestige of road in the route of the grant. This the defendant can do, if it can without legislative authority take up one mile of the land grant road built. The acceptance of the franchise, in any case, involves a public trust; in this case it involves a public trust upon valuable consideration in addition to the consideration of the franchise. We apprehend that the bare statement of the scope of the proposition is sufficient to show it is as deficient in morality as in logic.

We have dwelt upon this subject, perhaps, undue length, not because there appeared to us to be any difficulty involved, but in deference to the length and earnestness and ability with which the opposite positions were pressed upon us.

These views compel us to hold, that the defendant, in discontinuing and taking up its road from Tomah to Warren's Mills, violated the provisions of its charter and its duty to the State under its charter.

And it follows, that the road which the defendant is required by ch. 31 of 1873 to relay and equip, is part of its chartered road, which it had built and was bound to maintain, and not a new road coming within the principle stated in *Kenosha etc. R. R. Co. v. Marsh*, 17, Wis., 13, and at the present term in *Attorney General v. Railroad Companies*, 35 id., 425.

II. On principle and authority there seems to be little room for doubt, or even for discussion, that this case comes within the first and second subdivisions of sec. 4, ch. 160, R. S., and that the act of the defendant, in discontinuing and taking up its road, as set up in the information, constitutes an offense against the provisions of its charter and a violation of public law, working forfeiture.

The case of the Albany & Vermont Railroad is, in many respects, very similar to this. There the company was incorporated for a road from Albany to Eagle Bridge, which was built the whole distance, and then discontinued and dismantled for some twenty-one miles from Waterford Junction to Eagle Bridge; the rest of the road being operated with other roads. There, as here, it was claimed, that this was done under resolution of the directors as an exercise of the corporate right to change the route of the road.

In that case the New York courts discuss the distinction between the original obligation to build the road, and the right to discontinue part of it, when built. But the right to abandon and take up part of the road is denied, and the duty to maintain the whole road, when once completed, is asserted, in all the reports of the case. The discussion is interesting, but we have space for only a single extract. The court of appeals says:

“The defendant has abandoned all its road east of Waterford Junction, whilst it is continuing the operation of that part between Albany and Waterford, in connection with the Rensselaer & Saratoga Railroad. It is exercising its corporate rights and privileges and the franchise granted by the State to maintain and operate a railroad between Albany and Eagle Bridge, in the operation of one between Albany and Waterford Junction, without any assent by the legislature to the abandonment of any part of its road, or any legislative modification of the franchise granted to it. This cannot be legally done. It is the exercise of a franchise or privilege not conferred on the defendant by law.” *People vs. Albany & V. R. R Co.*, 19 How. Pr., 523; 37 Barb., 216; 24 N. Y., 261.

The general principle is very ably and elaborately discussed in *People vs. Kingston & M. T. R. R. Co.*, and *People vs. Bristol & R. T. Co.*, 23 Wend., 193, 222. The English King’s bench holding the same view issued a *mandamus* for the restoration of part of a road dismantled by the corporation. *Rex vs. Severn & W. R. R. Co.*, 2 Barn. & Ald., 646.

These authorities in which we entirely concur, seem to us to govern this case.

Some of the provisions of ch. 31, laws of 1873, well discussed at the bar, raise important and interesting questions which we have not noticed, because as has been seen, we hold that this proceeding can be maintained without aid from that act.

We have arrived at this view with somewhat of reluctance, because as the facts are placed in the defendant’s answer, which we must assume to be correct on the demurrer, the defendant’s road appears to have been improved, without special injury to any locality. But conceding that, it appears to us to have been a grievous error of the defendant to attempt to evade its charter and take the law into its own hands. With its views of its interest, it should have appealed to the legislature for authority to do what it has done without authority. And we have the less reason to regret any apparent hardship in this decision, because the distinguished gentlemen who argued the demurrer for the State, declared the purpose of the State to be the restoration of the discontinued road, and not the forfeiture of the charter, unless in case of obstinate resistance by the defendant.

By the Court.—Let an order be entered sustaining the demurrer to the defendant’s answer, with leave to the defendant to answer over to the information by the first day of next term.

IN THE SUPREME COURT OF THE UNITED STATES.

October Term, 1875.

- | | | |
|---|---|--|
| <p>WILLIAM FREDERICK PIEK, <i>et al.</i>,
<i>Appellants.</i>
<i>vs.</i></p> | } | <p>In equity. Action by the bondholders of said Railway Company praying for an injunction to restrain the defendant from obeying and enforcing the law of State.</p> |
| <p>THE CHICAGO & NORTHWESTERN RAILWAY Company, and the Railroad Commissioners, and the Attorney-General of Wisconsin.
<i>Respondents.</i></p> | } | |
| <p>DE WITT C. LAWRENCE, <i>et al.</i>,
<i>Appellants.</i>
<i>vs.</i></p> | } | <p>In equity. Action by the stockholders of said Railway Co. praying for an injunction to restrain the defendants from obeying and enforcing the law of the State.</p> |
| <p>THE CHICAGO & NORTHWESTERN RAILWAY and the Railroad Commissioners, and the Attorney-General of Wisconsin,
<i>Respondents.</i></p> | } | |
| <p>L. D. STONE, TICKET AGENT OF THE CHICAGO, Mil. & St. Paul Railway Company,
<i>Plaintiffs in error.</i>
<i>vs.</i></p> | } | <p>Criminal prosecution for charging more than the legal rates as passenger fare.</p> |
| <p>THE STATE OF WISCONSIN,
<i>Defendants in error.</i></p> | } | |
| <p>THE CHICAGO, Milwaukee, & ST. PAUL Railway Company,
<i>Plaintiffs in error.</i>
<i>vs.</i></p> | } | <p>Action of replevin for refusing to deliver two car-loads of lumber on tender of the legal rates.</p> |
| <p>HENRY M. ACKLEY AND GEORGE VILAS,
<i>Defendants in error.</i></p> | } | |

TRANSCRIPT OF RECORD.

IN THE CASE OF FREDERICK PIEK, *et al.* vs. THE C. & N. W. R. R. Co., *et al.*

Circuit Court of the United States of America for the Western district of Wisconsin.

UNITED STATES OF AMERICA,
Western District of Wisconsin, ss:

At a stated term of the circuit court of the United States of

America for the western district of Wisconsin, begun and held according to law, at the city of Madison in said District, on the first Monday (being the first day) of June, A. D. 1874—present and presiding, the honorable James C. Hopkins, district judge—among other the following proceedings were had, to wit:

<p>WILLIAM FREDERICK PIEK, HENRY R. PIERSON, Moses Taylor, The Farmer's Loan and Trust Company, and the Union Trust Company,</p> <p style="text-align: center;"><i>vs.</i></p> <p>THE CHICAGO AND NORTHWESTERN RAILWAY Company, George H. Paul, Joseph H. Osborn, John W. Hoyt, and A. Scott Sloan.</p>	}	In equity.
---	---	------------

Be it remembered that on the fourth day of said term, to wit, on the fourth day of June, A. D. 1874, came the above-named plaintiffs by their solicitor, Mr. C. B. Lawrence, and filed their bill of complaint, as follows:

Bill of Complaint.

UNITED STATES OF AMERICA,
Western District of the State of Wisconsin:

To the Judge of the Circuit Court of the United States for said District:

Your orators, William Frederik Piek, who is a citizen of the kingdom of Holland, and a resident of the city of Amsterdam, in said kingdom, and an alien to each and all of the United States of America, and Henry R. Pierson and Moses Taylor, who are severally citizens of the State of New York, and residents thereof, bring this bill of complaint as well in behalf of the other holders and owners of the bonds of the Chicago and Northwestern Railway Company, hereinafter set forth, who shall desire to become parties complainant to this bill, and in this suit to assert the equities which they have in common with your orators, as on their own behalf, the Farmers' Loan and Trust Company, which is a body corporate incorporated under and by virtue of the laws of the State of New York, and which is a citizen and resident of the State of New York, and the Union Trust Company, a body corporate incorporated and existing under and by virtue of the laws of the State of New York, and which is a citizen and resident of said State of New York, as they are severally Trustees in the manner and for the purposes hereinafter described, against the Chicago and Northwestern Railway Company, which is a body corporate and a citizen and resident of the State of Wisconsin, and against George H. Paul, Joseph H. Osborn and John W. Hoyt, who are citizens and residents of Wisconsin, and Railroad Commissioners of the said State, and against

A. Scott Sloan, who is a resident and citizen of said State of Wisconsin, and the Attorney General of said State; and, thereupon, the said William Frederik Piek, Henry R. Pierson, Moses Taylor, the Farmers' Loan and Trust Company, and the Union Trust Company, complain and show unto your honor—

That, on the third day of November, A. D. 1856, an act was passed by the Legislature of the State of Wisconsin, entitled "An act to execute a trust created by an act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State, approved June 3, 1856, by incorporating the Wisconsin and Superior Railroad Company, and granting a portion of said lands thereto;" that said company was, by said act, authorized to construct and complete, perpetually to have, use and enjoy, maintain and operate a railroad with one or more tracks or lines, over the routes following, that is to say: Beginning at the city of Fond du Lac, which is situated on Lake Winnebago, in said State, and running from thence by way of the town or city of Oshkosh and township twenty-one, north of range seventeen, east, and east of the southeast corner of section twenty of said last named township, northwardly to the State line on the St. Louis river, or to such other point on the State line within the meaning of the act of Congress entitled "An act granting public lands to the State of Wisconsin, to aid in the construction of railroads in the said State, approved June 3, 1856, as the said company shall determine," a copy of which act is hereto annexed, marked Exhibit 1, and made a part of this bill; that, by said act, the said railroad company was vested with the power to operate its roads, or either of them, in connection with any or all other railroads which might cross, come up to, or connect with the said railroads, or either of them, upon such terms as should be mutually agreeable, and to demand and receive such sum or sums of money for the transportation of persons or of property as it should from time to time deem reasonable, as by reference to said act will more fully and at large appear.

And your orators further shows to your honor that, by the terms of said act, the said company was authorized to enter upon, take, possess, occupy and use any land along and including the line of said route, not exceeding two hundred feet in width, and any other lands beyond said limits of two hundred feet which the directors should, by resolutions adopted by them, declare to be necessary for the use of said company, for the purpose of erecting depot buildings, station houses, or fixtures of any kind, or ground about the same for the convenient operation of said road, or for making drains or giving proper direction to water courses, or of directing and changing the channel of water courses, or for the purpose of removing such substances and things as might endanger, disturb, or interfere with the free use of the road, or for the purpose of obtaining earth, gravel, stone or timber, or other material for embankment structures or superstructures necessary for the construction, repair or renewal of said roads; said land, earth gravel, stone and timber to be paid for at its full value by said company. And it was further provided in said act that, whenever such lands, should have been so paid for, an

estate in and to all and every such lands, in fee simple, absolute forever should be and become vested in said company by virtue thereof and of the provisions of said act, and by the same means a complete title should vest in said company in and to all such earth, gravel, stone and timber; and whenever the said company should deem that the same, or any part or portion of the aforementioned property, should be no longer necessary for the purposes for which the same were taken, it was authorized and empowered by another instrument in writing, to lease or sell the same, or any part thereof, as by said act, to which reference is hereby made, will more fully and at large appear.

And your orators further show to your honor that, by the terms of said act, the said company was authorized and fully empowered in its corporate capacity, to borrow any sum or sums of money from any person or persons, and make, execute and deliver, in or out of said State, all necessary writings, notes, bills, bonds, mortgages and all other papers or securities in amount and kind as might be deemed expedient by said corporation, and to make execute and deliver its bonds or obligations in such an amount as the directors should think best for the interest of the company; and, to secure the payment of any or all of said bonds, said company was authorized and empowered, in its corporate capacity, to make, execute and deliver a mortgage or mortgages or deed or deeds of trust upon the whole or any part of its railroad, constructed or authorized to be constructed, and upon the lands granted to said corporation in said act, and upon any other or all of its estate, real, personal, or mixed, as by said act, reference being thereto made, will more fully and at large appear.

And your orators further show to your honor that the Wisconsin and Superior Railroad Company was duly organized under the provisions of said act, and did construct its road as by the terms of said act it was authorized to do, except that portion thereof which was afterwards constructed by the Chicago and Northwestern Railway Company, after the consolidation of said two companies, as herein-after stated, and did acquire land whereon to construct its said road, and the appurtenances thereof, in the manner provided in said act, paying full value therefor, and did become seized of said lands by a title in fee-simple absolute, as provided in said act.

Your orators further show that, on the 19th day of August, A. D. 1848, the Legislature of Wisconsin passed another act, entitled "An act to incorporate the Madison and Beloit Railroad Company," a copy of which act is herewith filed, marked Exhibit 2, and made a part of this bill.

Your orators further show, that by the second section of said act, the corporation to be created under and by virtue of said act, was authorized to construct a railroad, with one or more railroads or tracks, from some convenient point in the village of Beloit, in the county of Rock, to the village of Janesville, and thence to some convenient point of termination in the village of Madison, in the county of Dane; and, by the seventh section of said act, the directors of the company to be organized under said

act, were to have power to make, from time to time, all needful rules, regulations and by-laws touching the business of said company, and to determine the number of tracts and railways upon said road, and the width thereof, and the description of carriages which might be used thereon, and to regulate the amount of tolls and the manner of collecting the same for the business done upon said road.

Your orators further show to your honor that a body corporate, by the name and style of the Madison and Beloit Railroad Company, was duly organized under said act, and the directors of said company were duly chosen, and steps were taken, in pursuance of the provisions of said act to construct the road named therein.

And your orators show to your honor that the act last aforesaid was amended by an act of the legislature of the said State of Wisconsin, approved February 4, 1850, a copy of which is hereto annexed, marked Exhibit 3, and made a part of this bill. And by said amendment the said company was authorized to change the location of said railroad, and to terminate the same at any point that it should deem expedient on the south line of the State of Wisconsin, and at such termination as might unite with any other railroad; and said company also was authorized by said amendment to extend said road to any point on the Wisconsin river that it should deem proper, and to increase its capital stock to six hundred thousand dollars (\$600,000), as by said amendment, to which reference is hereby made, will more fully and at large appear. That the act aforesaid was further amended by an act passed by the legislature of said State of Wisconsin, approved February 9, 1850, a copy of which is hereunto annexed, marked Exhibit 4, and made a part of this bill, by which it was, among other things, provided, that the said company might extend their road from Janesville to Lake Winnebago, by way of Fort Atkinson, Jefferson and Watertown, and might add ten thousand shares of one hundred dollars each to its capital stock, and by which act the name of said company was changed to that of Rock River Valley Union Railroad Company; that the charter of said Rock River Valley Union Railroad Company was amended by an act of the legislature of said State, approved March 11, 1851, a copy of which is hereto annexed, marked Exhibit 5, and made a part of this bill, by which amendment it was among other things provided that said company should be authorized to connect its road with the road of any railroad company or companies in the State of Illinois, or to become part owner or lessee of any railroad in said State; and that any railroad company in said State of Illinois, duly organized under the laws of said State, might connect its road with the road of said company, and might, in like manner, with the consent of said company, become part owner or lessee of said company, or of any of its branches, or any portion thereof situated in the State of Wisconsin; and by said act said company was authorized and empowered to borrow money to be expended in the construction and equipment of its said road and its appendages, and to issue bonds for the payment thereof in the usual form, said bonds not to exceed

in the aggregate, at the period of the completion of said road, three-fourths of the whole amount actually expended in said road and its appendages, and to make and execute in the corporate name of said company, all necessary writings, notes, bonds, or other papers, for any liability that it might incur in the construction of said road.

Your orators further show to your honor that another act was passed by the legislature of the State of Wisconsin, entitled, "An act to authorize the railroad companies named therein to consolidate their capital stock," which act was approved March 10, 1855, a copy of which act is hereunto annexed, marked Exhibit 6, and made a part of this bill, by which act it was provided that the Illinois and Wisconsin Railroad Company, in the State of Illinois, which said company was then and there a body corporate, duly incorporated under and by virtue of the laws of the State of Illinois, and the Rock River Valley Union Railroad Company in the State of Wisconsin, were authorized and empowered to consolidate the capital stock of the two companies, and to make the two companies one, and to place the affairs and property of the two companies under the direction of one board of directors, of not more than seventeen nor less than eleven, and that the said companies, when so consolidated under the direction of one board of directors, might choose for itself any name that a majority of the directors might deem fit; and, by section five of said act, it was provided that the said consolidated company should be and remain subject to the laws of the State of Wisconsin and the State of Illinois, respectively, and to have, in all respects, the same privileges as though the consolidation had not taken place, as by the terms of said act, to which reference is hereby made, will more fully and at large appear.

And your orators show that, by virtue of the provisions of said act, the said roads were consolidated in the manner provided in said act, on the 30th day of March, A. D. 1855, and that the name adopted by said consolidated company was the Chicago, St. Paul & Fond du Lac Railroad Company; and that the said Illinois and Wisconsin Railroad Company, in the State of Illinois, had full power, by virtue of its charter, to become a party to said consolidation, which charter was passed by the general assembly of the State of Illinois, approved February 12, 1851, and to unite and consolidate the said road with any railroad company then incorporated, or that might thereafter be incorporated, in the State of Wisconsin, and to place the said road, when consolidated, under the control and supervision of a joint board of directors, upon such conditions, provisions, and limitations as might be mutually agreed upon by said railroad company, as by reference to said act, which is hereto annexed, marked Exhibit 7, will more fully and at large appear.

Your orators further show to your honor that an act was passed by the legislature of said state of Wisconsin, which was approved February 12, 1857, entitled "An act to authorize the Chicago, St. Paul and Fond du Lac Railroad Company and the Wisconsin and Superior Railroad Company to consolidate," by the terms of which act it was provided that the said Wisconsin and Superior Railroad

Company might consolidate its property and franchises named in said act with the property and franchises of the said Chicago, St. Paul and Fond du Lac Railroad Company; and said consolidated company was vested by said act with all the rights, privileges and franchises which before the passage of the act belonged to either the said Chicago, St. Paul and Fond du Lac Railroad Company or the said Wisconsin and Superior Railroad Company, among which was the right to construct and operate a railroad from the city of Fond du Lac, aforesaid, northwardly, to the Wisconsin State Line, a copy of which is hereto annexed, marked Exhibit 7½, and made a part of this bill.

Your orators further show that in pursuance of the authority conferred by said act, on the 5th day of March, A. D. 1859, the said Chicago, St. Paul and Fond du Lac Railroad Company and the said Wisconsin and Superior Railroad Company were consolidated into one corporation in the manner specified in the said act, and that the said consolidated corporation was known by the name of the Chicago, St. Paul and Fond du Lac Railroad Company.

Your orators further show to your honor that, after the consolidation aforesaid, an act was passed by the legislature of the State of Wisconsin, which was approved March 14, 1859, by which it was provided that, in case the railroad of the Chicago, St. Paul and Fond du Lac Railroad Company, or any part of the said railroad lying within the said State, should be sold by virtue of any mortgage, deed or deeds of trust, either by foreclosure or other proceeding in law or equity, or by advertisement in pursuance of the power or authority in any such mortgage or deed of trust contained, the purchaser or purchasers in any such case, his or their associates, successors or assigns, if desiring to form a corporation under and by virtue of the laws of said State, or of the States of Illinois or Michigan, or any or all of said States, might file in the office of the Secretary of State of said State of Wisconsin a certificate specifying the name of the said corporation, the number of the directors and the names of the directors, which certificate should be signed by the said purchaser or purchasers; and, upon the filing of such certificate, the persons who should have signed the same should be a body politic and corporate by the name stated in such certificate; and said corporation should possess all the previous powers, authorities and capacities acquired by the said purchaser or purchasers, or possessed by the said Chicago, St. Paul and Fond du Lac Railroad Company by virtue of any law of said State of Wisconsin, or of the States of Illinois or Michigan, as by said act, a copy of which is hereto annexed, marked Exhibit 8, and made a part of this bill, will more fully and at large appear. Your orators further show to your honor that an act was passed by the General Assembly of the State of Illinois, approved February 19, 1859, entitled "An act to authorize the sale of the Chicago, St. Paul and Fond du Lac Railroad," and to enable the purchasers thereof to form a corporation, a copy of which act is hereto annexed, marked Exhibit 9, and made a part of this bill, by which act the same power was conferred upon the Chicago, St. Paul and Fond du Lac Railroad

Company in the State of Illinois that was conferred upon said railroad company in the State of Wisconsin, by virtue of the act of Wisconsin last aforesaid.

Your orators further show to your honor that, afterward, to-wit, on the 2d day of June, A. D. 1859, the said railroad, franchises and property of the said Chicago, St. Paul and Fond du Lac Railroad Company were sold under and by virtue of certain trust deeds which had been given by said company to secure its indebtedness, and that the purchasers of said railroad, its property and franchises, afterward, on the sixth day of June, 1859, became incorporated both in the State of Illinois and Wisconsin, in the manner provided for in the acts of said States last aforesaid, and that the name of the company so formed was the Chicago and Northwestern Railway Company.

Your orators further show that, when the said Chicago, St. Paul and Fond du Lac road was sold, as aforesaid, there were not separate sales of the portion lying in Illinois and the portion lying in Wisconsin, but the entire road, from the city of Chicago, in Illinois, to the city or town of Fond du Lac, in Wisconsin, was sold as a consolidated road, at Janesville, in Wisconsin, on the 2nd day of June, 1859, and the deed to the purchasers described the property sold as "all and singular, the railroad from Chicago, in the State of Illinois, via Woodstock to Janesville, in the State of Wisconsin, and thence, via Watertown, to the city of Fond du Lac, in the State of Wisconsin."

Your orators further show to your honor that the legislature of said State of Wisconsin passed an act, approved March 8, 1862, by which was conferred upon said Chicago and Northwestern Railway Company all the rights, privileges, powers and authority contained in the charter of the said railway company and in the charter of the Chicago, St. Paul and Fond du Lac Railroad Company and the Wisconsin and Superior Railroad Company, to which said Chicago and Northwestern Railway Company is the successor, as by the provisions of said act, a copy of which is hereunto annexed, marked Exhibit 10, will more fully and at large appear.

Your orators further show to your honor that the Galena and Chicago Union Railroad Company was a corporation of the State of Illinois, duly incorporated under and by virtue of the provisions of an act of the General Assembly of said State, approved January 13, 1836, entitled "An act to incorporate the Galena and Chicago Union Railroad Company," a copy of which is hereto annexed, marked Exhibit 11, and made a part of this bill.

And your orators further show to your honor that the Galena and Chicago Union Railroad Company was authorized by the terms of the act of the General Assembly of the State of Illinois, under which the same was incorporated, as aforesaid, to prescribe the manner in which the railroad specified in said act should be used and the rates of toll for the transportation of persons or property thereon, and also to borrow any sums of money which might in its discretion be deemed necessary, not exceeding its capital stock, to aid in the construction of its said roads, as by reference to said act,

which is hereby made a part of this bill, will more fully and at large appear.

Your orators further show to your honor that, on the 2d day of June, 1864, the said Chicago and Northwestern Railway Company and the said Galena and Chicago Union Railroad Company consolidated their property and franchises into one corporation, by the name of the Chicago and Northwestern Railway Company, that that consolidation was made in pursuance of the laws of the said State of Wisconsin and the laws of the State of Illinois; that afterwards, to-wit, on the fifth day of February, 1865, the consolidation of said companies was approved and ratified by an act of the legislature of the State of Illinois, approved February 15, 1865, entitled "An act to extend the powers of the Chicago and Northwestern Railway Company," by which act it was provided that said company, as then consolidated, should have and exercise all the power theretofore conferred by the laws of said State, or of any other State, upon the Chicago and Northwestern Railway Company, the Galena and Chicago Union Railroad Company, or any other company consolidated with it, as by section 2 of the act aforesaid, a copy of which is hereto annexed, marked Exhibit 12, and made a part of this bill, will more fully and at large appear.

Your orators further show to your honor that, by virtue of said consolidation, the Chicago and Northwestern Railway Company became vested with all the rights, powers, privileges and franchises which had been theretofore conferred by the laws of the State of Illinois upon the Chicago and Northwestern Railway Company, the Galena and Chicago Union Railroad Company, or by the laws of the State of Wisconsin upon the said Wisconsin and Superior Railroad Company, or upon the said Chicago, St. Paul and Fond du Lac Railroad Company, or upon the said Chicago and Northwestern Railway Company, among which powers was the authority and right to demand and receive such sums of money for the transportation of persons and property, and for the storage of property, as the said railway company from time to time shall deem reasonable.

That the portion of the Chicago and Northwestern Railway Company's railroad in the State of Wisconsin, which extends from Fort Howard, in a northerly direction, to a point at or near the mouth of the Menomonee river, was constructed during the year 1871; that, for the purpose of constructing said road, and so much of the connection therewith in the State of Michigan as lies between the north line of the State of Wisconsin and the line of railroad of the Chicago and Northwestern Railway Company in Michigan, known as the Peninsula Division, as hereinafter stated, the said Chicago and Northwestern Railway Company, under the power given to it, as aforesaid, by the laws of the State of Wisconsin, on the first day of June, A. D., 1871, issued its bonds called the Menomonee Extension First Mortgage Sinking Fund Gold Bonds, to the amount of two millions seven hundred thousand dollars (\$2,700,000) and numbered from 1 to 3,400 inclusive, of which said bonds 1,400 were for the sum of five hundred dollars (\$500) each,

and two thousand were for the sum of one thousand dollars (\$1,000) each; that the bonds of \$500 each were numbered from (1) to 1,400 inclusive, and the bonds of \$1,000 each were numbered from 1,401 to 3,400 inclusive; that a copy of said bonds, varying only in number, is hereto annexed, marked Exhibit 13, and made a part of this bill, and reference is hereby made to the same for greater certainty; that said bonds were made payable to your orator, the Farmers' Loan and Trust Company of the city of New York, and to secure the payment of said bonds, the said Chicago and Northwestern Railway Company, on the first day of June, A. D. 1871, executed and delivered to the said Farmers' Loan and Trust Company, a corporation of the State of New York, in the city of New York, its trust deed, and, by said trust deed, said railway company, for the purpose of securing the payment of the principal and interest of said bonds, [the interest being seven per cent. per annum, payable semi-annually on the first days of June and December in each year, in gold coin of the United States, the principal of said bonds being payable to the bearer thereof in gold coin of the United States, on the first day of June, 1911,] granted, bargained, sold and conveyed to the said Farmers' Loan and Trust Company, the railroad of said Chicago and Northwestern Railway Company, then being constructed from the town of Fort Howard, in the State of Wisconsin, to a junction with the line of railroad in Michigan, owned by the said Chicago and Northwestern Railway Company, known as the Peninsula Division, being a distance of about 120 miles, including all the railways, ways, rights of way, depot-grounds, and other lands, of tracks, bridges, viaducts, culverts, fences and other structures, of depots, station-houses, engine-houses, car-houses, freight-houses, wood-houses, and other buildings, and of machine or other shops, whether then held or thereafter acquired for use in connection with said railroad or the business thereof, and including all locomotives, tenders, cars and other rolling stock, and equipment, tools, implements, fuel and materials for constructing, operating, repairing, or replacing the said railroad or any part thereof, or any of its equipment or appurtenances, whether then held or thereafter to be acquired, all of which were thereby declared to be appurtenances and fixtures of the said railroad, and included also all franchises connected with or relating to the said railroad, or the construction, maintenance or use thereof then held or thereafter to be acquired by said railroad company, including the franchise to be a corporation, together with all and singular tenements, hereditaments thereto belonging, as by said deed of trust, a perfect copy of which is hereto annexed, marked Exhibit 14, and made a part of this bill, will more fully and at large appear.

And your orators further show to your honor that the said \$2,700,000 in bonds, as aforesaid, were sold by the said Chicago and Northwestern Railway Company, and the proceeds thereof were used in the construction of the railway aforesaid, and in equipping the same, and that your orator, Henry R. Pierson, afterwards became the owner, by purchase, for a full and fair consideration, of \$25,000 of said bonds, to wit: ——— to ——— which bonds are

now owned and held by your orator, Henry R. Pierson, and are in no way paid or extinguished, except as to the interest, which has been paid as it accrued; and your orator has no security for the payment of the said bonds, except the security furnished him by the trust deed to the said Farmers' Loan and Trust Company hereinbefore set forth.

And your orators further show that an act was passed by the legislature of the State of Wisconsin, approved February 17, 1871, entitled, "An act to authorize the Chicago and Northwestern Railroad Company to consolidate with the Baraboo Air-Line Railroad Company, and other railroad companies therein named, which act is published in the private and local laws of the State of Wisconsin for the year 1871, page 106, a copy of which is hereto annexed, marked Exhibit 15, and made a part of this bill; that, by the terms of said act, the Chicago and Northwestern Railway Company was authorized and empowered to consolidate its stock, property, and franchises with the stock, property, and franchises of the Baraboo Air Line Railroad Company, and with certain other companies therein named; that such company, when consolidated, should have and exercise all the powers then conferred by the laws of the said State of Wisconsin, or of any other State, upon either of said companies, and should have power to construct and operate a line of railroad, so as to connect the main line authorized to be constructed by the said Baraboo Air Line Railroad Company with the line of any railroad or railway line in Wisconsin, west of the range line dividing ranges two and three east of the fourth principal meridian, and to operate the whole or any portions of the line, or either or any portions of the same, in the said acts named, as one consolidated line. And said consolidated company was also, by said act, authorized, in its corporate capacity, to borrow any sum or sums of money, and to make, execute, and deliver, in or out of said State of Wisconsin, all necessary writings, notes, or bonds to secure the payment thereof, or for any other purpose, and to make, execute, and deliver a mortgage or mortgages, upon the whole or any portion of its property, to secure the payment of such writings, notes, or bonds; that, afterwards, to wit, on the 10th day of March, A. D. 1871, the stock, property, and franchises of the said Chicago and Northwestern Railway Company were consolidated with the stock, property, and franchises of the said Baraboo Air Line Railroad Company, under and by virtue of the authority conferred by said act, and in pursuance of the provisions thereof.

Your orators further show that, for the purpose of constructing that portion of the railway of the said Chicago and Northwestern Railway Company, in the State of Wisconsin, extending from the city of Madison in said State, to a junction with the La Crosse, Trempeleau and Prescott Railroad, in the county of La Crosse, being a distance of about one hundred and twenty-six miles, the said Chicago and Northwestern Railway Company did, on the first day of April, A. D. 1871, issued a series of bonds to be called the Chicago and Northwestern Railway Company's Madison Extension First Mortgage Sinking Fund Gold Bonds, which amount, in the

aggregate, to \$3,150,000, consisting of 1,300 bonds each for \$500, numbering from 1 to 1,300 inclusive, and 2,500 bonds, each for \$1,000, numbering from 1,301 to 3,800 inclusive, said issue being at the rate of \$25,000 per mile of the railroad aforesaid, which said bonds were made payable to the Farmers' Loan and Trust Company of the city of New York, or to the bearer of said bond; that said bonds were made payable in the city of New York, on the first day of April, A. D. 1911, bearing interest at the rate of seven per cent. per annum, payable semi-annually, on the first days of April and October, in each year, in gold coin of the United States, on the presentation and surrender of the coupons annexed to said bonds, as they severally become due, a copy of which bonds, varying only in the numbers, is hereto attached, marked Exhibit 16, and made a part of this bill.

Your orators further show that, for the purpose of securing the said bonds, said Chicago and Northwestern Railway Company executed and delivered to the said Farmers' Loan and Trust Company its deed of trust, by which it conveyed to said Loan and Trust Company, all and singular, its railroad then being constructed from the city of Madison, in the State of Wisconsin, to a junction with the La Crosse, Trempeleau and Prescott Railroad, near the city of La Crosse, being a distance of about 126 miles, with all the appurtenances thereto, as the same are enumerated and specified in said deed of trust, a copy of which deed of trust is hereto annexed, marked Exhibit 17, and made a part of this bill.

Your orators further show that said Madison Extension Gold Bonds, so secured, were sold and transferred by said railway company, and that your orator, William Frederik Piek, purchased said bonds to the amount of \$12,000, of which he is now the owner and holder, and which are unpaid and unsecured except by the trust deed aforesaid; and, also, that your orator, William Frederik Piek, purchased, for a valuable consideration, Menomonee Extension Gold Bonds herein-before described, to the amount of \$20,000, of which he is now the legal owner and holder, and which are unpaid and unsecured, except by the trust deed hereinbefore described.

Your orators further show to your honor that, on or about the 10th day of March, A. D. 1862, the Winona and St. Peter Railroad Company became incorporated under and by virtue of the laws of the State of Minnesota, and that by the laws of the said State of Minnesota, the said Winona and St. Peter Railroad Company was authorized and empowered to borrow money and to issue its bonds therefor, to be secured by mortgages or deeds of trust upon the property of said company, and that in pursuance of such authority, the said Winona and St. Peter Railroad Company, on the — day of —, A. D. —, issued its bonds for the sum of —, which were made payable to —, and secured by a certain deed of trust, given by said Winona and St. Peter Railroad Company, upon its railroad property and franchises, to —, trustee, which bonds were guaranteed by the said Chicago and Northwestern Railway Company, under and by virtue of an act of the legislature of the State of Wisconsin, approved March 10, 1871, entitled "An

act to amend chapter 337 of the private and local laws of 1870, entitled an act to authorize the Chicago and Northwestern Railway Company to guarantee certain bonds therein named," approved March 15, 1870, a copy of which act is hereto annexed, marked Exhibit 17½, and made a part of this bill.

Your orators further show to your honor that an act was passed by the legislature of the State of Wisconsin, approved March 6, 1857, entitled "An act to incorporate the La Crosse, Trempeleau and Prescott Railroad Company, by the terms of which the company incorporated under the said act was authorized to locate and construct, and perpetually to have, use and enjoy a railroad with one or more railroads or tracks, from some point in the city of La-Crosse, by way of Trempeleau and Fountain City, to Prescott, with such branches for communication with Milwaukee and La-Crosse Railroad as should be determined by said company, and to connect their said railroad with any other railroad in said State, and to make any contract or agreement which they might think proper, with any other railroad company, for the leasing or the purchasing of any part of said road, or to lease or to sell to any other railroad company or persons the whole or any part of the railroad of said company, and to establish and regulate their tolls and charges for the transportation of freight and passengers, and the storage of freight, and to collect all such tolls and charges, and to borrow any sum or sums of money, and to make, execute and deliver, in or out of said State, all necessary writing, notes, bonds, mortgages or other papers and securities, in amount and kind as might be deemed expedient by said corporation, in consideration of any such loan or any discharge of any liabilities that might be incurred in the construction, repair, equipment or operation of said road as by said act, a copy of which is hereto annexed, marked Exhibit 18, and made a part of this bill, will more fully and at large appear.

Your orators further show to your honor that, under and by virtue of the provisions of said act, the said La Crosse, Trempeleau and Prescott Railroad Company was organized and did proceed to construct its road, and, for that purpose, did borrow the sum of ——— and issue its bonds therefor, and the payment thereof was guaranteed by the said Chicago and Northwestern Railway Company in pursuance of the authority conferred by the act of the general assembly of the State of Wisconsin, approved March 10, 1871, above referred to.

And your orators further show that, of the bonds so issued by the La Crosse, Trempeleau and Prescott Railroad Company, your orator, Moses Taylor, purchased, for a valuable consideration, the amount of \$101,000, of which he is now the holder and owner, and the payment of which is guaranteed by the said Chicago and Northwestern Railway Company, under and by virtue of the provisions of the said act of March 10, 1871; and that the said Moses Taylor purchased, for a full and valuable consideration, the bonds of the Winona and St. Peter Railroad Company, aforesaid, to the amount of \$115,000, of which bonds he is now the owner and holder, and which bonds are guaranteed by the said Chicago and Northwestern

Railway Company, in the manner prescribed in said act of March 10, 1871; and in pursuance of the authority given by said act; and your orator, the said Moses Taylor, is the holder and owner — of bonds issued by the Chicago and Northwestern Railway Company, entitled, "Consolidated Sinking Fund Bonds," issued and bearing date February 1, 1865, and payable February 1, 1915, with interest at the rate of 7 per cent., payable annually, which bonds were issued by said railway company, under the authority of the laws of the State of Wisconsin, and which are wholly unpaid.

Your orators show to your honor that the said Chicago and Northwestern Railway Company, on the 30th day of November, A. D. 1872, for the purpose of consolidating the various outstanding debts for which said company was liable, as stated in the trust deed hereinafter named, and for the purpose of fully completing and equipping its various lines of railroad described in said trust deed, determined to issue bonds amounting in the aggregate to \$48,000,000, and to secure the same by a deed of trust upon the entire line of railroad property and franchises owned by said company, and upon the railroads, franchises and property of the several railroad companies whose capital stock was then owned in whole or greater part by the said Chicago and Northwestern Railway Company, upon the consolidation of said companies with the said Chicago and Northwestern Railway Company in the manner stated in the said deed last mentioned; and, in pursuance of authority conferred upon the said Railroad company by virtue of the laws of the State of Wisconsin and of the State of Illinois, the said Chicago and Northwestern Railway Company did issue, for the purposes aforesaid, of the series of bonds, the sum of \$8,955,000, which bonds were payable on the first day of December, A. D. 1902, in gold coin of the United States, with interest at seven per cent. per annum, payable semi-annually in gold coin, on the first days of June and December, a portion of which bonds were coupon bonds, of which a copy is herewith filed, marked Exhibit 18½, and made a part of this bill; and a portion were interest bonds, a copy of which is herewith filed, marked Exhibit 19, and made a part of this bill; and to secure the payment of said bonds, the said Chicago and Northwestern Railway Company executed and delivered to the Union Trust Company of New York, a trust deed, and upon the following lines of railway, owned and operated by the said Chicago and Northwestern Railway Company, to-wit:

From Chicago, in the State of Illinois, to Negaunee, in the State of Michigan.

From Chicago to the east bank of the Mississippi River, opposite Clinton.

From Turner Junction to Freeport, in the State of Illinois.

From Kenosha, in the State of Wisconsin, to Rockford, in the State of Illinois.

From Belvidere, in the State of Illinois, to the La Crosse, Trempeleau and Prescott Railroad Junction, in the State of Wisconsin.

From Elgin, in the State of Illinois, to Geneva Lake, in the State of Wisconsin, including the Elgin and State Line, and the State Line and Union Railroads, and all the right, title, and interest of

the said Chicago and Northwestern Railroad Company in and to the Chicago, Iowa, and Nebraska, and the Cedar Rapids and Missouri River Railroads, extending from the east bank of the Mississippi River, opposite Clinton to Council Bluffs, in the State of Iowa, including the bridge across the Mississippi River, at Clinton, with the branch railroad from Clinton to Lyons, in the State of Iowa, and which are leased in perpetuity to the said Chicago and Northwestern Railway Company, with all the appurtenances of said railroads, as the same are described in said trust deed, a copy of which is herewith filed and marked Exhibit 20, and made a part of this bill. Of the sum of \$48,000,000 mentioned in said deed, the amount of \$18,749,500 of said bonds were reserved and could only be issued at the option of said company for and in place of the like amount or any issue of said bonds which constituted at that date all of the outstanding debt of said company and of the companies embraced in the consolidation as specified in said mortgage deed; and there was also reserved in said mortgage the further amount of \$16,599,000 of bonds to provide in like manner for the retirement and exchange of the bonds of other companies for which the said Chicago and Northwestern Railway Company is liable, among which were the bonds of the La Crosse, Trempeleau and Prescott Railroad Company, and of the Winona and St. Peter Railroad Company, held and owned by your orator, Moses Taylor, as aforesaid, and of said sum of \$48,000,000, the residue not reserved, as aforesaid, amounting to the sum of \$12,651,000, was, for the most part, expended in the construction and equipment of the railroads of said company in the State of Wisconsin; and the amount so reserved, as aforesaid, is the amount for which the said Chicago and Northwestern Railway Company was liable at the time of the issue of said mortgage upon all its bonded debts, and upon the bonds of other companies for which the said Chicago and Northwestern Railway Company had legally become liable.

And your orators further show to your honor, that your orator, William Frederik Piek, is the owner and holder of the said Chicago and Northwestern Railway Company's General Consolidated Gold Bonds to the amount of \$217,000, which were purchased by him for a full consideration, and which are unpaid and unsecured, except by the trust deed aforesaid.

Your orators further show to your honor, that said consolidated company was the owner of the railways extending from Chicago, in the State of Illinois, to Negaunee, in the State of Michigan; from Chicago to the east bank of the Mississippi river; from Turner Junction to Freeport, in the State of Illinois; from Kenosha, in the State of Wisconsin, to Rockford, in the State of Illinois; from Belvidere, in the State of Illinois, to a junction with the La Crosse, Trempeleau and Prescott Railroad, near La Crosse, in the State of Wisconsin; from Elgin, in the State of Illinois, to Geneva Lake, in the State of Wisconsin, including the Elgin and State Line, and the State Line and Union railroads; that said Chicago and Northwestern Railway Company had, by the terms of said

consolidation and by the issue of its own bonds, as hereinafter stated, become indebted to various persons, as follows:

Upon preferred sinking fund bonds, Chicago and Northwestern Railway Company, dated July 1st, 1859, payable in 1865, \$1,245,-500.

Upon funded coupon bonds of the Chicago and Northwestern Railway Company, dated August 1st, 1861, payable 1883, \$755,000.

Upon general first mortgage bonds of the Chicago and Northwestern Railway Company, dated July 1st, 1859, payable 1885, \$3,588,000.

Appleton Extension bonds of the Chicago and Northwestern Railway Company, dated November 1st, 1860, payable 1885.

Green Bay Extension bonds of the Chicago and Northwestern Railway Company, dated April 1, 1860, payable 1885, \$289,000.

Seven per cent. equipment bonds of the Chicago and Northwestern Railway Company, dated January 1, 1863, payable 1874, \$101,-000.

First mortgage bonds, Galena and Chicago Union Railroad Company, dated June 1, 1853, payable 1882, \$1,785,000.

Second mortgage bonds of the Galena and Chicago Union Railroad Company, dated May 1, 1855, payable 1875, \$948,000.

Mississippi river bridge bonds of the Galena and Chicago Union Railroad Company, dated January 1, 1864, payable 1884, \$200,-000.

Bonds of the Galena and Chicago Union Railroad Company, issued for the purchase of the Elgin and State Line Railroad, dated November 2, 1863, payable 1878, \$135,000.

First mortgage bonds of the Peninsula Railroad Company, in Michigan, dated May 5, 1864, payable 1898, \$695,000.

First Mortgage bonds on the Beloit and Madison Railroad Company, dated January 1, 1863, payable 1888, \$324,000.

The consolidated sinking fund bonds of the Chicago and Northwestern Railway Company, dated January 16, 1865, payable 1915, \$2,686,000.

Madison Extension first mortgage sinking fund gold bonds, dated April 1, 1871, payable 1911, \$3,150,000.

Menomonee Extension first mortgage sinking fund gold bonds, dated June 1, 1871, payable 1911, \$2,700,000, amounting in the aggregate to the sum of \$18,749,500.

Your orators further show to your honor that the said Chicago and Northwestern Railway Company is the owner in whole or in greater part of the stock of certain other railroad companies in the States of Illinois, Wisconsin, Iowa and Minnesota and in the Territory of Dakota, the several railroads of which companies are leased in perpetuity to the said Chicago and Northwestern Railway Company, and are operated and controlled by it by virtue of its interest therein, as hereinafter specified, to-wit:

The Chicago and Milwaukee Railroad, from Chicago, in the State of Illinois, to Milwaukee in the State of Wisconsin.

The La Crosse, Trempeleau and Prescott Railroad, in Wisconsin, from its junction with the Chicago and Northwestern Railway,

near La Crosse, to the bridge across the Mississippi River, near Winona.

The Winona and St. Peter Railroad, from Winona, in the State of Minnesota, to the Big Sioux River, including the Winona & St. Peter Railroad in the Territory of Dakota, and the bridge across the Mississippi River, at Winona, with the branch to Mankato, known as the Winona, Mankato and New Ulm Railroad.

The Iowa Midland Railway, from a point on the Chicago, Iowa and Nebraska Railroad, near Clinton, to Anamosa, in the State of Iowa; and the Northwestern Union Railroad, from Milwaukee to Fond du Lac, in the State of Wisconsin, with a branch to Lodi and a branch to the iron mines in Dodge county, Wisconsin.

The St. Charles Railroad, from the town of St. Charles to the town of Batavia, in the State of Illinois; and the branch from Stanwood to Tipton, in the State of Iowa, known as the Stanwood and Tipton Railroad; and that the said several railroad companies, whose stock is owned by the said Chicago and Northwestern Railway Company, as aforesaid, have severally issued bonds, secured by trust deeds or mortgages upon their respective lines of railroad severally, with their equipment and appurtenances, and upon the franchises of said companies respectively; which said bonds now outstanding amount in the aggregate to the sum of \$16,599,500, the payment of which has been assumed by the said Chicago and Northwestern Railway Company, as follows:

First Mortgage bonds of the Milwaukee and Chicago Railroad Company, dated May 1, 1854, payable 1874, \$397,000.

Second mortgage bonds of the Milwaukee and Chicago Railroad Company, dated Feb. 1, 1854, payable 1874, \$182,000.

Third mortgage bonds of the Milwaukee and Chicago Railroad Company, dated August 1, 1863, payable 1898, \$1,135,000.

La Crosse, Trempeleau and Prescott Railroad Company's first mortgage bonds, dated April 1, 1868, payable 1878, \$1,000,000.

Winona and St. Peter Railroad Company's first mortgage bonds, dated January 1, 1867, payable 1887, \$2,750,000.

Winona and St. Peter Railroad Company's second mortgage bonds, dated November 1, 1867, payable 1907, \$1,650,000.

Winona and St. Peter Railroad Extension first mortgage sinking fund gold bonds, dated December 1, 1871; payable, 1916, \$4,375,000.

Winona and St. Peter Railroad Company, of Dakota, same class, for completion of road in Dakota, \$250,000.

Iowa Midland Railway Company's first mortgage bonds, dated October 1, 1870, payable 1900, \$1,350,000.

Northwestern Union Railway Company's first mortgage sinking fund gold bonds, dated June 1, 1872, payable 1917, \$3,500,000. The payment of all which bonds has been assumed by the said Chicago and Northwestern Railway Company, and for which it is now liable.

Your orators further show to your honor, that, as they are informed and believe, the total cost of all the railroads of the Chicago

and Northwestern Railway Company, to March 31, 1874, was the sum of \$65,090,805.12.

The total earnings of the said railways for the year ending December 31, 1873, was the sum of \$13,816,464.59.

Your orators further show that the total earnings of said railway company, in the State of Wisconsin, for the year ending December 31, 1873, were the sum of \$3,190,523.64.

The total cost of the railway of said company, in the State of Wisconsin, was the sum of \$28,074,317.35.

The total operating expenses of the said railroad company, in the State of Wisconsin, for the year ending December 31, 1873, were the sum of \$2,099,850.66.

Your orators further show that more than seventy per cent. of the earnings of said company, in the State of Wisconsin, were necessarily required to pay the operating expenses of said railways in said State, and that the debt of said company applicable to the railroads in Wisconsin, was the sum of \$17,247,770.00.

Your orators further show to your honor, that the said Chicago and Northwestern Railway Company has been able to pay, and has paid the interest upon its outstanding obligations as the same have become due and payable, from the monies and revenues received from the operation of its lines of road, and that the roads aforesaid, whether they are the roads of the said Chicago and Northwestern Railway Company, or roads controlled and operated by said company, as aforesaid, are all operated as one connected line of road, extending through, or partly through, the States of Michigan, Wisconsin, Illinois, Iowa, Minnesota, and the Territory of Dakota, and that said lines of road can be much more profitably operated in such connection than if the same were operated as separate roads.

Your orators further show to your honor that, as they are advised and believe, the managers of the said Chicago and Northwestern Railway have been from time to time reducing their rates of fare and freight upon the said railroads, and the reductions have been made according to the following table, shown in the annual report of the company, for 1873:

	Earnings per passs'r per mile	Earnings per ton of Freight per mile.
For the year ending May 31, 1867.....	\$.03.93	\$.03.48
For the year ending May 31, 1868.....	.04.02	.03.13
For the year ending May 31, 1869.....	(*)	(*)
For the year ending May 31, 1870.....	.03.29	.03.09
For the year ending May 31, 1871.....	.03.31	.02.87
For the year ending May 31, 1872.....	.03.28	.02.61
For the year ending May 31, 1873.....	.03.16	.02.35

Which are twenty per cent. reduction on passenger rates, and thirty-two per cent. on freight, since 1867.

Your orators further show to your honor that the aforesaid reductions have been made in the rates of fare and freight of said railway, as your orators are informed and believe, for the purpose of

*Records for 1869 were destroyed by Chicago fire and cannot be replaced.

aiding in developing the resources of the country in which said road is located, with the view of increasing the business of the said road, and the consequent increase of its revenues, although it was not possible for said company, at such rates, to pay any dividends whatever to its stockholders since the month of December, 1872, on its common stock, and but three and one-half per cent. upon its preferred stock since that date.

Your orators further show to your honor that the existing rates of fare and freight established by said railway company are reasonable and just, and are, in fact so low that, in operating its said railway under the rates of fare and freight established by the Chicago and Northwestern Railway Company, it has not derived and does not derive from all its sources of revenue a sum sufficient to pay the necessary cost of operating said railways and maintaining the equipment and appurtenances in a proper state of efficiency and repair, and to pay the interest on the bonds for which said company is liable, and to pay the legal rate of interest in the State of Wisconsin upon the money actually invested by its stockholders in the construction and equipment of said road.

And your orators further show to your honor that, in operating the said Madison Extension of the railroad of said company, and the said Menomonee Extension of the railroad of said company, which are the roads mentioned and described and conveyed severally in the trust deeds given to secure the bonds owned and held by your orators, Willem Frederik Piek and Henry R. Pierson, as aforesaid, as the same have been operated under the tariff of rates for the transportation of passengers and freight, fixed by said company as aforesaid, neither of said divisions of said company's railroad has afforded sufficient revenue to said company to pay the necessary operating expenses of the same and the sums necessary to be expended in maintaining said roads, with their equipment and appurtenances, in a proper state of efficiency and repair, the interest upon the bonds given by said company for moneys actually used in the construction and equipment of said Madison Extension and of said Menomonee Extension severally, and the legal rate of interest in said State to the stockholders of said company, upon the sums of money actually paid by them, and applied in the construction and equipment of said Madison Extension, and Menomonee Extension, severally.

Your orators further show to your honor that an act was passed by the legislature of the State of Wisconsin, approved March 11, 1874, entitled, "An act relating to railroads, express and telegraph companies in the State of Wisconsin," which is as follows: [See page 1 of Appendix "A" of this report.]

And afterward, to-wit, on the 12th day of March, A. D. 1874, the following joint resolution was passed by the legislature of Wisconsin:

JOINT RESOLUTION directing the Secretary of State not to publish bill No. 466, Assembly, regulating tariff on railroads, until April 28, 1874.

Resolved by the Senate, the Assembly concurring, That the Secretary of State be, and he hereby is, instructed not to publish or cause to be published, until April 28,

1874, Assembly bill No. 466, an act passed during the present session of the legislature, regulating the tariff for the transportation of passengers, approved March 12, 1874, which act mentioned in said joint resolution is the act last above set forth, (to wit, the act approved March 11, 1874).

Your orators further show to your honor that the said Chicago and Northwestern Railway Company operates its roads under rules established by said company, which fix the rates to be charged for the transportation of passengers and freight upon all the roads of said company and the roads operated by it; that said rates of fare and freight have been established by said company, after a careful examination of all the facts and circumstances bearing upon the question which it was in the power of the officers of said corporation to procure, as your orators are advised and verily believe, and said rates are reasonable and just; and your orators further state, upon their best information and belief, that said company will not derive from all its sources of revenue a sufficient sum of money to pay the operating expenses of said railway and to pay the interest upon its bonds, as aforesaid, and maintain the said railroad and its equipment in a proper state of efficiency, without paying any dividends whatever to its stockholders or making provisions for a sinking fund to retire the bonds which are becoming due at the several times therein specified, if its said roads are conducted and operated under and in accordance with the provisions of said act of March 11, 1874; that the sole security for the payment of the bonds holden by your orators is the said road mentioned in the trust deed securing said bonds, the equipment and appurtenances of the same and the revenues to be derived from operating said road; that, if said roads are required to be operated for the rates of fare and freight specified in said act, instead of returning any compensation whatever to the owners of said roads, the same will be run at a loss, and consequently the value of said roads will be entirely destroyed, and the security which your orators hold for the bonds held and owned by them, as aforesaid, will be entirely destroyed; that the said bonds were issued and the contract between said railway company and your orators, contained in said bonds, was made under and in pursuance of the then existing laws of the State of Wisconsin; that, when your orators became the owners of the bonds aforesaid, they had a right to presume and did presume that the property mortgaged in the trust deed to secure said bonds would be employed by said corporation for reasonable rates of compensation in transacting their business.

Your orators further show to your honor that the result of the enforcement of the act last aforesaid will be either the failure of the said company to pay its bonded debts heretofore set forth, and the interest thereupon as the same accrues, or the suspension by said company of the operation of said railways in the State of Wisconsin and the consequent destruction of the security held by your orators for the payment of the bonds held by them as aforesaid, as they are informed and verily believe.

Your orators further show to your honor that the classes of freight established by section three of said act is different from the

classes of freight established by the law of the State of Illinois for the transportation of freight upon the same road, and different from the classes of freight established by the State of Iowa for the transportation of freight upon the road of said company, and different from the classes of freight established by the laws of the State of Minnesota for the transportation of freight upon the railroads of said company, and that it is practically impossible to carry on the business of transportation of freight from the State of Wisconsin into either one of the other states above named, in accordance with the laws of the State of Wisconsin and such other states, and that, in relation to freight transported from the said State of Wisconsin to either of the states of Illinois, Iowa and Minnesota, it is impossible that the same shall be transported in pursuance of the provisions of the acts of the said several States.

Your orators charge that, as they are advised by counsel and believe, the enforcement of the act above named, or compliance with the same by the said railroad company, would impair the obligations of the contract entered into between the said railway company and your orators, and, for that reason, the act aforesaid is in contravention of the constitution of the United States, for that the said act would compel the said railway company to employ the property mortgaged to secure the bond holden by your orators and the other creditors of the said company in such manner as to deprive such creditors of the security which lawfully belongs to them under such contract.

Your orators further charge that the act aforesaid is in violation of the thirteenth article of the bill of rights of the constitution of the of State Wisconsin, which is as follows :

“The property of no person shall be taken for public use without just compensation thereof.”

And your orators further charge that the legislature of Wisconsin had no constitutional power or authority to pass the act above recited, and that the said act is without any binding force upon the said company.

Your orators further charge that the enforcement of the act above recited would impair the obligation of the contract entered into between the stockholders of the said Galena and Chicago Union Railroad Company and the stockholders of the said Chicago and Northwestern Railway Company, contained in the consolidation of said companies above set forth, and thereby greatly impair the security of your orators for the payment of the bonds held by them as aforesaid, and is in violation of the constitution of the United States, which provides that no State shall pass any law impairing the obligation of contract.

Your orators further show that, when the several railroads consolidated in the one above set forth in this bill were thus consolidated, the holders of the stock in said several roads surrendered said stock and received in exchange therefor what was termed consolidated stock, or stock representing the property and franchises of all the roads thus consolidated.

Your orators further show that the holders of said consolidated

stock have, since such consolidation, annually elected a president and directors of said railway company, and since said consolidation, said president and directors have had, in behalf of said consolidated company, the exclusive possession, control and direction of said road and the business thereof, and that said consolidated company and the president and directors thereof thus controlled the said several roads above set forth as one entire road, which road, with its appurtenances, property and franchises, is represented solely by the consolidated stock created under and by virtue of the laws of the said States of Illinois, Wisconsin and Michigan.

Your orators further show that the 18th section of the act of the legislature of Wisconsin, approved March 11, 1874, reads as follows:

“Nothing contained in this act shall be taken as in any manner abridging or controlling the rates for freight charged by any railroad company in this State for carrying freight which comes from beyond the boundaries of the State and to be carried across or through the State, but said railroad companies shall possess the same power and right to charge such rates for carrying such freight as they possessed before the passage of this act.”

Your orators further charge that they are advised that the proper construction of said section, taken in connection with the other sections of said act, would be, that the rates of freight prescribed by the said act are to be applied to all merchandise which is shipped at any point within said State to any point either within or without said State, and your orators charge that this is a regulation of inter-state commerce which they are advised the legislature of Wisconsin has no power to enact.

Your orators further charge that the said Chicago and Northwestern Railroad Company has never accepted the terms of the act of March 11, 1874, aforesaid, but that it will be obliged to accept the rates of fare and freight upon its road specified in said act, or to cease the operation of its said road in the State of Wisconsin, unless said act shall be held to be without constitutional validity, as your orators are advised and believe, and in either event, the security which is held by your orators severally for the payment of the bonds owned by them, as aforesaid, would be wholly destroyed.

Your orators further charge that, by an act of the legislature of Wisconsin, passed March 12, 1874, which was the day subsequent to the passage of the said act, of March 11, 1874, above set forth, the said Chicago and Northwestern Railway Company and all other railway companies in the State of Wisconsin were, as your orators are advised, authorized to charge fair and reasonable rates of compensation; and your orators submit to your honors whether said act of March 12, 1874, a copy of which is hereto annexed, marked Exhibit 21, did not repeal by implication, the said act of March 11, 1874.

Your orators further charge that George H. Paul, Joseph H. Osborn and John W. Hoyt have been appointed railroad commissioners of the State of Wisconsin, under and in pursuance of the terms of said act, and have accepted said appointment and entered upon the discharge of their duties as said commissioners, and your

orators greatly fear that the said railroad commissioners, claiming to act by virtue of the powers conferred upon them by said act, will proceed to classify in some one or other of the classes of freight named in said act, the articles of freight which are not specifically classified by the terms of said act, and that said railroad commissioners will also proceed to reduce the rates of fare and freight upon the railroads of said company, unless restrained from so doing by the order of this honorable court.

Your orators further charge that divers and sundry prosecutions have already been commenced against the agents of said company, at different places in said States, for the alleged violation of the provisions of said act of March 11, 1874, in charging greater rates of toll than the rates prescribed by said act, under which prosecutions the said agents have been arrested, and would have been imprisoned if said company had not procured bail to be given for the appearance of such agents for trial.

Your orators further charge that the Governor of the State of Wisconsin has issued, since said act of the legislature took effect on the 28th day of April, A. D. 1874, his two several official proclamations, in which he states his intention to enforce all the provisions of said act by all the means in his power, and, in his proclamation issued upon the 21st day of May, A. D. 1874, he requests and enjoins all districts attorneys, promptly and vigorously to prosecute to conviction and punishment, all offenders against said law, and further states that "printed forms and instructions for the prosecution of such actions will be promptly furnished on the request of any officer of the law, made to the Attorney General, at Madison."

Your orators further charge that other persons, whose names are to your orators at present unknown, but whom your orators ask leave to make parties defendant to this bill, when discovered, with apt words to charge them, are preparing and intending to bring suit against the said railway company for the purpose of enforcing the provisions of said act of March 11, 1874, and said railway company will be harrassed with a great multiplicity of suits, and its business seriously injured and impaired, and the securities which your orators severally hold for the payment of their bonds aforesaid be greatly impaired and depreciated, unless the parties herein named shall be restrained from proceeding to enforce the provisions of said act in the manner aforesaid.

Your orators further show to your honor that, in consequence of the passage of said act of March 11, 1874, and the proposed enforcement of the same by the said Railroad Commissioners and the Attorney General of the State of Wisconsin, and the arrest of the agents of said railway company under the provisions of said act, the value of the securities held by your orators, Willem Frederik Peik, Henry R. Pierson, and Moses Taylor, and represented by your orators, The Farmers' Loan and Trust Company and The Union Trust Company, severally, as trustees, has very greatly depreciated, and your orators have applied to said railway company and requested it to cause such legal proceedings to be instituted in its name as

would effectually protect the rights of the holders of bonds of said railway company, against all attempts to enforce the said act of March 11, 1874, either through the Railroad Commissioners appointed under said act, or by prosecution of the officers of said company, because the enforcement of the act would impair the obligation of the contract made by the said railway company with the holders of said bonds, and greatly impair the value of their securities; and your orators requested said company to consider the fact that the passage of the act had already greatly depreciated the value of said bonds and that the proposed enforcement thereof, in the ways contemplated by its provisions, must inflict irremediable injury upon the property which stands as security for the bonds of said company; but said company, acting through its board of directors, has declined to take steps necessary to protect the rights of your orators in the premises, either by the institution of the necessary legal proceedings or in any other manner.

Your orators therefore charge that the said defendants, George H. Paul, Joseph H. Osborn and John W. Hoyt, the Railway Commissioners aforesaid, and the said defendant, A. Scott Sloan, the Attorney-General of the said State of Wisconsin, are preparing to institute or cause to be instituted, a great multiplicity of suits against the said railway company and its agents for the purpose of enforcing the provisions of said act of March 11, 1874, and, unless said Railway Commissioners and the said Attorney-General are restrained by the order of this honorable court, they will cause a great number of said suits to be instituted against the local agents of said company, which suits would greatly embarrass said company, subject it to heavy expenses and compel it wholly or in part to suspend its business, and thereby impair its means of discharging the interest due to your orators and other bondholders upon its said bonds.

Your orators further charge that said Railroad Commissioners and Attorney-General are preparing to have the agents of said railway company, along all the line of its said railroads in Wisconsin, arrested and imprisoned under the provisions of said act, and that they will do so unless restrained by order of this honorable court; and that, if the agents of said company are so arrested, the said company will be compelled either to operate its said railroads under said act, in such manner as to fail to raise sufficient revenue to pay the necessary operating expenses thereof and to pay for keeping said roads and their equipments in a proper state of repair, and to pay the interest on its bonds, and to provide a proper and reasonable sinking fund to pay the principal of said bonds; or to cease from operating said railroad altogether, and, in either case, the value of the bonds owned and held or represented by your orators, as aforesaid, would be greatly depreciated or wholly destroyed.

In consideration of the premises, and inasmuch as your orators are without remedy in the premises, save by the aid of a court of equity, where matters of this sort are properly cognizable and relievable,

Your orators pray that the said Chicago and Northwestern Rail-

way Company, the said George H. Paul, J. H. Osborn, John W. Hoyt and A. Scott Sloan may be made parties defendant to this bill, and duly summoned to answer the same, and that the said railway company may be enjoined by the order of this honorable Court from doing any act which shall amount to an acceptance of the terms of the provisions of the said law as an amendment to the charter of said company, or from operating its railroad in the State of Wisconsin for such rates of fare and freights as will be insufficient to yield a revenue adequate in amount to pay the necessary expenses of operating and maintaining said road and its equipment, and to pay the interest upon its bonds which are held and owned by your orators, Willem Frederick Piek, Henry R. Pierson, and Moses Taylor, as aforesaid, or represented by your orators, the Farmers' Loan and Trust Company, and the Union Trust Company severally as trustees in the manner hereinbefore stated; under the pretense that the said act of March 11th, 1874, is a valid act which said company is required to obey in so far as said act attempts to fix the rate of compensation which may be required by said company for the transportation of passengers and freight, and that the said George H. Paul, J. H. Osborn and John W. Hoyt may be enjoined from fixing any rates for the transportation of persons or property over the road of said company, under and in pursuance of the provisions of said act, approved March 11, 1874, or from classifying, under the provisions of said act, any articles of freight or property which are not now classified, and that said railway companies and said Sloan and each of them, be enjoined from arresting or causing or aiding or abetting the arrest of any of the agents of said railway company under the provisions of said act, or from instituting or causing to be instituted against said railway company, or its agents or officers, any suit or suits or other proceedings, for the purpose of enforcing the provisions of said act of March 11, 1874, and that the said defendants be required severally to answer this bill, without oath, their oath to the same being hereby expressly waived, and that, upon the final hearing of this bill, the said act of March 11, 1874, may be held and declared to be without constitutional validity, and that the injunction herein prayed may be made perpetual, and for such other relief as to your honor shall seem meet and as to equity shall appertain.

C. B. LAWRENCE,

Solicitor for Complainants.

UNION TRUST CO., OF NEW YORK,

By EDWARD KING.

THE FARMERS' LOAN & TRUST CO.

R. G. ROELSTON, *Pres.*

MOSES TAYLOR.

A. G. DULMAN, *Attorney in fact.*

For WILLEM FREDERIK PIEK.

H. R. PIERSON.

STATE OF NEW YORK,

City and County of New York, ss.:

A. G. Dulman, a resident and citizen of the State of New York, being first duly sworn, says that he is the agent and attorney in fact of Willem Frederik Piek, who is a citizen of the city of Amsterdam, and kingdom of the Netherlands, and said affiant has read the bill of complaint to be filed in behalf of said Piek, Moses Taylor, and others, in the circuit court of the United States for the western district of Wisconsin, against Joseph H. Osborn, Geo. H. Paul, and John W. Hoyt, railroad commissioners of the State of Wisconsin, and A. Scott Sloan, the attorney-general of said State, and the Chicago and Northwestern Railway Company; and he further says that the allegations of said bill in regard to the bonds of said company, held by said Piek, are true of his own knowledge; and the other allegations of said bill he believes to be true.

A. G. DUNHAM.

Subscribed to before me, this 30th day of May, 1874.

EDWARD L. OWEN,

U. S. Commissioner for the Southern District of New York.

STATE OF NEW YORK,

City and County of New York, ss.:

Moses Taylor a resident and citizen of the State of N. Y., being first duly sworn, deposes and says that he has read the foregoing bill of complaint to be filed in his behalf, and in behalf of Willem Frederik Piek, and others, in the circuit court of the United States for the western district of Wisconsin, against Joseph H. Osborn, Geo. H. Paul, and John W. Hoyt, as railroad commissioners of the State of Wisconsin, and A. Scott Sloan as attorney-general of said State, and the Chicago and Northwestern Railway Company; and he further says that the allegations of said bill, so far as they relate to the bonds of said Railway Co., held by said affiant, are true; and all the other allegations in said bill he believes to be true.

MOSES TAYLOR.

Subscribed and sworn to before me this 30th day of May, 1874.

EDWARD L. OWEN,

U. S. Com'r for the Southern District of New York.

STATE OF NEW YORK,

City and County of New York, ss.:

Henry R. Pierson, a resident and citizen of the State of New York, being first duly sworn, deposes and says that he has read the foregoing bill of complaint to be filed in his behalf and in behalf of Willem Frederik Piek, and others, in the circuit court of the United States for the western district of Wisconsin, against Joseph H. Osborn, George H. Paul, and John W. Hoyt, as railroad commissioners of the State of Wisconsin, and A. Scott Sloan, as attorney-general of said State, and the Chicago and Northwestern Railway Company; and affiant further says that the allegations of said

bill, so far as they relate to the bonds of said company, held by said affiant, are true, and all the other allegations in said bill be believes to be true.

H. R. PIERSON.

Subscribed and sworn to before me, this 30th day of May, 1874.

EDWARD L. OWEN,

U. S. Commissioner for the Southern District of New York.

STATE OF NEW YORK,

City and County of New York, ss.:

R. G. Ralston, being first duly sworn, saith that he is president of the Farmers' Loan & Trust Company, which is a body corporate, incorporated under and by virtue of the laws of the State of New York, and is located and doing business in the city of New York, in said State; that affiant has read the foregoing bill of complaint to be filed in the suit of Willem Frederik Piek, Moses Taylor, Henry R. Pierson, and others, against Joseph H. Osborn, George H. Paul, and John W. Hoyt, as railroad commissioners of the State of Wisconsin, and A. Scott Sloan, as attorney-general of said State, and the Chicago & Northwestern Railway Company, in the circuit court of the United States for the western district of the State of Wisconsin; and affiant further says that the allegations of said bill, so far as the same relate to the interest of the said Farmers' Loan & Trust Company as trustee for the bondholders of said railway company, are true, and all the other allegations of said bill this affiant verily believes to be true.

R. G. ROLSTON.

Subscribed and sworn to before me, this 29th day of May, 1874.

EDWARD L. OWEN,

U. S. Commissioner for the Southern District of New York.

STATE OF NEW YORK,

City and County of New York, ss.:

Edward King, being duly sworn, saith that he is president of the Union Trust Company, a body corporate, duly incorporated under the laws of the State of New York, and located and doing business in the city of New York; that affiant has read the foregoing bill of complaint filed in the suit of Willem Frederik Piek, Moses Taylor, Henry R. Pierson, and others, against Joseph H. Osborn, George H. Paul, and John W. Hoyt, as railroad commissioners of the State of Wisconsin, and A. Scott Sloan, as attorney-general of said State, and the Chicago and Northwestern Railway Company, in the circuit court of the United States for the western district of Wisconsin; and affiant further says that the allegations of said bill, so far as the same relate to the interest of the Union Trust Company as trustee for the bondholders of said railway company, are true, and all the other allegations of said bill this affiant verily believes to be true.

EDWARD KING.

Subscribed and sworn to before me, this 29th day of May, 1874.
EDWARD L. OWEN,

U. S. Commissioner for the Southern District of New York.

EXHIBIT 1.

An act to execute the trust created by an act of Congress, entitled "An act granting public lands to the State of Wisconsin, to aid in the construction of railroads in said State," approved June 3, 1856, by incorporating the Wisconsin and Superior Railroad Company, and granting a portion of said lands thereto.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION. 1. Herman Hartel, Alfred Lamberson, Cyrus P. Hiller, Charles Kuehn, Bertine Pinckney, James H. Weed, Anson Ballard, James Duane Doty, George F. Wright, B. Frank Moore, Julius White, William Scott, John Bradley, Albert Winslow, and Joseph Turner, and such other persons, if any, as shall associate with them and become stock-holders, as hereafter in this act provided, are hereby created, constituted, made, appointed and declared a body corporate and politic by the name and style of the Wisconsin and Superior Railroad Company; and said corporation, by and under the afore-said corporate name and style, shall have perpetual succession, and shall have and enjoy all and singular the rights, powers, authority, privileges, franchises and immunities, as are necessary and proper to the full and complete possession, exercise, and enjoyment of those hereby expressly conferred. Said company may, and it shall have power to purchase, hold, and own wood-land, for the purpose of obtaining wood to operate or fence its railroads; but such wood-lands shall always be subject to assessments and taxation, and shall never be considered as a part of the property hereinafter exempt from taxation and assessment; said company may also, and it shall have power, at pleasure, to sell, lease and convey such wood-land, or any portion of them. Said company shall also have power to purchase, take, hold, sell, lease and convey all such estates, real, personal or mixed, other than the afore-mentioned wood-lands, as may be necessary or proper to have, hold, use or possess, for, in or about the construction or equipment, renewal, repair, maintaining or operating its railroad; said company may also take, hold, or occupy all such lands, as may be given or granted to it by this State or by the Government of the United States, or both, for the purpose of aiding in the construction of any of its railroads. And after such last-mentioned lands are so as above given or granted to said company, it may, subject to the terms, conditions, impositions, restrictions, and limitations contained in such gift or grant, sell and convey the same, and may otherwise do with said lands as hereinafter provided. All other estates, property and effects which said company may purchase or acquire by gift or grant, other than that which is above in this section mentioned, shall always be subject to taxation and as-

assessment, notwithstanding the exemptions hereinafter contained. Said company shall have power to make, have and use a common seal, and alter, break, and renew the same at pleasure, and, by and under its aforesaid corporate name and style, said company shall be capable of contracting and being contracted with, for and as to the purposes in this act contained, of suing and being sued, of pleading and being impleaded, defending and being defended, answering and being answered unto, in law or in equity, in all courts and places whatsoever, as fully and completely as natural persons, except that it shall never set up the plea of usury to any contract to which it shall be a party in any court whatever,

SECTION 2. The company by this act created is hereby further authorized and empowered to survey, locate, construct, and complete, perpetually to have, use, and enjoy, maintain and operate, a railroad, with one or more tracks or lines, over the routes following, that is to say: Beginning at the city of Fond du Lac, which is situated on Lake Winnebago in this State, and running from thence by the way of the town or city of Oshkosh and township number twenty-one north, of range number seventeen east, and east of the southeast corner of section number twenty in said last-named township northerly to the State line on the St. Louis River, or to such other point on the State line within the meaning of the act of Congress entitled, "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June 3, 1856, as the company shall determine.

SECTION 3. The company hereby created shall have the perpetual right, power, authority to transport, take, and carry property and persons upon said roads by the power and force of steam, of animals, or of any mechanical or other power, or of any combination of them, and to receive and store any property in any of its depots or other buildings, and to make, construct, maintain, and use all such switches, turn-outs, side-tracks, and connecting-tracks, as it shall think necessary, and also construct, erect, maintain, and use all such depots, station-houses, ware-houses, car-houses and shops, engine-houses, and other buildings, fixtures, and things useful for the accommodation of said company and its roads and those using the same; to purchase or manufacture and own rails, chairs, spikes, engines, cars, tenders, and all other things necessary or useful for the construction or operation of a railroad, and to sell the same. And it shall also have the power and authority to operate its said roads or either of them, in connection with any and all other railroads which may cross, come up to, or connect with the said roads, or either of them, upon such terms as shall be mutually agreed upon by and between the said companies: Provided, That the said company, in making any such contracts as last aforesaid, shall give no preference to one company over any other such company or companies last above mentioned, but all such companies shall be put upon the same equal terms; and whenever and so often as any such business-connection contract shall be made or entered into, the same shall be in writing, duly signed and sealed with the seals of the companies parties thereto in triplicate, and when so executed

and sealed one copy thereof shall be filed with the secretary of state, whose duty it shall be to mark thereon the time of its reception, and to carefully preserve and keep the same in his office, open to the inspection of all persons. And the copy so filed with the secretary of state is hereby declared a public record. No such contract shall have any force or effect in law unless such copy is filed with the secretary of state as aforesaid. Either of the companies being a party to any such contract may be compelled by a mandamus to file with the secretary of state a triplicate copy thereof, as aforesaid.

SECTION 5. It shall be lawful for the company hereby created, and it shall have the right, power, and authority, by its officers, engineers, agents, servants, and workmen, at any time to enter upon any land for the purpose of exploring, surveying, locating, and determining the route of said railroads, and when the said routes of any portion thereof shall be determined by resolution adopted by its board of directors, it shall be lawful for the last-aforesaid company, and it shall have the right, power, and authority by its officers, engineers, agents, contractors, surveyors, servants, and workmen, at any time to enter upon, take, possess, occupy, and use any land along and including the line of said route not exceeding two hundred feet in width. It shall also be lawful for said company, and it shall have the right, power and authority, at any time to enter upon, take, possess, and occupy and use any other lands beyond said limits of two hundred feet which the directors shall, by resolution adopted by them, (a copy of which shall be recorded at the expense of said company in the office of the register of deeds in the county in which such lands are located,) declare to be necessary for the use of said company for the purpose of erecting depot-buildings, station-houses, machine-shops, freight-houses, ware-houses, engine-houses or buildings, or fixtures of any kind, or ground about the same for the convenient operation of the road, or for making drains, or giving proper direction to water-courses, or of directing or changing the channel of water-courses, or for the purpose of running such substances or things as may endanger, obstruct, or interfere with the free use of said road, for the purpose of depositing earth, gravel, or stone, or for the purpose of obtaining earth, gravel, stone, timber, or other material for embankments, structures or superstructures necessary to the construction, repair, or renewal of said roads. Said company shall, however, at such time and in such manner as is provided by and in the chapter and act, be liable to pay the full value of all earth, gravel, stone, timber, and land which may be so as aforesaid taken, possessed, and occupied and used for any other purposes aforesaid, which is the private property of either persons or corporations, which value (unless the owner thereof or said company shall agree to the same) shall be ascertained and determined in the manner hereinafter provided; and whenever the same shall have been paid, tendered, or deposited as provided in this act, an estate in and to all and every such lands in fee-simple, absolute, forever, shall be and become vested in said company by virtue thereof and of the provisions of this act, and by the same means a complete title shall

vest in said company in and to all such earth, gravel, stone, and timber; and whenever said company shall deem that the same, or any part or portion of the aforementioned property, shall no longer be necessary for the purposes for which the same were taken, it is hereby authorized and empowered, by deed or other instrument in writing, to lease or sell the same, or any part thereof.

SECTION 6. On the completion of said road, or any part thereof, it shall be lawful for said company, and it is hereby authorized and empowered, to demand and receive such sum or sums of money for the transportation of persons and property and for the storage of property as it shall from time to time deem reasonable.

SECTION 8. The company hereby created shall commence the construction of its railroad at the aforesaid city of Fond du Lac, and shall complete the same to township number twenty-one north, of range seventeen east, before it shall construct and operate such railroad from said township northerly. And so soon as said portion of the road herein last referred to shall be completed, the same shall henceforth, from the time of such completion, be operated by the company hereby created; and the said company shall fully equip and complete the entire length of said railroad on or before the third day of June, 1866.

SECTION 9. The company hereby created shall be entitled to and invested with the title to the lands and all and singular the rights, privileges, and immunities granted or conferred, or intended to be granted or conferred, by the act of Congress approved June 3, A. D. 1856, entitled "An act granting public lands to the State of Wisconsin to aid in the construction of said roads in said State," to the extent of the whole of the lands granted by said act of Congress for the purpose of aiding in the construction of a railroad from Fond du Lac, on Lake Winnebago, northerly to the State line. Said company shall also be subject to all the restrictions, impositions, duties, and obligations contained in the said act of Congress, so far as the same are applicable to the company hereby created, or to the road hereby authorized to be constructed: Provided, That the title to the lands in this section mentioned and contemplated shall not vest in said company sooner or faster than the said lands might be sold as provided and declared in the aforesaid act of Congress, but so soon and so fast as the title to said lands shall vest in said company, and the said lands are hereby granted in consideration of the company so hereby created complying with the terms of the grant hereby made and of the aforesaid act of Congress.

SECTION 13. All the affairs and business of the company hereby created shall be conducted, managed, and carried on by a board of fifteen directors; who shall be stockholders of said company, and the board of directors is hereby invested with power and authority to conduct, manage, and carry on the affairs and business of said company, and also with such power and authority as will carry or promote the carrying into full and complete effect the meaning and intent of this act. The directors, after the first board, shall be chosen by the stockholders of the company, by ballot, as follows, viz: Five directors shall be chosen at the annual meeting of the

stockholders, which shall be held on the first Wednesday in the month of December, in the year of our Lord one thousand eight hundred and fifty-seven, and thereafter annually, on the first Wednesday in the month of December of each year, five directors shall be chosen. The annual meeting of the stockholders for the election of directors shall be held at the city of Oshkosh, in this State, unless otherwise established by the board of directors. At all meetings of the stockholders the votes of stockholders may be cast in person or by proxy duly authorized, and every stockholder shall be entitled to one vote for each and every share of stock held by him, and in all elections for directors those stockholders, equal to the number of directors to be elected, having the greater number of votes shall be deemed and declared duly-elected directors. The elections shall be conducted in such manner as shall be prescribed by the by-laws or by resolution of the company. If for any cause an election of directors should not be had at the time when, by the provisions of this act, it should be had, the same may be held at such other time as shall be fixed by the by-laws of the company, and until such election be had the directors of the preceding year shall continue to act, and the corporation shall not forfeit or lose any of its privileges, franchises, or immunities by reason of the irregularity or want of any such election.

SECTION 17. The company hereby created is hereby authorized and fully empowered, in its corporate capacity, to borrow any sum or sums of money from any person or persons, corporation, or body-politic of any kind, and for any rate of interest which may be agreed upon by and between said company and any party of whom such money may be obtained, and to make, execute, and deliver, in or out of this State, all necessary writings, notes, bills, bonds, mortgages, and all other papers or securities, in amount or kind as may be deemed expedient by said corporation, in consideration of any such loan, or in discharge of any liabilities they may incur in the construction, repair, equipment, or operating of said road, or in any of the transactions of the said company authorized in this act; and the said company is hereby authorized, in its corporate capacity, to make, execute, issue, and deliver its bonds or obligations in such an amount as the directors shall think best for the interest of said company, and the directors of the said company are hereby authorized and empowered to prescribe the sum or sums for which each of said bonds shall be issued, and the time or times, or place or places, when and where the principal and interest of the same shall be payable, and whether payable to order or to bearer, or how otherwise negotiable, the rate of interest which said bonds shall bear, and the manner and form in which the same and the interest-coupons annexed to them shall be executed; and to secure the payment of any or all of said bonds, the said company is hereby authorized and empowered, in its corporate capacity, to make, execute, and deliver a mortgage or mortgages, or deed or deeds of trust, upon the whole or any part of its railroad, constructed or authorized to be constructed, and upon the lands in this act granted to said corporation, and upon any other or all of its estate, real, personal,

or mixed, in possession or expectancy; and the said company is also hereby authorized and empowered, in and by such mortgage or deed of trust, to confer upon the trustee or mortgager full and ample power to enter into and upon and to take possession of, have, use, and enjoy, or to sell and dispose of, the whole or any part of said railroad or estate, real, personal, or mixed, together with the functions appertaining to such railroad, and all corporate or other franchises, rights, and privileges of the said railroad company, or to take up or remove any of the fixtures connected with said railroad; and the directors of said company are authorized and empowered to prescribe all matters relating to the form and terms of any such mortgage or deed of trust, and of its executions and delivery; and they are authorized and empowered to provide for the annual payment to such trustee or receiver as they shall appoint a certain sum to create a sinking-fund with which to pay off and discharge, at or before maturity, any or all of the bonds by them authorized to be issued, and also to provide the manner in which such trustee or receiver shall pay out or dispose of said sinking-fund, and to authorize him to designate by lot, or in any other suitable manner, the bond or bonds to the payment of which said sinking-fund, or any part of it, shall be applied; and the said company is hereby fully authorized and empowered, by its agents and brokers, or otherwise, either in or out of this State, to sell, loan, or pledge, hypothecate, or otherwise dispose of any or all of the aforesaid bonds, hereby authorized to be issued, at par, or at any price greater or less than par, and for such sum or sums as they shall think proper; and the said company, and its directors, officers, and agents, are hereby authorized and empowered to have, exercise, and enjoy all the rights, privileges, and powers herein conferred upon them respectively.

SECTION 22. The said company hereby created shall have full power and authority to connect their railroad with any other railroads or branch railroads in the State of Michigan, or to operate the same in connection with such other railroads or branch railroads, or to consolidate the capital stock of the company hereby created with the capital stock of any railroad company created under or by authority of the law of the State of Michigan, upon such terms and under such regulations as may be jointly agreed upon by the directors of said railroad company.

SECTION 34. This act is hereby declared to be a public act, and the same, immediately after the passage thereof, shall be printed by the State printer, and, thus published, shall take effect and be in full force.

Approved Oct. 11, 1856.

EXHIBIT 2.

An act to incorporate the Madison and Beloit Railroad Company.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. George H. Slaughter, Thomas W. Sutherland, Thomas

S. Whittlesey, Nathaniel W. Dean, Daniel B. Sneed, David L. Mills, Joseph B. Doe, A. Hyatt Smith, Edward V. Whiton, W. H. H. Bailey, Timothy Jackman, David Noggle, Alfred Field, and John Hackett, together with such other persons as may hereafter become associated with them in the manner hereinafter prescribed, their successors and assigns, are hereby created a body-corporate by the name of the "Madison and Beloit Railroad Company," and by that name shall and are hereby made capable in law to purchase, hold, and enjoy, and retain to them and their successors, lands, tenements, and hereditaments so far as may be necessary for the purpose of said railroad, and the same to sell, grant, rent, or in any manner dispose of, to contract and be contracted with, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, and also to make, have, and use a common seal, the same to alter, break, or renew at their pleasure; and if either of the persons named in this section shall die, refuse or neglect to execute the powers and discharge the duties hereby created, it shall be the duty of the remaining persons hereinbefore named, or a majority of them, to appoint a suitable person or persons to fill such vacancy or vacancies so often as the same shall occur.

SECTION 2. The said corporation is hereby empowered to cause such examination or surveys to be made as shall be necessary to ascertain the most advantageous route whereon to construct a railroad, and shall cause an estimate to be made of the probable cost thereof, (for each mile separately;) and the said corporation shall be, and they are hereby, invested with the right to construct a railroad, with one or more railways or tracks, from such convenient point from the village of Beloit, in the county of Rock, to the village of Janesville, and thence to some convenient point of termination in the city of Madison, in the county of Dane.

SECTION 3. The capital stock of said corporation shall be three hundred and fifty thousand dollars, and shall be divided into shares of one hundred dollars each, and five dollars on each share shall be paid at the time of subscribing.

SECTION 4. The above named persons, or a majority of them, are authorized to open books for receiving subscriptions to the capital stock of said company, and shall prescribe the form of such subscription, which books shall be opened within eighteen months from the passage of said act, at such place or places as they may deem expedient, by giving thirty days notice in some newspaper printed in the counties of Dane or Rock, and in such place or places as may be thought advisable, of the time and place, or times and places, of opening of said books; the said books to be kept open thirty days.

SECTION 5. So soon as said stock, or thirty thousand dollars thereof, shall have been subscribed, the above-named persons, or the same number thereof as shall have given the notice above required, shall give like notice for the meeting of the stockholders to choose directors, at some time at least thirty days thereafter, and at some place within said counties of Dane or Rock; and if at such time and place the holders of one-half or more of said stock shall at-

tend, either in person or by lawful proxy, they shall proceed to choose from the stockholders, by ballot, nine directors, each share of capital stock entitling the owner to one vote; and at such election the persons named in the first section of this act, or those appointed by its provisions to fill vacancies which may have occurred, or any three of them, if no more be present, shall be inspectors of such elections, and shall certify, in writing, signed by them or a majority of them, what persons are elected directors; and if two or more have an equal number of votes, such inspectors shall determine by lot which of them shall be directors, to complete the number required, and shall certify the same in like manner; and such inspectors shall appoint the time and place of holding the first meeting of directors, at which meeting five shall form a board competent to transact all business of the company; and thereafter a new election of directors shall be made annually, at such times and places as the stockholders at their first meeting shall appoint; and if the stockholders at their first meeting shall fail to appoint the day of such election, then it shall be holden in the succeeding year on the same day of the same month on which said first election was holden, unless the same shall be on the first day of the week, in which case it shall be holden on the day next succeeding; and if no election be made on the day appointed, said company shall not be dissolved, but such election may be made at any time appointed by the by-laws of said company. The said directors shall elect one of their number president, and shall appoint a secretary, treasurer, and such engineers and other officers as they may find necessary; shall fix their compensation, and may require adequate security for the performance of their respective trusts.

SECTION 6. The directors may receive payments to the subscriptions to the capital stock at such time, in such proportion, not exceeding twenty-five per cent. at any one installment, under such conditions as they may deem fit, under the penalty of forfeiture of all previous payments thereon, or otherwise; Provided, That they shall never require the payment to be made at any place out of the counties through which said road shall pass; and such directors shall, at least thirty days previous to the appointed time of such required payment, give notice thereof in the manner provided in the fourth section of this act for giving notice for the opening of books of subscription for the stock of said company.

SECTION 7. The directors of said company shall have power to make, from time to time, all needful rules, regulations, and by-laws touching the business of said company, and to determine the number of tracks and railways upon said road, and the width thereof, and the description of carriages which may be used thereon; to regulate the amount of tolls, and the manner of collecting the same for such transportation, and to fix penalties for the breach of any rules, regulations, or by-laws, and to direct the mode or condition of transferring the stock of said company; and penalties provided for by the said by-laws may be sued for by any person authorized thereby, in the name of said company, and recover in an action of debt before any court having jurisdiction; and the said

company may erect and maintain toll-houses and such other buildings and fixtures as the accommodation of those using said road may require.

SECTION 8. The company shall have the right to enter upon any lands, to survey and lay down said road, not exceeding one hundred feet in width; and whenever any lands or materials shall be required for the construction of said road, and the same shall not be given or granted to said company as to the compensation to be paid therefor, the person or persons claiming compensation as aforesaid, or if the owners thereof are minors, insane persons, or married women, the guardian or guardians of such minor or minors, and insane persons, and the husband of such married woman, may select for themselves an arbitrator, and the company shall select an arbitrator, and the two thus selected shall take to themselves a third who shall be sworn and paid by said company as arbitrators between the parties and render copies of their award to each of the parties, in writing, from which award either of the parties may appeal to the court of proper jurisdiction for the county in which said lands or materials may have been situated; and in all cases in which compensation shall in any manner be claimed for lands where there has been no improvement made, it shall be the duty of the arbitrators and the court to award a fair compensation for said lands and materials; and appeals in such cases shall, when taken, be in all respects proceeded in as appeals in other cases to said court, and brought into said court by filing the award with the clerk of said court, whose duty it shall be to enter the same on the docket of said court, setting down the claimant or claimants as plaintiff and the said company as defendant; and the valuation so ascertained shall be paid or tendered by said company; said company shall have the same right to retain, own, hold, and possess said lands and materials as fully and absolutely as if the same had been granted and conveyed to said company by deed, as long as the same shall be used for the purpose of said road.

SECTION 9. The said company may construct the said railroad across any public or private road, highway, stream of water, or water-course, if the same shall be necessary; but the said company shall restore such road, highway, stream of water, or water-course to its former state, or in a sufficient manner not to impair the usefulness of said road, highway, water, or water-course, to the owner or to the public.

SECTION 10. All persons paying the toll aforesaid may, with suitable and proper carriages, use and travel upon said road, always subject, however, to such rules and regulations as said company are authorized to make by the seventh section of this act.

SECTION 11. So soon as the amount of tolls accruing and received from the use of said road, or part thereof, according to the provisions of this act, shall exceed six per cent. on the amount of said capital stock paid in, after deducting therefrom the expenses and liabilities of said company, the directors of said company shall make a dividend of such net profits among the stockholders, in proportion to their respective shares; and no accumulative fund ex-

ceeding one per cent. of the profits of said company shall remain undivided for more than six months.

SECTION 12. If any person or persons shall willfully abstract, or in any way spoil, injure, or destroy said road, or anything belonging or incident thereto, or any materials to be used in the construction thereof or any building, fixture, or carriage rented or constructed for the use or convenience thereof, such person or persons shall each be liable for every such offence to treble the damages sustained thereby, to be recovered in an action of debt in any court having jurisdiction of the amount.

SECTION 13. Whenever it shall become necessary, in the location or construction of said road, to pass through the land of any individual, it shall be the duty of said company to provide for said individual proper wagon-ways; it shall be liable to such individual in treble the amount of damages occasioned by such neglect.

N. E. WHITESIDE,
Speaker of the Assembly.

J. E. HOLMES,

Lieut. Governor and President of the Senate.

Approved August 19, 1848.

An act to amend an act entitled "An act to incorporate the Madison and Beloit Railroad Company."

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The said company may extend their road from Janesville to Lake Winnebago, by way of Fort Atkinson, Jefferson and Watertown.

SECTION 2. For the purpose of such extension, the said Company may add ten thousand shares of one hundred dollars each to its capital stock.

SECTION 3. This act shall take effect so soon as said company, by resolution adopted at a meeting of its board of directors, shall assent thereto; and from and after such time such company shall be known as the "Rock River Valley Union Railroad Company."

SECTION 4. The said company, whenever it shall deem the same expedient, may divide any portion of the capital stock of the company into shares of twenty-five dollars each; and every member of said company shall be entitled to one vote therein for every twenty-five dollars of stock which he may own.

MOSES M. STRONG,

Speaker of the Assembly.

SAMUEL W. BEALL,

Lieut. Governor and President of the Senate.

Approved February 9, 1850.

The above act was read at a meeting of the directors of the Madison and Beloit Railroad Company, held at the office of Smith, Parker & Jordan, in Janesville, on the 14th day of February, 1850.

Present, A. Hyatt Smith, Timothy Jackman, Wm. F. Tompkins, Ira Miltmore, G. F. A. Atherton, Charles Stevens, and William A. Lawrence.

Whereupon, on motion of Wm. A. Lawrence, the following resolutions were unanimously adopted :

Resolved, That the act of the legislature of the State of Wisconsin entitled An act to amend an act entitled An act to incorporate the Madison and Beloit Railroad Company, approved February 9, 1850, be, and the same is hereby, assented to, and that the name of the Madison and Beloit Railroad Company be, and the same is hereby, changed to the Rock River Valley Union Railroad Company.

Resolved, That ten thousand shares of one hundred dollars each be, and the same are hereby, added to the capital stock of said company, for the purpose of extending said road to Lake Winnebago.

Resolved, That the books for subscription to said stock be opened.

Adjourned sine die.

A. HYATT SMITH,
President.

WM. A. LAWRENCE,
Secretary.

EXHIBIT 3.

An act to amend an act entitled "An act to incorporate the Madison and Beloit Railroad Company," approved August 19, 1848.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows :

SECTION 1. The said company shall have power to change the location of the said railroad, and to terminate the same at any point that to them shall seem expedient on the south line of the State of Wisconsin, and at such termination as may unite with any other railroad.

SECTION 2. The said company shall have the right to extend said road to any point on the Wisconsin River that to them shall seem proper.

SECTION 3. The said company shall have power to increase their capital stock to six hundred thousand dollars.

MOSES M. STRONG,
Speaker of the Assembly.
SAMUEL W. BEALL,

Lieut. Governor and President of the Senate.

Approved February 4, 1850.

EXHIBIT 4.

An act to amend an act entitled "An act to incorporate the Madison and Beloit Railroad Company."

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The said company may extend their road from Janesville to Lake Winnebago, by the way of Fort Atkinson, Jefferson, and Watertown.

SECTION 2. For the purpose of such extension, the said company, may add ten thousand shares of one hundred dollars each to its capital stock.

SECTION 3. This act shall take effect so soon as said company, by resolution adopted at a meeting of its board of directors, shall assent thereto, and from and after such time such company shall be known as the "Rock River Valley Union Railroad Company."

SECTION 4. The said company, whenever it shall deem the same expedient, may divide any portion of the capital stock of the company into shares of twenty-five dollars each, and every member of the said company shall be entitled to one vote therein for every twenty-five dollars of stock which he may own.

MOSES M. STRONG,
Speaker of the Assembly.
SAMUEL W. BEALL,

Lieut. Governor and President of the Senate.

Approved February 9, 1850.

EXHIBIT 5.

An act to amend the charter of the Rock River Valley Union Railroad Company.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. That said company shall have power and authority to extend the Rock River branch of the road to Lake Superior.

SECTION 2. Said company may, in its discretion, increase its capital stock three millions of dollars,

SECTION 3. Said company shall have power to increase its number of directors to any number not exceeding fifteen.

SECTION 4. The said company shall have the right to enter upon any lands to survey and lay down said road, not exceeding one hundred and thirty feet in width, and also to enter upon any lands adjoining said road and obtain therefrom land, gravel, stone, and other materials as may be necessary for the construction of said road, and whenever any lands or material shall be required for the construction of said road, the same shall not be given or granted to said company, the compensation to be paid therefor by said com-

pany shall be ascertained in the manner following, to wit: Said company shall apply to the judge of the circuit court of the first circuit for the appointment of three commissioners, whose duty it shall be, at the earliest practicable time after their appointment, to proceed to examine and assess the damages which may be sustained by the several owners or claimants of the lands through which the road of said company is located; and the said commissioners, in assessing said damages, shall deduct therefrom the benefit which said lands receive by the construction of said road. It shall be the duty of said company to give thirty days' notice of their application for the appointment of said commissioners, in one or more newspapers published in each of the counties through which said road is laid out, and in case no newspaper is published in any one of said counties, then by posting up such notice on the door of the court-house in said county thirty days before the time of making such application; and it shall be the duty of said commissioners to cause ten days' notice of their meeting to appraise the damages to any lands through which said road may run, to be given to the owner or claimant thereof, and in case said owner or claimant shall be a minor, insane person, or married woman, then such notice shall be given to the guardian, committee, or husband of such minor, insane person, or married woman. Either party feeling himself aggrieved by the decision of said commissioners, may appeal to the circuit court of the county in which said lands may be situated, and said appeal shall be tried in the same manner as any suit commenced therein: *Provided*, That said company shall not in any manner be delayed in the construction of their road by any such appeal, but may proceed immediately with such construction on paying into the office of the clerk of said court the amount of moneys awarded to the owner or owners, of said lands, and filing a bond with said clerk to said owner or owners, binding said company to pay such further sum as may be finally awarded against said company. The notice to be given by the commissioners to the owners of lands required for the railroad shall be in writing, and delivered to said owner or owners, or left at their usual place of residence, if residents of this State, or if non-residents, then said notice to be given in a newspaper published in the county in which said land is situated, at least four weeks before making such appraisement.

SECTION 5. Said company is authorized and empowered to connect its road with the road of any railroad company or companies in the State of Illinois, or to become part owner or lessee of any railroad in said State; and any railroad company in said State of Illinois duly organized under the laws of said State of Illinois may connect its road with the road of said company, and may in like manner, with the consent of said company, become part owner or lessee of the road of said company, or of any of its branches, or any portion thereof situated in this State.

SECTION 6. Said company is hereby authorized to borrow money to be expended in the construction and equipment of their said road and its appendages, and to issue bonds for the payment thereof in the usual form; said bonds not to exceed in the aggregate, at

the period of the completion of said road, three-fourths of the whole amount actually expended in said road and its appendages as aforesaid; and may make and execute, in the corporate name of said company, all necessary writings, notes, bonds, or other papers for any liabilities that it may incur in the construction or equipment of said road.

SECTION 7. The said company is hereby authorized and empowered to construct their said railroad and its branches in sections as fast as they may obtain the means for so doing, and the franchise of the portions so completed and put in operation shall vest in said company the same as though the whole were completed.

SECTION 8. Section second of the act to incorporate said company under the name of the Madison and Beloit Railroad Company, approved August the nineteenth, eighteen hundred and forty-eight, is hereby amended by striking from said section the words for "each mile separately."

SECTION 9. Sections eight, ten, eleven, and thirteen of the act incorporating said company, entitled "An act to incorporate the Madison and Beloit Railroad Company," approved August the nineteenth, eighteen hundred and forty-eight, are hereby repealed.

(Signed)

FREDERICK W. HORN,

Speaker of the Assembly.

SAM'L W. BEALL,

Lient. Gov. and Pres't of the Senate.

Approved March 11th, 1851.

EXHIBIT 6.

An act to authorize the railroad companies therein named to consolidate their capital stock.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Illinois and Wisconsin Railroad Company, in the State of Illinois, and the Rock River Valley Union Railroad Company, in this State, are hereby authorized and empowered to consolidate the capital stock of the two companies, and to make the two companies one, and to place the affairs and property of the two companies under the direction of one board of directors, of not more than fifteen and not less than seven.

SECTION 2. The two companies, when consolidated and placed under the direction of one board of directors, may select and choose and nominate for itself any name that a majority of the directors may deem fit, and may adopt a common seal and alter the same at will; and after the said companies have consolidated, selected and chosen a name, as aforesaid, it shall deposit with the secretary of State of this State, a certificate signed by the president and secretary of the company so consolidated, as aforesaid, and the said company shall be known by the name so selected, chosen, and certified,

and under such name may contract and be contracted with, sue and be sued, plead and be impleaded, and shall have all the rights, privileges, and franchises conferred on the said companies by the laws of the States of Illinois and Wisconsin, respectively, the same, and not otherwise, as though the said consolidation had not taken place, and the right of way may be taken in the same manner in all respects as though the said companies had not consolidated.

SECTION 3. The board of directors of the two companies respectively, are authorized to complete the said consolidation by contract, and for that purpose may meet at any place in this State or the State of Illinois, and shall file a copy of the article of consolidation with the secretary of State of this State and the State of Illinois, and in the event of the sale of the railway, depot-grounds, franchises, and property of the Rock River Valley Union Railroad Company, under any mortgage now in existence and being an incumbrance thereon, the same rights, franchises and immunities shall accrue, inure, and pass to the purchasers and their associates under said sale, that are granted to the said company by the laws of this State, and the same consolidation may be made as well after said sale as before; and the present board of directors of the said company, with the consent of the said purchasers, may remain and direct the affairs and control the property of the said company after the said sale, until the time fixed by law for the next election of directors, or until the consolidation shall take place, the same as though the said sale had not been made.

SECTION 4. The consolidated company shall hold an election of directors on the first Tuesday of October of each year, unless otherwise directed by the by-laws of said company, at a place to be selected in one of the counties in the State of Illinois, or this State, through which the railroad passes, by the board of directors; and notice of said election shall be given to the stockholders by four weeks' publication in one newspaper published in Chicago, in one at Madison, in one at Fond du Lac, and in one at Janesville; and the said election shall be conducted after the manner provided in the charter of the Rock River Valley Union Railroad Company, and the by-laws to be adopted by this consolidated company.

SECTION 5. The said consolidated company shall be and remain subject to the laws of the State of Wisconsin and the State of Illinois, respectively, and shall have in all respects the same privileges as though this consolidation had not taken place: Provided, The laws of the State of Illinois shall have no force or effect in the State of Wisconsin, under the provisions of this act.

SECTION 6. After consolidation, as aforesaid, and before the first election of the directors by the stockholders, the affairs of the consolidated company shall be managed by the directors of the two companies, acting jointly; and as soon after consolidation as it may be deemed expedient to organize said consolidated company, said joint board of directors shall meet and elect a president, vice-president, secretary, and treasurer; and the said consolidated company, being thus organized, may make and execute in their corporate name, all such writings, notes, bonds, or mortgages of their real or

personal property, or any part thereof, as they may deem necessary to secure the payment of any liabilities incurred, or to be incurred, in the construction and equipment of their road; and may agree in such notes, bonds, and mortgages, to pay such rates of interest as they may think proper, not exceeding ten per cent. per annum, and may sell and dispose of said notes, bonds and mortgages at par, or at such prices above or below par as they shall think proper.

SECTION 7. All municipal corporations, towns, villages, or cities which have by law been authorized to loan their credit to the said Rock River Valley Union Railroad Company, are hereby authorized to loan their credit to the same consolidated company, to the same extent and on the same terms as by law, said corporations, towns, villages, or cities are now authorized to loan their credit to the said Rock River Valley Union Railroad Company.

SECTION 8. This act shall take effect from and after its passage.

Approved March 10th, 1855.

EXHIBIT 7.

An act to incorporate the Illinois and Wisconsin Railroad Company.

SECTION 1. Be it enacted by the people of the State of Illinois, represented in general assembly: That Neil Donnelly, Phineas H. Platt, Enos W. Smith, Henry Sherman, John Mc Clure, Ithesian Taylor, Josiah D. Wright, Lindsey Joslyn, Michael A. McCahill, George H. Bently, Joseph Golden, William Sloan, Martin Small, and their associates, successors, and assigns, be, and they are hereby, authorized and empowered to associate themselves together by the name and style of the "Illinois and Wisconsin Railroad Company," with all the rights, privileges, and immunities that may be acquired by any railroad company under and by virtue of the provisions of an act entitled "An act to provide for a general system of railroad incorporations," approved Nov. 5, 1849; and the said company, when organized under the provisions of said act, are hereby authorized to take private property, in the manner prescribed by said act, for the purpose of building and maintaining a railroad from the north line of the county of McHenry, in the State of Illinois, thence to the village of Woodstock, in said McHenry county; thence to such point on the Chicago and Galena Union Railroad as may be deemed practicable to form a junction with the above-named Chicago and Galena Union Railroad Company, in the counties of Cook, Kane, and McHenry; and it is further provided that the said Illinois and Wisconsin Railroad Company may have power, and they are hereby authorized to unite and form a junction with any other railroad companies in the counties of Kane and Cook, on such conditions as the said Illinois and Wisconsin Railroad Company may deem proper; and it is further provided that the said Illinois and Wisconsin Railroad Company are hereby authorized and empowered to unite or consolidate their road with any railroad company now incorporated, or that may hereafter be incorporated in the State of Wisconsin,

and place the said road, when consolidated, under the control and supervision of a joint board of directors, upon such conditions, provisions, and limitations as may be mutually agreed upon by said railroad companies.

SECTION 2. The said Illinois and Wisconsin Railroad, when organized as aforesaid, shall make out a statement and forward it to the secretary of this State, at the end of each year, showing the amount of capital stock of said company, and the amount of indebtedness and resources of said company; taking the aggregate amount of expenditures, receipts, and resources per mile of the whole distance of said road in this State, anything in the twenty-eight and twenty-ninth sections of the general railroad law of the State of Illinois, approved November fifth, one-thousand eight hundred and forty-nine, to the contrary notwithstanding.

SECTION 3. The said Illinois and Wisconsin Railroad Company shall have full power, and they are hereby authorized, at any future time, not to exceed fifty years, if they should deem it practicable to extend their railroad from the village of Woodstock, in the county of McHenry, in this State, to the city of Chicago, in the county of Cook, and they shall have full power to unite or connect with any company or corporation associated together for railroad purposes in said city of Chicago and the county of Cook, and the said company may unite and connect with any railroad company or corporation running from the south part of this State and terminating at Chicago, or with any company or corporation running from the east through the State of Indiana, and terminating at Chicago, or passing through Chicago.

SECTION 4. The capital stock of said company is not to exceed one million of dollars, and this charter shall expire at the end of fifty years.

SECTION 5. This act to take effect from and after its passage.

Approved February 12, 1851.

EXHIBIT 8.

An act to facilitate and authenticate the foundation of a corporation by the purchasers of the Chicago, St. Paul and Fond du Lac Railroad Company.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. In case the railroad of the Chicago, St. Paul and Fond du Lac Railroad Company, or any part of the said railroad lying within this State, shall be sold by virtue of any mortgage or mortgages, deed or deeds of trust, either by foreclosure or other proceedings in law or equity, or by advertisement in pursuance of a power or authority in any such mortgage or deed of trust contained, the purchaser or purchasers in any such case, his or their associates, successors, and assigns, if desiring to form a corporation under or by virtue of the laws of this State or of the *the* States of Illinois

or Michigan, or any or all of said States, may file in the office of secretary of state of this State a certificate, specifying the name of the said corporation, the number of the directors, and the names of the directors for the first year, as designated in the said certificate, or as elected by the said purchaser or purchasers, their successors or assigns; which certificate shall be signed by the said purchaser or purchasers, or the survivor of them, or their or his successors or assigns; and upon the filing of any such certificate, the persons who shall have signed the same shall be a body politic and corporate by the name stated in such certificate; and the said corporation shall possess all the privileges, powers, authorities, and capacities acquired by the said purchaser or purchasers, or possessed by the Chicago, St. Paul and Fond du Lac Railroad Company, by virtue of any law of this State, or of the States of Illinois or Michigan; and shall likewise have power, by the vote of a majority in interest of the stockholders of the said corporation, and by instruments in writing, to assume any debts or liabilities of the said Chicago, St. Paul and Fond du Lac Railroad Company, and secure the same in the same manner as the said corporation might secure any debt contracted for the completion of said road, or for any other purpose; and shall also have power to create and issue a special stock to represent its lands and bonds; which stock shall be subject to assessments and entitled to dividends only to such extent and upon such conditions as shall be fixed by the act or agreement of the corporation creating the said stock, and not otherwise, but may be voted on the same as other stock.

SECTION 2. This act shall take effect and be in force from and after its passage.

WM. P. LYON,
Speaker of the Assembly.

E. W. CAMPBELL.

Lieut. Governor and President of the Senate.

Approved March 14, 1859.

EXHIBIT 9.

An act to authorize the sale of the Chicago, St. Paul and Fond du Lac Railroad, and to enable the purchasers thereof to form a corporation.

SECTION 1. *Be it enacted by the people of the State of Illinois, represented in the general assembly,* That if any mortgage or deed of trust, heretofore or hereafter executed by the Chicago, St. Paul and Fond du Lac Railroad Company, a corporation existing under and by virtue of the laws of this State, shall be foreclosed either by bill in chancery or by publication of notice in the manner prescribed in such mortgage or deed of trust, and there shall be a sale of said Chicago, St. Paul and Fond du Lac Railroad, or any part of it, on or by virtue of any trust deed or on foreclosure of any mortgage thereupon, the party or parties acquiring title under such sale, and their associates, successors, or assigns, shall have and acquire

thereby, and shall exercise and enjoy thereafter, all and the same rights, privileges, grants, franchises, immunities, and advantages, in and by said mortgage or trust deed enumerated and conveyed, which belonged to and were enjoyed by the said Chicago, St. Paul and Fond du Lac Railroad Company, as fully and absolutely in all respects as the Chicago, St. Paul and Fond du Lac Railroad Company, its incorporators, shareholders, officers, and agents might or could have done theretofore, had not such sale or foreclosure taken place; such purchaser or purchasers, their associates, successors, or assigns, may proceed to organize anew and elect directors, distribute and dispose of stock, take the same or another name, and may conduct their business generally under and in the manner provided in the charter and right of said Chicago, St. Paul and Fond du Lac Railroad Company under and by virtue of its consolidation with other railroad companies, and generally to do and perform all things that said Chicago, St. Paul and Fond du Lac Railroad Company might do under and by virtue of any laws of this or any other State through which the line of said company's road runs or is located, or under the chartered privileges or rights acquired by charters of and consolidation with other railroad companies in such other States, with such variations in manner and form of organization as their altered circumstances and better conveniences may seem to require.

SECTION 2. Said new corporation, when so organized, shall have full power to mortgage, lease, or pledge their said road, or any portion of the same, and any other estate, real, personal, or mixed, of which they may be seized at the time, and for which they may acquire after the execution of such mortgage, deed of trust, or other instrument in writing, to secure any bonds or indebtedness, or evidence of indebtedness, of said corporation, so created as aforesaid, or to pay for the whole or any part of the purchase-money, or cost of said road, at the sale thereof to the purchasers thereof, their associates, successors, or assigns, or to pay, fund, or liquidate any existing liabilities or indebtedness of said Chicago, St. Paul and Fond du Lac Railroad Company, which said purchasers, their associates, successors, or assigns, may agree or elect to assume and provide for.

SECTION 3. Said corporation is hereby authorized and fully empowered in its corporate capacity to borrow any sum or sums of money from any person or persons, corporation, or body-politic of any kind, and for any rate of interest which may be agreed upon by or between said company and the party from whom such money may be obtained, and to make, execute, and deliver, in or out of this State, all necessary writings, notes, bonds, bills, mortgages, deeds of trust, and all other papers or securities in amount or kind, as may be deemed expedient by said corporation, in consideration of any such loan, or in discharge of any liability they may incur in the purchase, construction, repair, equipment, or operation of said road, or in any of the transactions of said company. And said company is hereby authorized, in its corporate capacity, to make, execute, issue, and deliver its bonds or obligations in such amounts as the directors of said company shall deem for the best interests of said company, and the directors of the said company shall pre-

scribe the sum or sums for which each of said bonds shall be issued, and the time or times and place or places when and where the principal and interest of the same shall be payable, the rate of interest which said bonds shall bear, and the manner and form in which the same, and the interest coupons annexed to the same, shall be executed. And to secure the payment of any and all of said bonds, the said company is hereby authorized and empowered, in its corporate capacity, to make, execute, and deliver a mortgage or mortgages, or deed or deeds of trust upon the whole or any part of said railroad, constructed or not constructed, and authorized to be purchased by this act, and upon any other and all of its estate, real, personal, or mixed, in possession or expectancy; and the said company is hereby authorized and empowered, in and by such mortgage or deed of trust, to confer upon the mortgagee or trustee full and ample power to enter into and upon, and take possession of, have, use, and enjoy, or sell or dispose of the whole or any part of said railroad or estate, real, personal, or mixed, together with the functions to said railroad, and all other corporate and other franchises, rights, and privileges of the said railroad company, to take up and remove any of the track or fixtures belonging to said railroad; and the directors of said company shall prescribe all matters relating to the form and terms of said mortgage or deed of trust, and the manner and mode for the execution of the same, and may provide for the payment of the principal and interest secured to be paid by such bond, either by the creation of a sinking fund out of the earnings of said railroad company, or in any other manner that they may deem best for the interest of said company; and said company may, by its agents in or out of the State, sell, dispose of, or hypothecate such bond, when so issued as aforesaid, at par or at any other price greater or less than par, and for such sum or sums as they may think proper.

SECTION 4. And it may be lawful for the meetings of stockholders, directors, or officers of said company, when so organized, to be held within or without this State, at such time or place or places as the by-laws of said company or the board of directors may from time to time appoint.

SECTION 5. This act shall be a public act, and shall be in force from and after its passage.

EXHIBIT 10.

An act to authorize the Chicago and Northwestern Railway Company to construct a new line of road, commencing in the town of Neenah and county of Winnebago.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Chicago and Northwestern Railway Company is hereby authorized to survey, locate, construct, complete, and perpetually to have, use, maintain, and operate, a new line of road,

with side-tracks, over the routes following: Beginning at some point on the line of said road, in the town of Neenah, in the county of Winnebago, and running thence on the east side of said road, through the village (villages) of Neenah and Menasha, and across Doty's Island; thence, keeping west of the canal, to connect with the main line at such point as shall be most convenient; also, beginning at some point on the line of said road, in the county of Outagamie, and running thence on the east side of said road, via the town of Howard, to the Michigan State line. And there is hereby conferred upon the said Chicago and Northwestern Railway Company, all rights, privileges, powers, and authority contained in the charter of said railway company, or in the charter of the Chicago, St. Paul and Fond du Lac and Wisconsin and Superior Railroad Companies, to which the said Chicago and Northwestern Railway Company is the successor.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved March 8, 1862.

EXHIBIT 11.

Galena and Chicago Union Railroad Company.—(Ill. Laws 1836, page 24.)

An act to incorporate the Galena and Chicago Union Railroad Company.

SECTION 1. *Be it enacted by the people of the State of Illinois, represented in the general assembly,* That all such persons as shall become stockholders, agreeably to the provisions of this act, in the corporation hereby created, shall be, and for the term of sixty years from and after the passage of this act shall continue to be, a body corporate and politic, by the name of the "Galena and Chicago Union Railroad Company," and by that name shall have succession for the term of years above specified; may sue and be sued, complain and defend, in any court of law or equity; may make and use a common seal, and alter the same at pleasure; may make by-laws, rules, and regulations for the management of its property, the regulation of its affairs, and for the transfer of its stock, not inconsistent with the existing laws and the constitution of this State and of the United States; and may, moreover, appoint such subordinate agents, officers, and servants as the business of the said corporation may require, and allow to them a suitable compensation, prescribe their duties, and require bond for the faithful performance thereof, in such penal sums and with such sureties as they may choose, who shall hold their offices during the pleasure of a majority of the directors of the said corporation.

SECTION 2. The said corporation shall have the right to construct, and during its continuance to maintain and continue a railroad, with a single or double track, and with such appendages as may be deemed necessary for the convenient use of the same, from the

town of Galena, in the county of Joe Daviess, to such a point at the town of Chicago, as shall be determined, after a survey shall have been made of the route, to be the eligible, proper, direct, and convenient therefor.

SECTION 3. The capital stock of the said corporation shall be one hundred thousand dollars, which shall be deemed personal property, and shall be divided into shares of one hundred dollars each. The capital stock of said corporation may at any time hereafter be increased to a sum not exceeding one million of dollars, if the same shall be judged necessary to the completion of the said work, and the same shall be subscribed for and taken under the direction of the directors of the said corporation, whenever they shall direct one or more books to be opened for such purposes, and shall be subscribed and taken in such manner as the directors of the said corporation, for that purpose, shall order and appoint.

SECTION 4. William Bennett, Thomas Drummond, J. C. Goodhue, Peter Semple, J. M. Turner, E. D. Taylor, and J. B. Thomas, jr., shall be commissioners for receiving subscriptions to the capital stock of said corporation, who shall give notice within twelve months after the passage of this act of the time and place where books will be opened at Galena and Chicago, and such other places as they may deem necessary, in some public newspaper printed at the said places, at least thirty days previous to the opening of such books for the receiving subscriptions to the capital stock of said corporation. The majority of the commissioners shall attend, at the time and place appointed by such notice for the opening of said books, and shall continue to receive such subscriptions to the capital stock of the said corporation, from all persons who will subscribe thereto, until the whole amount thereof shall have been subscribed, when the said books shall be closed. Each subscriber at the time of subscribing, shall pay to the commissioners one dollar on each share of the stock subscribed for by him; and the said commissioners shall, as soon as the directors are elected, deliver to them the whole amount so received.

SECTION 5. The affairs of said corporation shall be managed by a board of seven directors, to be annually chosen by the stockholders from among themselves, as soon as may be after the stock has been subscribed. The commissioners shall give notice of the time and place at which a meeting of the stockholders will be held for the choice of directors; and at such time and place appointed for that purpose, the commissioners, or a majority of them, shall attend and act as inspectors of said election; and the stockholders present shall proceed to elect their directors by ballot, and the commissioners present shall certify the result of such election under their hands, which certificate shall be recorded in the books of the corporation, and shall be sufficient evidence of the election of the directors therein named. All future elections shall be held at the time and in the manner prescribed by the by-laws and regulations of the said corporation. Each stockholder shall be allowed as many votes as he owns shares at the commencement of each election, and a plurality of votes shall determine the choice; but

no stockholder shall be allowed to vote at any election after the first for any stock which shall have been assigned to him within thirty days previous to the day of holding such an election. The said directors shall hold their offices for one year after their election, and shall elect one of their number president of the said board.

SECTION 6. The said corporation is authorized to construct, make, and use a single or double railroad or way, of suitable width and dimensions, to be determined by said corporation, on the line, course, or way which may be designated and selected by the directors as the line, course, or way whereon to construct and make the same, and shall have power to regulate the time and manner in which goods, effects, and passengers shall be transported, taken, and carried on the same; and to prescribe the manner in which the said railroad shall be used, by what force the carriages to be used thereon may be propelled, and the rates of toll on the transportation of persons or property thereon, and shall have power to erect and maintain houses, toll-gates, and other buildings for the accommodation and management of the said road, and transport thereon, as may deemed suitable to their interest. And they may also construct, maintain, and use such other lateral routes as may be deemed advantageous, and expedient, and necessary, under the same rights and privileges as by this act is prescribed for the construction of the main route; and it shall be lawful also for the said corporation to unite with any other railroad company then incorporated, or which may be incorporated, upon any part of the route of the said railroad, upon such terms as may be agreed upon by the directors of said companies, and also to construct such other lateral routes as may be necessary to connect them with any other route or routes which may be deemed expedient.

SECTION 7. If, at any time after the passage of this act, it shall be deemed advisable by the directors of said corporation to make and establish a good, permanent turnpike-road upon any portion of the route of the railroad by this act authorized to be constructed, then the said directors are hereby authorized and empowered to construct a turnpike on any portion of the said route, of the following dimensions: Not less than one hundred feet wide, twenty-two feet of which shall be based with stone or gravel, or other hard substance, well compacted together, and of sufficient depth to secure a good foundation, where necessary, the whole of which shall be faced with gravel or stone of a depth not less than six inches, in such manner as to secure a firm and even surface, rising in the middle by by a gradual arch; and where other roads may intersect, it shall be so constructed that carriages may conveniently pass over the turnpike-road. And the said corporation is hereby authorized to erect, at both ends of said road, and at such other points upon the line thereof, as many gates as shall be deemed necessary thereon.

SECTION 8. It shall be lawful for said corporation to appoint toll-gatherers to collect and receive of and from all persons using said road the following rates of toll, to wit: For each and every

mile of transport or travel upon said turnpike-road for a man and horse, two cents, or for a single person, one cent; For four or six horse, or ox wagon and driver, loaded, three cents; and for the same empty, two cents; for all four horse carriages and driver, five cents; for a two horse wagon, or one yoke of oxen and wagon, three cents; for two-horse pleasure-carriages, four cents; for a one-horse carriage or gig, two cents; for horses, mules, or cattle in droves, half a cent per head; for hogs, goats, and sheep, one mill per head. When sleds are used instead of wheels, one-half the above-specified tolls. And it shall be lawful for any toll-gatherer to stop and detain all persons from going on said road until they shall pay to the toll-gatherer the toll properly chargeable to him; and when any person shall pay to the toll gather the toll properly chargeable to him, the toll-gatherer shall give him a ticket authorizing him to pass the whole distance of the road for which he has paid. And the president and directors shall cause to be kept upon each gate, in some conspicuous place, where it may be easily read, a printed list of the tolls which may be lawfully demanded. Said corporation shall cause to be erected mile posts or stones, to be maintained, and also to erect guide-posts at the intersection of all highways leading into or from said turnpike-road, on which shall be inscribed the name of the town or public place to which it leads; and if any person shall willfully cut down such posts, or shall willfully break or throw down any of the said gates or turnpike, or shall dig or spoil any of the said road or anything thereunto belonging, or shall forcibly pass either of the gates without having first having paid the legal tolls, such person shall pay and forfeit, for every such offense and injury, the sum of twenty-five dollars, to be recovered by the said corporation in an action of debt before any justice of the peace of the county where the offender or offenders may be found; and if any person shall turn out of the said road and pass any of said gates and again enter upon such road, to avoid the payment of tolls, he shall forfeit to the corporation the sum of five dollars, to be recovered in like manner.

SECTION 9. If any toll-gatherer shall unreasonable delay or hinder any traveler or passenger, or shall demand more toll than by this act is allowed, he shall forfeit and pay to the person injured the sum of five dollars, in the manner provided in the preceding section; and if he shall be unable to pay it, the corporation shall be held responsible therefor.

SECTION 10. As soon as any five miles of the turnpike shall be completed, said corporation may erect gates thereon and collect the toll allowed by this act. And it shall be the duty of said corporation, when said road shall have been completed, to keep it in good repair; and whenever, from any cause whatever, the same shall become injured, said corporation shall immediately proceed to repair the same. And it shall be lawful for the said corporation to commence the construction of the said railroad, or way, or turnpike at such points on any part of the aforesaid routes heretofore described as in its judgment may appear expedient and proper. Said corporation are authorized to borrow any sum of money which may, in

their discretion, be deemed necessary, not exceeding its capital stock, to aid in the construction of the said roads: and if it shall at any time appear to the said corporation that any part thereof, or any surplus fund, is not necessary to be retained, the same may be loaned on such terms as the directors of the said corporation may deem proper; not, however, at a higher rate of interest than that now allowed by the laws of this State.

SECTION 11. In case the corporation shall not be able to acquire the title to the lands through which the said road shall be laid by purchase or voluntary cession, it shall be lawful for the said corporation to appropriate so much of said lands as may be necessary for its own use for the purposes contemplated by this act, on complying with the provisions of the six following sections.

SECTION 12. The directors may present a petition to the judge of the circuit court of the county in which the said land may be situated, setting forth by some proper description the lands which are wanted for the construction of said railroad or turnpike or the appendages thereto, and the names of the owners thereof, if known, distinguishing with convenience, if it can be done, the parcels claimed in severalty by the respective owners, and praying for the appointment of appraisers to assess the damages which the owners of such lands will severally sustain by reason of the appropriation thereof by the said corporation to its own use.

SECTION 13. On the presentment of said petition said circuit judge shall appoint a day for the hearing of the parties in interest, and shall direct such notice as he shall deem reasonable to be given of the time and place of hearing; and in case it shall appear that any of the owners of said lands is a feme covert, an infant, or insane, or otherwise incompetent to take proper care of his or her interest, it shall be the duty of the said judge to appoint some discreet and reputable person to act in his or her behalf.

SECTION 14. At the time appointed for such hearing the judge shall appoint three disinterested persons, freeholders, residents of the county in which said lands may lie, for the purpose of assessing such damages, and in the order in which they were appointed, shall direct and specify what lands are proposed to be appropriated and occupied by the said corporation for the purposes aforesaid.

SECTION 15. Said appraisers, after being duly sworn before some officer properly authorized to administer oaths honestly and impartially to assess such damages, shall proceed, by viewing said lands and by such other evidence as the parties may produce before them, to ascertain and assess the damages which each individual owner will sustain by the appropriation of his land for the use or accommodation of such railroad or turnpike or their appendages.

SECTION 16. The said appraisers shall make a report to the said judge in writing, under their hands, reciting the order for their appointment, and specifying the several parcels described therein with all necessary certainty, the names of the owners of the respective parcels, if known, and if not known, stating that fact, and specifying also the damages which the owners of the respective parcels will sustain by reason of the appropriation of the same for

the purposes aforesaid; and in case either of the parties is dissatisfied with the assessment, the said judge may, on the hearing of the parties, and interest, modify the assessment as to him shall appear just.

SECTION 17. On the payment of the damages thus assessed, together with the expenses of assessment, as the same shall be settled by said judge, or on depositing the amount thereof, for the use of such owners, in such bank or monied incorporation as the said judge shall direct, the said corporation shall immediately become entitled to the use of the said lands for the purposes aforesaid; and the report of the said appraisers, with the order of said judge modifying the same, if the same shall have been modified, shall be recorded in the office of the recorder of the county in which said lands shall be situated, in the same manner and the like effect as deeds are recorded, without any other proof than the certificate of the said judge that the report is genuine.

SECTION 18. And when the said order shall have been so recorded, as aforesaid, the said corporation shall be seized and possessad of such land or real estate, and may enter upon and take possession and use the same, for the purposes hereinbefore recited.

SECTION 19. Said corporation shall be bound to repair all public highways, bridges, and water courses which may be injured in constructing the said railroad or its appendages, and shall restore them, as far as practicable, to as good a condition as they were in before they were injured.

SECTION 20. The said corporation shall be allowed three years from the passage of this act for the commencement of the construction of the said railroad and turnpike; and in case the same shall not be completed within ten years thereafter the privileges herein granted shall be forfeited.

SECTION 21. Any person who shall willfully injure said road or any of the apendages thereto shall be deemed guilty of a misdemeanor, and shall forfeit to the use of the corporation a sum equal to three times the amount of damages occasioned by such injury, to be recovered, with costs of suit, in the name of such corporation, in an action of debt, before any court having cognizance thereof, or before any justice of the peace in the county where injury or offense may have been committed.

SECTION 22. This act shall be deemed and taken as a public act, and shall be construed beneficially for all purposes herein specified or intended, and all copies thereof printed, by or under the direction of the general assembly of this State, shall be received in all courts and places whatsoever, in said State, as sufficient evidence thereof, without further proof.

Approved Jan. 16, 1836.

EXHIBIT 12.

An act to extend the powers of the Chicago and Northwestern Railway Company.

* * * * *

SECTION 3. The Chicago and Northwestern Railway Company

is hereby authorized to change, re-locate, or take up such of its tracks, side-tracks, or branches as it may deem necessary for the convenient management of its business; and said company, as it may deem necessary for the convenient management of its business, and said company as now consolidated, may have and exercise all the power heretofore conferred by the laws of this or any other State upon the Chicago and Northwestern Railway Company, and the Galena and Chicago Union Railroad Company, or any other company consolidated with it.

SECTION 4. This act shall take effect and be in force from and after its passage.

Approved February 15, 1865.

EXHIBIT 14.

This indenture, made this first day of June, A. D. 1871, by and between the Chicago and Northwestern Railway Company, a corporation duly organized under the laws of the States of Wisconsin and Michigan, party of the first part, and the Farmers' Loan and Trust Company, a corporation of the State of New York, in the city of New York, party of the second part, witnesseth:

Whereas, by acts of the legislature of the States of Illinois, Wisconsin, and Michigan, the party of the first part is fully authorized and empowered to construct, and is now engaged in the construction of, a line of railroads from the present northern terminus of its railway line, in the town of Fort Howard, Brown County, Wisconsin, to a connection with the line of railroad in Michigan owned by the party of the first part, and known as the "Peninsula Division," which now terminates at Escanaba, forming, when completed, a continuous line of railway from the city of Chicago, Illinois, to a connection with said Peninsula Division, the same being an extension of its present line of railroad aforesaid, and known as the "Menomonee Extension" of the said Chicago and Northwestern Railway;

And whereas, for the purpose of construction, the said line of railroad from Fort Howard, aforesaid, to a connection with the said Peninsula Division, the said party of the first part has made and delivered to the said party of the second part its bonds, designated the "Menominee Extension first-mortgage sinking-fund gold-bonds," bearing seven per cent. interest, free of United States taxes, at the rate of twenty-two thousand five hundred dollars per mile, amounting in the aggregate to the sum of two million seven hundred thousand dollars; all of which bonds bear date on the first day of June, A. D. 1871, are payable, principal and interest, in gold coin of the United States, at the office or agency of the party of the first part, in the city of New York, bear interest from their date at the rate of seven per cent. per annum, payable semi-annually, on the first day of June and December in each year, and numbered consecutively; those number' from 1 to 1,400, inclusively, are each for five hundred dollars, and those numbered from 1,401 to 3,400, inclusively, are each for one thousand dollars, and are all of like tenor and in the form following:

EXHIBIT 13.

UNITED STATES OF AMERICA,
State of Wisconsin and Michigan:

The Chicago and Northwestern Railway Company Menominee Extension first mortgage sinking-fund gold bond, bearing seven per cent. interest, free of United States taxes.

Know all men by these presents, that the Chicago and Northwestern Railway Company is indebted to the Farmers' Loan and Trust Company, of the city of New York, or to the bearer hereof, in the sum of ——— dollars; which the said company promise to pay to the said Farmers' Loan and Trust Company, or to the bearer hereof, in gold coin of the United States, on the first day of June, in the year of our Lord one thousand nine hundred and eleven, (A. D. 1911,) at its office or agency in the city of New York, with interest thereon from the first day of June, A. D. 1871, at the rate of seven per cent. per annum, payable semi-annually, on the first days of June and December in each year, in gold coin of the United States, on the presentation and surrender of the annexed coupons as they severally become due, such principal and interest coupons to be paid free of United States taxes.

This bond is one of an issue amounting in the aggregate to two millions seven hundred thousand dollars, and consisting of three thousand four hundred bonds. Those numbered 1 to 1,400, inclusively, are each for five hundred dollars; and those numbered from 1,401 to 3,400, inclusively, are each for one thousand dollars; said issue being at the rate of twenty-two thousand five hundred dollars per mile of the railroad extending from Fort Howard, Wisconsin, to a junction with the Peninsula Division of the railway of the party of the first part, in Michigan; all of which bonds are to be of like tenor and effect, and shall be equally secured by a deed of trust or mortgage of even date herewith, duly executed and delivered by the said Chicago and Northwestern Railway Company to Farmers' Loan and Trust Company, conveying all the railroad of the said company, as herein described, and the equipments, appurtenances, and franchises therein mentioned.

This bond is entitled to the benefits of the sinking fund by the said deed of trust provided.

This bond shall pass by delivery or by transfer upon the books of the Chicago and Northwestern Railway Company, in the city of New York, or at any other place where the company may keep such transfer books.

After a registration of ownership, certified hereon by the transfer-agent of the company, no transfer, except upon the books of the company, shall be valid, unless the last transfer be to bearer, which shall restore transferability by delivery. But this bond shall continue subject to successive registrations and transfers to bearer, as aforesaid, at the option of each holder.

This bond shall not become obligatory until it shall have been

authenticated by a certificate endorsed hereon, and duly signed by the trustee.

In witness whereof the said company has caused its corporate seal to be hereto affixed, and the same to be attested by the signature of its president and secretary, and has also caused the coupons hereto annexed to be signed by its secretary, on this first day of June, A. D. 1871.

, *Secretary.*

, *President.*

And whereas the intention of these presents is, and is hereby declared to be, that all of the bonds now issued, amounting in the aggregate to \$2,700,000, aforesaid, shall be equally, in all respects, secured by these presents, without preference, priority, or discrimination, on account of or with reference to the times of the actual issue of the said bonds or any of them;

Now, therefore, this indenture witnesseth, that the said party of the first part, for and in consideration of the premises and of the sum of one dollar to it duly paid by the party of the second part, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal and interest of the bonds aforesaid, issued or to be issued, as herein recited and provided, and every part of said principal and interest as the same shall become payable, according to the tenor of the said bonds and of the coupons thereto annexed, hath granted, bargained, and sold, and by these presents doth grant, bargain, sell, convey, and transfer, unto the said party of the second part, its successors and assigns, all and singular the railroad of the party of the first part, now being constructed from the town of Fort Howard, in the State of Wisconsin, to a junction with the line of railroad in Michigan owned by the party of the first part, known as the Peninsula division, being a distance of about one hundred and twenty miles, more or less, including all the railways, ways, rights of way, depot-grounds, and other lands; all tracks, bridges, viaducts, culverts, fences, and other structures; all depots, station-houses, engine-houses, car-houses, freight-houses, wood-houses, and other buildings; and all machine and other shops, whether now held or hereafter acquired for use in connection with the said hereinafter mentioned and described railroad or the business thereof; and including also all locomotives, tenders, cars, and other rolling-stock or equipment; and all machinery, tools, implements, fuel, and materials for the constructing, operating, repairing, or replacing the said railroad, or any part thereof, or any of its equipments or appurtenances, whether now held or hereafter acquired, all of which things are hereby declared to be appurtenances and fixtures of the said railroad; and including also all franchises connected with or relating to the said railroad or the construction, maintenance or use thereof, now held or hereafter acquired by the party of the first part, including the franchises; to be a corporation, together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining; and reversions, remainders, tolls, income, rents, issues, and profits there-

of; and also all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of first part, of, in, and to the same, and any and every part thereof, with the appurtenances:

To have and to hold the above mentioned and described premises unto the said party of the second part, its successors and assigns, to its and their own and only proper use, benefit, and behoof, forever; in trust, nevertheless, to and for the uses and purposes and subject to the powers herein declared, granted; or expressed, to wit:

ARTICLE FIRST. That the party of the first part shall and will pay the principal and interest of said bonds to the several holders or owners thereof when and as the same shall become due and payable, according to the tenor and effect of the said bonds and coupons, and shall and will assume and pay all taxes that may be assessed upon the same from time to time by the United States of America.

ARTICLE SECOND. Until default shall be made in the payment of the principal or interest, or some part hereof, of the said bonds, or some one of them, or until default shall be made or have occurred in respect to something by these presents required to be observed, performed, or kept, by the party of the first part, the said party of the first part shall be suffered and permitted to possess, manage, operate, and enjoy the railroad, equipments, appurtenances, property, and franchises aforesaid, and to take and use the rents, revenues, incomes, profits, tolls, and issues thereof, in the same manner and with the same effect as if this deed had not been made.

ARTICLE THIRD. In case default shall be made in the payment of any interest on any of the aforesaid bonds, issued or to be issued, according to the tenor of the coupons thereto annexed or the provisions hereof, or in any requirement to be done or kept by the party of the first part, and if such default shall continue for the period of six months, it shall be lawful for the said trustee, or its successor, personally or by its attorneys or agents, to enter into and upon all and singular the premises hereby conveyed or intended so to be, and each and every part thereof, and to have, hold, and use the same; operating by its superintendents, managers, receivers, or servants, or other attorneys or agents, the said railroad, and conducting the business thereof, and exercising the franchises pertaining thereto, and making, from time to time, all repairs and replacements and such useful alterations, additions, and improvements thereto as may seem to it to be judicious, and to collect and receive all tolls, freights incomes, rents, issues, and profits of the same, and of every part thereof, and, after deducting the expenses of operating said railroad and conducting its business, and of all the said repairs, replacements, alterations, additions, and improvements, and all payments which may be made for taxes, assessments, charges, or liens, prior to the lien of these presents, upon the said premises, or any part thereof, as well as just compensation for its own services and for the services of such attorneys and counsel as may have been by it employed, to apply the moneys arising as aforesaid to

the payment of interest, in the order in which such interest shall have become or shall become due, ratably to the persons holding the coupons evidencing the right to such interest. And in case all the said payments shall have been made in full, and no sale shall have been made in conformity hereto, the said trustee, after making such provision as to it may seem advisable for any half-year's interest next to fall due, shall restore the possession of the premises hereby conveyed unto the said party of the first part, its successors, or assigns: Provided, That if any of the defaults hereinbefore specified be subsequently made, such restoration shall not, nor shall any previous entry, be construed to exhaust or in any manner impair the powers of entry or sale, or any powers hereby granted to or conferred upon the said trustee.

ARTICLE FOURTH. In case default shall be made as aforesaid, and shall continue as aforesaid, or in case default shall be made in the payment of any principal or of any of the said bonds, it shall likewise be lawful for the said trustee, after entry as aforesaid, or other entry, or without entry, to sell and dispose of all and singular the premises hereby conveyed or intended so to be, or any part thereof, at public auction, in the city of New York or in the city of Chicago, or at such place within the State in which the said railroad is situate, or either of them, as the said trustee may designate, and at such times as it may appoint, having first given notice of the place and the time by advertisement, published not less than three times a week for twelve weeks in one or more newspapers in each of the cities of New York and Chicago, or to adjourn the said sale from time to time, in its discretion; and, if so adjourning, to make the same without further notice, at the time and place to which the same may be so adjourned; and to make and deliver to the purchaser or purchasers thereof good and sufficient deed or deeds in the law for the same in fee-simple; which sale, made as aforesaid, shall be a perpetual bar, both in law and equity, against the party of the first part, and all other persons lawfully claiming or to claim the said premises, or any part thereof, by form, through or under the said party of the first part; and, after deducting from the proceeds of such sale just allowances for all expenses of the said sale, including attorney's and counsel fees, and all other expenses, advances, or liabilities which may have been made or incurred by the said trustee in operating and maintaining the said railroad, or in managing the business while in possession, and in arranging for and completing the sale thereof, and all payments which may have been made by it for taxes or assessments, and for charges or liens prior to the lien of these presents on the said premises, or any part thereof, as well as compensation for its services, to apply the said proceeds to the payment of the principal of such of the aforesaid bonds as may be at that time unpaid, whether or not the same shall have previously become due, and of the interest which shall at the time have accrued on the said principal and be unpaid, without discrimination or preference, but ratably to the aggregate amount of such unpaid principal and accrued and unpaid interest; and if, after the satisfaction thereof, a surplus of the said proceeds shall remain, to pay over

the said surplus to the said railway company, or to render the same as any court of competent jurisdiction shall order.

And it is hereby declared that the receipt or receipts of the said trustee shall be a sufficient discharge to the purchaser or purchasers of the premises for his or their purchase money; and that such purchaser or purchasers, his or their heirs, executors, or administrators, shall not, after payment thereof, and having such receipt, be liable to see to its being applied upon or for the trusts and purposes of these presents, or in any manner, howsoever, be answerable for any loss, misapplication, or non-application of such purchase money, or any part thereof, or be obliged to enquire into the necessity, expediency, or authority of or for any such sale.

ARTICLE FIFTH. At any sale of the aforesaid property, or any part thereof, whether made by virtue of the power herein granted or by judicial authority, the trustee may, in its discretion, bid for and purchase, or cause to be bidden for and purchased, the property so sold, or any part thereof, in behalf of the holders of the bonds secured by this instrument and then outstanding, in the proportion of the respective interests of such bondholders, at a reasonable price, if but a portion of the said property shall be sold; or, if all of it be sold, at a price not exceeding the whole amount of such bonds then outstanding with the interest accrued thereon.

ARTICLE SIXTH. In case default shall be made in the payment of any half year's interest on any of the aforesaid bonds, at the time and in the manner in the coupon issued therewith provided, the said coupon having been presented, and the payment of the interest therein specified having been demanded, and if such default shall continue for the period of six months after the said coupon shall have become due and payable, then and there, upon the principal of all the bonds secured hereby, shall at the election of the trustee, become immediately due and payable, anything contained in the said bonds or herein to the contrary notwithstanding; but a majority in interest of the holders of the said bonds may, by an instrument in writing, signed by said majority, before the interest in arrear shall be paid, instruct the trustee to declare the said principle to be due, or to waive the right so to declare, on such terms and conditions as such majority shall deem proper, or may annul or reverse the election of the trustee: Provided, That no action of the trustee or bondholder shall extend to or be taken to effect the subsequent default or to impair the rights resulting therefrom.

ARTICLE SEVENTH. At the end of every year, commencing on the first day of June, in the year, 1876, during which the net earnings of the said railroad shall exceed the amount necessary to pay the interest upon all of the bonds of the said company secured by these presents and then outstanding, to the payment of which these presents are subject, and which shall be then outstanding, such surplus, to the amount of twenty thousand dollars, shall be reserved, and shall within sixty days thereafter be paid over to, or a like amount of the bonds of the party of the first part, described in this article, at their par value, shall be deposited with the trustee as

a sinking fund for the redemption of the bonds secured by these presents.

The trustee shall at once deposit the said surplus, so paid over to it, in any depository in the city of New York deemed by it to be safe, and the said moneys, together with all accumulations of interest thereon, which may actually come within the disposal of the said trustee, shall, after paying the expenses of the trust, be invested by the said trustee in the manner following, that is to say:

First. In the purchase of the bonds secured by these presents.

Secondly. If the said trustee shall be unable to purchase the aforesaid bonds at par or less, then the said trustee shall purchase at public or private sale, at the lowest price (not above par) at which it may be able to obtain the same, not exceeding their market value at the New York Stock Exchange, any other of the railroad bonds issued by the party of the first part, or by any company consolidated with it, or for which it is or shall hereafter be responsible, and the bonds so purchased or delivered to the said trustee on account of the sinking fund shall be deposited with the depository deemed by the trustee to be safe as aforesaid, and be immediately registered, stamped, or endorsed as belonging to the said sinking fund, but shall remain in force, and the interest thereon shall continue to be paid by the said party of the first part, and the amount of such interest shall be added and applied as a part of the capital of the sinking fund hereby established, and be invested in the purchase of other bonds, in the same manner as the annual payments to the sinking fund hereinbefore provided for.

And in case the said bonds cannot be purchased at such rate within three months, then the said money shall be invested in such manner as the trustee may deem proper; provided, nevertheless, that it shall be at all times competent for the party of the first part, and the holders of the bonds secured hereby, acting by a majority in interest, to enter into any new agreement which they may deem necessary or proper for the modification of the sinking fund hereby established or the regulation of investments under the same.

ARTICLE EIGHTH. The trustee shall have full power in its discretion, upon the written request of the party of the first part, to convey, by way of release or otherwise, to the persons designated by the said railway company, any lands acquired or held for the purposes of stations, depots, shops, or other buildings; and shall also have power to convey as aforesaid, on like request, any lands or property which in the judgment of the trustees shall not be necessary for use in connection with the said railroad, or which may have been held for a supply of fuel, gravel, or other material; and also to convey as aforesaid, on like request, any lands not occupied by the track which may become disused by reason of a change of the location of any station-house, depot, shop, or other building connected with the said railroad, and such lands occupied by the track and adjacent to such station-house, depot, shop, or other building as the said railway company may deem it expedient to disuse or abandon by reason of such change, and to consent to any

such change and to such other changes in the location of the track, or depot, or other buildings as in its judgment shall have become expedient, and to make and deliver the conveyances necessary to carry the same into effect; but any lands which may be acquired for permanent use in substitution for any so released shall be conveyed to the trustee upon the trusts of these presents, and the trustee shall also have full power to allow the said railway company, from time to time, to dispose of, according to its discretion, such portions of the equipments, machinery, and implements at any time held or acquired for the use of the said railroad as may have become unfit for such use, replacing the same by new, which shall be conveyed to the trustee or be otherwise made subject to the operation of these presents.

ARTICLE NINTH. If the party of the first part shall well and truly pay the sum of money herein required to be paid by the said company, and all interests thereon, at the time and in the manner herein specified, and shall well and truly keep and perform all the things herein required to be kept or performed by the said railway company according to the true intent and meaning of these presents, then and in that case the estate, right, title, and interest of the said party of the second part, and of its successors in the trust hereby created, shall cease, determine, and become void; otherwise the same shall be and remain in full force and virtue.

ARTICLE TENTH. It is hereby declared and agreed, that it shall be the duty of the trustee to exercise the power of entry hereby granted, or the power of sale hereby granted, or both, or to take appropriate proceedings in equity or at law to enforce the rights of the bondholders under these presents, upon the requisition in writing as hereinafter specified;

1. If the default be as to interest or principal of any bonds, such requisition upon the said trustee shall be by holders of not less than one hundred thousand dollars in aggregate amount of the said bonds; and upon such requisition, and a proper indemnification by the persons making the same to the trustee against the costs and expenses to be by the said trustee incurred, it shall be the duty of the trustee to enforce the rights of the bondholders, under these presents, by entry, sale, or legal proceedings, as it, being advised by council learned in the law, shall deem most expedient for the interests of all the holders of the said bonds.

2. If the default be in the omission of any act or thing required by the covenant hereinafter contained, for the further assuring of the title of the trustee to any property or franchises now possessed or hereafter acquired, or in the omission to comply with any other provision herein contained, to the performed or kept by the said railway company, then and in either of such cases the requisition shall be as aforesaid; but it shall be within the discretion of the trustee to enforce or waive the rights of the bondholders by reason of such default, subject to the power hereby declared of a majority in interest of the holders of the said bonds, by requisition in writing signed by such majority, instruct the said trustee to waive such default, or upon adequate indemnity as aforesaid to enforce their

rights by reason thereof: Provided, That no action of the said trustee or bondholders, or both, in waiving such default, or otherwise, shall extend to or be taken to effect any subsequent default, or to impair the rights resulting therefrom.

ARTICLE ELEVENTH It is mutually agreed by and between the parties hereto that the word "trustee," as used in these presents, shall be construed to mean the trustee for the time being, whether original or new.

And it is mutually agreed, by and between the parties hereto, as a condition on which the party of the second part has assented to these presents, that the said trustee shall be entitled to just compensation for all services which it may hereafter render in its trust, to be paid by the said railway company or out of the income of the property, and for that purpose may at any time apply to the courts, without notice to any person but the said party of the first part; that said trustee or any successor may resign and discharge itself of the trust created by these presents by notice in writing to the said railway company three months before such resignation shall take effect, or such shorter time as the said railway company may accept as adequate notice and upon the due execution of the conveyance hereinafter required; that the said trustee may be removed by a majority in interest of the holders of the aforesaid bonds, by an instrument in writing signed by such majority; that in case, at any time hereafter, the said trustee, or any trustee hereafter appointed, shall resign or be removed, as herein provided or by a court of competent jurisdiction, or shall become incapable or unfit to act in the said trust, a successor to such trustee shall be appointed by the holders, for the time being, of a majority in interest of the said bonds then outstanding, by an instrument in writing signed by such majority, and the trustee so appointed shall thereupon become vested with all the powers, authorities, and estates granted to or conferred upon the party of the second part by these presents, and all the rights and interests requisite to enable it to execute the purposes of this trust, without any further assurance or conveyance, so far as such effect may be lawful; and upon the resignation or removal of any trustee, or any appointment in its place in pursuance to these presents, all its powers and authorities by virtue hereof shall cease, and all the estate, right, title, and interest in the said premises of any trustee so resigning or being removed shall wholly cease and determine; but the said trustee so resigning or being removed shall, on the written request of the new trustee who may be appointed, immediately execute a deed or deeds of conveyance to vest in such new trustee, upon the trusts herein expressed, all the property, rights, and franchises which may be at that time held upon the said trustee; Provided, nevertheless. And it is hereby agreed and declared that in case it shall at any time hereafter prove impracticable, after reasonable exertions, to appoint, in the manner hereinbefore provided, a succession in any vacancy which may have happened in said trust, application in behalf of all the holders of the bonds secured hereby may be made by holders of the said bonds to the aggregate amount of one hundred

thousand dollars, to any circuit court of the United States for any judicial district in which any part of the aforesaid railroad may be situated, for the appointment of a new trustee.

It is also mutually agreed that the said party of the second part, and its successor in the trust, shall be accountable for reasonable diligence in the management thereof, but shall not be responsible for the acts or default of any agent employed by it in good faith. And the said party of the first part, for itself and its successors, in consideration of the premises and of one dollar to it duly paid by the said party of the second part, the receipt whereof is duly acknowledged, hereby further covenants and agrees to and with the said party of the second part, its successors and assigns, that the said party of the first part and its successors, shall and will from time to time, and at all times hereafter, and as often as thereunto requested by the trustee, execute, deliver and acknowledge all such further deeds, conveyances, and assurances in the law, for the better assuring unto the said trustee the railroads, equipments, and appurtenances hereinbefore mentioned, or intended so to be, and all other property and things whatsoever which may be hereafter acquired for use in connection with the same, or any part thereof, and any franchises pertaining thereto, now held or hereafter acquired as by the said trustee, or by its counsel learned in the law, shall be reasonably advised, devised, or acquired.

And the said party of the first part, for itself and its successors, in consideration of the premises and of one dollar to it duly paid by the said party of the second part, further covenants and agrees to and with the said party of the second part, its successors and assigns, that it, the said party of the first part and its successors, shall and will at all times hereafter keep open an office or agency in the city of New York for the payment of the principal and interest of and upon the bonds hereinbefore recited and described, as the same shall become payable, and for the transfer and registration of the said bonds, and that any and every default in the due performance of this covenant shall be deemed and taken to be a waiver of presentment and a demand of payment of all and every of the bonds and coupons aforesaid which may become payable during the continuance of such default.

In testimony whereof the said party of the first part has caused its corporate seal to be affixed to these presents, and the same to be attested by the signature of its president and secretary, and the said party of the second part has caused its corporate seal to be affixed to these presents, and the same to be attested by the signatures of its president and secretary, to its acceptance of the said trust, the date and year first above written.

, *President.*

, *Secretary.*

EXHIBIT 15.

An act to authorize the Chicago and Northwestern Railroad to consolidate with the Baraboo Air-Line Railroad Company and other railroad companies therein named.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows :

SECTION 1. That the Chicago and Northwestern Railway Company is hereby authorized and empowered to consolidate its stock, property, and franchises with the stock, property, and franchises of the Baraboo Air-Line Railroad Company; with the stock, franchises, and property of the La Crosse, Trempealeau and Prescott Railroad Company; with the stock, property, and franchises of the Winona and St. Peter Railroad Company; and with the stock, property, and franchises of the Winona, Mankato and New Ulm Railroad Company, or with either or any of the said companies.—Such consolidation or consolidations with either or with any of said companies shall be made on such terms as shall be agreed upon between the board of directors of said Chicago and Northwestern Railway Company, and the board of directors of either or any of the companies herein named, or between the executive committees of such boards, or either of them.

SECTION 2. The articles of such consolidation or consolidations shall prescribe the name of such consolidated company, and such company when consolidated may have and exercise all the powers now conferred by the laws of this State, or of any other State, upon either of the companies named herein.

SECTION 3. The consolidated company created under the provisions hereof shall have the power to construct and operate a line of railroad, so as to connect the main line authorized to be constructed by the said Baraboo Air-Line Company with the line of any railroad or railway in Wisconsin west of the range-line dividing ranges two (2) and three (3) east of the fourth (4th) principal meridian, and to operate the whole or any portion of the lines of either or any of the companies in this act named as a portion of its consolidated line.

SECTION 4. The consolidated company created under the provisions hereof is hereby authorized, in its corporate capacity, to borrow any sum or sums of money, and to make, execute, and deliver, in or out of this State, all necessary writings, notes, or bonds to secure the payment thereof, or for any other purpose, and to make, execute, and deliver a mortgage or mortgages, upon the whole or any portion of its property, to secure the payment of any such writings, notes, or bonds. Such writings, notes, bonds, mortgage, or mortgages shall be in such manner and form as the board of directors of such consolidated company or the executive committee thereof shall prescribe, and may contain provisions for a sinking-fund or for the payment of a portion of the bonds described in said mortgage, to be selected by lot in the manner therein provided, in any year or

years before the whole become due, so that all of said bonds shall be paid at the time they mature.

SECTION 5. All acts and parts of acts inconsistent herewith are hereby repealed, and this act is hereby declared to be a public act, shall be favorably construed, and shall take effect from and after its passage and publication.

Approved February 17, 1871.

EXHIBIT 17.

This indenture, made this first day of April, A. D. 1871, by and between the Chicago and Northwestern Railway Company, a corporation duly organized under the laws of the State of Wisconsin, party of the first part, and the Farmers' Loan and Trust Company, a corporation of the State of New York, in the city of New York, party of the second part, witnesseth:

Whereas, by an act of the legislature of the said State of Wisconsin, approved on the 17th day of February, A. D. 1871, entitled "An act to authorize the Chicago and Northwestern Railway Company to consolidate with the Baraboo Air-Line Railroad Company and other companies therein named," the said party of the first part and the Baraboo Air-Line Railroad Company, a corporation duly organized under the laws of said State, were authorized to consolidate their stock, property, and franchise;

And whereas, by articles of consolidation executed by the said companies, dated the tenth day of March, A. D. 1871, all the property, stock, and franchises of the said companies were consolidated, by which the said party of the first part became possessed of all the property, stock, and franchises of the said Baraboo Air-Line Railroad Company;

And whereas, by the statutes aforesaid and the articles of consolidation aforesaid the party of the first part is fully authorized and empowered to construct, and is now engaged in the construction of, a line of railroad from the city of Madison, Wisconsin, to a point in the county of La Crosse, Wisconsin, where the La Crosse, Trempealeau and Prescott Railroad now terminates, a distance of about one hundred and twenty-six miles, the same being an extension of its present line of railroad from the said city of Madison, and known as the Madison extension of the said Chicago and Northwestern Railway;

And whereas, the said party of the first part is by said statutes and the said articles of consolidation fully authorized, and may hereafter desire, to construct a line of railroad from some point of junction with the line hereinbefore described, commencing at a point west of Reedsburg, to the town of Tomah, Wisconsin, a distance of about thirty miles;

And whereas, for the purpose of constructing the said line of railroad from Madison aforesaid to the said La Crosse, Trempealeau and Prescott Railroad, the said party of the first part has made and delivered to the said party of the second part its bonds, designated the "Madison extension first-mortgage sinking-fund gold bonds," bear-

ing seven per cent. interest, free of United States taxes, at the rate of twenty-five thousand dollars per mile, amounting in the aggregate to the sum of three million one hundred and fifty thousand dollars, all of which bonds bear date on the first day of April, A. D. 1871, are payable, principal and interest, in gold coin of the United States, at the office or agency of the party of the first part, in the city of New York, bear interest from their date at the rate of seven per cent. per annum, payable semi-annually, on the first day of April and October in each year, and numbered consecutively. Those numbered from 1 to 1,300, inclusive, are each for the sum of five hundred dollars, and those numbered from 1,301 to 3,800, inclusive, are each for one thousand dollars, and are all of like tenor, and in the form following:

EXHIBIT 16.

UNITED STATES OF AMERICA,
State of Wisconsin.

The Chicago and Northwestern Railway Company. Madison extension first-mortgage sinking-fund gold bonds, bearing seven per cent. interest, free of United States taxes.

Know all men by these presents, that the Chicago and Northwestern Railway Company is indebted to the Farmers' Loan and Trust Company, of the city of New York, or to the bearer hereof, in the sum of dollars, which the said company promise to pay to the said Farmers' Loan and Trust Company or to the bearer hereof, in gold coin of the United States, on the first day of April, in the year of our Lord one thousand nine hundred and eleven, (A. D. 1911.) at its office or agency in the city of New York, with interest thereon from the first day of April, A. D. 1871, at the rate of seven per cent. per annum, payable semi-annually, on the first days of April and October in each year, in gold coin of the United States, on the presentation and surrender of the annexed coupons as they severally become due, such principal and interest coupons to be paid free of United States taxes.

This bond is one of an issue amounting in the aggregate to three million one hundred and fifty thousand dollars, and consisting of thirteen hundred bonds, each for five hundred dollars, numbered from 1 to 1,300, inclusively, and of two thousand five hundred bonds, each for one thousand dollars, numbered from 1,301 to 3,800, inclusively, said issue being at the rate of twenty-five thousand dollars per mile of the railroad extending from Madison to a junction with the La Crosse, Trempealeau and Prescott Railroad, which limitation is subject to a contingent additional issue of seven hundred and fifty thousand dollars of bonds for the construction of thirty miles of branch railroad to Tomah, Wisconsin, in addition to the railroad above described, and which additional issue, if made, as well as the bonds herein described, will be secured by said thirty miles of railroad, in addition to the railroad above described; all of

which bonds are to be of like tenor and effect, and shall be equally secured by a deed of trust or mortgage of even date herewith, duly executed and delivered by the said Chicago and Northwestern Railway Company to the Farmers, Loan and Trust Company, conveying all the railroad of the said company as herein described, and the equipments, appurtenances, and franchises therein mentioned.

This bond is entitled to the benefits of the sinking-fund by the said deed of trust provided.

This bond shall pass by delivery or transfer upon the books of the Chicago and Northwestern Railway Company, in the city of New York, or at any other place where the company may keep such transfer books.

After a registration of ownership, certified hereon by the transfer-agent of the company, no transfer except upon the books of the company shall be valid, unless the last transfer be to bearer, which shall restore transferability by delivery. But this bond shall continue subject to successive registrations and transfers to bearer, as aforesaid, at the option of each holder.

This bond shall not be obligatory until it shall have been authenticated by a certificate endorsed hereon and duly signed by the trustee.

In witness whereof the said company has caused its corporate seal to be hereto affixed, and the same to be attested by the signatures of its president and secretary, and has also caused the coupons here-to annexed to be signed by its secretary, on this first day of April, A. D. 1871.

, *President.*

, *Secretary.*

And whereas the intention of these presents is, and is hereby declared to be, that all of the bonds, whether now issued and being of the original issue of bonds amounting in the aggregate to \$3,150,000, or hereafter to be issued pursuant to the provision for an additional issue of similar bonds to an aggregate amount not exceeding \$750,000, for the construction of the said branch railroad to Tomah, aforesaid, shall be equally, in all respects, secured by these presents without preference, priority, or discrimination on an account or with reference to the term of the actual issue of the said bonds or any of them:

Now, therefore, this indenture witnesseth, that the said party of the first part, for and in consideration of the premises and the sum of one dollar to it duly paid to the party of the second part, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal and interest of the bonds aforesaid issued or to be issued as herein recited and provided, and every part of said principal and interest as the same shall become payable, according to the tenor of the said bonds, and of the coupons thereto annexed, hath granted, bargained, and sold, and by these presents doth grant, bargain, sell, convey, and transfer, unto the said party of the second part, its successors and assigns, all and singular the

railroad of the party of the first part now being constructed from the city of Madison, in the State of Wisconsin, to a junction with the La Crosse, Trempeleau and Prescott Railroad, near the city of La Crosse, La Crosse County, Wisconsin, being a distance of about one hundred and twenty-six miles, more, or less, including all the railways, ways, right of way, depot-grounds, and other lands; all tracks, bridges, viaducts, culverts, fences, and other structures; all depots, station-houses, engine-houses, car-houses, freight-houses, wood-houses and other buildings; and all machine and other shops, whether now held or hereafter acquired for use in connection with the said hereinafter mentioned and described railroad, or the business thereof; and including, also, all locomotives, tenders, cars, and other rolling-stock or equipment; and all machinery, tools, implements, fuel, and materials for the constructing, operating, repairing, or replacing the said railroad, or any part thereof, or any of its equipments or appurtenances, whether now held or hereafter acquired, all of which things are hereby declared to be appurtenances and fixtures of the said railroad; and including, also, all franchises connected with or relating to said railroad, or the construction, maintenance, or use thereof, now held or hereafter acquired by the party of the first part, including the franchise to be a corporation together with all and singular the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining; and the reversions, remainders, tolls, incomes, rents, issues, and profits thereof: and also all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part of, in, and to the same, and any and every part thereof, with the appurtenances;

To have and to hold the above mentioned and described premises unto the said party of the second part, its successors and assigns, to its and their own and only proper use, benefit and behoof forever, in trust, nevertheless, to and for the uses and purposes, and subject to the powers herein declared, granted, or expressed, to wit:

ARTICLE FIRST. That the party of the first part shall and will pay the principal and interest of the said bonds to the several holders or owners thereof when and as the same shall become due and payable according to the tenor and effect of the said bonds and coupons, and shall and will assume and pay all taxes that may be assessed upon the same from time to time by the United States of America.

ARTICLE SECOND. Until default shall be made in the payment of the principal or interest, or some part thereof, of the said bonds, or some one of them, or until default shall be made or have occurred in respects to something by these presents required to be observed, performed, or kept by the party of the first part, the said party of the first part shall be suffered and permitted to possess, manage, operate, and enjoy the railroad, equipments, appurtenances, property, and franchises aforesaid, and to take and use the rents, revenues, incomes, profits, tolls, and issues thereof, in the same manner and with the same effect as if this deed had not been made.

ARTICLE THIRD. In case default shall be made in the payment of any interest on any of the aforesaid bonds issued or to be issued, according to the tenor of the coupons hereto annexed, or the provisions hereof or in any requirement hereof to be done or kept by the party of the first part, and if such default shall continue for the period of six months, it shall be lawful for the said trustee or its successor, personally or by its attorneys or agents, to enter into and upon all and singular the premises hereby conveyed or intended so to be, and each and every part thereof, and to have, hold, and use the same, operating by its superintendants, managers, receivers, or servents, or other attorneys or agents, the said railroad, and conducting the business thereof and exercising the franchises pertaining thereto, and making, from time to time all repairs and replacements and such useful alterations, additions, and improvements thereto as may seem to it to be judicious, and to collect and receive all tolls, freights, incomes, rents, issues, and profits of the same, and of every part thereof; and after deducting the expenses of operating the said railroad and conducting its business, and of all the said repairs, replacements, alterations, additions and improvements, and all payments which may be made for taxes, assessments, charges, or liens prior to the lien of these presents upon the said premises, or any part thereof, as well as just compensation for its own services and for the services of such attorneys and counsel as may have been by it employed, to apply the money arising as aforesaid to the payment of interest, in the order in which such interest shall have become or shall become due, ratably to the persons holding the coupons evidencing the right to such interest. And, in case all the said payments shall have been made in full, and no sale shall have been made in conformity hereto, the said trustee, after making such provision as to it may seem advisable for any half years' interest next to fall due, shall restore the possession of the premises hereby conveyed unto the said party of the first part, its successors, or assigns: Provided, That if any of the defaults hereinbefore specified are subsequently made, such restoration shall not, nor shall any previous entry, be construed to exhaust or in any manner impair the powers of entry or sale or any powers hereby granted or conferred upon the said trustee.

ARTICLE FOURTH. In case default shall be made, as aforesaid, and shall continue as aforesaid, or in case default shall be made in the payment of any principal of any of the said bonds, it shall likewise be lawful for the said trustee, after entry as aforesaid, or other entry, or without entry, to sell and dispose of all and singular the premises hereby conveyed, or intended so to be, or any part thereof, at public auction, in the city of New York or in the city of Chicago, or at such place within the State in which the said railroad is situate, or either of them, as the said trustee may designate, and at such time as it may appoint, having first given notice of the place and the time by advertisement, published not less than three times a week for twelve weeks, in one or more newspapers in each of the cities of New York and Chicago, or to adjourn the said sale from time to time, in its discretion; and, if so adjourning, to make the

same without further notice, at the time and place to which the same may be so adjourned; and to make and deliver to the purchaser or purchasers thereof good and sufficient deed or deeds in the law for the same in fee-simple; which sale, made as aforesaid, shall be a perpetual bar, both in law and equity, against the party of the first part, and all other persons lawfully claiming, or to claim, the said premises, or any part thereof, by form, through or under the said party of the first part; and after deducting from the proceeds of such sale just allowances for all expenses, of the said sale, including attorneys' and counsel fees, and all other expenses, advances, or liabilities which may have been made or incurred by the said trustee in operating and maintaining the said railroad, or in managing the business while in possession, and in arranging for and completing the sale thereof, and all payments which may have been made by it for taxes or assessments, and for charges or liens prior to the lien of these presents on the said premises, or any part thereof, as well as compensation for its services, to apply the said proceeds to the payment of the principal of such of the aforesaid bonds as may be at that time unpaid, whether or not the same shall have previously become due, and of the interest which shall at that time have accrued on the principal and be unpaid, without discrimination or preference, but ratably to the aggregate amount of such unpaid principal and accrued and unpaid interest; and if, after the satisfaction thereof, a surplus of the said proceeds shall remain, to pay over the said surplus to the said railway company, or to render the same as any court of competent jurisdiction shall order.

And it is hereby declared that the receipt or receipts of the said trustee shall be a sufficient discharge to the purchaser or purchasers of the premises for his or their purchase-money; and that such purchaser or purchasers, his or their heirs, executors, administrators, shall not, after payment thereof, and having such receipt, be liable to see to its being applied upon or for the trusts and purposes of these presents, or in any manner howsoever be answerable for any loss, misapplication, or non-application of such purchase-money, or any part thereof, or be obliged to enquire into the necessity, expediency, or authority of or for any such sale.

ARTICLE FIFTH. At any sale of the aforesaid property, or any part thereof, whether made by virtue of the power herein granted, or by judicial authority, the trustee may, in its discretion, bid for any purchase, or cause to be bidden for and purchased, the property so sold, or any part thereof, in behalf of the holders of the bonds secured by this instrument, and then outstanding, in the proportion of the respective interests of such bondholders, at a reasonable price, if but a portion of the said property shall be sold; or if all of it be sold, at a price not exceeding the whole amount of such bonds then outstanding, with the interest accrued thereon.

ARTICLE SIXTH. In case default shall be made in the payment of any half year's interest on any of the aforesaid bonds, at the time and in the manner in the coupon issued therewith provided, the said coupon having been presented, and the payment of the interest therein specified having been demanded, and if such default shall

continue for the period of six months after the said coupon shall have become due and payable then and there, upon the principal of all the bonds secured thereby, shall, at the election of the trustee, become immediately due and payable, anything contained in the said bonds or herein to the contrary notwithstanding; but a majority in interest of the holders of the said bonds may, by an instrument in writing signed by said majority, before the interest in arrear shall be paid, instruct the trustee to declare the said principal to be due, or to waive the right so to declare, on such terms and conditions as such majority shall deem proper, or may annul or reverse the election of the trustee: Provided, That no action of the trustee or bondholder shall extend to or be taken to effect any subsequent default or to impair the rights resulting therefrom.

ARTICLE SEVENTH. At the end of every year, commencing on the first day of April, in the year 1876, during which the net earnings of the said railroad shall exceed the amount necessary to pay the interest upon all of the bonds of the said company secured by these presents and then outstanding, to the payment of which these presents are subject and which shall be then outstanding, such surplus to the amount of twenty-three thousand dollars shall be reserved, and shall, within sixty days thereafter, be paid over to, or a like amount of the bonds of the party of the first part described in this article, at their par value, shall be deposited with the trustee as a sinking fund for the redemption of the bonds secured by these presents.

The trustee shall at once deposit the said surplus so paid over to it in any depository in the city of New York deemed by it to be safe, and the said moneys, together with all accumulations of interest thereon which may actually come within the disposal of the said trustee, shall, after paying expenses of the trust, be invested by the said trustee in the manner following; that is to say:

First. In the purchase of the bonds secured by these presents:

Secondly. If the said trustee shall be unable to purchase the aforesaid bonds at par or less, then the said trustee shall purchase at public or private sale, at the lowest price (not above par) at which it may be able to obtain the same, not exceeding their market-value at the New York Stock Exchange, any other of the railroad bonds issued by the party of the first part, or by any company consolidated with it, or for which it is, or shall hereafter be, responsible; and the bonds so purchased or delivered to the said trustee on account of the sinking fund shall be deposited with the depository deemed by the trustee to be safe aforesaid, and be immediately registered, stamped, or endorsed as belonging to the said sinking fund, but shall remain in force, and the interest thereon shall continue to be paid by the said party of the first part, and the amount of such interest shall be added and applied as a part of the capital of the sinking fund hereby established, and be invested in the purchase of other bonds, in the same manner as the annual payments to the sinking fund herein above provided for.

And in case the said bonds cannot be purchased at such rate within three months, then the said money shall be invested in such

manner as the trustee may deem proper: Provided, nevertheless, That it shall be at all times competent for the party of the first part and the holders of the bonds secured hereby, acting by a majority in interest, to enter into any new agreement which they may deem necessary or proper for the modification of the sinking fund hereby established or the regulation of investments under the same.

ARTICLE EIGHTH. The trustee shall have power, in its discretion, upon the written request of the party of the first part, to convey, by way of release or otherwise, to the persons designated by the said railway company, any lands acquired or held for the purposes of stations, depots, shops, or other buildings, and shall also have power to convey as aforesaid, on like request, any lands or property which in the judgment of the trustee shall not be necessary for use in connection with the said railroad, or which may have been held for a supply of fuel, gravel, or other material, and also to convey as aforesaid, on like request, any lands not occupied by the track which may become disused by reason of a change of the location of any station-house, depot, shop, or other building connected with the said railroad, and such lands occupied by the track and adjacent to such station-house, depot, shop, or other building as the said railway company may deem it expedient to disuse or abandon by reason of such change, and to consent to any such change, and to make and deliver the conveyances necessary to carry the same into effect; but any lands which may be acquired for permanent use in substitution for any so released, shall be conveyed to the trustee upon the trusts of these presents, and the trustee shall also have full power to allow the said railway company, from time to time, to dispose of, according to its discretion, such portions of the equipments, machinery, and implements, at any time held or acquired for the use of the said railroad, as may have become unfit for such use, replacing the same by new, which shall be conveyed to the trustee or be otherwise made subject to the operation of these presents.

ARTICLE NINTH. If the party of the first part shall well and truly pay the sum of money herein required to be paid by the said company, and all interests thereon, at the time and in the manner herein specified, and shall well and truly keep and perform all the things herein required to be kept or performed by the said railway company according to the true intent and meaning of these presents, then and in that case the estate, right, title, and interest of the said party of the second part, and of its successors in the trust hereby created, shall cease, determine, and become void; otherwise the same shall be and remain in full force and virtue.

ARTICLE TENTH. It is hereby declared and agreed that it shall be the duty of the trustee to exercise the power of entry hereby granted, of the power of sale hereby granted, or both, or to take appropriate proceedings in equity or at law to enforce the rights of the bondholders under these presents, upon the requisition in writing, as hereinafter specified.

1. If the default be as to interest or principal of any bonds, such requisition upon the said trustee shall be by holders of not less than

one hundred thousand dollars in aggregate amount of the said bonds, and upon such requisition, and a proper indemnification by the persons making the same to the trustees, against the costs and expenses to be by the said trustee incurred, it shall be the duty of the trustee to enforce the rights of the bondholders, under these presents, by entry, sale, or legal proceedings, as it, being advised by council learned in the law, shall deem most expedient for the interests of all the holders of the said bonds.

2. If the default be in the omission of any act or thing required by the covenant hereinafter contained, for the further assuring of the title of the trustee to any property or franchises now possessed or hereafter acquired, or in the omission to comply with any other provision herein contained, to be performed or kept by the said railway company, then, and in either of such cases, the requisition shall be as aforesaid; but it shall be within the discretion of the trustee to enforce or waive the rights of the bondholders by reason of such default, subject to the power hereby declared of a majority in interest of the holders of the said bonds, by requisition in writing signed by such majority, to instruct the said trustee to waive such default, or upon adequate indemnity, as aforesaid to enforce their rights by reason thereof: Provided, That no action of the said trustee or bondholders, or both, in waiving such default, or otherwise, shall extend to or be taken to effect any subsequent default, or to impair the rights resulting therefrom.

ARTICLE ELEVENTH. Is mutually agreed by and between the parties hereto, that the word "trustee," as used in these presents, shall be construed to mean the trustee for the time being, whether original or new.

And it is mutually agreed, by and between the parties hereto, as a condition on which the party of the second part has assented to these presents, that the said trustee shall be entitled to just compensation for all services which it may hereafter render in its trust, to be paid by the said railway company or out of the income of the property, and for that purpose may at any time apply to the courts, without notice to any person but the said party of the first part, that said trustee or any successor may resign and discharge itself of the trust created by these presents, by notice in writing to the said railway company three months before such resignation shall take effect, or such shorter time as the said railway company may accept as adequate notice and upon the due execution of the conveyances hereinafter required; that the said trustee may be removed by a majority in interest of the holders of the aforesaid bonds, by an instrument in writing, signed by such majority; that in case at any time hereafter the said trustee, or any trustee hereafter appointed, shall resign or be removed as herein provided, or by a court of competent jurisdiction, or shall become incapable or unfit to act in the said trust, a successor to such trustee shall be appointed by the holders, for the time being, of a majority in interest of the said bonds then outstanding, by an instrument in writing signed by such majority; and the trustee so appointed shall thereupon become vested with all the powers, authorities and estates

granted to or conferred upon the party of the second part by these presents, and all the rights and interests requisite to enable it to execute the purposes of this trust, without any further assurance or conveyance so far as such effect may be lawful; and upon the resignation or removal of any trustee, or any appointment in its place in pursuance of these presents, all its powers and authorities by virtue hereof shall cease, and all the estate, right, title, and interest in the said premises of any trustee so resigning or being removed shall wholly cease and determine, but the said trustee so resigned or being removed shall, on the written request of the new trustee who may be appointed, immediately execute a deed or deeds of conveyance to vest in such new trustee, upon the trusts herein expressed, all the property, rights, and franchises which may be at that time held upon the said trustee: Provided, nevertheless, and it is hereby agreed and declared, that in case it shall at any time hereafter prove impracticable, after reasonable exertions, to appoint, in the manner hereinbefore provided, a successor in any vacancy which may have happened in said trust, application in behalf of all the holders of the bonds secured hereby may be made by holders of the said bonds to the aggregate amount of one hundred thousand dollars to any circuit court of the United States for any judicial district in which any part of the aforesaid railroad may be situate, for the appointment of a new trustee.

It is also mutually agreed that the said party of the second part, and its successor in the trust, shall be accountable for reasonable diligence in the management thereof, but shall not be responsible for the acts or defaults of any agent employed by it in good faith.

And the said party of the first part, for itself and its successors, in consideration of the premises and of one dollar to it duly paid by the said party of the second part, the receipt whereof is hereby acknowledged, hereby further covenants and agrees to and with the said party of the second part, its successors and assigns that the said party of the first part, and its successors, shall and will from time to time, and at all times hereafter, and as often as thereunto requested by the trustee, execute, deliver, and acknowledge all such further deeds, conveyances, and assurances in the law, for the better assuring unto the said trustee the railroads, equipments, and appurtenances hereinbefore mentioned, or intended so to be, and all other property and things whatsoever, which may be hereafter acquired for use in connection with the same, or any part thereof, and any franchises pertaining thereto, now held or hereafter acquired as by the said trustee, or by its counsel learned in the law, shall be reasonably advised, devised, or required.

ARTICLE TWELFTH. The party of the first part hereby expressly reserves full power and authority in its own discretion, at any time hereafter, having first determined to construct a branch line of railroad from some point of junction with its said main line, hereinbefore particularly described, to the said town of Tomah, Wisconsin, to issue an additional amount of its first-mortgage bonds, not exceeding in the aggregate the sum of seven hundred and fifty thousand dollars, to aid in the construction of such branch road,

such bonds to be numbered consecutively, commencing with the number 3801, to be each for the sum of one thousand dollars, bearing date on the 1st day of April, A. D. 1871, and payable in gold coin of the United States, on the first day of April, A. D. 1911, with semi-annual interest at seven per cent., payable in coin of the United States on the first day of April and October in each year, and to be in all respects of like form, tenor and effect with the bonds hereinbefore more particularly described and set forth, and when issued shall be equally, in all respects, secured by these presents, with such bonds, without any preference, priority, or discrimination on account of or with reference to the time of the actual issue of the said bonds or any of them.

And the said party of the first part, in consideration of the premises and of one dollar to it paid by the party of the second part, the receipt of which is hereby acknowledged, further covenants and agrees that before it issues any of the bonds in this article described, to assist in the construction of said branch railroad to the said town of Tomah, it will execute, acknowledge, and deliver to the said party of the second part, or its successor or successors in the trust hereby created, such deeds, conveyances, and assurances as shall be necessary and sufficient to extend the lien created by this deed of trust, over the whole of said line of branch railroad hereinbefore more particularly described, including all and singular the rights of way, depot-grounds, and other lands, all tracks, bridges, and other structures, all depots, station-houses, engine-houses, and other buildings, and all other appurtenances and fixtures thereto belonging or in any way appertaining; so that all the said line of railroad, including the said branch to Tomah, shall be subject to the lien created by this deed, for the uses and purposes herein more fully expressed.

And said party of the first part further covenants and agrees, that such further deed, conveyance, or assurance shall provide for an additional sinking-fund for the redemption of such further issue or bonds, commencing on the said 1st day of April, A. D. 1876, that shall bear the same proportion to the amount of such further issue as the sinking-fund provided by article 7 hereof bears to the said issue of \$3,150,000 of bonds.

And the said party of the first part, for itself and its successors, in consideration of the premises and of one dollar to it duly paid by the said party of the second part, its successors and assigns, that it, the said party of the first part and its successors, shall and will at all times hereafter, keep open an office or agency in the city of New York, for the payment of the principal and interest of and upon the bonds hereinbefore recited and described, as the same shall become payable, and for the transfer and registration of the said bonds; and that any and every default in the due performance of this covenant shall be deemed and taken to be a waiver of presentment and a demand of payment of all and every of the bonds and coupons aforesaid, which may become payable during the continuance of such default.

In testimony whereof the said party of the first part has caused its corporate seal to be affixed to these presents, and the same to be

attested by the signatures of its president and secretary; and the said party of the second part has caused its corporate seal to be affixed to these presents, and the same to be attested by the signatures of its president and secretary, to testify its acceptance of the said trust, the date and year first above written.

, *President.*
, *Secretary.*

EXHIBIT 18.

Copy of coupon bond.

States of Illinois, Wisconsin, Michigan, Iowa, Minnesota, and Territory of Dakota.

\$1,000.]

[\$1,000.

CHICAGO AND NORTHWESTERN RAILWAY COMPANY.

No. .]

General consolidated gold-bond.

No .]

For value received, the Chicago & Northwestern Railway Company promises to the bearer hereof the sum of one thousand dollars in gold coin of the United States, on the first day of December, in the year one thousand nine hundred and two, with interest thereon at the rate of seven per cent. per annum, payable semi-annually in gold, on the first days of June and December of each year, until the principal sum shall become due, upon presentation of the annexed coupons, as they respectively fall due, at the office or agency of the Chicago and Northwestern Railway Company in the city of New York.

This bond is one of a series of coupon and registered bonds, issued and to be issued, to an aggregate amount not exceeding forty-eight millions of dollars, for the purpose of consolidating the entire mortgage debts of said railway company, and of the several railroad and railway companies whose stock is owned and whose railroads are controlled and operated by it, and which shall become consolidated with it, and is secured by a deed of trust, bearing date on the thirtieth day of November. A. D. 1862, upon all the lines of railroad, franchises and property of said Chicago and Northwestern Railway Company, and of the other companies aforesaid severally.

The deed of trust provides for a sinking fund, to be applied annually to the purchase and cancellation of this debt.

This bond is convertible into a registered bond of said company of the same issue, in amounts of one thousand, five thousand, and ten thousand dollars, at the office or agency of said company in the city of New York.

This bond shall not become obligatory until it shall have been authenticated by a certificate endorsed hereon and duly signed by the trustee.

In witness whereof the said Chicago and Northwestern Railway

Company has caused its corporate seal to be hereto affixed, and the same to be attested by the signatures of its president and secretary, and has also caused the coupons hereto annexed to be signed by its secretary on the 30th day of November, A. D. 1872.

, *President.*
, *Secretary.*

{ C. & N. W. }
 R'Y CO. }
 SEAL. }

It is hereby certified that the above bond is one of the bonds secured by the deed of trust, bearing date on the 30th day of November, A. D. 1872, above mentioned.

UNION TRUST COMPANY OF NEW YORK,

By

, *President.*
, *Trustee.*

EXHIBIT 19.

\$10,000] *Copy of registered bond.* [\$10,000

States of Illinois, Wisconsin, Michigan, Iowa, Minnesota, and Territory of Dakota.

CHICAGO AND NORTHWESTERN RAILWAY COMPANY.

No. .] *General consolidated gold-bond,* [No. .

For value received, the Chicago and Northwestern Railway Company promise to pay to or assigns, the sum of ten thousand dollars, in gold coin of the United States, on the first day of December, in the year one thousand nine hundred and two, with interest thereon, from the day of 18 , inclusive, at the rate of seven per cent. per annum, payable semi-annually in gold, on the first days of June and December of each year, at the office or agency of the Chicago and Northwestern Railway Company, in the city of New York, until said principal sum becomes due.

This bond is transferrable on the books of the company, at its office or agency aforesaid, and is one of a series of coupon and registered bonds issued, and to be issued to an aggregate amount not exceeding forty-eight millions of dollars, for the purpose of consolidating the entire mortgage debts of said railway company, and of the several railroad and railway companies, whose stock is owned and whose railroads are controlled and operated by it, and which shall become consolidated with it, and is secured by a deed of trust bearing date on the thirtieth day of November, A. D. 1872. upon all the lines of railroad, franchises and property of said. Chicago and Northwestern Railway Company, and of the other companies aforesaid, severally.

The deed of trust provides for a sinking fund, to be applied annually to the purchase and cancelation of this debt.

This bond shall not become obligatory until it shall have been

aged, and carried by the two boards of directors of said companies, jointly acting as the board of directors of the consolidated company until the election of directors of the consolidated company on the first Tuesday in October, in the year one thousand eight hundred and fifty-seven, as provided in section four (4) of this act. And thereafter the directors so elect shall have the powers of the joint board aforesaid. In the joint board aforesaid each director holding such office in both of the boards thus jointly acting shall be entitled to two votes on any question before the board, unless otherwise ordered by the respective boards in agreeing upon the terms of consolidation aforesaid.

SECTION 2. Whenever the said two companies shall have agreed to consolidate; and settled the terms thereof in writing, in some form in their discretion, either by resolutions of their respective boards of directors, or by written agreement executed by some person or persons duly authorized in behalf of said companies, and when they shall have deposited with the Secretary of State a certificate of the fact of such consolidation, signed by the president of each of the companies aforesaid, therefrom and thereafter all rights, franchises, privileges, grants, conveyances, powers, immunities, property, and causes of action of the said Wisconsin and Superior Railroad Company, and of the said Chicago, St. Paul and Fond du Lac Railroad Company, and also of the said two former companies, heretofore consolidated, to-wit: the said Illinois and Wisconsin Railroad Company, and the said Rock River Valley Union Railroad Company, shall be, and the same are hereby declared to be, thereby transferred to, conferred upon, merged in, belong to, and be the property of, and be owned by, the said consolidated company thus created; and the capital stock of the said consolidated company shall be the aggregate of the capital stock of the said two companies so consolidated, with power to increase the same to a sum not exceeding fifteen millions of dollars, or the whole cost of its line of railroad or other property; and the said consolidated company thus created shall be, and is hereby to be, a body politic and corporate, under the name of the Chicago, St. Paul and Fond du Lac Railroad Company, and may under such name, contract and be contracted with, sue and be sued, plead and be impleaded with, and may take and enforce the right of way according to and in pursuance of the law applicable to either of the said companies so consolidated. After the certificates of consolidation aforesaid shall have been filed as aforesaid with the Secretary of State, he is required, when requested so to do, and on payment of his fee, to make an official certificate that the aforesaid companies are consolidated into one company and corporation, under the name aforesaid, and such certificate shall be evidence in any court of law or equity, or wherever proof is required of the fact of such consolidation, and that the said consolidated company is a body corporation, with all the powers, privileges, rights, property, and causes of action by virtue of this act conferred upon, or required by, said company. All rights or causes of action which either of the aforesaid companies have or might have before consolidation, may

be prosecuted or defended after such consolidation, in the name of the said Chicago, St. Paul and Fond du Lac Railroad Company, (the name of the consolidated company,) in the same manner and same rights as if said consolidated company had been an original party to such cause of action when the same arose and occurred, and any person or corporation having any claim or demand against either of said companies on or before such consolidation, may, after such consolidation, have and maintain suit therefor in any court having jurisdiction thereof against the said consolidated company after such consolidation.

SECTION 3. The said consolidated company hereby created shall be entitled to and invested with the title and ownership of all the lands, and all and singular the rights, privileges, and immunities granted or conferred by the act of Congress approved June 3, A. D. 1856, entitled, "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," to the extent of the whole of the lands granted by said act of Congress for the purpose of aiding in the construction of a railroad from Fond du Lac, on Lake Winnebago, northerly to the State line, as fully and completely as the said Wisconsin and Superior Railroad Company is by its charter entitled to and invested with the same; subject, however, to all the terms, conditions, restrictions, limitations, impositions, duties, and obligations contained in the charter of the said Wisconsin and Superior Railroad Company, and in said act of Congress as far as the same are applicable to the consolidated company hereby created: Provided, however, that the consolidated company hereby created shall not be required to pay any greater sum for taxes relatively than any other railroad companies in this State are required by law to pay, excepting on that portion of their line of railroad indicated in said act of Congress which shall be and remain as provided in the charter of the said Wisconsin and Superior Railroad Company.

SECTION 4. The consolidated company hereby created shall hold an annual election of directors, at a place to be selected in one of the counties of the State of Illinois, or of this State, through which the said railroad passes. The first election shall be held on the first Tuesday of October, A. D. 1857, and notices of all annual and special meetings shall be given to the stockholders by publication in one or more newspapers published in the cities of Chicago, Milwaukee, and New York, for thirty days prior to such election.

SECTION 5. All municipal corporations, towns, villages or cities, which have been or may be authorized to loan their credit or subscribe to the capital stock of the Chicago, St. Paul and Fond du Lac Railroad Company, or to the Wisconsin and Superior Railroad Company, are hereby authorized to loan their credit to or subscribe to the capital stock of the consolidated company hereby created, to the same extent and on the same terms as by law said corporations, towns, villages, or cities are now authorized to loan their credit or to subscribe to the capital stock of the Chicago, St. Paul and Fond du Lac Railroad Company.

SECTION 6. Any railroad company in this State, whose route

shall cross, intersect, come up to, or in contact with the route of the said consolidated railroad company, at any point at or north of the city of Fond du Lac, shall have a right to have running connections with the said consolidated railroad company, upon fair and just principles, to be adjusted by the superintendents of said companies. In agreeing upon the terms of such running connections, the tariff-rates for passengers and freight per mile shall be so adjusted that the said consolidated company shall have no advantage in the transportation of freight and passengers to Chicago, over any other railroad connecting as aforesaid in this State, running to any city or town on Lake Michigan. And if the superintendents of said consolidated railroad company and such connecting railroad shall be unable or fail to agree upon the terms of such running connections, they shall each select a railroad superintendent, and the two thus selected, if they can, shall choose a third person, and, if they cannot agree, then such third person shall be elected or appointed by the governor—all of whom shall be in no way interested in either company. And they, or a majority of them, shall adjust the terms of such running connections and such tariff-rates, and provide for suitable penalties and forfeitures. Such determination shall be reduced to writing and signed by said arbitrators, and one copy delivered to each of said companies, and the same shall be final and conclusive upon both parties.

SECTION. 7. This is hereby declared to be a public act, and the same, immediately after the passage thereof, shall be printed by the State printer, and when thus published shall take effect and be in force.

Approved February 12, 1857.

EXHIBIT 17½.

An act to authorize the Chicago and Northwestern Railroad Company to guarantee certain bonds therein named.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Chicago and Northwestern Railway Company, acting by its board of directors, is hereby authorized and empowered to guaranty the payment of principal and interest, or either of them, of any bonds or other written obligations issued by the Winona and St. Peter Railroad Company, a corporation of the State of Minnesota, issued by the La Crosse, Trempealeau and Prescott Railroad Company, a corporation of the State of Wisconsin: Such guaranty, heretofore executed by the Chicago and Northwestern Railway Company, of the payment of the principal and interest of the bonds of the said Winona and St. Peter's Railroad Company, is hereby ratified and confirmed.

SECTION 2. This act shall take effect from and after its passage.

Approved March 15, 1870.

EXHIBIT 21.

[The Exhibit here included in the record, is chapter 341, Laws of Wisconsin, 1874, for which see page 7 of Appendix "A," contained in this volume.—COMMISSIONERS.]

EXHIBIT 18.

An act to incorporate the LaCrosse and Trempealeau and Prescott Railroad Company.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. P. V. Wise, O. T. Maxon, C. B. Cox, T. B. Wilson, A. C. Morton, David Noggle, Charles McClure, Edmund Bishop, G. Gale, Marvin Pierce, Jesse Bennett, H. D. Huff, Samuel D. Hastings, B. B. Hale, Geo. Batchelder, F. M. Rublee, D. D. Cameron, and Cadwalader C. Washburn, and their successors and associates, to be determined as hereinafter provided, are hereby made, constituted, appointed, and declared to be a body politic and corporate by the name and style of the "La Crosse, Trempealeau and Prescott Railroad Company," and by that name the said corporation shall have perpetual succession, and shall have and enjoy all the privileges, franchises, and immunities which any corporation may or can have and enjoy; they shall be capable in law of purchasing, holding, selling, leasing, and conveying estate, either real, personal, or mixed, and may take and hold any such estate by gift, grant, purchase, devise, or lease; they may make, have, and use a common seal, and alter, break, and renew the same at pleasure; and by that name they may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, contract and be contracted with, and generally do and perform all the acts and things which to any corporation it shall lawfully appertain to do and perform.

SECTION 2. The said P. V. Wise, O. T. Maxon, T. B. Wilson, David Noggle, Charles McClure, Edmund Bishop, H. D. Huff, Samuel D. Hastings, Geo. Batchelder, Geo. Gale, and D. D. Cameron, shall be, and are hereby made, constituted, appointed, and declared the first directors of said company, and shall hold their offices until other directors are elected by the stockholders, and shall possess all the powers conferred by this act upon the board of directors selected by the stockholders as hereinafter provided.

SECTION 3. The capital stock of said company shall be five millions of dollars, divided into such number of shares of one hundred dollars each as the directors shall from time to time determine, and the directors named in the second section of this act shall cause books to be opened at such times and places as they may designate, to receive subscriptions to the capital stock of said company, under the direction of some one or more of them, or under the direction

of such person or persons as they may designate, giving at least ten day's notice of such times and places, by publishing the same in some newspaper printed in each of the counties of Pierce and La Crosse, or either of them, and shall require three dollars on each share of stock subscribed, to be paid at the time of subscribing; as soon as five hundred shares of the capital stock of said company shall be subscribed, and three dollars on each share actually paid, the said directors shall close the books of subscription, and receive no more subscriptions until after the election of directors by the stockholders, and they shall immediately give notice for an election by the stockholders of eleven directors, at some time and place designated by them, which notice shall be published in some newspaper printed in one or more of said counties of Pierce and La Crosse, at least ten days prior to the time so designated for such election; and the directors thus elected shall hold their offices until the next annual meeting of stockholders for the election of directors, and until other are elected.

SECTION 4. All the affairs of said corporation shall be managed by a board of eleven directors, who shall be stockholders, and the board of directors is hereby invested with all the powers of the corporation; they shall be chosen by the stockholders annually, by ballot, at the annual meeting of the stockholders, which shall be held at such time and place as the directors shall from time to time prescribe, and the same notice of every such election shall be given as herein required to be given of the first election of directors, and the number of directors to be elected shall be specified in the notice of election, and the directors may at any time increase or diminish the number to be elected at any annual election, so that the number shall not be more than fifteen nor less than seven. At all meetings of the stockholders the votes of stockholders may be cast in person or by proxy, duly authorized, and every stockholder shall be entitled to one vote for each and every share of stock held by him, and in all elections for directors those stockholders equal to the number of votes, shall be deemed and declared duly elected; the elections shall be conducted in such manner as shall be prescribed by the by-laws or by resolution of the company. If for any cause an election of directors should not be had at the time when by the provision of this act it should be had, the same may be held at any other time, on notice being given as aforesaid, and until such election be had, the directors of the preceding year shall continue to act, and the corporation shall not forfeit or lose any of its privileges, franchises, or immunities by reason of irregularity or want of any such election.

SECTION 5. A majority of the board of directors shall constitute a quorum for the transaction of any business; they shall meet at such times and places, and be convened in such manner, as they shall prescribe. They may fill any vacancy which may occur in their own board; they shall appoint one of their own number to be president and one vice-president, who shall serve one year or until a new election of directors. The president, when present, shall preside at all meetings of the directors and stockholders, and in case

of his absence, the vice-president shall discharge the duties of president, and in case of the absence of the president and vice-president, the directors present may appoint a president pro tem., who shall discharge the duties of president during the absence of the president and vice-president. The board of directors may appoint a secretary, treasurer, chief engineer, superintendent, attorney, and such other officers and agents as they may find necessary, fix their compensation and duties, and demand adequate security for the discharge of their respective duties and trusts. The directors shall have power to re-open the books for subscriptions to the capital stock of the company, or open new books, under their own direction, or the direction of such person or persons as they may designate; to determine the amount of the first and all other installments to be paid from time to time on stock subscriptions, and to forfeit to the use of the company or to sell the share or shares of any person failing to pay any installment and all previous payments thereon; and also, in their discretion, on the request of any stockholder, to cancel his stock, with or without refunding to such stockholder the amount paid by him, or any part of it. They may receive, take, and hold, in payment for the stock of said company, any land or other estate, either real or personal or mixed, and they may convey a fee-simple or any less estate in any real estate so received, taken, or held, and in any and all other estates of which they may be seized or which they may occupy or possess, and they may also mortgage or pledge any of their estate, real, personal, or mixed, in such manner and on such term as the directors may think proper. The directors shall have power to establish and regulate their tolls and charges for the transportation of freight and passengers and the storage of freight, and to collect all such tolls and charges, and to make such covenants and agreements with any person or persons, co-partnership or corporation, whether as the construction and management of the road and the convenience and interest of the company may require; to make any contract or agreement which they may think proper with any other railroad company for the leasing or purchase of the whole or any part of any said road, constructed or to be constructed by such railroad company, and to lease or sell to any other railroad company or persons the whole or any part of the railroad of this company, with the capital stock of any other railroad company, on such terms as shall be agreed upon by the directors of such companies respectively, and mutual powers in this behalf are hereby conferred on all such companies. The directors shall have power and authority to make and establish such by-laws as they may think proper respecting the property, concerns, affairs, business, stock, government, and powers of said corporations, and may exercise all the powers which may be prescribed by such by-laws, and may make such other rules, regulations, and orders as they may think proper; but no such by-laws, rules, regulations, or orders shall be inconsistent with this act or with the constitution or laws of this State, and they shall have power in general to superintend and direct all the operations, receipts, disbursements, and all other affairs of said company.

SECTION 6. All shares of stock in said company owned by any person shall be deemed personal property, and certificates for the same shall be issued in such manner and form as shall be prescribed by the by-laws, and the same shall be transferable in the manner and form provided by the by-laws of said company.

SECTION 7. Special meetings of the stockholders may be called by order of the board of directors, or by stockholders holding one-fourth of the capital stock, on like notice as that required for annual meetings of the stockholders, specifying the object of the meeting.

SECTION 8. The said company shall have power to locate and construct, and perpetually to have, use, and enjoy, a railroad, with one or more railways or tracks, from some point in the city of La Crosse, by the way of Trempealeau and Fountain City, to Prescott, with such branches for connection with the Milwaukee and La Crosse Railroad Company as shall be determined by said company: Provided, That the said La Crosse, Trempealeau and Prescott Railroad Company shall have no power to connect with that portion of the La Crosse and Milwaukee Railroad known as the Western Division of said road, more than four miles out of the corporate limits of the city of La Crosse; and shall have the perpetual right, power, and authority to transport, take, and carry property and persons upon said road by the power and force of steam, of animals, or any mechanical or other power, or of any combination of them, and from time to time to receive and store any property in any depots, store-houses, or warehouses of said company; and to make and construct all such turn-outs, side-tracks, and connecting tracks as they shall think will promote the interests of said company, and to erect, construct, and use all such depots, station-houses, warehouses, car-houses, and shops, engine-houses and shops, and all other fixtures useful for the accommodation of said company and its road and those using it; to purchase and own rails, chairs, spikes, engines, tenders, cars, and all things necessary or useful for the construction and operation of a railroad; and they shall have power to connect the said railroad with any other railroad in this State, and to extend their line of railroad so far as may be necessary to make such connection, and to operate the same in connection with such other railroad, by consolidation of the stock of this railroad company with the stock of such other railroad company, upon such terms as shall be mutually agreed upon between the said companies, or any other manner.

SECTION 9. The said company is hereby authorized and fully empowered, in its corporate capacity, to borrow any sum or sums of money, from any person or persons, corporation or body-politic of any kind, and for any rate of interest which may be agreed upon by and between said railroad company and any party of whom such money may be obtained, any law on the subject of usury to the contrary notwithstanding; and to make, execute, and deliver, in or out of this State, all necessary writings, notes, bonds, mortgages, or other papers and securities, in amount or kind, as may be deemed expedient by said corporation, in consideration of any such loans or

in discharge of any liabilities they may incur in the construction, repair, equipment, or running of said road, or in any of the operations of said company authorized by this act; and the said company is hereby authorized, in its corporate capacity, to make, execute, issue, and deliver its bonds or obligations, in such amount, that all the bonds of said company [outstanding at any one time will not exceed the capital stock of said company;] and the directors of said company are hereby authorized and empowered to prescribe, by resolutions to be by them adopted, the sum or sums for which each of said bonds shall be issued, the time or times and place or places when and where the principal and interest of the same shall be payable, the person or persons, trustee or corporation, to whom they shall be payable, and whether payable to order or bearer, or how otherwise negotiable, the rate of interest which such bonds shall bear, and the manner and form in which they and the interest [coupons] annexed to them shall be executed; and to secure the payment of any or all of said bonds the said company is hereby authorized and empowered, in its corporate capacity, to make, execute, and deliver a mortgage or deed of trust upon the whole or any part of its railroad, constructed or authorized to be constructed, and of any or all of its estate, real, personal, or mixed, in possession or expectancy, and the said company is also hereby authorized and empowered, in and by such mortgage or deed of trust, to confer upon the trustee or mortgagee full and ample powers to enter into and upon and to take possession of, have, use, and (employ) [enjoy,] or to sell and dispose of, the whole or any part of said railroad or estate, real, personal, or mixed, together with the functions appertaining to said railroad, and all corporate and other franchises, rights, and privileges of the said railroad company; and the directors of said company are hereby authorized and empowered to prescribe, by resolution to be by them adopted, all matters relating to the form and terms of any such mortgage or deed of trust and of its execution and delivery; and they are authorized and empowered to provide for the periodical payment to such trustee or receiver as they shall appoint a certain sum, to create a sinking-fund, with which to pay off and discharge, at or before maturity, any or all of the bonds by them authorized to be issued, and also provide the manner in which such trustee or receiver shall pay out or dispose of said sinking-fund, and to authorize him to designate by lot, or in any other suitable manner, the bond or bonds to the payment of which said sinking-fund or any part of it shall be applied; and the said railroad company is hereby fully authorized and empowered, by its agents or brokers or otherwise, either in or out of this State, to sell, loan, pledge, hypothecate, or otherwise dispose of any or all of the aforesaid bonds hereby authorized to be issued, at par or any price less than par, and for such sum or sums, and on such terms, as to the said company or its said agents or brokers shall appear most for the interest of said company; and its directors, officers, and agents are hereby authorized and empowered to have, exercise, and enjoy all the rights, privileges, and powers conferred upon them

respectively by this section, any law of this State to the contrary notwithstanding.

SECTION 10. The said company shall have the right and authority to construct their said railroad upon and along, across, under, or over any public or private highway, road, street, plank-road, or railroad, if the same shall be necessary, but said company shall restore such highway, road, street, plank-road, or railroad to its former state, so as not to impair the usefulness of the same, so far as the same can be done consistently with the rights and privileges hereby granted to the said company. The said company shall have the right and authority to erect and maintain all the necessary bridges for the use of their said railroad over any stream of water or water-course, at such points of crossing the same as they may locate the said road, with all necessary abutments, piers, or other foundations.

SEC. 11. It shall be lawful for said company, their officers, engineers, and agents, to enter upon any land, for the purpose of exploring, surveying, locating, and determining the route of said railroad, and when the route of said railroad shall be determined by said company by resolution adopted by the board of directors, it shall be lawful for them, their agents, officers, engineers, contractors, employees, and servants, at any time to enter upon, take possession, occupy, and use any land along and including the line of said route, not exceeding one hundred feet in width; and it shall also be lawful for said company at any time to enter upon, take, possess, occupy, and use any other lands beyond said limits of one hundred feet which the chief engineer of said company shall in writing, to be signed by him and recorded in the office of the register of deeds of the county in which such lands are located, certify and declare to be necessary for the use of said company, for the purpose of erecting depot-buildings, station-houses, freight-houses, warehouses, engine-houses, machine-shops, or for buildings or fixtures of any kind, or grounds about the same, for the convenient operation of the business of the road, or for making (draws) [drains] or giving a proper direction to water-courses, or of diverting or of changing the channel of water-courses, or for the purpose of removing such substances and things as may endanger, obstruct, or interfere with the free use of said road, or for the purpose of making deep cuts or excavations, or for the purpose of depositing, earth, gravel, or stone, or for the purpose of obtaining earth, gravel, timber, stone, or other materials for embankments, structures, or superstructures, necessary to the construction, repair, or renewal of the said road. Said company shall, however, at such time and in such manner as is provided by this act, be liable to pay the full value of all lands so taken, possessed, occupied, and used, which value shall be ascertained in the manner hereinafter provided; and whenever the same shall have been paid, tendered, or deposited, as provided in this act, an absolute estate in fee-simple in any and all such lands shall be and become vested in said company; and whenever the company shall deem that the same, or any part thereof, shall no longer be neces-

sary for the purposes for which the same were taken, the said company is authorized to lease or sell the same or any part thereof.

SEC. 12. The said company may, after the route of the said railroad shall be located and determined, offer by its agent to pay to the owner or owners of any land which by the provisions of this act the said company is authorized to enter upon, take, possess, occupy, or use, or to any person claiming any interest in such land, and if any such owner or person claiming any interest in such land shall be a minor, non compos mentis, insane, or (un)married woman, or under any legal disability, then to the guardian of such minor, non compos mentis, or insane person, or husband of such (un)married woman, such sum for the said lands as the company shall consider to be the full value of the same, and if such owner or claimant, guardian or husband, shall not accept of such offer, or if for any reason said company shall fail to agree with the owner or person claiming any interest in such land, then, and in all such cases, in which the said company shall enter upon, possess, occupy, or use any lands as aforesaid, for any of the purposes aforesaid, the value of said lands shall be ascertained and determined as follows, to-wit: The said company may apply to the judge of the county court for the county in which the land lies for the appointment of three (3) commissioners, to make an appraisement and award of the value of the lands, to be paid by said company to the owner of or persons claiming an interest in each of the pieces and parcels, on the whole or any part of the line of said railroad [so] (to) enter[ed] upon, taken, possessed, occupied, or used as aforesaid, for any of the persons aforesaid. The said company shall give notice of their application for the appointment of such commissioners by publishing the same at least ten days before the time for (having) [hearing] the said application, in a newspaper published in the county in which the land lies, and upon proof of the publication of the notice the judge to whom the application shall be made shall [appoint] the commissioners, who shall proceed to examine the premises, having first given such notice as they may deem reasonable to such owner, guardian, or husband; and whenever it shall appear to the said company, or its officers, that the title to any such land is in dispute, or that several parties claim interest therein, by tax-sales, tax-titles, incumbrances, liens, or equitable claims, the said commissioners shall, upon request of said company or its officers, give notice to all persons claiming any interest in such lands, whether as owners, incumbrances, or otherwise; and when the person to be notified has no known residence in this State, the notice may be by publication in a newspaper for such length of time as the commissioners shall deem reasonable; and, having first determined that it was necessary to take such land, shall make an appraisement and award of the value of the land so entered upon, taken, possessed, occupied, or used by said company for any of the purposes aforesaid, and shall deliver one copy of their award to the said company, and shall file another in the office of the clerk of the circuit court of the county in which such lands shall be, with the costs of the award taxed upon each of said copies.

And if the amount awarded by said commissioners for such value shall be more than the said company had previously offered to pay, then said commissioners shall award that said company shall pay the cost of said award, and if it shall not be more, then they shall award that the other party shall pay such costs; and if neither party shall appeal from said award in the manner hereinafter provided, the said circuit court, on motion of the party in favor of whom such an award shall be made, for such value aforesaid, or for costs, shall, unless such award shall have been previously paid, enter up judgment in conformity with such award. And the said company, or any party so receiving notice from said commissioners as aforesaid, may, within thirty days after such award shall have been filed with the clerk as aforesaid, appeal from the same to the circuit court for the county in which [such] lands shall lie, by filing with the clerk of said court a written notice of such appeal; and upon receiving such notice, the said clerk shall enter the appeal as a case upon the docket of said court, setting down the owner or owners and person or persons claiming any interest in such land, embracing all persons so having received such notice from the said commissioners as plaintiffs, and the said company as defendant, and the said court shall proceed to hear and determine said case in the same manner that other cases shall be heard and determined in said court; and all issues or fact arising therein shall be tried by a jury, unless a jury shall be expressly waived by both parties. But the appellant shall not be entitled to have the said case tried at any term of said court unless he shall have given notice to the appellee or his attorney at least ten days before the first day of the term that he will demand a trial at such term; but in case the appellee has no known residence or attorney in this State no such notice will be given; but in all cases the appellee may waive such notice, in which case the same rules for trial shall be applicable to it as to other cases in said court. After the hearing of said case the jury, or if the jury be waived the court, shall assess the value of the land so entered upon, taken, possessed, occupied, and used by said company at the time when the same was so entered upon and taken; and after such assessment the court shall proceed to render judgment against said company for the amount of such assessment in favor of the plaintiff or plaintiffs in such case; and if the amount so assessed in favor of such plaintiff or plaintiffs shall exceed the amount awarded by said commissioner, then judgment shall be rendered against said company for costs, and if it shall not exceed the amount so found by said commissioners, then judgment shall be rendered in favor of said company for costs and against the said plaintiff or plaintiffs, and execution may issue accordingly; either party in any such case, after notice of an appeal shall have been filed as aforesaid, shall, on motion to the court to which the appeal is taken, in term-time or the judge thereof in vacation, ten days' notice of said motion having been given to the adverse party or his attorney, be entitled to a change of venue in such case to some other county in the State, but the venue in every such case shall not be awarded more than once, unless the second application be for some reason

prescribed by law for a change of venue in other cases. The judgment of the circuit [court] in any such case may be (received) [reviewed] on writ [of] error as other cases at law. Whenever the commissioners shall make award as aforesaid, and no appeal shall be taken from the same, and whenever, in case of an appeal, a final judgment shall be rendered, it shall be the duty of said company, and not before, to pay to the party entitled to the same the amount of such award or judgment, and in any case in which there shall be any lien, incumbrance, tax-sale, tax-title, or equitable claim to or upon the land, or any part thereof, which is the subject matter of such award or judgment, or where more than one person shall be entitled to or shall set up any claim to the amount of such award or judgment or any part of it, or where the person entitled to receive the same shall not have any known residence within this State, said company may deposit the amount of such award, where there has been an appeal, with the clerk of the circuit court with whom the award in the case shall have been filed, and in case of an appeal and judgment thereon, the company may deposit the amount of such judgment with the clerk of the circuit court for the county in which such judgment shall have been rendered, and the money so deposited in either case shall be paid over by order of the court to the person or persons who shall be adjudged by said court to be entitled to receive the same; and whenever the amount of such award or judgment shall have been paid or tendered or deposited as aforesaid, an absolute estate in fee-simple in such lands shall be and become vested in the said company, as against all persons so receiving notices from the said commissioners as aforesaid; all such persons so having received such notice shall be forever excluded from questioning such title so acquired by the said company. And the said company shall have full power and authority, after entering upon and taking any such lands, to have, hold, possess, occupy, use, and enjoy the same, for any of the lawful purposes of said company, from the time of such entry and taking until the proceedings contemplated by this act shall have been finally determined, and until said company shall, on demand, refuse to pay the value of said land so to be ascertained as aforesaid, and they shall not during such time, nor until such refusal, be disturbed in such possession, occupancy, use, or enjoyment by any proceedings either in law or equity.

SECTION 13. No person shall be incompetent to be a witness or give testimony in a suit or proceeding at law or in equity in which the said railroad company shall be a party, nor shall any person be disqualified from discharging the duties of a judge, justice of the peace or juror in any such suit or proceeding for reason that such person is a stockholder in said company.

SECTION 14. On the completion of said railroad, or any part of it not less than three miles in length, it shall and may be lawful for the company to demand and receive such sum or sums of money for the transportation of persons or property and the storage of property as they shall from time to time think reasonable.

SECTION 15. If any person shall willfully or knowingly injure or destroy the railroad so to be constructed by said company, or

any part of it, or any buildings or fixtures appurtenant to said road or belonging to said company, or shall willfully and maliciously place any obstruction or thing upon the track of said railroad, such person or persons so offending shall each of them, for every offense, forfeit and pay to said company the sum of fifty dollars, and in case any damage shall ensue, an additional sum equal to three times the amount of damage caused by such offence, which may be recovered in the name of said company, by action of debt, in any court having competent jurisdiction, in the county where the offense shall be committed, and shall also be deemed guilty of a misdemeanor, and be subject to indictment, and upon conviction of any such offense shall be punished by fine and imprisonment, or either, at the discretion of the court. In case the said company shall locate the line of their railroad on any lands belonging to the State, the said lands, to the extent of one hundred feet in width along the line of said road, are hereby granted to said company for the use of said railroad.

SECTION 16. This act is hereby declared to be a public act, and shall be favorably construed to effect the purposes hereby intended, and copies thereof, printed by authority of the State, shall be received in evidence thereof in all cases, and this shall take effect and be in force from and after its passage.

Approved March 6, 1857.

EXHIBIT 20.

This indenture, made this 13th day of November, A. D. 1872, by and between the Chicago and Northwestern Railway company, a body corporate, incorporated under and by virtue of the laws of the States of Illinois, Wisconsin, and Michigan, party of the first part, and the Union Trust Company of New York, a corporation of the State of New York, in the city of New York, party of the second part:

Whereas, the said party of the first part is owner of certain lines of railway in the States of Illinois, Wisconsin and Michigan, herein-after described; and whereas the said party of the first part is indebted in the aggregate in the sum of eighteen millions seven hundred and forty-nine thousand five hundred dollars, (\$18,749,500.) upon bonds heretofore issued by said company, and by the several railroad companies which have been consolidated with the party of the first part, and which have become the proper bonds and obligations of the said party of the first part, which bonds are secured by various trust-deeds or mortgages upon several and distinct portions of its lines of railroad;

And whereas the said Chicago and Northwestern Railway Company party of the first part, for the purpose of consolidating the various outstanding debts secured by deeds of trust aforesaid, and also the mortgage debts which it has assumed to pay, as hereinafter stated, and for the purpose of fully equipping its various lines of railroad herein described, has determined to issue bonds amounting in the aggregate to forty millions of dollars, and to secure the same by

this deed of trust upon the entire lines of railroad, property, and franchises owned by said company, and upon the railroad, property, and franchises of the several railroad companies whose capital stock is owned in whole or in part by the party of the first part upon consolidation of the said company with the said party of the first part, as hereinafter named:

Now, therefore, this indenture witnesseth, that, for the purpose of securing the payment of the principal and interest of the bonds of said company hereby provided to be issued, amounting to the sum of forty-eight millions of dollars, such bonds to be designated "General consolidated gold bonds," and to be of the several denominations of five hundred and one thousand dollars, so far as the same shall bear coupons, and such thereof as shall be registered bonds to be of the several denominations of one thousand, five thousand, and ten thousand dollars, and to be payable on the first day of December, A. D. 1902, in gold coin of the United States, with interest thereon at the rate of seven per cent. per annum, payable half-yearly, in gold coin of the United States, on the first days of December and June, in each year, the said Chicago and Northwestern Railway Company, the said party of the first part, hath granted, bargained, sold, released, convey, and confirmed, and by these presents doth grant, bargain, sell, release, convey, and confirm, unto the said party of the second part, and its successors, in the trust, for whomsoever may from time to time be the holders of said bonds hereby intended to be secured, the following lines of railway, owned and operated by the said party of the first part, to wit:

From Chicago, in the State of Illinois, to Negaunee, in the State of Michigan:

From Chicago to the east bank of the Mississippi River, opposite Clinton, (the eastern thirty miles of which is laid with a double track:)

From Turner Junction to Freeport, in the State of Illinois.

From Kenosha, in the State of Wisconsin, to Rockford, in the State of Illinois.

From Belvidere, in the State of Illinois, to the La Crosse, Trempealeau and Prescott Junction, in the State of Wisconsin; and from Elgin, in the State of Illinois, to Geneva Lake, in the State of Wisconsin, including the Elgin and State Line and State Line and Union Railroads;

Also all the right, title, and interest in the said Chicago and Northwestern Railway Company in and to the Chicago, Iowa and Nebraska and the Cedar Rapids and Missouri River Railroads, extending from the east bank of the Mississippi River, opposite Clinton, to Council Bluffs, in the State of Iowa, which are leased in perpetuity to the party of the first part;

Also all the ways, rights of way, depot-grounds, structures, and buildings of every kind connected with or appertaining to any of the railroads hereinbefore named, and all the tolls, rents, issues, and profits, and alienable franchises of the party of the first part connected therewith, including its rights and franchises as a corporation, and all its right, title, and interest in and to the property of every

description used on, upon, and in connection with the railroads leased to the said party of the first part as aforesaid;

And also all the rolling-stock, locomotives, tenders, passenger, mail, baggage, and express cars, freight, stock, dumping and flat cars and cars of every description, and all the tools, machinery, patterns, materials, and implements connected with the equipment, working, operating conducting, and repairing of the said railroads, or either of them, all of which chattels are declared to be fixtures and appurtenances to the lines of railroad owned as aforesaid by the said party of the first part:

To have and to hold all and singular the hereby-granted premises, with the appurtenances and the goods and chattels hereinbefore bargained and sold unto the said party of the second part, and its successors forever, subject nevertheless to the several deeds of trust or mortgages which are liens upon portions of the said premises and property specified in the deeds of trust and mortgages heretofore given to secure the bonds issued by said railroad companies respectively, which are now outstanding, amounting in the aggregate to eighteen millions seven hundred and forty-nine thousand five hundred dollars (\$18,749,500.) as hereinafter specified :

Provided, always, and these presents are upon the express condition, that if the party of the first part shall well and truly pay to the holders of the bonds to be issued, as hereinbefore stated, or of such of the said bonds as shall from time to time be outstanding and unpaid, and every of them, the principal and interest moneys to grow due on said bonds respectively, at the times and in the manner mentioned in the said bonds, according to the true intent and meaning of the same :

And provided, also, that if the said party of the first part shall keep paid off and discharged all taxes and assessments which may at any time be imposed upon the real or personal estate hereby granted, bargained, and sold, or intended so to be, or upon any portion of either, and all specific or general lean upon any of the property, real or personal, of the said party of the first part, the payment whereof may be material, necessary, or essential to the protection of the security hereby created:

And provided, also, that if the said party of the first part shall at all times, until the bonds hereby secured shall have been fully paid, keep paid off and discharged any and all interest which shall become due and payable upon the bonds secured by such prior mortgage.

And provided, also, that if the said party of the first part shall pay off or discharge those of the prior mortgages, the payment whereof may be necessary or material to the protection of the security hereby created :

Then, and from thenceforth, these presents and the estate hereby granted shall cease, determine, and be null and void. But in case default shall be made in the payment of the principal or interest of said bonds hereby secured, or such of them as may from time to time be outstanding, or any of them, or any part of either, as said principal or interest shall fall due, according to the tenor of

said bonds, and such default shall continue for six months; or in case the party of the first part shall fail to keep paid off and discharged the taxes and assessments which may be imposed upon the mortgaged premises or property, or any part thereof, as hereinbefore provided, or any specific or general liens upon said premises or property, the payment whereof may be material, necessary, or essential to the protection of the security hereby created; or in case the party of the first part shall fail to keep paid off or discharged the interest accruing from time to time upon the bonds secured by the prior mortgages upon said railroads; or in case the said party of the first part shall fail to pay off and discharge the said prior mortgages whenever the payment and discharge thereof shall become necessary or material to the protection of the security hereby created; then, and in either of the cases above mentioned, the conveyance herein contained shall be in full force and virtue; and it shall be lawful for the party of the second part, or its successors, and the party of the first part doth hereby fully authorize and empower them, with the aid and assistance of any person or persons, to enter into and upon and to take possession of the railroad and the branches thereof, and all and singular the lands, tenements, car and engine-houses, machine-shops, goods, chattels, and property, real and personal, hereby mortgaged, and every or any part thereof, to hold the same as mortgagees, in possession for the benefit of the holders of the bonds hereby secured, and to retain and keep possession of the said property, real and personal, use and operate the same, and to make, from time to time, all necessary or proper repairs and replacements, and to receive the earnings, rents, issues, and profits thereof, until a sale thereof shall be made pursuant to law, rendering an account thereof to the party of the first part, and after paying all current expenses, and the expense of necessary repairs and replacements, and other proper costs, charges, and expenses, taxes, assessments, interest on prior mortgages, and making all other payments necessary for the protection of the security hereby created, to apply the surplus, if any, to the payment, pro rata, of the interest and principal of the bonds hereby secured or such of them as may be then outstanding.

And in case default shall be made as aforesaid in the payment of the interest as it falls due upon the said bonds hereby secured, or any of them, or in the payment of the principal thereof or any of them, when due, or in making any of the payments of taxes, assessments, principal or interest, of prior incumbrances, the said party of the second part to these presents, or its successors, are hereby authorized and empowered to grant, bargain, and sell the property and premises hereby conveyed, and all the right, title, interest, and equity of redemption of the said party of the first part therein, at public auction, in either of the cities of New York or Chicago, upon giving notice of the time and place of such sale, by publication thereof at least three times a week for twelve weeks in a daily newspaper published in each of the said cities of New York and Chicago, and by serving a copy of such notice upon the party of the first part at least sixty days before the day of sale; and, in its

discretion, to adjourn such sale from time to time; and if so adjourned, to make the sale at the time and place to which it shall be so adjourned without further notice; and as the attorneys of the said party of the first part, by these presents duly constituted and appointed, to make, execute, seal, and deliver to the purchaser or purchasers thereof a good and sufficient deed or deeds, bill or bills of sale, conveyance or conveyances, in fee-simple, for the same, and out of the moneys arising from such sale, after paying the expenses of such sale and all the moneys expended for necessary repairs or replacements or necessary expenses, to pay to the several holders of the bonds and coupons hereby secured the amount of principal and interest which may be due or unpaid to them respectively, rendering the overplus, if any, to the said party of the first part, its successors or assigns, which sale, so to be made, shall forever be a perpetual bar, both in law and equity, against the said party of the first part, its successors or assigns, and all persons so claiming or to claim the premises so sold, or any part thereof, by, from, or under the said party of the first part, its successors or assigns.

And this indenture further witnesseth, that it is hereby covenanted and agreed that the sum of eighteen millions seven hundred and forty-nine thousand five hundred dollars (\$18,749,500) of the said bonds, hereby intended to be secured, shall be reserved by the said party of the second part, and shall not be issued except for the purpose of being substituted for, or for the payment of, the principal of the bonds now outstanding, issued by the said party of the first part or by some of the railroad companies which have been consolidated with it, and the payment of which is secured by lien upon some portion of its railroad or its equipment or earnings, and hereinafter specified as follows:

Deferred sinking-fund bonds of the Chicago and Northwestern Railway Company, dated July 1st. 1859, payable 1883.....	\$1,245,500
Funded coupon bonds of the Chicago & Northwestern Railway Company, dated August 1st, 1861, payable 1883.....	755,000
General first-mortgage bonds of the Chicago and Northwestern Railway Company, dated July 1, 1859, payable 1885.....	3,588,000
Appleton extension bonds of the Chicago & Northwestern Railway Company, dated November 1, 1860, payable 1885.....	148,000
Green Bay Extension bonds of the Chicago & Northwestern Railway Company, dated April 1, 1860, payable 1885.....	289,000
Seven per cent. equipment bonds of the Chicago and Northwestern Railway Company, dated January 1, 1863, payable 1874.....	101,000
First-mortgage bonds of the Galena and Chicago Union Railroad Company, dated June 1, 1853, payable 1882.	1,785,000

Second-mortgage bonds of the Galena and Chicago Union Railroad Company, dated May 1, 1855, payable 1875	\$948,000
Mississippi River bridge-bonds of the Galena and Chicago Union Railroad Company, dated January 1, 1864, payable 1884.....	200,000
Bonds of the Galena and Chicago Union Railroad Company, issued for the purchase of the Elgin and State Line Railroad, dated November 2, 1863, payable 1878.	135,000
First-mortgage bonds of the Peninsula Railroad Company of Michigan, dated May, 5, 1864, payable 1898.	695,000
First-mortgage bonds of the Beloit and Madison Railroad Company, dated January 1, 1863, payable 1888..	324,000
The consolidated sinking-fund bonds of the Chicago and Northwestern Railway Company, dated January 16, 1865, payable 1915, amounting to \$2,686,000; and also such bonds of the same issue as may be substituted for the above-described prior bonds, as provided for in its mortgage trust-deed	2,686,000
Madison Extension first-mortgage sinking-fund gold-bonds, dated April 1, 1871, payable 1911.....	3,150,000
Menomonee Extension first-mortgage sinking-fund gold-bonds, dated June 1, 1871, payable 1911.....	2,700,000
Aggregate amount	\$18,749,500

For the payment of which mortgage liens now exist upon several and distinct proportions of the railroads, property, and franchises herein conveyed, and subject to which liens this conveyance is made.

And whereas the said party of the first part is the owner of the whole, or nearly the whole, of the capital stock of certain railroad companies in the States of Illinois, Wisconsin, Iowa and Minnesota, and in the Territory of Dakota, the several railroads of which companies are leased in perpetuity to the said party of the first part, or are operated or controlled by it by virtue of its interest therein, as hereafter specified, to-wit:

The Chicago and Milwaukee Railroad, from Chicago, in the State of Illinois, to Milwaukee, in the State of Wisconsin, known as the Chicago and Milwaukee Railway; the La Crosse, Trempealeau and Prescott Railroad, in Wisconsin, from its junction with the Chicago and Northwestern Railway, near La Crosse, to a connection across the Mississippi River bridge at Winona, with the Winona and St. Peter Railroad; the Winona and St. Peter Railroad, from Winona, in the State of Minnesota, to the Big Sioux River, including the Winona and St. Peter Railroad, in the Territory of Dakota, and the bridge across the Mississippi River at Winona, with the branch line to Mankato, known as the Winona, Mankato and New Ulm Railroad; the Iowa Midland Railway, from Lyons to Anamosa, in the State of Iowa; the Northwestern Union Railroad, from Milwaukee to Fond du Lac, in the State of Wisconsin, with a branch

to Lodi, and also a branch to the iron mines in Dodge County, in said State; the St. Charles Railroad, from the town of St. Charles to the town of Batavia, in the State of Illinois, and the branch line from Stanwood to Tipton, in the State of Iowa, known as the Stanwood and Tipton Railroad.

And whereas the said several railroad companies, whose stock is owned by said party of the first part as aforesaid, have severally issued bonds secured by trust-deeds or mortgages upon their respective lines of railroad severally, with their equipments and appurtenances, and upon the franchises of said companies respectively, which said bonds, now outstanding, amount in the aggregate, to the sum of sixteen millions five hundred and ninety-nine thousand five hundred dollars, (\$16,599,500.) the payment of which has been assumed by the said party of the first part, and are as follows viz:

First-mortgage bonds of the Chicago and Milwaukee Railroad Company, dated May 1, 1854, payable 1874.	397,000
Second-mortgage bonds of the Milwaukee and Chicago Railroad Company, dated February 1, 1854, payable in 1874.	182,000
Third-mortgage bonds of the Milwaukee and Chicago Railroad Company, dated June 1, 1863, payable 1898.	10,500
First-mortgage bonds of the Chicago and Milwaukee Railway Company, dated August 1, 1863, payable 1898	1,135,000
La Crosse, Trempealeau and Prescott Railroad Company first-mortgage bonds, dated April 1, 1868, payable 1878.	1,000,000
Winona and St. Peter Railroad first-mortgage bonds, dated January 1, 1867, payable 1887.	2,750,000
Winona and St. Peter Railroad Company second-mortgage bonds, dated November 1, 1867, payable 1907 ..	1,650,000
Winona and St. Peter Railroad Extension first mortgage sinking-fund gold-bonds, dated December 1, 1871, payable 1916.	\$4,375,000
Winona and St. Peter Railroad Company of Dakota, same class, for completion of railroad in Dakota.	250,000
	<hr/>
Iowa Midland Railway Company, first mortgage bonds, dated October, 1, 1870, payable 1900.	1,350,000
Northwestern Union Railway Company first mortgage sinking-fund gold-bonds, dated June 1, 1872, payable 1917	3,500,000
	<hr/>
Aggregate amount.	\$16,599,500

And whereas it is contemplated by the party of the first part to make an agreement of consolidation with each of the several railroad companies aforesaid, the payment of whose bonds has been assumed by the party of the first part, and whose stock is now held

in whole or in greater part by it, as aforesaid, the right to make such consolidation being hereby expressly reserved, it is hereby covenanted and agreed, that in case such consolidation shall be made, the railroads, property, and franchise of the company which may be so consolidated with the party of the first part shall be included in and be subject to the provisions of this indenture and lien hereby created; and whenever such consolidation shall be made, the said party of the first part shall give any further assurance in law to subject the railway property and franchise of such consolidated company to the lien of this indenture that shall be necessary and proper for that purpose and be required by said trustees.

And it is hereby covenanted and agreed, that the further amount of sixteen millions five hundred and ninety-nine thousand five hundred dollars (\$16,599,500) of said bonds hereby intended to be secured shall be reserved by the said party of the second part for the purpose of being substituted for, or for the payment of the principal of the bonds aforesaid issued by the several railroad companies respectively, whose stock is owned in whole or in greater part by the said party of the first part, and whose roads are leased to or controlled and operated by it as aforesaid, and which shall become consolidated with the said party of the first part as hereinbefore provided.

And it is hereby further covenanted and agreed, that on the first day of June in every year after 1873 the party of the first part shall pay to the party of the second part one per cent. of the amount of the bonds actually issued under this deed of trust and then outstanding, and shall also pay to the said party of the second part, from time to time, the net proceeds of the land as hereinafter mentioned, which several sums of money shall form a sinking-fund for the payment of the bonds secured by this deed of trust.

The party of the second part, trustee under this conveyance, shall invest the said several sums of money, together with all accumulations of interest thereon, in the manner following, that is to say: First, in the purchase of the bonds secured by these presents, but it shall not purchase the same at more than the par value thereof without the consent, in writing, of the party of the first part; secondly, if the said trustee shall be unable to purchase the aforesaid bonds at par or less, then the said trustee shall purchase at public or private sale, at the lowest price (not above par) at which it may be able to obtain the same, not exceeding their market value at the New York Stock Exchange, any railroad bonds issued by the said Chicago and Northwestern Railway Company, or by any company consolidated with it, or in the purchase of any bonds the payment of which it has assumed as aforesaid; and the bonds so purchased or delivered to the said trustee on account of the sinking-fund shall be forthwith cancelled and destroyed.

And in case a sufficient amount of the said bonds cannot be purchased at such rate within three months, then the said money or balance thereof shall be invested in such manner as the trustee may deem proper.

And whereas the party of the first part is entitled to certain

land grant lands from the United States, and from the State of Michigan, and will become entitled to further grants from the United States and from the State of Michigan upon the completion of its Menomonee extension; and whereas the Winona & St. Peter Railroad Company aforesaid will also become entitled to land-grant lands from the United States upon completion of its railroad to the Big Sioux River, in Dakota: Now, therefore, the said party of the first part hereby covenants and agrees to and with the holders of any or the bonds hereby provided to be issued that it will receive the same at their par value and accrued interest, in payment of any of the land-grant lands received or which may be received by it on account of the construction or consolidation of the railroads herein described that shall be sold or conveyed by it; subject, however, to any prior lien existing on said lands to secure the payment of any of the above-described and specified bonds. And the party of the first part also covenants and agrees to and with such holders that, after deducting, first, all expenses that shall have been incurred by it on account of said lands, whether in payment of taxes or otherwise, it will forthwith apply the net proceeds of such sales to the payments into the sinking fund hereinbefore provided.

And it is hereby covenanted and agreed, that any of the coupon bonds, the issue whereof is herein provided for, may, at the option of the holder thereof, be converted into or exchanged, on the first days of June and December, in each year, for registered bonds, the issue whereof is herein provided for. And that the party of the first part shall permit the holders of the said registered bonds from time to time to transfer the same, and that it will provide for the issue of said registered bonds in the place and stead of those surrendered for cancelment on such transfer. And this indenture shall enure to the benefit and security of the holders of the new bonds which may be issued on such transfer and cancelment.

The trustee shall have full power, in its discretion, upon the written request of the party of the first part, to convey, by way of release or otherwise, to the persons designated by the said railway company, any lands desired or held for the purpose of stations, depots, shops, or other buildings; and shall also have power to convey, as aforesaid, on like request, any lands or property which, in the judgment of the trustee, shall not be necessary for use in connection with the said railroad, or which may have been held for a supply of fuel, gravel, or other material; and also to convey as aforesaid, on like request, any lands not occupied by the track which may become disused, by reason of a change of the location of any station-house, depot, shop, or other building connected with the said railroad, and such lands occupied by the track and adjacent to the station-house, depot, shop, or other building, as the said railway company may deem it expedient to disuse or abandon by reason of such change; and to consent to any such change, and to such other changes in the location of the track, or depot, or other buildings, as in its judgment shall have become expedient; and to make and deliver the conveyances necessary to carry the same into effect; but any lands which may be acquired for permanent use in

substitution for any so released, shall be conveyed to the trustee upon the trusts of these presents; and the trustee shall also have full power to allow the said railway company from time to time to dispose of, according to its discretion, such portions of the equipments, machinery, and implements, at any time held or acquired for the use of the said railroad, as may have become unfit for such use, replacing the same by new, which shall be conveyed to the trustee, or be otherwise made subject to the operation of these presents.

It is hereby declared and agreed that it shall be the duty of the trustee to exercise the power of entry hereby granted, or the power of sale hereby granted, or both, or to take appropriate proceedings in equity or at law to enforce the rights of the bondholders under these presents, upon the requisition in writing as hereinafter specified:

1. If the default be as to principal or interest of any bonds, such requisition upon the said trustee shall be by holders of not less than one hundred thousand dollars in aggregate amount of said bonds; and upon such requisition and a proper indemnification by the persons making the same to the trustee, against the costs and expenses to be by said trustee incurred, it shall be the duty of the trustee to enforce the rights of the bondholders under these presents by entry, sale, or legal proceedings, as it shall deem most expedient for the interest of all the holders of said bonds.

2. If the default be in the omission of any act or thing required by the covenant hereinafter contained, or for the further assuring of the title of the trustee to any property or franchises now possessed or hereafter acquired, or in the omission to comply with any other provision herein contained to be performed or kept by the said railway company, then, and in either of such cases, the requisition shall be as aforesaid; but it shall be within the discretion of the trustee to enforce or waive the rights of the bondholders by reason of such default, subject to the power hereby declared of a majority in interest of the holders of the said bonds, by requisition in writing signed by such majority to instruct the said trustee to waive such default, or upon adequate indemnity as aforesaid to enforce their rights by reason thereof: Provided, That no action of the said trustee, or bondholders, or both, in waiving such default or otherwise, shall extend to or be taken to effect any subsequent default, or to impair the rights resulting therefrom.

And the said party of the first part, for itself and successors, in consideration of the premises, and of one dollar to it duly paid by the said party of the second part, the receipt whereof is hereby acknowledged, hereby further covenants and agrees to and with the said party of the second part, its successors and assigns, that the said party of the first part and its successors shall and will, from time to time, and at all times hereafter, and as often as thereunto requested by the trustee, execute, deliver, and acknowledge all such further deeds, conveyances, and assurances in the law, for the better assuring unto the said trustee the railroads, equipments, and appurtenances hereinbefore mentioned, or intended so to be, and all

other property and things whatsoever, which may be hereafter acquired for use in connection with the same or any part thereof, and all the franchises pertaining thereto now held or hereafter acquired as shall be necessary and proper for that purpose and shall be required by said trustee.

And the said party of the first part, for itself and its successors, in consideration of the premises and of one dollar to it duly paid by the said party of the second part, further covenants and agrees to and with the said party of the second part, its successors and assigns, that it, the said party of the first part and its successors, shall and will at all times hereafter keep open an office or agency in the city of New York for the payment of the principal and interest of and upon the bonds herein provided *herein* to be issued, as the same shall become payable, and for the transfer and registration of the said bonds; and that any and every default in the due performance of this covenant shall be deemed and taken to be a waiver of presentment and demand of payment of all and every of the bonds and coupons aforesaid which may become payable during the continuance of such default.

In witness whereof the said party of the first part has caused its corporate seal to be affixed hereto, and these presents to be subscribed by its president and secretary. And the said party of the second part, in witness of its acceptance of the conveyance and trust herein conferred, has caused its corporate seal to be also hereto affixed, and attested by its president and secretary, the day and year first herein written.

President.

Secretary.

STATE OF NEW YORK,

City and County of New York, ss.:

Be it remembered that on this 30th day of November, A. D. 1872, before me, Charles Nettleton, a commissioner for the State of Illinois and for the State of New York, and residing in the said city of New York, personally appeared John F. Tracy, the president of the Chicago and Northwestern Railway Company, and Charles R. Marvin, the secretary of the same company, and being duly sworn, they did depose and say that he, the said John F. Tracy, resided in the city of Chicago, in the State of Illinois; that he, the said Charles R. Marvin, resided in the city of Brooklyn, in the State of New York; that he, the said John F. Tracy, was the president of said company; that he the said Charles R. Marvin, was the secretary of the same company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument, purporting to be the corporate seal of said company, was such corporate seal; that it was so affixed thereto by order of the board of directors of said company, and that they signed their names thereto by the like order as the president and secretary of said company respectively. And the said John F. Tracy and Charles R. Marvin also acknowledged to me that they signed, sealed, and delivered the said instrument, as their free act and deed and the free

act and deed of the said Chicago and Northwestern Railway Company, for the uses and purposes therein expressed.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, A. D. 1872.

[SEAL.]

CHARLES NETTLETON,

Commissioner for Illinois in New York.

STATE OF NEW YORK,

City and County of New York, ss.:

Be it remembered that on this 30th day of November, A. D. 1872, before me, Charles Nettleton, a commissioner of the State of Michigan in and for the State of New York, residing in said city of New York, personally appeared John F. Tracy, known to me to be the president of the Chicago and Northwestern Railway Company, and Charles R. Marvin, known to me to be the secretary of the same company, and they severally acknowledged the execution of the foregoing instrument to be the free act and deed of the said company. And I further certify that I know the seal affixed to said instrument to be the corporate seal of said company.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, A. D. 1872.

[SEAL.]

CHARLES NETTLETON,

Commissioner for Michigan in New York.

STATE OF NEW YORK,

City & County of New York, ss.:

Be it remembered that on this 30th day of November, A. D. 1872, before me, Charles Nettleton, a commissioner for the State of Wisconsin in and for the State of New York, residing in said city of New York, personally appeared John F. Tracy, the president of the Chicago and Northwestern Railway Company, and Charles R. Marvin, the secretary of the same company, who are to me personally known to be the president and secretary of said company, and being by me duly sworn, they did depose and say that he, the said John F. Tracy, resided in the city of Chicago, in the State of Illinois; that he, the said Charles R. Marvin, resided in the city of Brooklyn, in the State of New York; that he, the said John F. Tracy was the president of said company; and that he, the said Charles R. Marvin, was the secretary of the same company; that they knew the corporate seal of said company; that the seal attached to the foregoing instrument, purporting to be the corporate seal of said company, was such corporate seal; that it was so affixed thereto by order of the board of directors of said company, and that they signed their names thereto by the like order as the president and secretary of said company respectively. And the said John F. Tracy and Charles R. Marvin also acknowledge to me that they had executed the foregoing instrument for the uses and purposes therein mentioned, and that the same was their free act and deed and the free act and deed of said company.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, A. D. 1872.

[SEAL.]

CHARLES NETTLETON,

Commissioner for Wisconsin in New York.

STATE OF NEW YORK,

City and County of New York, ss:

Be it remembered that on this 30th day of November, A. D. 1872, before me, Charles Nettleton, a commissioner of the State of Minnesota in and for the State of New York, residing in said city of New York, personally appeared John F. Tracy, the president of the Chicago and Northwestern Railway Company, and Charles R. Marvin, the secretary of the same company, who are personally known to me to be the president and secretary of said company, and, being duly sworn, they did depose and say that he, the said John F. Tracy, resided in the city of Chicago, in the State of Illinois; that he, the said Charles R. Marvin, resided in the city of Brooklyn, in the State of New York; that he, the said John F. Tracy, was the president of said company; that he, the said Charles R. Marvin, was the secretary of the same company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument, was such corporate seal; that it was so affixed thereto by order of the board of directors of said company, and that they signed their names thereto by the like order as the president and secretary of said company, respectively.

And the said John F. Tracy and Charles R. Marvin also acknowledged to me that they had executed the foregoing instrument freely and voluntarily, and for the uses and purposes therein mentioned, and that the same was their free and voluntary act and deed, and the free and voluntary and act deed of said company.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, A. D. 1872.

CHARLES NETTLETON,

Commissioner for Minnesota in New York.

STATE OF NEW YORK,

City and County of New York, ss:

Be it remembered that on this 30th day of November, A. D. 1872, before me, Charles Nettleton, a commissioner of the State of Iowa in and for the State of New York, residing in said city of New York, personally appeared John F. Tracy, the president of the Chicago and Northwestern Railway Company, and Charles R. Marvin, the secretary of the same company, who are to me personally known to be the president and secretary of said company, and, being duly sworn, they did depose and say that he, the said John F. Tracy, resided in the city of Chicago, in the State of Illinois; that he, the said Charles R. Marvin, resided in the city of Brooklyn, in the State of New York; that he, the said John F. Tracy, was the president of said company; that he, the said Charles R. Marvin, was the secretary of the same company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument, purporting to be the corporate seal of said company, was such corporate seal; that it was so affixed thereto by order of the board of directors of said company, and that they signed their names thereto by the like order as the president and secretary of said company, respectively.

And the said John F. Tracey also acknowledged the foregoing instrument to be their voluntary act and deed, and the voluntary act and deed of said company, for the uses and purposes therein mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, A. D. 1872.

[SEAL.]

CHARLES NETTLETON,
Commissioner for Iowa in New York.

STATE OF NEW YORK,

City and County of New York, ss:

Be it remembered that on this 30th day of November, A. D. 1872, before me, Charles Nettleton, a commissioner of the Territory of Dakota in and for the State of New York, residing in the city of New York, personally appeared John F. Tracy, the president of the Chicago and Northwestern Railway Company, and Charles R. Marvin, the secretary of the same company, who are personally known to me to be the president and secretary of said company, and, being duly sworn, they did depose and say that he, the said John F. Tracy, resided in the city of Chicago, in the State of Illinois; that he, the said Charles R. Marvin, resided in the city of Brooklyn, in the State of New York; that he, the said John F. Tracy, was president of said company; that he, the said Charles R. Marvin, was secretary of the same company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument, purporting to be the corporate seal of said company, was such corporate seal; that it was so affixed thereto by order of the board of directors of said company; and they signed their names thereto by the like order as the president and secretary of said company, respectively.

And the said John F. Tracy and Charles R. Marvin also acknowledged to me that they had executed the foregoing instrument freely and voluntarily, and for the uses and purposes therein mentioned, and that the same was their free and voluntary act and deed, and the free and voluntary act and deed of said company.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, A. D. 1872.

[SEAL.]

CHARLES NETTLETON,
Commissioner for Dakota in New York.

STATE OF NEW YORK,

City and County of New York, ss:

Be it remembered that on this 30th day of November, A. D. 1872, before me, a commissioner of the State of Illinois in and for the State of New York, residing in said city of New York, personally appeared Isaac H. Frothingham, the president of the Union Trust Company of New York, and Charles T. Carlton, the secretary of the same company, who are personally known to me to be the president and secretary of said company, and, being duly sworn, they did depose and say that they resided in the city of Brooklyn, in the State of New York; that he, the said Isaac H.

Frothingham, was the president of said company; that he, the said Charles T. Carlton, was the secretary of the same company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument, purporting to be the corporate seal of said company, was such corporate seal; that it was so affixed thereto by order of the board of directors of said company, and that they signed their names thereto by the like order as the president and secretary of said company, respectively. And the said Isaac H. Frothingham and Charles T. Carlton also acknowledged to me that they signed, sealed, and delivered the said instrument as their free act and deed, and the free act and deed of the said Union Trust Company of New York, for the uses and purposes therein expressed.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, A. D. 1872.

[SEAL.]

CHARLES NETTLETON,
Commissioner for Illinois in New York.

STATE OF NEW YORK,

City and County of New York, ss:

Be it remembered that on this 30th day of November, A. D. 1870, before me, Charles Nettleton, a commissioner of the State of Michigan in and for the State of New York, residing in said city of New York, personally appeared Isaac H. Frothingham, known to me to be the president of the Union Trust Company of New York, and Charles T. Carlton, known to me to be the secretary of the same company, and they severally acknowledged the execution of the foregoing instrument to be the free act and deed of the said company. And I further certify that I know the seal affixed to said instrument to be the corporate seal of said company.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, A. D. 1870.

[SEAL.]

CHARLES NETTLETON,
Commissioner for Michigan in New York.

STATE OF NEW YORK,

City and County of New York, ss:

Be it remembered that on this 30th day of November, A. D. 1872, before me, Charles Nettleton, a commissioner of the State of Wisconsin in and for the State of New York, residing in said city of New York, personally appeared Isaac H. Frothingham, president of the Union Trust Company of New York, and Charles T. Carlton, the secretary of the same company, who are to me personally known to be the president and secretary of said company, and, being duly sworn, they did depose and so that they resided in the city of Brooklyn, in the State of New York; that he, the said Isaac H. Frothingham, was the president of said company; that he, the said Charles T. Carlton, was the secretary of the said company; that the seal affixed to the foregoing instrument, purporting to be the corporate seal of said company, was such corporate seal; that it was so affixed thereto by order of the board of directors of said company, and that they signed their names thereto by like order as

the president and secretary of the said company, respectively. And the said Isaac H. Frothingham and Charles T. Carlton also acknowledged to me that they had executed the foregoing instrument for the uses and purposes therein mentioned, and that the same was their free act and deed, and the free act and deed of said company.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, 1872.

[SEAL.]

CHARLES NETTLETON,

Commissioner for Wisconsin in New York.

STATE OF NEW YORK,

City and County of New York, ss:

Be it remembered that on this 30th day of November, A. D. 1872, before me, Charles Nettleton, a commissioner of the State of Minnesota in and for the State of New York, residing in the State of New York, personally appeared Isaac H. Frothingham, the president of the Union Trust Company of New York, and Charles T. Carlton, the secretary of the same company, who are to me personally known to be the president and secretary of said company, and, being duly sworn, did depose and say, that they reside in the city of Brooklyn, in the State of New York; that he, the said Isaac H. Frothingham, was the president of said company; that he, the said Charles T. Carlton, was the secretary of said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument, purporting to be the corporate seal of said company, was such corporate seal; that it was so affixed thereto by order of the board of directors of said company, and that they signed their names thereto by the like order as the president and secretary of said company, respectively. And the said Isaac H. Frothingham and Charles T. Carlton also acknowledged to me that they had executed the foregoing instrument freely and voluntarily, and for the uses and purposes therein mentioned, and that the same was their free and voluntary act and deed, and the free and voluntary act and deed of said company.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, A. D. 1872.

[SEAL.]

CHARLES NETTLETON,

Commissioner for Minnesota in New York.

STATE OF NEW YORK,

City & County of New York, ss:

Be it remembered that on this 30th day of November, A. D. 1872, before me, Charles Nettleton, a commissioner of the State of Iowa in and for the State of New York, residing in the city of New York, personally appeared Isaac H. Frothingham, the president of the Union Trust Company of New York, and Charles T. Carlton, the secretary of the same company, who are personally known to me to be the president and secretary of said company, and, being duly sworn, they did depose and say that they resided in the city of Brooklyn, in the State of New York; that he, the said Isaac H.

Frothingham, was the president of said company; that he, the said Charles T. Carlton, was the secretary of the same company; that they knew the corporate seal of the said company; that the seal affixed to the foregoing instrument, purporting to be the corporate seal of said company, was such corporate seal; that it was so affixed thereto by order of the board of directors of said company, and that they signed their names thereto by the like order as the president and secretary of said company, respectively. And the said Isaac H. Frothingham and Charles T. Carlton also acknowledged *their* foregoing instrument to be their voluntary act and deed, and the voluntary act and deed of the said company, for the uses and purposes therein mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, A. D. 1872.

[SEAL.]

CHARLES NETTLETON,

Commissioner for Iowa in New York.

STATE OF NEW YORK,

City & County of New York, ss:

Be it remembered that on this 30th day of November, A. D. 1872, before me, Charles Nettleton, a commissioner for the Territory of Dakota in and for the State of New York, residing in said city of New York, personally appeared Isaac H. Frothingham, the president of the Union Trust Company of New York, and Charles T. Carlton, the secretary of the same company, who are personally known to me to be the president and secretary of said company, and, being by me duly sworn, they did depose and say that they resided in the city of Brooklyn, in the State of New York; that he, the said Isaac H. Frothingham, was the president of said company; that he, the said Charles T. Carlton, was the secretary of the same company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument, purporting to be the corporate seal of said company, was such corporate seal; that it was so affixed thereto by order of the board of directors of said company, and that they signed their names thereto by the like order as the president and secretary of said company, respectively. And the said Isaac H. Frothingham and Charles T. Carlton also acknowledged to me that they had executed the foregoing instrument freely and voluntarily, and for the uses and purposes therein mentioned, and that the same was their free and voluntary act and deed, and the free and voluntary act and deed of said company.

In witness whereof I have hereunto set my hand and affixed my official seal this 30th day of November, A. D. 1872.

[SEAL.]

CHARLES NETTLETON,

Commissioner for Dakota in New York.

Whereupon a subpoena issued as follows, to wit:

Subpœna.

THE UNITED STATES OF AMERICA,

Western District of Wisconsin, ss:

The President of the United States of America to The Chicago and

Northwestern Railway Company, George H. Paul, Joseph H. Osborn, John W. Hoyt, and A. Scott Sloan, greeting:

You are hereby commanded that you personally appear before the judges of the circuit court of the United States of America for the western district of Wisconsin, in our court of chancery in and for said district aforesaid, on the first Monday of July next ensuing, at Madison, to answer to a bill of complaint against you in our said court by Willem Frederik Piek, Henry R. Pierson, Moses Taylor, the Farmers' Loan and Trust Company, and Union Trust Company; and to do further and receive what our said court shall have considered in that behalf; and this you are not to omit, under the penalty which may ensue.

This process of subpoena is directed to the marshal of this district, who is hereby commanded to serve the same upon the said The Chicago and Northwestern Railway Company, George H. Paul, Joseph H. Osborn, John W. Hoyt, and A. Scott Sloan, if to be found in his district, and due return thereof make.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Madison, in the said district, this 4th day of June, in the year of our Lord one thousand eight hundred and seventy-four, and of our Independence the ninety-eighth.

[SEAL.]

C. B. LAWRENCE, *Solicitor.*

F. M. STEWART, *Clerk.*

It is ordered by our court that the said The Chicago and Northwestern Railway Company, George H. Paul, Joseph H. Osborn, John W. Hoyt, and A. Scott Sloan, the defendants aforesaid, do enter their appearance in this suit in the clerk's office on or before the day and time at which this subpoena is returnable as aforesaid; otherwise the bill filed may be taken as confessed.

Marshal's return.

The following is the return of the marshal on the foregoing writ of subpoena served on the within-named, The Chicago and Northwestern Railway Company, by delivering to Geo. Frank, an agent of said company, at Madison, Wisconsin, a copy of the within subpoena, June 5, 1874, and served on the within-named Joseph H. Osborn and John W. Hoyt by delivering to each of them personally a copy of the within subpoena June 5, 1874, and served on the within-named Geo. H. Paul by delivering to him personally a copy of the within subpoena June 19, 1874, and served on the within-named A. Scott Sloan by delivering to him personally a copy of the within subpoena June 12, 1874.

F. W. OAKLEY, *Marshal.*

By W. S. MAIN, *Deputy.*

On the same day, to wit, the 4th day of June, A. D. 1874 the complainants by their solicitor filed in said clerk's office their notice of an application for an injunction; which said notice, together

with the acceptance of service thereon, is in the words and figures as follow:

CHICAGO, *June 1, 1874.*

To the Hon. A. Scott Sloan, Attorney-General of the State of Wisconsin, and Joseph H. Osborn, George H. Paul, and John W. Hoyt, railroad commissioners of Wisconsin:

GENTLEMEN: You are hereby notified that on the fourth day of June, A. D. 1874, at the city of Madison, in the State of Wisconsin, I shall as attorney for Willem Frederik Piek, Moses Taylor, Henry R. Pierson, the Farmers' Loan and Trust Company, and The Union Trust Company, apply to the honorable Thomas Drummond, judge of the circuit court of the United States for the western district of Wisconsin, for an injunction restraining you and each of you from instituting any proceedings, legal or otherwise, or from taking any measures of any kind for the purpose of enforcing or executing the provisions of an act of the legislature of Wisconsin, passed March 11, 1874, and entitled "An act relating to railroads, express and telegraph companies in the State of Wisconsin," at which time and place you can be present if you see proper. The injunction will be moved for upon the bill, a copy of which is herewith given you, and the motion for the injunction will be in accordance with the prayer of said bill.

C. B. LAWRENCE.

MADISON, *June 1, 1874.*

I accept service of the within notice.

J. H. OSBORN,
R. R. Com'r, Wis.

I accept service of the within notice.
Madison, June 1, 1874.

A. SCOTT SLOAN,
Att'y Gen'l.

MILWAUKEE, *June 2, 1874.*

I accept service of the within notice.

GEORGE H. PAUL,
Railroad Com'r.

STATE OF ILLINOIS,
Cook County, ss:

Ralph C. Richards, being duly sworn, saith that he served the within notice upon John W. Hoyt, by giving him a true copy thereof, on the first day of June, A. D. 1874, at the city of Madison, in the State of Wisconsin.

RALPH C. RICHARDS.

Subscribed and sworn to before me this 2d day of June, A. D. 1874.

JOSEPH B. REDFIELD,
Notary Public.

On this day, to-wit, the fifth day of June, in the June term A.

D. 1874, of said court, in the record of the proceedings thereof in said entitled cause, before the honorable Thomas Drummond and the honorable James C. Hopkins, judges, is the following entry, to-wit:

WILLEM FREDERICK PIEK, HENRY R. PIER-
son, Moses Taylor, The Farmers' Loan
Trust Company, and the Union Trust
Company.

vs.

THE CHICAGO AND NORTHWESTERN Rail-
way Company, Joseph H. Osborn, George
H. Paul, John W. Hoyt, and A. Scott
Sloan.

This day came the parties by their solicitors—C. B. Lawrence appearing as solicitor for complainants, and I. C. Sloan appearing as solicitor for the defendants—and by agreement of parties it is ordered, that the hearing on the motion for an injunction be, and the same is hereby, postponed to a future day during the present term, to be fixed by the court, notice of which is to be given to the solicitors of the respective parties.

On this day, to-wit, the 4th day of July, in the June term, A. D. 1874, of said court, in the record and proceedings thereof in said entitled cause before the Hon. David Davis, Thomas Drummond, and James C. Hopkins, judges, is the following entry:

WILLEM FREDERIK PIEK, HENRY R. PIER-
son, The Farmers' Loan & Trust Com-
pany, Moses Taylor, & The Union Trust
Company.

vs.

THE CHICAGO AND NORTHWESTERN RAIL-
way Company, George H. Paul, Joseph
H. Osborn, John W. Hoyt, and A. Scott
Sloan.

The motion for an injunction coming on to be heard upon the bill, exhibits, and affidavits, and having been argued by counsel—Mr. Lawrence and Mr. Stoughton for complainants, and Mr. Sloan and Mr. Dixon for defendants—and the court, being now sufficiently advised, doth order and adjudge that the motion for an injunction be, and the same is hereby denied.

On this day, to-wit, the eighth day of July, A. D. 1874, said defendants, George H. Paul, Joseph H. Osborn, John W. Hoyt, and A. Scott Sloan, filed in the clerk's office their demurrer in said-entitled cause, which said demurrer is in the words and figures following, to-wit:

Circuit Court of the United States for the western district of Wisconsin.

WILLEM FREDERIK PIEK, HENRY R. PIERSON, Moses Taylor, The Farmers' Loan and Trust Company, and The Union Trust Company.

vs.

GEORGE H. PAUL, JOSEPH H. OSBORN, JOHN W. Hoyt, A. Scott Sloan, and The Chicago and Northwestern Railway Company.

In the seventh circuit.

The demurrer of George H. Paul, Joseph H. Osborn, John W. Hoyt, A. Scott Sloan to the bill of complaint of Willem Frederik Piek, Henry R. Pierson Moses Taylor, The Farmers' Loan & Trust Company, and The Union Trust Company, complainants.

These defendants respectively by protestation, not confessing or acknowledging all or any of the matters and things in said bill of complaint to be true in such manner and form as the same are therein and thereby set forth and alleged, do demur thereto, and for cause of demurrer show that the said complainants have not by their said bill made such a case as entitled them in a court of equity to any relief from or against these defendants by any or either of them, touching the matters contained in said bill or any of such matters.

Wherefore, and for divers other good causes of demurrer appearing to the said bill of complaint, these defendants do demur to the said bill, and to all the matters and things therein contained, and humbly pray this judgment of the honorable court whether they shall be compelled to make any further or other answer to the said bill; and they pray to be hence dismissed with their reasonable costs in their behalf sustained.

I certify that in my opinion the foregoing demurrer of George H. Paul, Joseph, H. Osborn, John W. Hoyt, and A. Scott Sloan to the bill of complaint of Willem Frederik Piek, Henry R. Pierson, Moses Taylor, The Farmers' Loan and Trust Company, and The Union Trust Company is well founded in law, and proper to be filed in the above cause.

A. SCOTT SLOAN,

Attorney General of the State of Wisconsin.

I. C. SLOAN, *of Counsel.*

UNITED STATES OF AMERICA,

Western District of Wisconsin, ss:

John W. Hoyt, being duly sworn, disposes and says that he has read the foregoing demurrer to the bill of complaint in this suit, and that the same is not interposed for the purpose of delaying said suit, or any proceedings therein.

JOHN W. HOYT.

Subscribed and sworn to before me this 8th day of July, 1874.
 F. M. STEWART, *Clk.*

On this day, to wit, the eight day of July, in the June term. A. D. 1874, in the record and proceedings thereof in said entitled cause, before the honorable James C. Hopkins, judge, is the following entry:

Decree.

WILLEM FREDERIK PIEK, HENRY R. PIER-
 son, Moses Taylor, The Farmers' Loan
 and Trust Company, and the Union
 Trust Company

vs.

THE CHICAGO AND NORTHWESTERN RAIL-
 way Company, George H. Paul, Joseph
 H. Osborn, John W. Hoyt, and A. Scott
 Sloan.

And now again come the said complainants, by their solicitors, and also the defendants, by their solicitors, and the said Chicago and Northwestern Railway Company having failed to plead, answer, or demur to said bill, the same is taken as confessed against said company. And the said George H. Paul, Joseph H. Osborn, John W. Hoyt, and A. Scott Sloan having filed their demurrer to said bill, and the said demurrer having come on for argument, and it being agreed by the solicitors for both complainants and defendants that all questions of law, whether of jurisdiction or otherwise, shall and may be raised and considered under said demurrer; and the court being now fully advised in the premises, it is hereby ordered and decreed that said demurrer be sustained; and the said demurrer is sustained. And the complainants not asking leave to amend said bill, the said bill is dismissed at the costs of complainants, and this cause is stricken from the docket.

Whereupon said complainants pray an appeal, which is granted upon the complainants, or any one of them, executing a bond in the penal sum of one thousand dollars, with Alfred Keep as security, said bond to be filed within sixty days.

J. C. HOPKINS, *Judge.*

On this day, to wit, the 18th day of July, A. D. 1874, said complainants, by their solicitor, filed in said court in said entitled cause their bond on appeal, which said bond is in the words and figures following, to wit:

Known all men by these presents, that we, Moses Taylor, of the city of New York and State of New York, as principal, and Albert Keep of the city of Chicago and State of Illinois, as surety, are held and firmly bound unto George H. Paul, Joseph H. Osborn, John W. Hoyt, A. Scott Sloan, and The Chicago and Northwestern Railway Company, in the penal sum of one thousand dollars, lawful money of the United States, for the payment of which, well

and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this fourteenth day of July, A. D. 1874.

The condition of the above obligation is such that whereas, on the eight day of July, A. D. 1874, a decree was rendered by the circuit court of the United States for the western district of Wisconsin, in the suit of Willem Frederik Piek, Henry R. Pierson, Moses Taylor, The Farmers' Loan and Trust Company, and The Union Trust Company, complainants, against The Chicago and Northwestern Railway Company, George H. Paul, Joseph H. Osborn, John W. Hoyt, and A. Scott Sloan, defendants, that the second complainants' bill should be dismissed, and that the said defendants should recover of the said complainants their costs in their defense in that behalf expended, from which decree of said court the said defendants then and there prayed an appeal to the Supreme Court of the United States, which appeal was allowed by said court upon the condition that the said complainants, or any one of them, should enter into bond, with Albert Keep as security, in the penal sum of one thousand dollars, conditioned as the law directs.

Now, if the said complainants shall prosecute their said appeal with effect and without delay, and shall pay the amount of said decree, and all costs that may be adjudged against them in said suit, in case the said decree shall be affirmed in the said Supreme Court of the United States, then this bond to be void; otherwise in full force.

MOSES TAYLOR. [SEAL.]
ALBERT KEEP. [SEAL.]

WESTERN DISTRICT OF WISCONSIN, ss:

I, F. M. Stewart, clerk of the circuit court of the United States for the western district of Wisconsin, do hereby certify that I have compared the above and foregoing with the original record and proceedings now remaining of record and on file in my office in the above-entitled cause, and that it is a correct transcript therefrom, and also a true copy of the bond on said appeal.

In testimony whereof I have hereunto set my hand and affixed the seal of said circuit court in my office in the city of Madison this 29th day of July, A. D. 1874, and of our Independence the ninety-ninth year.

[SEAL.]

F. M. STEWART, *Clerk.*

(Indorsement on cover:) No. 459. William Frederick Piek, Henry R. Pierson, Moses Taylor, The Farmers' Loan and Trust Company, and The Union Trust Company, appellants, vs. The Chicago and Northwestern Railway Company, George H. Paul, Joseph H. Osborn, John W. Hoyt, and A. Scott Sloan. W. Wisconsin C.C.U.S. Filed 6th August, 1874.

TRANSCRIPT OF RECORD.

IN THE CASE OF DE WITT C. LAWRENCE, *et al.*, vs. THE C. & N. W
R. R. Co., *et al.*

[The record in this case is substantially the same as in the preceding, except that the action is brought in the name of the stock holders. Accordingly it is omitted from this volume.]

COMMISSIONERS.

TRANSCRIPT OF RECORD.

IN THE CASE OF THE CHICAGO, MILWAUKEE & ST. PAUL RAILWAY
Co, Plaintiff, in error, vs. ACKLEY & VILAS.

STATE OF WISCONSIN,
Milwaukee County, ss.

At a stated term of the circuit court of county of Milwaukee, begun and held according to law at the city of Milwaukee, State of Wisconsin, on the first Monday in May, A. D. 1874, present and presiding, the honorable David W. Small, circuit judge, on the fourth day of June, A. D. 1874, the following proceedings were had, to-wit;

Summons for relief—Complaint not served.

THE STATE OF WISCONSIN,
Circuit Court, Milwaukee County:

HENRY M. ACKLEY, GEORGE VILAS	}
<i>against</i>	
THE CHICAGO, MILWAUKEE & ST. PAUL Railroad Company.	

To the above named defendant:

You are hereby summoned and required to answer the complaint in this action which will be filed in the office of the clerk of the circuit court, county of Milwaukee, at Milwaukee, and to serve a copy of your answer to the said complaint on the subscribers at their offices, No. 3, 4, and 5, Library Building, Milwaukee, Wisconsin, within twenty days after the service of this summons on you exclusive of the day of such service; and if you fail to answer the said complaint within the time aforesaid, the plaintiff in this action will apply to the court for relief demanded in the complaint.

Dated May 14, 1874.

FINCHES, LYNDE & MILLER,
Plaintiff's Attorneys.

STATE OF WISCONSIN.

Waukesha County, ss.

I hereby certify and return that on the 15th day of May, A. D. 1874, I personally served the the within summons on the said defendant, the said Chicago, Mil. and St. Paul Railroad Company, at the village of Oconomowoc, Waukesha county, Wis., by handing to and leaving with W. W. Collins, the agent of said company and said defendant, at said place, and who has charge of the depot or station at said place, a true copy thereof.

Dated this 19th day of May, 1874.

My fees: Travel, 36 miles, \$3.60; service, \$1.00; copy, .25—4.85.

CHARLES M. HARTWELL,

Sheriff of Waukesha Co., Wis.

By G. A. LUCHINGTON,

Under Sheriff.

(Indorsed:) Circuit court, Milwaukee county. Henry M. Ackley, George Vilas against The Chicago, Milwaukee and St. Paul Railway Company. Summons filed June 9th, 1874. L. F. Kellogg, clerk sup. court Wis. Finches, Lynde & Miller, plaintiffs' attys. Filed May 20th, 1874. Patrick Connolly, jr., clerk.

Affidavit on claim of delivery of personal property.

Circuit court, Milwaukee county.

HENRY M. ACKLEY, GEORGE VILAS	}
<i>against</i>	
THE CHICAGO, MILWAUKEE & ST. PAUL Railway Company.	

STATE OF WISCONSIN,

Milwaukee County, ss.

Henry M. Ackley, one of the plaintiffs in this action, being duly sworn, says that he is a copartner in trade, at Oconomowoc, in the county of Waukesha and State of Wisconsin, with George Vilas, one of the plaintiffs in this action, doing business under the firm name and style of G. Vilas & Co.; and he further says, that the said plaintiffs are the owners and are lawfully entitled to the possession of the following personal property claimed in this action; that is to say: two car-loads of pine lumber, being about twelve thousand feet; that the said property is wrongfully detained from the plaintiffs by the Chicago, Milwaukee and St. Paul Railway Company, the defendant herein; that the alleged cause of the detention thereof, according to this deponent's best knowledge, information, and belief, is as follows: That said plaintiffs tendered and offered to pay said defendant the sum of thirty dollars for the freight of said lumber by railroad from Oshkosh to Oconomowoc, being the amount allowed and provided for by the laws of this State; that upon such tender and offer to pay, and demand for the delivery of said lumber the said defendant refused to deliver the said lumber to the plain-

tiffs unless they would pay as freight therefor the sum of fifty dollars, which was more than it had the right to demand under the laws of this State; that the said property has not been taken for a tax, assessment or fine pursuant to a statute, or seized under an execution or attachment against the property of the plaintiffs; and that the actual value of said property, according to the best knowledge and belief of this deponent, is the sum of two hundred and thirty dollars.

HENRY M. ACKLEY.

Subscribed and sworn to before me this 14th day of May, A. D. 1874.

D. R. THOMPSON,
Justice of the Peace, Milwaukee Co., Wisconsin.

STATE OF WISCONSIN,
Waukesha County, ss.

I hereby certify and return that by virtue of the written endorsement and order, and the within affidavit and undertaking herewith returned, which undertaking I have fully approved of, I did, on the 15th day of May, A. D. 1874, at Oconomowoc, in said county and State, take the property from the possession the defendant, the said Chicago, Milwaukee and St. Paul Railroad Company, and from the possession of the agent of said defendant at said place to-wit, W. W. Collins, and retained the same in my custody; and I further certify and return that I delivered to said W. W. Collins as said agent, and who is the agent in charge of the depot or station at said place of said company, a true copy of the within affidavit, notice and undertaking, said Collins being the agent from whose possession said property was taken; and I further certify and return that I retained said property in my custody until the 19th day of May, 1874, for three days after service of said notice and the taking thereof; and the return of said property not being required by defendant, I did on the said 10th day of May, 1874, delivered the same to the said plaintiffs.

Dated May 19, 1874.

My fees: Service, \$1.00; approval of bond, 50; copies, 1.00; travel, 20; handling and caring of property, 5.00—\$7.70.

CHARLES M. HARTWELL,
Sheriff of Waukesha County, Wisconsin
By G. A. LUCHINGTON,
Under Sheriff.

(Indorsed:) Circuit Court, Milwaukee County. Henry M. Ackley, George Vilas, against The Chicago, Milwaukee & St. Paul Railroad Company.

To the sheriff of Waukesha County:

You are hereby required to take from the defendant the property mentioned in the within affidavit, and deliver it to the plaintiff.

Dated Milwaukee, May 14, 1874.

FINCHES, LYNDE & MILLER,
Pltfs., Attys.

Filed June 9th, 1874. L. F. Kellogg, clerk sup. ct. Wis. Filed May 20, '74. Patrick Connolly, jr., clerk.

Undertaking of plaintiff's sureties on claim of delivery of personal property.

Circuit Court, Milwaukee County.

HENRY M. ACKLEY, GEORGE VILAS,	}
<i>against</i>	
THE CHICAGO, MILWAUKEE & ST. PAUL Railway Company.	

Whereas the plaintiffs in this action have made an affidavit that the defendant therein wrongly detains certain personal property in the said affidavit mentioned of the value of two hundred and sixty dollars, and the plaintiffs claim the immediate delivery of such property, as provided for in chapter 128 of the revised statutes of the State of Wisconsin. Now, therefore, and in consideration of the taking of said property or any part thereof by the sheriff of the county of Waukesha, by virtue of the said affidavit, and the requisitions thereupon endorsed, we, the undersigned, Henry M. Ackley and George Vilas, of Oconomowoc, Wis., as principals, and Jacob Lamfram and E. B. Birchard, of the same place, as sureties, do hereby undertake and become bound to the defendant in the sum of four hundred and sixty dollars for the prosecution of the action of the plaintiffs in the above-entitled action, against the defendant, for wrongfully detaining the said property, for the return to the defendant of the said property, or so much thereof as shall be taken by virtue of the said affidavit and requisition thereupon endorsed if a return thereof shall be adjudged, and for the payment to it of such sum as may for any cause be recovered against the plaintiff in this action.

Dated May 14, 1874.

HENRY M. ACKLEY.	[SEAL.]
GEORGE VILAS.	[SEAL.]
JACOB LAMFRAM.	[SEAL.]
E. B. BIRCHARD.	[SEAL.]

STATE OF WISCONSIN,
County of Waukesha, ss.:

Jacob Lamfram, one of the subscribers to the foregoing undertaking, being sworn, says that he is a resident and within this State, and is worth the sum of ten thousand dollars over and above all debts and liabilities, in property not by law exempt from execution.
JACOB LAMFRAM.

Sworn to before me this 14th day of May, 1874.

WARHAM PARKS,
Notary Public, Waukesha Co., Wis.

STATE OF WISCONSIN,
County of Waukesha, ss.:

One of the subscribers to the foregoing undertaking, being sworn, says that he is a resident and freeholder within this State, and is worth the sum of ten thousand dollars over and above all debts and *exemption* in property not by law exempt from execution.

E. B. BIRCHARD.

Sworn to before me this 14th day of May, 1874.

WARHAM PARKS,
Notary Public, Waukesha County, Wis.

I hereby approve of the within undertaking both as to the form and the sufficiency of the sureties thereof.

Dated May 14, 1874.

CHARLES M. HARTWELL,
Sheriff of Waukesha County.
By G. A. TUCHINGTON,
Under Sheriff.

(Indorsed:) Circuit Court, Milwaukee County. Henry M. Ackley, George Vilas, against the Chicago, Milwaukee & St. Paul Railway Company. Undertaking; Filed June 9, 1874. L. F. Kellogg, clerk sup. ct. Wis. Filed May 20, '74. Patrick Connolly, jr., clerk.

Circuit Court, Milwaukee County.

HENRY M. ACKLEY & GEORGE VILAS, PLAIN-	}
tiffs,	
<i>against</i>	
THE CHICAGO, MILWAUKEE AND ST. PAUL	}
Railway, defendants.	

Said plaintiffs, by Finches, Lynde & Miller, their attorneys, respectfully allege that at the date of the commencement of this suit they were and still are copartners in trade, under the name, firm, and style of Ackley & Vilas.

Said plaintiffs allege that at and before the time of the commencement of this suit they were lumber merchants at Oconomowoc, in the county of Waukesha, in the State of Wisconsin, and were on that day and prior thereto, to wit, on the 10th day of May, 1874, the owners of two car-loads of lumber.

Said plaintiffs allege that on the said last-mentioned date the said two car-loads of lumber were in the custody and possession of said defendant; that said defendant wrongfully and unjustly detained said two car-loads of lumber from the said plaintiffs.

Said plaintiffs allege that prior to the commencement of this suit they made a demand upon the defendant for the said two car-loads of lumber, and did then and there tender to said defendant all legal charges which said defendant then and there had or could have on the said two car-loads of lumber, and said defendant did

then and there decline to deliver said lumber or any portion thereof to said plaintiffs, but unjustfully, wrongfully, and illegally detained the same.

Said plaintiffs allege that the value of said lumber is two hundred and sixty dollars, wherefore these plaintiffs demand judgment against the defendant for the recovery of the possession of said two car-loads of lumber, or for the sum of two hundred and sixty dollars, its value, in case a delivery cannot be had, together with six cents damages for its detention, as well as the cost of this action.

FINCHES, LYNDE & MILLER

Plaintiffs' Attys.

(Indorsed:) Circuit court, Milwaukee County. Henry M. Ackley et al. against the Chicago, Milwaukee & St. Paul Railway Company. Complaint. Finches, Lynde & Miller, pl'tfs'. atty'. Filed June 4, 1874. Patrick Connolly, jr., clerk. Filed June 9, 1874. L. F. Kellogg, clerk sup. ct. Wis.

Circuit court, Milwaukee County.

HENRY M. ACKLEY AND GEORGE VILAS	}
<i>against</i>	
THE CHICAGO, MILWAUKEE & ST. PAUL Railway Company.	

The said defendant, by John W. Cary, its attorney, answering the plaintiffs' complain in this action, says that it is a corporation duly organized and doing business, under and by virtue of the laws of the State of Wisconsin, as a railway company, and engaged in the business of carrying freight and passengers over its line of railway; that its line of railway extends from Oshkosh, in the State of Wisconsin, to Milwaukee, and thence through Oconomowoc to Watertown Junction, and thence to La Crosse.

That the Chicago and Northwestern Railway Company is a corporation duly organized and doing business under and by virtue of the laws of Wisconsin, and is operating a railway from Oshkosh to Watertown Junction, and thence to La Crosse.

That on or about the 10th day of May, 1874, the said plaintiffs shipped two car-loads of lumber from Oshkosh to Oconomowoc, over the Chicago and Northwestern Railway; that said last-named company transported said two car-loads of lumber from Oshkosh to Watertown Junction, over its said line of road, a distance of sixty-three miles, and then delivered said cars in the usual course of business to this defendant, to be transported by this defendant from said Watertown to Oconomowoc, over this defendant's road, a distance of twelve miles, and demanded of this defendant the sum of thirty dollars, as the compensation of said Chicago and Northwestern Railway Company for the transportation of said lumber from Oshkosh to said Watertown Junction.

That on the 11th day of May, 1874, this defendant received said two car-loads of lumber from said Chicago and Northwestern Rail-

way Company for transportation to said Oconomowoc, and then and there paid to said Chicago and Northwestern Railway Company the said sum of thirty dollars so as aforesaid demanded.

The said defendant, on the 11th day of May, 1874, transported said two car-loads of lumber from said Watertown Junction to Oconomowoc, and on the same day had said two car-loads of lumber at Oconomowoc, ready to be delivered to said plaintiffs on their paying the said sum of thirty dollars advance charges so as aforesaid paid by this defendant to said Chicago and Northwestern Railway Company, and the further sum of eighteen dollars, the charges of this defendant for transporting said lumber from said Watertown Junction to Oconomowoc, and which said sum of eighteen dollars was the usual and customary charge of this defendant, and no more than a reasonable and fair compensation for said service; and as to all the rest and residue of said complaint not hereinbefore specially admitted or denied, this defendant has no knowledge or information sufficient to form a belief.

JOHN W. CARY,
Defendant's Attorney.

(Indorsed:) Circuit court Milwaukee County. Henry M. Ackley and George Vilas against The Chicago, Milwaukee & St. Paul Railway Company. Answer. John W. Cary, deft.'s atty.

Due service of the within answer admitted this 27th day of May, 1874.

FINCHES, LYNDE & MILLER,
Pltfs. Attys.

Filed June 4, 1874. Patrick Connolly, jr., clerk.

Filed June 9, 1874. L. F. Kellogg, clerk sup. ct. Wis.

Circuit court, Milwaukee County.

HENRY M. ACKLEY AND GEORGE VILAS	}
<i>against</i>	
THE CHICAGO, MILWAUKEE & ST. PAUL Railway Company.	

It is hereby stipulated and admitted:

1st. That plaintiffs are partners and general owners of the lumber, as alleged in the complaint.

2nd. That the defendant is a corporation duly organized under and by virtue of the laws of Wisconsin, and engaged in operating a railroad, and that one part of its railroad extends from Oshkosh to Milwaukee, and thence through Oconomowoc to Watertown Junction and to La Crosse, a distance of about one hundred and thirty miles.

3d. That the Chicago and Northwestern Railway Company is a corporation duly organized under and by virtue of the laws of

Wisconsin, engaged in operating a railroad, and that its line extends from Oshkosh to Watertown Junction and thence to Chicago, and that said roads intersect and connect at said Watertown Junction.

4th. That the distance from Oshkosh to Watertown Junction over the road of the Chicago and Northwestern Railway is sixty-three miles, and the distance from said Watertown Junction to Oconomowoc over the road of the defendant, is twelve miles.

5th. That on the 10th day of May, 1874, the said plaintiffs shipped said two car-loads of lumber at Oshkosh over the Chicago and Northwestern Railway to Oconomowoc; that said company transported said two car-loads of lumber over its line of road from Oshkosh to Watertown Junction, and at said Junction, on the 11th day of May, 1874, delivered said two car-loads of lumber to the defendant to be transported by said defendant to Oconomowoc, subject to the payment of the sum of thirty dollars for the charges of said Chicago and Northwestern Railway Company as its compensation for transporting said lumber from Oshkosh to said Watertown Junction, and that said last-named company had no line of road from Watertown Junction to Oconomowoc.

6th. That said defendant, on the 11th day of May, 1874, received said two car-loads of lumber from said Chicago and Northwestern Railway Company at said Watertown Junction, for transportation to Oconomowoc, and then and there paid to said last-named company the aforesaid sum of thirty dollars demanded by it as its compensation for transporting said lumber from Oshkosh to Watertown Junction, as advance charges, and on the same day the defendant transported said lumber over its road from Watertown Junction to Oconomowoc, and that this defendant charged for its compensation for said transportation from Watertown Junction to Oconomowoc the sum of eighteen dollars; that said lumber was of the value of two hundred and sixty dollars.

7th. That on the said 11th day of May, 1874, this defendant had said two car-loads of lumber at Oconomowoc ready to be delivered to said plaintiffs on their paying to this defendant the said sum of thirty dollars advance charges so as aforesaid paid by this defendant to said Chicago and Northwestern Railway Company, and the further sum of eighteen dollars, the charges of this defendant for its compensation for transporting the said lumber from Watertown Junction to Oconomowoc, amounting in all to the sum of forty-eight dollars, which amount the defendant demanded as a condition of delivery.

8th. The said plaintiffs then and there refused to pay said amount, but afterwards, and before the commencement of this action, tendered to the said defendant the sum of thirty dollars in lawful money, and thereupon demanded said lumber, but that this defendant then and there refused to accept said tender or deliver possession of said lumber.

JOHN W. CARY,

Def't's Attorney.

FINCHES, LYNDE & MILLER,

Plf's Attorneys.

(Indorsed:) Circuit Court, Milwaukee County. Henry M. Ackley & George Vilas against the Chicago, Milwaukee & St. Paul Railway Company. Stipulation filed June 9th, 1874. L. F. Kellogg, clerk sup. ct. Wis. Filed June 6th, 1874. Patrick Connolly, jr., clerk.

Circuit Court, Milwaukee County.

HENRY M. ACKLEY, ET EL.	}
<i>vs</i>	
THE CHICAGO, MILWAUKEE & ST. PAUL Railway Co.	

Jury: G. Logeman, Henry Taylor, A. Frostel, John Orth, John Groninger, W. C. Halm, H. J. Elliott, John Schlitz, Theo. Simderman, Charles Salb, L. R. Fuchs, Michael Sebold.

(Indorsed:) Circuit Court, Milwaukee County. Henry M. Ackley et al. vs. The Chicago, Milwaukee and St. Paul Ry. Co. Jury. Filed June 9th, 1875. L. F. Kellogg, clerk sup. ct., Wis. Filed June 4th, 1874. Patrick Connolly, jr., clerk.

Circuit Court, Milwaukee County.

HENRY M. ACKLEY & GEORGE VILAS, PLAIN-	}
tiffs,	
<i>against</i>	
THE CHICAGO, MILWAUKEE & ST. PAUL Railway Company, defendant.	

We, the jury, find for the plaintiffs, and find that the plaintiffs were, at the date of the commencement of this suit, the owners of the two car-loads of lumber mentioned in the complaint; that at the time of the commencement of this suit they were lawfully entitled to the possession of the said two car-loads of lumber; that the two car-loads of lumber were at said date unlawfully and wrongfully detained by the defendant; that the value of said lumber is two hundred and sixty dollars; that the damages for said defendant is six cents.

H. J. ELLIOT, *Foreman*.

(Indorsed:) Circuit Court, Milwaukee County. Henry M. Ackley, George Vilas, plaintiffs, against The Chicago, Milwaukee & St. Paul R'y Co., defendants. Verdict. Filed June 9th, 1874. L. F. Kellogg, clerk sup. ct. Wis. Filed June 4th, 1874. Patrick Connolly, jr., clerk.

Circuit Court, Milwaukee County.

HENRY M. ACKLEY & GEORGE VILAS, PLAINTIFFS,
against
 THE CHICAGO, MILWAUKEE & ST. PAUL
 Railway Company, defendants.

On the verdict of the jury, and on motion of Finches, Lynde & Miller, it is ordered and adjudged that the plaintiffs at the time of the commencement of this suit were the owners of the two car-loads of lumber mentioned in the complaint, and are lawfully entitled to the possession of the said two cars of lumber and to six cents damages for its detention, and it appearing that the property has been seized on the writ issued in this cause and delivered to said plaintiffs and is now held by them, it is ordered and adjudged that said plaintiffs are lawfully entitled to the possession of and to hold the said two cars of lumber, and six cents damages for its detention.

And it is further ordered and adjudged that the plaintiffs do recover of and from the said defendant the sum of forty-one 85-100 dollars costs by them incurred in and about this suit, amounting in the aggregate to the sum of forty-one 91-100 dollars.

By the Court:

DAVID W. SMALL, *Judge.*

STATEMENT.—Judgment docketed June 6, 1874, at 9:30 o'clock, a. m. Damages, .06; costs, 41.85—41.91.

(Indorsed:) Circuit court, Milwaukee County, Henry M. Ackley et al. vs. The Chicago, Milwaukee & St. Paul Railway Company. Judgment. Filed June 9, 1874. L. F. Kellogg, clerk sup. ct. Wis. Filed June 4, 1874. Patrick Connolly, jr., clerk.

Circuit court, Milwaukee County.

HENRY M. ACKLEY & GEORGE VILAS
against
 THE CHICAGO, MILWAUKEE & ST. PAUL
 Railway Company.

Take notice that the defendant, the Chicago, Milwaukee and St. Paul Railway Company, appeals from the judgment rendered in this action to the supreme court.

JOHN W. CARY,
Attorney for Defendant.

TO PATRICK CONNOLLY, JR.,
Clerk of Circuit Court, &c.
 Mess. FINCHES, LYNDE & MILLER,
Attorneys for Pltffs.

(Indorsed:) Circuit court, Milwaukee County. Henry M. Ackley & George Vilas, against The Chicago, Milwaukee & St. Paul

Railway Co. Notice to appeal. Filed June 9, 1874. L. F. Kellogg, clerk sup. ct. Wis.

Service of the above admitted June 5, 1874.

FINCHES, LYNDE & MILLER,
Pltfs.' Attys.

Filed June 5th, 1874. Patrick Connolly, jr., clerk.

Circuit court, Milwaukee County.

HENRY M. ACKLEY & GEORGE VILAS <i>against</i> THE CHICAGO, MILWAUKEE & ST. PAUL Railway Co.	}
--	---

Whereas judgment was rendered on the 4th day of June, 1874, before the Hon. David W. Small, judge of the circuit court of Milwaukee County, against the Chicago, Milwaukee and St. Paul Railway Co., defendant, for the sum of six cents damages in favor of Henry M. Ackley and George Vilas, plaintiffs, in the above-entitled cause;

And whereas the said Chicago Milwaukee and St. Paul Railway Company, concerning itself aggrieved by the said judgment, has appealed therefrom according to the provision of the statute in such case made and provided, and conformed in all things required therein:

Now, therefore, we, the undersigned, S. S. Merrill and John C. Gault, do hereby, pursuant to the statute in such case made and provided, undertake that if judgment be rendered against said appellant and execution thereon be returned unsatisfied in whole or in part, we will pay the amount so remaining unpaid.

Dated June 4th, A. D. 1874.

S. S. MERRILL. [SEAL.]
JNO. C. GAULT. [SEAL.]

STATE OF WISCONSIN,
County of Milwaukee, ss:

S. S. Merrill and John C. Gault, the subscribers to the above undertaking, being severally duly sworn, each for himself says that he is a resident and householder within the State, and is worth the sum of one thousand dollars over and above all the debts and liabilities exclusive of property exempt from execution.

G. E. WEISS,
Notary Public, Milwaukee Co., Wis.

(Indorsed:) Circuit court, Milwaukee County. Henry M. Ackley & George Vilas, against The Chicago, Milwaukee & St. Paul Railway Co. Undertaking. Filed June 9, 1874. L. F. Kellogg, clerk sup. ct. Wis. Service of the above admitted June 5, 1874.

FINCHES, LYNDE & MILLER,
Pltfs.' Attys.

Filed June 5, 1874. Patrick Connolly, jr., clerk.

Afterwards, to wit, on the 4th day of June, A. D. 1874, the issue so as aforesaid joined came on to be tried at the court-house, in Milwaukee, before the honorable David W. Small, circuit judge, Messrs. Finches, Lynde & Miller appearing for the plaintiffs, and John W. Cary for the defendant, and a jury was duly empanelled, chosen, tried, and sworn.

The said plaintiffs, to maintain said issue on their part, then introduced and read in evidence a stipulation, signed by the attorneys of the respective parties, in the words and figures following to wit:

Circuit court, Milwaukee County.

HENRY ACKLEY AND GEORGE VILAS	}
<i>against</i>	
THE CHICAGO, MILWAUKEE & ST. PAUL Railway Company.	

It is hereby stipulated and admitted: 1st. That plaintiffs are partners and general owners of the lumber, as alleged in the complaint.

2d. That the defendant is a corporation, duly organized under and by virtue of the laws of Wisconsin, and engaged in operating a railroad, and that one part of its railroad extends from Oshkosh to Milwaukee, and thence through Oconomowoc to Watertown Junction and to La Crosse, a distance of about one hundred and thirty miles.

3rd. That the Chicago and Northwestern Railway Company is a corporation, duly organized under and by virtue of the laws of Wisconsin, engaged in operating a railroad, and that its line extends from Oshkosh to Watertown Junction and thence to Chicago, and that said roads intersect and connect at said Watertown Junction.

4th. That the distance from Oshkosh to Watertown Junction, over the road of the Chicago and Northwestern Railway, is sixty-three miles, and the distance from said Watertown Junction to Oconomowoc, over the road of the defendant, is twelve miles.

5th. That on the 10th day of May, 1874, the said plaintiffs shipped said two car-loads of lumber at Oshkosh, over the Chicago and Northwestern Railway, to Oconomowoc; that said company transportee two car-loads of lumber over its line of road from Oshkosh to Watertown Junction, and at said junction, on the 11th day of May, 1874, delivered said two car-loads of lumber to the defendant, to be transported by the said defendant to Oconomowoc, subject to the payment of the sum of thirty dollars for the charges of said Chicago and Northwestern Railway Company as its compensation for transporting said lumber from Oshkosh to said Watertown; and that said last-named company had no line of road from Watertown Junction to Oconomowoc.

6th. That said defendant, on the 11th day of May, 1874, received said two car-loads of lumber from said Chicago and Northwestern

Railway Company at said Watertown Junction for transportation to Oconomowoc, and then and there paid to said last-named company the aforesaid sum of thirty dollars, demanded by it as its compensation for transporting said lumber from Oshkosh to Watertown Junction as advance charges, and on the same day the defendant transported said lumber over its road from Watertown Junction to Oconomowoc; and that this defendant charged for its compensation for said transportation from Watertown Junction to Oconomowoc the sum of eighteen dollars; that said lumber was of the value of two hundred and sixty dollars.

7th. That on the said 11th day of May, 1874, this defendant had said two car-loads of lumber at Oconomowoc ready to be delivered to said plaintiffs on their paying to this defendant the said sum of thirty dollars advance charges so as aforesaid paid by this defendant to said Chicago and Northwestern Railway Company, and the further sum of eighteen dollars, the charges of this defendant for its compensation for transporting the said lumber from Watertown Junction to Oconomowoc, amounting, in all, to the sum of forty-eight dollars; which amount the defendant demanded as a condition of delivery.

8th. That said plaintiffs then and there refused to pay said amount, but afterwards, and before the commencement of this action, tendered to the said defendant the sum of thirty dollars in lawful money, and thereupon demanded said lumber, but that this defendant then and there refused to accept said tender or deliver possession of said lumber.

JOHN W. CARY, *Deft.'s Attorney.*
FINCHES, LYNDE & MILLER,
Pltf.'s Attys.

The defendant then read in evidence the following certificate from the secretary of state, to wit:

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY.

At an adjourned meeting of the Milwaukee & St. Paul Railway Company, held in the city of Milwaukee, on the 7th day of February, 1874, at which were present, in person and by proxy, a majority of all its shareholders, the following resolutions were unanimously adopted:

Resolved, That the corporate name of this company be changed to the Chicago, Milwaukee & St. Paul Railway Company.

Resolved, That the secretary of the company file in the office of the secretary of state, on the 11th day of February, 1874, a copy of the above resolution, certified under his hand and the seal of the company, in order that the change of name take effect from that date.

I, R. D. Jennings, secretary of the Milwaukee & St. Paul Railway Company, certify the foregoing to be a true and correct copy from the minutes of a meeting of the stockholders of said company, held at their office in Milwaukee, February 7, 1874.

{ MILWAUKEE AND ST. } Witness my hand and the corporate
 { PAUL RAILWAY COMPA- } seal affixed this seventh day of Febru-
 { NY, INCORPORATED 1863. } ary, 1874. R. D. JENNINGS,
Secretary.

{ CHICAGO, MILWAUKEE AND } The seal of the company under
 { ST. PAUL RAILWAY COM- } the name of the Chicago, Milwaukee
 { PANY, INCORPORATED 1863. } & St. Paul Railway Company.

Recorded February 11, 1864.

STATE OF WISCONSIN,
Secretary's Office, ss.

The secretary of state of the State of Wisconsin hereby certifies that the foregoing has been compared with the original record in this office, and that the same is a true and correct copy thereof and of the whole of the original.

In witness whereof I have hereunto set my hand and affixed the great seal of the State, at the capital, in Madison, this second day of June, A. D. 1874.

[GREAT SEAL.]

PETER DOYLE,
Secretary of State.

Whereupon the plaintiffs rested their cause.

And the defendant, to maintain the issue on its part, called as a witness Dwight W. Keyes, who was sworn, and testified that he was chief clerk in the office of the general freight agent of defendant, and that he had been connected with the freight business of defendants' road since 1857, and was acquainted with the rates of freight in general.

The defendant then offered to prove that nine dollars per car-load of lumber from Watertown Junction to Oconomowoc was a fair and reasonable charge, to which the plaintiffs' counsel objected, on the ground that the legislature had fixed the rate to be paid, and that the amount so fixed would control and govern, without regard to whether it was reasonable compensation or not. The court sustained the objection, and defendants' counsel then and there excepted, and the evidence was excluded.

The foregoing is all the testimony given on said trial, and after agreement by counsel the said court did then and there charge said jury that chapter 273 of the session laws of 1874 was constitutional and binding upon the railroad companies, that the amount fixed by said act for the transportation of freight was all the companies were entitled to charge, and that as the distance from Oshkosh to Oconomowoc was only seventy-five miles, the said railroad companies were only authorized to charge fifteen dollars per car-load for said lumber, and that as the plaintiffs tendered that amount to the defendant before bringing suit, and the defendant refused to receive the same, the plaintiffs were entitled to said lumber, and that their verdict should be for the plaintiffs

The said defendant's counsel did then and there except to said charge and to each and every part thereof as given, and because none of said testimony, rulings, objections, decisions, and exceptions appear in the record and proceedings of the trial of said action the said circuit judge, at the request of the said defendant, has to this bill of exceptions set his hand and seal this 4th day of June, A. D. 1874.

DAVID W. SMALL,
Circuit Judge. [SEAL.]

We have read the foregoing bill of exceptions, and consent to its being signed by the circuit judge.

June 4th, 1874.

FINCHES, LYNDE & MILLER,
Pl'tffs Attorneys.

(Indorsed:) Circuit court, Milwaukee County. Henry M. Ackley et al. vs. The Chicago, Mil. & St. Paul R'y Co. Bill of exceptions. Filed June 9, 1874. T. F. Kellogg, clerk sup. ct. Wis. Filed June 5th, 1875. Patrick Connolly, jr., clerk.

Circuit Court, Milwaukee County, May term, 1874.

Finches, Lynde & Miller.

HENRY M. ACKLEY, GEORGE VILAS <i>against</i> THE CHICAGO, MILWAUKEE AND ST. PAUL Railway Company.	}	Replevin.
--	---	-----------

May 20, 1874. And now come the plaintiffs in the above-entitled action, by Finches, Lynde & Miller their attorneys, and file their summons and certificate of service endorsed thereon, as follows:

STATE OF WISCONSIN,
Waukesha County, ss:

I hereby certify and return that, on the 15th day of May, A. D. 1874, I personally served the within summons on the said defendant, the said Chicago & Milwaukee & St. Paul Railroad Company, at the village of Oconomowoc, Waukesha County, Wisconsin, by handing to and leaving with H. H. Collins, the agent of said company, and said defendant at said place, and who has charge of the depot or station at said place, a true copy thereof dated this 19th day of May, 1874.

Fees \$4.85.

CHAS. M. HARTWELL,
Sheriff of Waukesha County, Wis.
By G. A. LUDINGTON,
Under Sheriff.

Same time affidavit of plaintiff on claim and delivery of personal

property with order endorsed thereon, directing the sheriff to take from the defendant the property therein described and deliver it to the plaintiff and undertaking of plaintiff's sureties in claim and delivery filed June 4th, 1874. Complaint and answer filed.

And now comes the plaintiff in this action by Messrs. Finches, Lynde & Miller, their attorney and the defendant by John W. Cary, its attorney, and the cause being at issue, a jury is called who came, to-wit, G. Logemann, A. Trostel, John Grocinger, H. J. Elliott, Theod. Sundermann, L. P. Finches, Henry Taylor, John Orth, W. C. Hahn, John Schlitz, Charles Salb, Michael Sebold, twelve good and lawful men of the county, who, being duly tried, empaneled and sworn, the trial proceeded, and the proofs being heard, inspected and submitted, the trial concluded, and the jury by direction of the court, without leaving the box, respectively, do say that they find for the plaintiffs, and assess the value of the property wrongfully detained by the defendant is two hundred and sixty dollars (\$260.00) and asses his damages at six cents. Same time, stipulations and judgment filed as follows;

On the verdict of the jury and on motion of Finches, Lynde & Miller it is ordered and adjudged that the plaintiffs, at the time of the commencement of the suit, were the owners of the two car loads of lumber mentioned in the complaint, and are lawfully *entitled* to the possession of the said two car-loads of lumber, and to 6 cents damages for its detention. And it appearing that the property has been seized on the writs issued in this cause and delivered to the said plaintiffs, and it is now held by them, it is ordered and adjudged that said plaintiffs are lawfully entitled to the possession and to hold the said two cars of lumber and six cents damages for its detention.

And it is further ordered and adjudged that the plaintiffs do recover of and from the said defendant the sum of forty-one and 85-100 dollars costs by them incurred in and about this suit, amounting in the aggregate to the sum of forty-one 91-100 dollars.

By the court.

DAVID W. SMALL, *Judge.*

STATEMENT: Judgment docketed June 6th, 1874, at 9.30 o'clock, a. m. Damages \$.06: costs 41.85—\$41.91.

JUNE 5th, 1874.—Bill of exceptions filed. Same time undertaking and notice of appeal filed as follows:

Take notice that the defendant, the Chicago, Milwaukee & St. Paul Railway Company, appeals from the judgment rendered in this action, to the supreme court.

JOHN W. CARY,
Attorney for Deft.

To PATRICK CONNOLLY, JR., *Clerk of Circuit Court, &c.*

Messrs. FINCHES, LYNDE & MILLER, *Attys. for Plaintiffs.*

On consideration whereof, it is now here ordered and adjudged by this court that the judgment of the circuit court of Milwaukee county in this cause, be, and the same is hereby, affirmed with cost against the said appellant, taxed at the sum of _____ dollars.

STATE OF WISCONSIN,
Supreme Court, ss.

I, La Fayette Kellogg, clerk of the supreme court of the State of Wisconsin, do hereby certify that the above and foregoing is a true copy of the the order and judgment of the court in the above-entitled cause, as appears of record.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Madison, this 9th day of November, A. D. 1874.

[SEAL.]

LA FAYETTE KELLOGG,
Clerk of the supreme Court of the State of Wis.

(Indorsed:) State of Wisconsin. Supreme court. Henry M. Ackley and George Vilas, respondents, against The Chicago, Milwaukee and St. Paul Railroad Company, appellant. Remittiture filed June 5, 1875. Patrick Connolly, jr., clerk.

Costs and Disbursements.

State of Wisconsin, circuit court, Milwaukee county.

HENRY M. ACKLEY ET LA., PLAINTIFFS.	} No. May term,
<i>against.</i>	
THE CHICAGO, MILWAUKEE, AND ST. PAUL	} 1874. Plaintiffs, costs
Railroad Company, defendant,		and disbursements,

Tax on suit	\$1 00
Tax for clerk's salary	8 00

Disbursements:

Subpœnas	
Revenue stamps	
Certified copy judgment	
Commission	
Transcript	
Report of referee	
Sheriff's fees	\$4 85
Protest	
Postage	
Witnesses' fees	
Affidavits	
Printers' fees on publication of summons.	
Jury fees	3 00
Register on filing lis pendens	
Commissioners' fees	

Attorney's fees.....	\$25 00	
Docketing judgment or transcript		\$32 85
Interest on verdict.....		
		<hr/> \$41 85

Costs and disbursements examined and taxed at the sum of forty one dollars and eighty-five cents.

Dated Milwaukee, June 6, A. D. 1874.

PATRICK CONNOLLY, JR., *Clerk.*

COUNTY OF MILWAUKEE:

, plaintiffs' attorney in the above action, being duly sworn says that the disbursements above mentioned have been made in this action, or will be necessarily incurred therein.

Sworn to before me this day of , 187 .

(Indorsed:) Circuit court, Milwaukee county. Henry M. Ackley et al., plaintiffs against the Chicago, Milwaukee and St. Paul Railway Company, defendant. Costs and disbursements filed June 6, 1874. Patrick Connolly, jr., clerk Filed June 9, 1874. L. F. Kellogg, clerk supreme court Wis.

STATE OF WISCONSIN,

Circuit Court, Milwaukee County, ss:

I, Patrick Connolly, jr., clerk of said court, do hereby certify that I have compared the foregoing copy with the original record and proceedings entered in the action therein entitled; that it is a correct transcript therefrom and of the whole thereof, as the same remains of record in my office.

In testimony whereof I have hereto set my hand and affixed the seal of said court this eighth September, A. D. 1875.

[SEAL.]

PATRICK CONNOLLY, JR., *Clerk.*

STATE OF WISCONSIN,

County of Milwaukee, ss:

I, David W. Small, do hereby certify that I am judge of the second judicial circuit in said State and presiding judge of the circuit court within and for the county of Milwaukee; that Patrick Connolly, jr., whose name is subscribed to the certificate subjoined to the within record, is, and was at the date of said certificate, clerk of the circuit court for the county of Milwaukee and State aforesaid, duly elected and qualified; that I am well acquainted with his handwriting, and know the signature thereto to be genuine; and further that the said certificate or attestation is in due form of law, and that the seal thereto attached is the proper seal of this court.

Witness my hand at Milwaukee, in said county, this eighth day of September, A. D. 1875.

DAVID W. SMALL.

UNITED STATES OF AMERICA, ss:

The President of the United States of America to the
 [SEAL] judge of the circuit court of Milwaukee County, of the
 State of Wisconsin, greeting :

Because, in the records and proceedings, as also in the rendition of a judgment in a plea which is in the said circuit court of Milwaukee, of the State of Wisconsin, before you, remitted there for execution from the supreme court of the State of Wisconsin, that court being the highest court of law or equity of said State in which a decision could be had in said suit between Henry M. Ackley and George Vilas, plaintiffs, and the Chicago, Milwaukee and St. Paul Railway Company, defendants, wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity, a manifest error hath happened, to the great damage of the said The Chicago, Milwaukee and St. Paul Railway Company, as by the complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error that of right and according to law and custom of the United States should be done.

Witness the honorable Morrison R. Waite, Chief-Justice of the said Supreme Court of the United States, this twenty-eighth day of July, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the one hundredth.

EDWARD KURTZ,
*Clerk U. S. Circuit Court for the
 Eastern District of Wisconsin.*

(Indorsed:) No. 3569. Circuit court, Milwaukee County. H. M. Ackley et al. vs. The Mil. & St. Paul R'y Co. Writ of error. Allowed July 29, 1875. David W. Small, circuit judge, 2d judicial circuit of Wisconsin. Filed July 29, 1875. Patrick Connolly, jr., clerk.

Know all men by these presents, that we, Sherburn S. Merrill and John W. Cary, both of the city of Milwaukee, and State of Wisconsin, are held and firmly bound unto Henry M. Ackley and George Vilas in the full and just sum of five hundred dollars, to be

paid to the said Henry M. Ackley and George Vilas, their certain attorney or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals and dated this 27th day of July, A. D. 1875.

Whereas lately, in the circuit court of Milwaukee County, in the State of Wisconsin, in a suit pending in said court between Henry M. Ackley and George Vilas, plaintiffs, and the Chicago, Milwaukee and St. Paul Railway Company, defendants, judgment was rendered against the said Chicago, Milwaukee and St. Paul Railway Company; and the said Chicago, Milwaukee and St. Paul Railway Company having obtained a writ of error, issuing out of the Supreme Court of the United States, and filed a copy thereof in the clerk's office of the said circuit court of Milwaukee County, in the State of Wisconsin, to reverse the said judgment in the aforesaid suit, and a citation, directed to the said Henry M. Ackley and George Vilas, citing and admonishing them to be and appear at the Supreme Court of the United States, to be holden at Washington the second Monday of October next:

Now, the condition of the above obligation is such, that if the said Chicago, Milwaukee and St. Paul Railway Company shall prosecute said writ of error to effect, and answer all damages and costs if it fails to make good its plea, then the above obligation to be void; else to remain in full force and virtue.

JOHN W. CARY. [L. S.]
[L. S.]

In presence of—

(Indorsed:) 3569. The Chicago, Milwaukee and St. Paul Railway Company, plaintiff in error, vs. Henry M. Ackley and George Vilas, defendants in error. Bond. Approved July 29, 1875. Finches, Lynde & Miller, plff's atty's. The within bond approved July 29, 1875. David W. Small, judge. Filed July 29, 1875. Patrick Connolly, jr., clerk.

The United States of America to Henry M. Ackley and George Vilas, greeting :

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to writ of error filed in the clerk's office of the circuit court of Milwaukee County, in the State of Wisconsin, wherein the Chicago, Milwaukee & St. Paul Railway Company is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable David W. Small, judge of the circuit court of the county of Milwaukee, in the State of Wisconsin, this

twenty-seventh day of July, in the year of our Lord one thousand eight hundred and seventy-five.

DAVID W. SMALL,
Circuit Judge.

(Indorsed:) 3569. Supreme Court United States of America. The Chicago, Milwaukee & St. Paul Railway Company, plaintiff in error, against Henry M. Ackley and George Vilas, defendants in error. Citation. John W. Cary, atty. for plff.

Service admitted July 29th, 1875, without prejudice.

FINCHES, LYNDE & MILLER,
Attys. for Deft. in error.

Filed July 29th, 1875. Patrick Conolly, jr., clerk.

(Indorsement on cover:) No. 587. The Chicago, Milwaukee & St. Paul Railway Company, plaintiff in error, vs. Henry M. Ackley and George Vilas. Wisconsin circuit court, Milwaukee County. Filed 14th September, 1875.

TRANSCRIPT OF RECORD,

IN THE CASE OF L. D. STONE, Plaintiff in Error, vs. THE STATE OF WISCONSIN.

COUNTY OF DANE, CITY OF MADISON, ss:

Municipal court, city of Madison.

The State of Wisconsin to the sheriff or any constable of said county, greeting:

Whereas, William Welch has this day made complaint on oath, in writing, to the judge of the municipal court of the city of Madison, in said county, that L. D. Stone did on the twelfth day of May, A. D. 1874, at the city of Madison, in said county, the said L. D. Stone being then and there an agent of the Chicago, Milwaukee and St. Paul Railway Company in said city, and authorized by it to receive and charge compensation for transportation of passengers on said railway as such agent aforesaid, wrongfully, unlawfully, and willfully charge and receive from Rich'd F. Hayes, as deponent verily believe', for the transportation of him, said Richard F. Hayes, with ordinary *passage*, not exceeding one hundred pounds in weight, over said railway or part of railroad, from the city of Madison, in the county of Dane, Wisconsin, to the city of Janesville, in the county of Rock, Wisconsin, which is a distance by said railroad, or part of railroad, of forty miles and no more, a greater and higher

rate and compensation than three cents per mile, to wit, the sum of one dollar and sixty cents, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Wisconsin, and prays that the said L. D. Stone might be arrested and dealt with according to law:

Now, therefore, in the name of the State of Wisconsin, you are hereby commanded forthwith to apprehend the said L. D. Stone and bring him before the said municipal court to be dealt with according to law.

Given under the hand of the judge of the municipal court of said city the 28th day of May, A. D. 1874.

A. B. BRALEY, *Judge*.

(Indorsed as follows, to wit:) State of Wisconsin against L. D. Stone.

DANE COUNTY, *ss*:

The within warrant executed by arresting the within-named L. D. Stone, and have him in custody now before the court.

Fees: Arrest, \$0.25; mileage, *m.*, \$0.20; conveying prisoner, *m.*, \$0.10; committing, \$0.37; attending court, \$1.50—\$2.42.

Dated this 29th day of May, A. D. 1874.

THOS. BOURKE,
Policeman.

Filed this 29th day of May, A. D. 1874. A. B. Braley, judge. County, page 149.

Complaint.—Transportation of passenger.

Chapter 273, laws of 1874.

STATE OF WISCONSIN,

County of Dane, ss:

William Welch, being duly sworn and examined, on oath before the undersigned, municipal judge in and for said county, deposes and says that on the twelfth day of May, A. D. 1874, the Chicago, Milwaukee and St. Paul Railway Company owned, operated, or managed a railroad, or part of a railroad, in the State of Wisconsin, between the city of Madison, in the county of Dane, Wisconsin, and the city of Janesville, in the county of Rock, Wisconsin; that the said Chicago, Milwaukee and St. Paul Railway Company then was, and for a long time theretofore had been and still is, commonly known and called under its former name of the Milwaukee and St. Paul Railway Company, and is by that name mentioned and designated in section one of chapter 273 of the laws of 1874 of this State.

That on this said 12th day of May, 1874, L. D. Stone was an agent of said company, duly authorized by it to charge and receive compensation for the transportation of passengers over said rail-

road, or part of railroad, and that said L. D. Stone did on said 12th day of May, 1874, at said city of Madison, in said county of Dane, Wisconsin, as such agent, and being then and there so authorized by said company as aforesaid, wrongfully, unlawfully, and wilfully charged and received from Richard F. Hayes as deponent verily believes, for the transportation of Richard F. Hayes as a passenger with ordinary baggage not exceeding one hundred pounds in weight over said railroad, or part of railroad, from the said city of Madison, in the county of Dane, Wisconsin, which is a distance of said railroad, or part of a railroad, of forty miles, and no more, a greater and higher rate and compensation than three cents per mile, to wit, the sum of one dollar and sixty cents, contrary to the statute in such case made and provided, against the peace and dignity of the State; and complainant prays that the said L. D. Stone may be arrested and dealt with according to law.

WM. WELCH.

Subscribed and sworn to and complainant examined on oath before me, this 2d day of May, 1874.

A. B. BRALEY, *Judge.*

(Indorsed as follows, to wit: Municipal court, State of Wisconsin vs. L. D. Stone, complainant. Filed this 29th day of May, 1874. A. B. Braley, judge. County, page 149.)

STATE OF WISCONSIN,

County of Dane, City of Madison, ss:

We, L. D. Stone, J. H. Palmer, of said county, acknowledge ourselves to owe and be indebted to the State of Wisconsin in the sum of two hundred dollars, to be well and truly paid if default be made in the condition following:

Whereas, the said L. D. Stone has appealed from the judgment of the judge of the municipal court of the city of Madison, in said county, rendered on the 17th day of June, 1874, on complaint for violation of railroad law, between the State of Wisconsin, plaintiff, and the said L. D. Stone, defendant:

Now, if the said shall personally appear before the circuit court of said county at the term thereof next to be held therein, and abide the judgment of the court therein, then this recognizance to be void; otherwise of force.

L. D. STONE.
J. H. PALMER.

Taken, subscribed, and acknowledged before me this 17th day of June, A. D. 1874.

THOS. C. BOURKE, *Clerk.*

(Indorsed to follows, to wit:) Municipal Court. State vs. Stone. Rich.d F. Hayes' recognizance, June 16 & 17, 1874. Filed this 17th day of June, 1874. A. B. Braley, judge. County, page 149.)

STATE OF WISCONSIN <i>against</i> L. D. STONE.	}	Violation of railroad law. Richard F. Hayes.
--	---	--

Fine, \$50.00; judge's fees, \$12.37; witness, \$1.84; jury, \$3.00; officers, \$14.34.

1874, MAY 28TH.—On examination of complainant on oath, and reducing the same to writing.

29TH.—Warrant issued, returnable forthwith. Subpœna issued. Warrant returned. Defendant in custody before the court.

Fees.—On warrant, \$2.42; on subpœna, \$0.33. Thos. C. Bourke, policeman.

Complaint read. Defendant declines to plead; thereupon the court enters a plea of not guilty, and, by consent of both parties, case continued until the 30th inst., at 9 o'clock in the forenoon, at my office. Defendant ordered to give bail in the sum of four hundred dollars for his appearance on said 30th day, in default of said bail to be committed to the jail of Dane county. Bail given and approved. Defendant discharged from the custody of the officer.

30TH, 10 a. m.—Parties present; and, by consent of both parties, case was adjourned until the 10th day of June, A. D. 1874, at 9 o'clock in the forenoon, at my office. Defendant ordered to give bail for his appearance on the said 10th day of June. Bail given and approved.

JUNE 10TH, 10 a. m.—Parties present; by consent of both parties, case continued until the 11th inst., at 9 o'clock in the forenoon, at my office. Defendant ordered to give bail for his appearance.

11TH, 9 a. m.—Parties present; by consent of both parties, case adjourned until the 16th inst., at 9 o'clock in the forenoon, at my office. Defendant ordered by the court to give bail for his appearance in court on said 16th day of June, A. D. 1874. Bail given and approved.

1874, JUNE 16TH, 9 a. m.—Case called; parties present. Defendants call for jury. John Adams, sheriff, ordered to draw eighteen names from jury box, and said eighteen names being duly drawn, they were duly written down under the directions of the court, and each party having stricken off six names from the list, a venire was duly issued for the following named persons: John Gripper, L. Sutter, J. H. Palmer, Wm. H. Lansing, Martin Joachino, and T. A. Nelson, returnable on the 17th day of June, A. D. 1874, at 9 o'clock in the forenoon, at my office. Subpœna issued for Richard F. Hayes, returnable forthwith. By consent of parties the case was adjourned until the 17th inst., at 9 o'clock in the forenoon, at my office. Defendant ordered to renew his bail for his appearance in court on said 17th day of June, A. D. 1874. Bail renewed and approved.

JUNE 17TH, 9 a. m.—Parties present; jury present. Venire returned duly served personally on each of the persons therein named. Fees, \$2.64. Subpœna returned. Richard F. Hayes in court. Fees, \$1.52. John Adams, sheriff. Jury duly empanelled.

ed and sworn. Cause proceeded with. Defendant's counsel makes a motion for the dismissal of the case. The court having no jurisdiction in the case, objection overruled. Wm. Welch and Richard F. Hayes sworn as witnesses on behalf of plaintiff, and after argument by counsel for prosecution and instructions of the court.

1874, JUNE 17TH. Cause submitted to the jury, who retired under the care of John Adams, sheriff, who was duly sworn to attend them, and on the same day the jury returned into court under the care of the officer and publicly announced the following verdict: "We, the jury, find the defendant guilty." Jury discharged by the court; and thereupon the court adjudges and determines that the defendant pay a fine of fifty dollars, and costs in the further sum of thirty-one dollars and fifty-five cents.

STATE OF WISCONSIN,

Dane County, City of Madison:

I hereby certify the foregoing to be a true transcript of the proceedings had before me in the above entitled action, as appears from my docket and papers on file.

Given under my hand this 3d day of October, A. D. 1874.

A. B. BRALEY, *Judge.*

(Indorsed as follows, to wit:) Municipal court, A. B. Braley, judge. State of Wisconsin against L. D. Stone. Transcript. Filed Oct. 5th, 1874. L. D. Frost, clerk.)

STATE OF WISCONSIN	}	On complaint of Wm. Welch. June 10th, 1874.
<i>agst.</i>		
L. D. STONE.		

WM. WELCH, sworn for plff., says:

Know of the railway run from city of Madison to Milton Junction; know the name of railroad co., it is the Chicago, Mil. & St. Railroad Company. The track is owned by said co. The road is now in operation. It is admitted that the road was originally destined as the Milwaukee & Waukesha R. Road, then known as the Mil. & Mississippi R. R., and was then built from Mil. to Madison, and to Mississippi River by way of Mil. Junction, and by Milton Junction to Janesville; that in 1860 & 1861 divers mortgages given by Milwaukee and Miss. R. R. Co., covering the whole line of road were foreclosed, and the whole property sold in chancery to John Catlin and his associates; and that they in January, 1861, organized the Mil. & P. du Chien Co., filing articles of association in office of sect'y of state, in *pendence* of statute; that said M. & P. Du Ch. R. R. Control' operate' the R. R. until July, 1868, when that co. by a deed transferred it *by a deed* to the present co., then known as the Mil. & St. Paul Railroad Company; that since that time it has been owned and operated by the present Chicago, Mil. & St. Paul R. R. Co. (Obj'ct.) On the 12th of May, the co. was usually known, *on the 12th of May it was known*—prior to Feb. 11th,

1874, it was known as the Mil. & St. Paul R. R. Co. The name of the Co. was known as the Mil. & St. Paul Road Co. before the 11th of February. On the 1st of May, 1874, I went to the city of Janesville from Madison, starting at the West Madison depot. Know Mr. Stone, def't.; I bought a ticket of him from Madison to Janesville. He was at the West depot, in this city and co. and State of Wis. Mr. Stone has been acting in the capacity of selling tickets for this co. He was an agent of the co. at the time, and still is. He has for several years acted in the capacity of agent in selling tickets to passengers on this road. I went to the office and told him I wanted two tickets for Janesville, and laid down a \$5 bill, and he gave me \$1.87 in return. I paid him \$1.60 for each ticket. I have measured it by sectional map. I have measured it. I can swear from my observation it is less than (obj't) 40 miles. I was carrying ordinary baggage; had less than 10 pounds baggage.

Mr. STONE, ex.: The Chicago & St. Paul R. R. Co. was known as the Mil. St. Paul R. R. Co. up to Feb. 11th, 1874. I knew this name from reading it and hearing it spoken. I could not say that it had been called Chicago & St. Paul R. R. Co. for year past. I have made two or three compl's against the road. I made the other complaint against R. R. Co. agent R. F. Hays. Mr. Petherick has made a complaint. He is a printer. I could not say that I have asked any one to make a complaint. I employed as council in these cases.

T. D. PLUMB, SWO s

I have traveled frequently between Madison & Janesville. The distance—it is 41 & $\frac{3}{4}$ miles from Madison to Janesville.

X. Never measured the distance. It is now 1 & $\frac{1}{4}$ miles less by junction. I know the guide-posts—that the railroad has mile-posts—and I have seen them every one. There are not mile-posts all the way to Janesville.

The plt'f. rests.

Resolution changing name offered and rec'd.

2. Act to incorporate Mil. & Waukesha offered and received 11, 1, 4.

3, An act suppl' to alter offered March 11, 1848.

4. An act supplemental to alter ap'r'v'd Feb. 1st, 1850, changing name to Milwaukee & Mississippi Co.

5. Section 33, chap. 79, R. S. st., 1858.

L. D. STONE sworn:

Am ticket agent of the R. R. Co. I give a bond to the R. R. Co. I run the tickets I have for sale from the general-passenger agent. Tickets are all charged to me when I receive them, and have to return the tickets or the money; have no interest in the sale of tickets. Tickets are pieces of pasteboard.

X. Knew of the passage of this law when I sold tickets.

(Indorsed as follows, to wit:) Municipal court, State of Wisconsin vs. Stone. Wm. Welch, June 10 & 11th, 1874. Filed this 11th day of June, 1874. A. B. Braley, judge.

COUNTY OF DANE,
City of Madison, ss:

Municipal court, city of Madison.

The State of Wisconsin to the sheriff or any constable of said county, greeting:

Whereas William Welch has this day made complaint on oath, in writing, to the judge of the municipal court of the city of Madison, in said county, that L. D. Stone did on the 12th day of May, A. D. 1874, at the city of Madison, in said county, the said L. D. Stone being then and there the agent of the Chicago, Milwaukee and St. Paul Railway Company in said city, and authorized by it to receive and charge compensation for the transportation of passengers on said railroad, as such agent aforesaid, wrongfully, unlawfully, and willfully charged and received from this complainant for the transportation of him, said affiant, with ordinary baggage, not exceeding one hundred pounds in weight, over said railroad or part of railroad, from the said city of Madison, in the county of Dane, Wisconsin, to the said city of Janesville in the county of Rock, Wisconsin, which is a distance by said railroad or part of railroad of forty miles, and no more, a greater and higher rate and compensation than three cents per mile, to wit, the sum of one dollar and sixty cents, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Wisconsin, and prays that the said L. D. Stone might be arrested and dealt with according to law: Now, therefore, in the name of the State of Wisconsin, you are hereby commanded forthwith to apprehend the said L. D. Stone, and bring him before the said municipal court to be dealt with according to law.

Given under the hand of the judge of the municipal court of said city on the 23d day of May, A. D. 1874.

A. B. BRALEY, *Judge.*

(Indorsed as follows, to wit:) State of Wisconsin against L. D. Stone.

DANE COUNTY, ss:

The within warrant executed by arresting the within-named L. D. Stone, and have *now* in custody now before the court.

Fees: Arrest, \$.25c.; mileage, m., \$.20c.; conveying prisoner, m., \$.10c.; committing, \$.50c.; attending court, \$1.50. Dated this 23d day of May, A. D. 1874.

JOHN ADAMS, *Sheriff.*
 By ISAAC VAN WIE, *Dep'ty.*

Filed this 23 day of May, A. D. 1874. A. B. Braley, judge.
 County, page 140.

STATE OF WISCONSIN,
- *County of Dane, ss:*

WILLIAM WELCH, being duly sworn and examined on oath before the undersigned, municipal judge in and for said county, deposes and says that on the twelfth of May, A. D. 1874, the Chicago, Milwaukee & St. Paul Railway Company owned, operated and managed a railroad or part of a railroad in the State of Wisconsin, between the city of Madison, in the county of Dane, Wisconsin, and the city of Janesville, in the county of Rock, Wisconsin; that the said Chicago, Milwaukee & St. Paul Railway Company then was and for a long time theretofore had been and still is commonly known under its former name of the Milwaukee and St. Paul Railway Company, and is by that name mentioned and designated in section one of chapter 273 of the laws of 1874 of this State; that on the said twelfth day of May, 1874, L. D. Stone was an agent of said company, duly authorized by it to charge and receive compensation for the transportation of passengers over said railroad or part of railroad, and that said L. D. Stone did on said 12th day of May, 1874, at said city of Madison, in said county of Dane, Wisconsin, as such agent, and being then and there so authorized by said company as aforesaid, wrongfully and unlawfully charge and receive from said affiant, for the transportation of him, said affiant, with ordinary baggage, not exceeding one hundred pounds in weight, over said railroad, or part of railroad, from the said city of Madison, in the county of Dane, Wisconsin, to the said city of Janesville, in the county of Rock, Wisconsin, which is a distance by said railroad or part of railroad of forty miles and no more, a greater and higher rate and compensation than three cents per mile, to-wit, the sum of one dollar and sixty cents, contrary to the statute in such case made and provided, and against the peace and dignity of the States; and complainant prays that the said L. D. Stone may be arrested and dealt with according to law.

WM. WELCH.

Subscribed and sworn to and complainant examined on oath before me, this 23d day of May, 1874.

A. B. BRALEY, *Judge.*

(Indorsed as follows, to wit:) Complaint. Wm. Welch, complainant. State of Wisconsin against L. D. Stone, ss. Municipal court, city of Madison. Filed this 23d, of May, 1874. A. B. Braley, judge. County, page 140.

STATE OF WISCONSIN,
County of Dane, City of Madison, ss:

We, L. D. Stone & John W. Cary, of said county, acknowledge ourselves to owe and be indebted to the State of Wisconsin in the sum of two hundred dollars, to be well and truly paid if default be made in the conditions following;

Whereas the said L. D. Stone has appealed from the judgment

of the municipal judge of the city of Madison, in said county, rendered on the 11th day of June, 1874, on complaint for violation of chapter 273, laws of 1874, between the State of Wisconsin, plaintiff, and the said L. D. Stone, defendant:

Now if the said L. D. Stone shall personally appear before the circuit court of said county, at the term thereof next to be held therein, and abide the judgment of the court therein, then this recognizance to be void; otherwise, of force.

L. D. STONE.
JOHN W. CARY.

Taken, subscribed, and acknowledged before me this 11th day of June, A. D. 1874.

A. B. BRALEY, *Judge*.

(Indorsed as follows, to wit:) Municipal court. State vs. Stone. R. R. Recognizance for appeal. Filed this 11th day of June, A. D. 1874. A. B. Braley, judge. County, page 140.

STATE OF WISCONSIN <i>against</i> L. D. STONE.	}	Violation of railroad law. Wm. Welch, comp't.
--	---	--

Fine, \$50.00; judge's fees, \$11.79; witness, \$1.56; jury, \$6.00; officers, \$6.57.

1874, MAY 23.—On examination of complainant on oath, and reducing the same to writing;

Warrant issued returnable forthwith. Suppoena issued. Warrant returned. Defendant in custody before the court. On warrant, \$2.55. John Adams, sheriff, and Isaac Van Wie, deputy. Complaint read. Defendant declines to plead. Thereupon the court enters a plea of not guilty, and by consent of both parties the case is continued to 30th inst., at 9 o'clock in the forenoon at my office. Defendant ordered by the court to give bail in the sum of four hundred dollars for his appearance in court on said 30th day of May, A. D. 1874; in default thereof that he be committed to the jail of Dane county. Bail given and approved. Defendant discharged from custody of the officer.

30TH, 10 a. m.—Parties present, and by consent of both parties case adjourned until the 10th day of June, 1874, at 9 o'clock at my office. Defendant ordered to give bail. Bail given and approved.

JUNE 10, 9 a. m.—Subpoena returned. Fees \$1.45. John Adams, sh'ff. Parties present. Defendant's counsel call for a jury. John Adams, Sheriff, ordered to draw eighteen names from jury-box, and said eighteen names being duly drawn, they were duly written down, under directions of the court; and each party having stricken off six names from the list, a venire was duly issued for the following named persons as jurors: M. B. French, H. Kroncke, W. J. Park, Deming Fitch, B. W. Warnes, and E. D. Miner, returnable at 12 o'clock m. of this day. Venire returned duly served personally on each of the persons therein named. Fees \$2.07. John

Adams, sheriff. Jurors present, duly empanelled, and sworn. By consent, case adjourned until 2 o'clock p. m. of this 10th day, at my office.

2 o'clock p. m.—Parties present. Jury present. Trial begun. The following named persons were sworn as witnesses on behalf of plaintiff: Wm. Welch and T. D. Plumb, jr.; and L. D. Stone on behalf of the defendant. By consent, case adjourned until the 11th inst., at 9 o'clock in the forenoon, at my office.

11TH, 9 a. m.—Parties present; jury present; and after argument by counsel for prosecution and defendant, and instructions of the court, cause submitted to the jury, who retired under the care of John Adams, sheriff, who was duly sworn to attend them; and on the same day the jury returned into court under the care of the officer, and publicly announced the following verdict: "We, the jury, find the defendant guilty." Jury discharged by the court. And thereupon the court adjudges and determines that the defendant pay a fine of fifty dollars, and costs of suit in the further sum of twenty-five dollars and twenty-two cents.

STATE OF WISCONSIN,

County of Dane, City of Madison, ss:

I hereby certify the foregoing to be a true transcript of the proceedings had before me in the above entitled action, as appears from my docket and papers of file.

Given under my hand this 3d day of October, A. D. 1874.

A. B. BRALEY, *Judge.*

(Indorsed as follows, to wit:) Municipal court. A. B. Braley, judge. State of Wisconsin against L. D. Stone. Transcript. Filed Oct. 5. 1874. L. D. Frost, clerk.

Circuit court, Dane County.

STATE OF WISCONSIN }
agt. }
 L. D. STONE. }

Whereas the said defendant, L. D. Stone, has been at this term convicted, upon the complaint in this matter, of an offence against the provisions of chapter 273 of the laws of 1874, and feeling aggrieved thereby has alleged exceptions to the opinions, directions, and judgments of the court in the matter of law, which have been reduced to writing, found conformable to the truth of the case, and allowed and signed by the judge of said court at the term, to-wit, this present term of this court; and whereas it clearly appears to the court that such exceptions are not frivolous, immaterial or intended for delay: It is now hereby ordered that all further proceedings in the said circuit court shall be stayed; and on the prayer of the said defendant it is further ordered that the defendant recognize in the sum of five hundred dollars, with sufficient sureties, for his personal appearance at the supreme court at the next June term thereof,

and to enter and prosecute his exceptions with effect and abide the sentence thereof, and in the mean time keep the peace and be of good behavior, or that in default thereof to be committed to the common jail of Dane County.

Nov. term, 1874, to-wit, Jan'y 30th, 1875.

ALVIA STEWART, *Judge*.

(Indorsed as follows, to-wit:) Dane Co. circuit. The State of Wisconsin, agt. L. D. Stone. Order for bail. Filed Jan'y 30th, 1875. B. Esser, clerk.

The State of Wisconsin. In circuit court for the county of Dane.

THE STATE OF WISCONSIN }
vs. }
 L. D. STONE. }

We, L. D. Stone, as principal, and T. J. McConnell and Sam'l Drakely, as sureties do hereby acknowledge ourselves to owe and be indebted to the State of Wisconsin in the sum of — hundred dollars; for the payment thereof, well and truly to be made, we, and each of us, do hereby bind ourselve and our and each of our heirs, executors, and administrators, firmly hereby.

The condition of this obligation is such that whereas the said L. D. Stone has been at this present November term of the year 1874 of the said circuit court convicted of an offence against the provisions of chapter 273 of the general laws of said State, passed at the annual session of the legislature in the year 1874, and feeling aggrieved by the opinions, directions, and judgments of the said court, has alleged exceptions thereto, pursuant to the statute in such case made and provided, which have been reduced to writing and allowed and signed by the judge of said court pursuant to law; and an order having been made staying proceedings and fixing the amount of this recognizance at the sum aforesaid, in order to enable said Stone to prosecute his said exceptions in the supreme court:

Now, therefore, if the said L. D. Stone shall personally appear at the supreme court at the next ensuing term thereof, and enter and prosecute his exceptions aforesaid with effect, and abide the sentence thereon, and in the mean time shall keep the peace and be of good behaviour, then this recognizance shall be void and of no effect; otherwise, of force.

L. D. STONE, [SEAL.]
 T. J. McCONNELL, [SEAL.]
 SAM'L. DRAKELY. [SEAL.]

Taken. Sureties examined and bond accepted and approved this 30th day of January, A. D. 1875.

ALVA STEWART, *Judge*.

(Indorsed as follows to-wit:) Dane Co. circuit. The State of Wisconsin agt. L. D. Stone. Recognizance. Filed Jan'y 30th, 1875. B. Esser, clerk.

Circuit court, Dane County.

THE STATE OF WISCONSIN }
vs. }
 L. D. STONE. }

Afterwards, to-wit, on the 21st day of January, A. D. 1875, at a circuit court held in the city of Madison, at the court house in said county, the honorable Alva Stewart, circuit judge, presiding, the issue so as aforesaid joined came on to be tried, Burr W. Jones, Esq., district attorney, appearing for the State, and John W. Cary for the defendant.

And a jury was duly empaneled, tried and sworn, and the said State, to maintain the issue on its part, called as a witness William Welch, who was duly sworn and testified that the said L. D. Stone was on the 12th day of May, A. D. 1874, the ticket agent of the Chicago, Milwaukee and St. Paul Railway Company at Madison, in the said county of Dane, and authorized by it to receive and charge compensation for the transportation of passengers on the said railway, and that as such agent, on said 12th day of May, charged the said witness and received from him for the transportation of him, with ordinary baggage, not exceeding one hundred pounds in weight, over said railway from Madison, in the county of Dane, to Janesville, in the county of Rock, Wisconsin, the sum of one dollar and sixty cents, and that the distance from Madison to Janesville was only forty miles.

Thereupon the prosecution rested the cause. The said defendant, to maintain said issue on its part, then introduced in evidence the following testimony, to-wit: An act to incorporate the Milwaukee and Waukesha Railroad Company, passed by the territorial legislature of the Territory of Wisconsin, and approved February 11th, 1847, in the words and figures following, to-wit:

An act to incorporate the Milwaukee and Waukesha Railroad Company.

Be it enacted by the Council and House of Representatives of the Territory of Wisconsin:

SECTION 1. That William A. Barstow, Norman Clinton, Alexander W. Randall and Alexander F. Picett, of Waukesha county, and Paraclete Potter, Daniel Wells, Edward D. Holton, Byron Kilbourn, and Samuel W. Weeks, of Milwaukee county, be, and they are hereby appointed commissioners, under the direction of a majority of whom subscriptions may be received of the capital stock of the Milwaukee and Waukesha Railroad Company, hereby incorporated, and they may cause books to be opened at such times and places as they shall direct for the purpose of receiving subscriptions to the capital stock of said company, first giving sixty days' notice of the time and place of taking such subscription by publishing the same

weekly in a public newspaper printed in the county of Waukesha, and also in two printed in the county of Milwaukee.

SEC. 2. That the capital stock of said company shall be one hundred thousand dollars, in shares of one hundred dollars each, and as soon as one thousand shares of stock shall be subscribed and five dollars on each share actually paid in, and a statement shall be deposited with the treasurer of the county of Milwaukee, authenticated by the oath of the secretary and two or more of said commissioners, that such subscriptions and payments have been in good faith made, the subscribers of such stock with such other persons as shall associate with them for that purpose, their successors and assigns, shall be and they are hereby, declared and created a body corporate and politic by the name and style of "Milwaukee and Waukesha Railroad Company," with perpetual succession, and by that name shall have all the privileges, franchises and immunities incident to a corporation. They shall be capable in law of purchasing, holding, selling, leasing, and conveying estate, either real, personal, or mixed, so far as the same may be necessary for the purposes hereinafter mentioned and no further; and in their corporate name may sue and be sued; may have a common seal which they may alter and renew at pleasure; and generally may do all and singular the matters and things which to them it shall lawfully appertain to do for the well-being of the said corporation.

SEC. 3. That the said commissioners or a majority of them, after the said one thousand shares of stock shall have been subscribed as aforesaid, shall give at least thirty days' notice in the newspapers (hereinbefore) mentioned, of the time and place by them appointed for the subscribers or stockholders to meet for the purpose of electing nine directors; and annually thereafter the said stockholders shall meet on the first Monday in July for the purpose of electing directors, as aforesaid, upon a like previous notice to be given by the directors for the time being in such newspapers as they may deem advisable: Provided, That previous to the first election the commissioners hereinbefore named shall elect one of their number president, and they shall perform all the duties and be invested with all the power of directors: And provided, That if, from any cause, an election shall not be held at the regular time specified therefor, the same may be held at any other time, on notice, as aforesaid; that until such election the directors of the preceding year shall continue to act, and that this charter shall not be avoided by reason of the irregularity or want of such election: And provided also, That in case of a vacancy from the death or resignation of any director, his place shall be filled by the board of directors

SEC. 4. The affairs of the said corporation shall be managed by a board of nine directors, who shall be chosen annually by ballot, on the days hereinbefore prescribed, by the stockholders of said company, the votes to be delivered in person, or by proxy duly authorized; which directors shall appoint one of their own number to be president, and shall respectively serve for one year, or until other directors are elected; they shall have power to make and es-

tablish such by-laws, rules, orders, and regulations, not inconsistent with the Constitution and laws of the United States or of the State or Territory of Wisconsin, as may be necessary for the well ordering of the affairs of said company; Provided, That none but stockholders shall be eligible to be elected directors, and that at every such election, and in all other cases upon which stockholders shall be called upon to vote, each share of stock shall be entitled to one vote: and also that in cases of elections for directors the nine stockholders having the greatest number of votes shall be declared duly elected.

SEC. 5. The said directors shall meet at such times and places as may be convenient, in such manner as they may hereafter decide upon. Five directors shall be a quorum for the transaction of business, who, in the absence of the president, may appoint a president pro tem. The said directors shall appoint a secretary, treasurer, and such engineers and other officers as they may find necessary; shall fix their compensation, and may demand adequate security for the performance of their respective trusts. They shall have full power to decide the time, and manner, and proportions in which the said stockholders shall pay the money due on their respective shares, and to forfeit to the use of the company the share or shares of every person or persons failing to pay any installment so required, at a reasonable period, not less than thirty days after the time by them appointed for the payment thereof: to regulate tolls; to make such covenants, contracts, and agreements with any person, copartnership, or body-politic whatsoever, as the execution and management of the work and the convenients and interests of the company may require; and in general to superintend and direct all the operations, receipts, disbursements, and other proceedings of the company: Provided, That no installment called in at any one time shall exceed twenty dollars per share, and that no installment shall be called by the directors without giving at least sixty days' notice thereof in the newspapers hereinbefore mentioned

SEC. 6. The directors chosen as aforesaid shall issue a certificate to each stockholder for the number of shares he or she shall subscribe for or hold in the said corporation, signed by the president, countersigned by the secretary, and sealed with the common seal; subject, however, to all the payments due and to grow due thereon; which stock shall be transferred in person or by attorney, executors, administrators, guardians, or trustees, under such regulations as may be provided for by the by-laws of the company.

SEC. 7. At each annual meeting of the stockholders for the purpose of electing directors the directors of the preceding year shall exhibit to them a complete statement of the affairs and proceedings of the company for such year; and special meetings of the stockholders may be called by order of the directors, or by stockholders holding one-fourth in amount of the capital stock, on like notice as that required for annual meetings, specifying moreover the object of the meeting; but no business shall be transacted at such special meetings unless a majority in value of the stockholders shall attend in person or by proxy.

SEC. 8. The said company shall have power to locate and construct a single or double track railroad from such eligible points in the city of Milwaukee to such eligible points in the village of Prairieville, Waukesha county, as shall be determined upon by a vote of the stockholders holding a majority of the stock of said company, and who shall be represented in person or by proxy at a special meeting called for the purpose of fixing the location or termination of said road, and shall have power to transport, take and carry property and persons upon the same by the power and force of steam, of animals, or of any mechanical or other power, or of any combination of them, and they shall also have power to make, construct, and erect all such side-tracks, turn-outs, and connecting tracks, and also all such warehouses, toll-houses, machine-shops, carriages, cars, and other works and appendages as may be necessary for the convenience of said company in the use of the said railroad, and also to connect said railroad and operate the same with other railroads and branch railroads in the Territory or State of Wisconsin.

SEC. 9. If said corporation shall not within three years from the passage of this act commence the construction of said railroad, and expend twenty thousand dollars or more thereon, and shall not within five years from the passage of this act construct, finish, and put in operation a single or double track of railroad from the city of Milwaukee to the village of Prairieville, then the right, privileges, and powers of the said corporation under this act shall be null and void.

SEC. 10. It shall and may be lawful for said company, their officers, engineers, and agents, to enter upon any lands for the purpose of exploring, surveying, and locating the route of said railroad, doing thereto no unnecessary damages, and when the said route shall be determined by the said company, it shall be lawful for them, their agents, officers, engineers, contractors, and servants, at any time to enter upon, take possession of, and use such lands, not exceeding four rods in width, along the line of said route, subject, however, to the payment of such compensations as the company may have agreed to pay therefor, or as shall be ascertained in the manner hereinafter directed and provided in such cases respectively: Provided, The said corporation shall not in their corporate capacity hold, purchase, or deal in any lands within this Territory other than the land on which said road shall run, or which may be actually necessary for the construction or maintainance thereof, and of the ware-houses, machine-shops, and other fixtures connected therewith.

SEC. 11. When the said corporation cannot agree with the owner or owners of such required land for the purchase thereof, or for the damages sustained by such owner or owners thereof, or as to the compensation to be paid to the owner or owners of any land taken for the purpose aforesaid, or when by reason of the legal incapacity or absence of any such owner or owners no such agreement or purchase can be made, then and in any such case it shall be lawful for the judge of the district court of the county in which such lands are situated, on application of either party, and at the cost and

charge of such corporation, to appoint three disinterested persons residing in said county, whose duty it shall be to view and examine or survey said lands, with the buildings and improvements, if any, thereon, and to estimate the value of the land so taken or required by the said company; and all damages which the owner or owners thereof shall sustain, or may have sustained, by reason of the taking of the same for the construction and use of said railroad, or work appertaining thereto, taking into consideration the advantage as well as disadvantage of the same to the said owner or owners; and the persons so appointed, before entering upon the discharge of such duties, shall take an oath before some justice of the peace, or other person competent to administer oaths, faithfully and according to the best of their ability to examine the lands so taken or required by said company, and impartially to estimate and appraise the value of the same, and the damage or injury which the owner or owners thereof shall have sustained or may sustain by reason of the taking and using thereof by the said company, over and above all benefits and advantages which such owner or owners shall derive from the construction of such railroad, whereupon such commissioner shall proceed to examine the premises and estimate the value of such land, and the amount of damage, if any, over and above the benefits and advantages which may accrue to such owners, as aforesaid, and shall make a report of such valuation, in writing, under their hands and seals, to said judge, and shall return the same within thirty days after their appointment, to the clerk of the district court of the county in which they reside, and it shall be the duty of said clerk to file the same, and in case no appeal shall be made within thirty days after the filing of said report, as hereinafter provided, then the said clerk shall record the same at the expense of said company, and judgment of the said court shall be entered thereon, on motion of either party, at any term of said court: Provided, That either party may appeal to said court within thirty days after said report shall have been filed in the clerk's office, and such appeal shall be tried in the same manner as other issues are tried in said court and the jury empaneled to try the same shall find the value of the land so taken or required by said company, and the damages which the owner or owners thereof shall have sustained, or may sustain, by the taking of the same, over and above the benefits which will accrue to such owner or owners, from the construction of such railroad, and judgment of court shall be entered accordingly: Provided, also, That it shall not be lawful for the said commissioners or said court to proceed in the assessment of damages, or in the valuation of any lands or materials, as aforesaid, in the absence of the owner or owners thereof, his, her, or their agents or attorney, unless it shall be shown to them by competent testimony that the said owner or owners have had at least five day's notice of the time and place at which such assessment or valuation was to be made, or that the said owners are absent from the Territory or State of Wisconsin, and if the said owner or owners shall be minors or non compos mentis, or absent from the Territory or State, the service of notice may be made on their guardian or

trustees, if any there be, or in such manner as the said court may direct: Provided, also, That upon the making and filing of any report, as aforesaid, and payment or legal tender of the amount of any valuation or appraisal specified therein to the owner or owners of any such lands, his, her, or their legal representatives, the said company, their agents, or the contractors for making or repairing said railroad, may immediately take and use the same without awaiting the issue of any appeal brought thereon.

SEC. 12. Whenever any judgment shall have been entered, as hereinbefore provided, for the value of any land, or for any damages for the taking and using of the same, and the amount specified in such judgment shall have been paid or tendered to the owner or owners of such lands, his, her, or their legal representatives, the said company shall be entitled to the estate and interest in the same as fully as if it had been conveyed in fee-simple; and if such valuation be not secured and tendered, it may at any time thereafter be received or may be collected from said company by action at law, at the cost and expense of the person or persons entitled to the same: Provided, That the costs of any proceedings and judgments specified in the last preceding section shall be taxed by the court and paid by the said company, except in cases where upon appeal the verdict of the jury shall be for the same or a less sum than that reported by the said commissioners.

SEC. 13. The said railroad shall be so constructed as not to impede or obstruct the free use and passage of any public road or roads which may cross the same; and in all places where said railroad may cross or in any way interfere with any public road, it shall be the duty of said company to make, or cause to be made, a sufficient cause-way or passage-way to enable all persons passing or traveling such public road to pass over or under such railroad without inconvenience; and whenever said railroad shall cross any navigable stream it shall be constructed with a draw over the channel of such stream, not less than thirty feet wide, so as not to obstruct the use of said stream; and said company shall at all times provide the necessary attendance, so as to open said draw for the convenience of persons navigating such stream.

SEC. 14. For the convenience of persons owning or possessing lands through which said railroad shall pass, it shall be the duty of said company, when required, to make a good and sufficient passage-way over or under said railroad whenever the same may be necessary to enable the occupants of said lands to pass over or under the same with wagons, carts, and implements of husbandry, as occasion may require: *Provided*, That the said company shall in no case be required to make more than one such passage-way for each farm; and when any public road shall cross such railroad in any farm, the persons owning or possessing such farm shall not be entitled to require said company to make and additional causeway.

SEC. 15. On the completion of said railroad or any portion of the track, not less than two miles, it shall and may be lawful for the company to demand and receive such sum or sums of money for

passage of freight of persons and property as they shall from time to time think reasonable.

SEC. 16. If any person shall willfully and knowingly break, injure, or destroy the railroad so to be construed by said company, or any part thereof, or any work, building, or machinery attached to or in use upon the same belonging to said company, such person or persons so offending shall each of them, for every such offence, forfeit and pay a sum not exceeding three times the amount of damages caused by such offence; which may be recovered in the name of the said company by action of debt, in any court having competent jurisdiction in the county wherein the offence shall be committed, and shall also be subject to indictment; and upon conviction of such offence, shall be punished by fine and imprisonment, or either at the discretion of the court.

SEC. 17. The property of every individual invested in said corporation shall be liable to be taken in execution for the payment of his or her debts in such manner as is or may be provided by law: *Provided*, That all debts due said company shall be first paid.

SEC. 18. The stockholders holding a majority in value of the stock may at any annual or special meeting increase the capital stock of this company to an amount not exceeding three hundred thousand dollars.

SEC. 19. This act shall be favorably construed to effect the purpose thereby intended, and the same is hereby declared to be a public act, and copies thereof printed by authority of the Territory shall be received as evidence thereof.

SEC. 20. In case of a violation by the company of any of the provisions of this act, the legislature of the Territory or State of Wisconsin may resume all and singular the rights and privileges hereby granted to said company.

SEC. 21. This act shall be in force from and after its passage.

The said defendant also introduces an act entitled "An act supplementary to an act to incorporate the Milwaukee and Waukesha Railroad Company, approved February 11th, 1847," passed by the same legislature, approved March 11th, 1848 as follows to-wit:

Be it enacted by the Council and House of Representatives of the Territory of Wisconsin:

SEC. 1. That the Milwaukee and Waukesha Railroad Company be, and they are hereby authorized and empowered to extend, lay out, and continue the railroad authorized to be constructed by the act to which this act is amendatory, from the village of Waukesha, in the county of Waukesha, to such points in the village of Madison, in the county of Dane, and thence west to the Mississippi River, in Grant county, as the said company may determine.

SEC. 2. Whenever the said company shall decide to extend said railroad as aforesaid, they may increase their capital stock to three millions of dollars, which shall be subscribed in shares of like amount as the original stock of said company, and for that purpose

may open anew their books of subscriptions, or open new books for the subscription of such additional stock, and may appoint such agent or agents to attend to the same as may be necessary for carrying out fully the provisions of this section.

SEC. 3. The said company shall have the same powers in location, continuing and, constructing said road from Waukesha to Madison, and thence to the Mississippi River, as provided in section first, that they have upon that portion of the road from Milwaukee to Waukesha, and all previous regulations and restrictions, and all authority granted to and liabilities of said company, shall not in any manner be abridged, extended, or altered by the increase of capital stock and extension of the road as aforesaid, except such alteration, extension and increase as is authorized by the provisions of this act.

The defendant also introduced in evidence an act entitled "An act supplementary to the several acts relating to the Milwaukee and Waukesha Railroad Company, approved February 11th, 1847," passed by the legislature of the State of Wisconsin, and approved February 1st, 1850, as follows:

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The second section of the act to incorporate the Milwaukee and Waukesha Railroad Company is hereby so amended as to change the name of style thereof, and it is hereby enacted that said corporation shall hereafter be known by the name and style of the Milwaukee and Mississippi Railroad Company, and whenever the former name shall occur in any law or proceeding, the latter name shall be substituted and understood therefor; and further, the affairs of said corporation shall be managed by a board of not less than nine or more than fifteen directors, as may be provided by the by-laws of said company from time to time, instead of nine directors, as provided by the fourth section of this act to which this is amendatory, and said section is hereby so amended.

SEC. 2 It shall be lawful for said company, their officers, engineers, and agents, to enter upon lands adjacent to the railroad beyond the limits of Four Roads in the manner provided in the tenth section of said act, when necessary for the purpose of erecting depot buildings, station houses, and necessary fixtures for the operations of the business of said road, and for the purpose of making drains and giving the proper direction to water courses across or along said road when the same are necessary beyond the said limits of said road, and to remove all substances and things which might endanger, obstruct or interfere with the free use of said road, and to deposit earth and gravel taken from deep cuts, and to obtain earth, gravel, and other materials for embankments and structures necessary to the construction and repair of said road, doing however no unnecessary damage, and all damage which shall be done to any lands or property under the provisions of this section shall be ascertained and paid for in the manner agreeable to the provisions

contained in the eleventh section of the said act, and when such damages shall have been paid or tendered, the title to the land occupied by such buildings fixtures, excavations, and embankments shall vest in fee-simple, in said corporation, agreeable to the provisions contained in the twelfth section of the act aforesaid.

SEC. 3. In cases where said railroad may cross or come in contact with any public or private road, so as to occupy any part of such road, it shall be lawful for said company to construct said railroad across or upon such road after altering and putting the same in as good condition as before, and for that purpose the said company shall, previous to occupying any part of such road, construct a new road, or part of a road, and put the same in as good repair and condition as the road so interfered with was previous to the disturbance and occupancy thereof by said company.

SEC. 4. Any person who shall willfully and maliciously place any obstructions or thing on the track of said road, or shall remove or damage any part thereof in such a manner that the cars may be impeded or thrown off the track, shall be deemed guilty of a misdemeanor, whether such accident shall actually take place or not, and shall be punished for every such offence by imprisonment in the State prison for a term not less than one year nor more than five years, at the discretion of the court, and in case any damage shall result from the placing of such obstructions, or injury to said road, said party shall be liable to pay all such damage to said company, and to any other person who may be damaged thereby, and in case any accident shall happen in consequence of placing such obstruction or in consequence of breaking or injuring said road whereby death may be produced, the party so offending shall be adjudged guilty of murder in the first degree, and shall be adjudged and punished agreeable to the law in such case made and provided.

The defendant then introduced proof of the organization of the company under said charter, as follows:

STATE OF WISCONSIN,
County of Waukesha, ss:

LEMUEL W. WEEKS, being duly sworn, deposes and says that he was one of the commissioners named in the act to incorporate the Milwaukee and Waukesha Railroad Company, approved February 11, 1847. That on the 13th day of November, 1847, a notice was published in the Wisconsin, a daily newspaper printed in the city of Milwaukee, and on the 15th of November, in the Sentinel and Gazette, that a meeting of the commissioners named in said act for the purpose of deciding what action should be taken under said charter would be held at the City Hotel, in the city of Milwaukee, on Tuesday, the 23d of November, then instant, and was continued daily in both papers until the time appointed for said meeting, a copy of which said notice is hereto attached, marked "Exhibit one."

That afterwards, in pursuance of said notice, a meeting of said commissioners was held at said City Hotel, in the city of Milwau-

kee, on said 23d day of November, 1847; that Paraclete Potter, Lemuel W. Weeks, Edward D. Holton, William A. Barstow, Norman Clinton, and A. W. Randall, being a majority of said commissioners, were present and participated therein; that said commissioners organized by appointing Lemuel W. Weeks president, and A. W. Randall secretary; and that a resolution was adopted by them that on the first Monday of February, 1848, books should be opened for subscriptions in the capital stock of said railroad at the Prairieville House, in the town of Waukesha, and at the City Hotel in the city of Milwaukee, under the supervision of said commissioners, and the proceedings of said meeting were ordered to be published in the Wisconsin, Milwaukee Sentinel, and American Freeman; and that said proceedings were so published in the Wisconsin on the 26th day of November, 1847, and in the Milwaukee Sentinel on the 27th day of the same month, and that a copy of said proceedings is hereto annexed and marked "Exhibit number two."

That afterwards, and on the first Monday of February, 1848, in pursuance of the action so held by said commissioners' books of subscription to the capital stock of said company were opened at Milwaukee and Waukesha, under the supervision of said commissioners, and subscriptions to the capital-stock made; that said books remained open for such subscriptions under their supervision until April 5, 1849, when the sum of one hundred thousand dollars had been subscribed to the capital-stock of said company; that on said 5th day of April a meeting of said commissioners was held in pursuance of public notice, as prescribed by law, Lemuel W. Weeks, president of the board, in the chair, and A. W. Randall acting as Secretary; that there were present of said commissioners Lemuel W. Weeks, Daniel Wells, jr., Byron Kilbourn, Alexander F. Pratt, Edward D. Holton, William A. Barstow, Alexander W. Randall, and Josiah A. Noonan; that said board then and there ascertained and determined that one hundred thousand dollars had actually, and in good faith, been subscribed to the capital-stock of said company and five per cent. thereof paid in; that thereupon said board made a statement in pursuance of law, verified by the oaths of Alexander W. Randall, L. W. Weeks, Daniel Wells, jun., E. D. Holton, and Byron Kilbourn, and filed the same in the office of county treasurer of Milwaukee County, a copy of which is hereto annexed, marked "Exhibit number three;" that said board also directed that the books of subscription should be closed and that an election of directors should be held by the stockholders, at the city of Milwaukee, on the 10th day of May, 1849; that, in pursuance of said order, an election of directors was held by said stockholders on said 10th day of May, 1849, and Byron Kilbourn, Lemuel W. Weeks, Edward D. Holton, Alexander Mitchell, Erastus B. Wolcott, Anson Eldred, James Kneeland, John U. Tweety, and E. D. Clinton were elected directors of said company.

And this deponent further says that, at the meeting of said commissioners so as aforesaid held on the 23d day of November, 1847, at the City Hotel, in said city of Milwaukee, it was talked over,

agreed, and understood by them that, at the then next session of the territorial legislature the said William A. Barstow should apply to the legislature on behalf of said organization for an amendment of said charter extending the same from Waukesha to Madison, and thence to the Mississippi River, and that the act supplementary to an act to incorporate the Milwaukee and Waukesha Railroad Company, approved February 11, 1847, approved March 11, 1848, was at the then next session of the territorial legislature applied for and procured by the said William A. Barstow, in pursuance of said agreement and understanding, and at the request and for the benefit of said commissioners, at their request so as aforesaid made; and further this deponent says not.

L. W. WEEKS.

Subscribed and sworn to before me this 20th day of January, A. D. 1875.

MELBERT B. CARY,
Notary Public, Mil. Co., Wis.

Exhibit number one.—Railroad notice.

The following named persons were by the act to incorporate the Milwaukee and Waukesha Railroad Company appointed commissioners to open books and receive subscriptions to the capital stock of said company, viz: Wm. A. Barstow, Norman Clinton, Alexander W. Randall, and Alexander F. Pratt, of Waukesha County, and Paraclete Potter, Daniel Wells, jun., Edward D. Holton, Byron Kilbourn, and Lemuel W. Weeks, of Milwaukee County, for the purpose of deciding what action shall be had in the premises. It is proposed and earnestly requested by the undersigned that all the above-named commissioners meet at the City Hotel in the city of Milwaukee, on Tuesday, the 23d day of November instant, at 2 o'clock p. m.

ONE OF THE COMMISSIONERS.

Dated November 12, 1847.

See page 194, laws of Wisconsin, 1847. An act to incorporate the Milwaukee and Waukesha Railroad Company.

Exhibit number two.—Railroad meeting.

At a meeting of the board of commissioners of the Milwaukee and Waukesha Railroad Company, held at the City Hotel, in the city of Milwaukee, on the 23d day of November, 1847, present, Paraclete Potter, Lemuel W. Weeks, Edward D. Holton, William A. Barstow, Norman Clinton, and A. W. Randall, the following proceedings were had:

Lemuel W. Weeks was appointed president, and A. W. Randall, secretary.

On motion it was—

Resolved, That, on the first Monday of February, 1848, books be opened for subscriptions to stock for said road at the Prairieville

House, in the town of Waukesha, and the City Hotel in the city or Milwaukee, under the supervision of the respective commissioners of Waukesha and Milwaukee Counties, and notice be published accordingly, as required by law.

On motion it was—

Ordered, that the proceedings of this meeting be published in the Wisconsin, Milwaukee Sentinel and American Freeman.

L. W. WEEKS, *Prest.*

A. W. RANDALL, *Sec'y.*

Exhibit number three.

At a meeting of the board of commissioners of the Milwaukee and Waukesha Railroad Company, held in pursuance to public notice as prescribed by law, present, Lemuel W. Weeks, president of the board, Daniel Wells, jun., Byron Kilbourn, Alexander F. Pratt, Edward D. Holton, William A. Barstow, Alexander W. Randall, and Josiah A. Noonan, the following order among others was made, to wit:

It appearing to the board of commissioners from subscriptions presented, payment made, and from the receipts of the treasurer, that one thousand shares of stock of one hundred dollars each have been subscribed and five dollars on each share actually paid in as required by law, it is ordered that the statement of the secretary and two or more of the commissioners authenticated by their oaths that the subscriptions and payments have in good faith been made as required by the act of incorporation be deposited with the treasurer of the county of Milwaukee.

Dated April 5, 1849.

L. W. WEEKS, *Prest.*

Attest:

ALEX. W. RANDALL, *Sec'y.*

STATE OF WISCONSIN,
Milwaukee County, ss:

Alexander W. Randall, secretary, and L. W. Weeks, Daniel Wells, jun., E. D. Holton, and Byron Kilbourn, commissioners, being duly sworn, do state that the subscriptions and payments mentioned in the foregoing order, which have been made, have been in good faith made.

ALEX. W. RANDALL, *Sec'y.*

L. W. WEEKS,

DANIEL WELLS, JUN.,

E. D. HOLTON,

BYRON KILBOURN,

Commissioners.

Subscribed and sworn to this fifth day of April, A. D. 1849, before me.

[L. S.]

CHAS. K. WELLS,

Notary Public.

The defendant's counsel then called L. D. STONE, the defendant, as a witness, who was sworn, and testified that construction of the railroad from Milwaukee, through Madison, to Prairie du Chien and to Janesville was commenced under the aforesaid charters in the year 1849, and was completed from Milwaukee to Janesville in January, 1853, to Madison in 1854, and to Prairie du Chien, on the Mississippi River, in the year 1857; that during the time the road was being constructed several deeds of trust were executed by the company to trustees therein named, in the nature of mortgages, to secure bonds issued by the company, covering the whole line of the road. That default was made in the payment of interest on said bonds in 1859, and that the mortgage-deeds of trust were foreclosed in chancery by the trustees in the district court of the United States for the district of Wisconsin in 1860, and that the whole road and its appurtenances were sold in January, 1861, by the United States marshal for the district of Wisconsin, on such foreclosure, to L. R. Meyer, John Catlin, Allan Campbell, W. Scholl, and Louis A. von Hoffman, as purchasers.

The said defendant's counsel then gave in evidence chapter 121 of the general laws of Wisconsin, approved October 10, 1856, entitled "An act concerning railroads," as follows:

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Any railroad company may borrow such sum or sums of money, at such rate of interest and upon such terms as said company or its board of directors shall authorize and agree upon and may deem necessary or expedient, and may execute one or more trust-deeds or mortgages, or both, as occasion may require, on any railroad or railroads constructed or in process of construction by said company, for the amount or amounts borrowed or owing by such company, upon such terms or in such manner as such company or its board of directors shall deem expedient, and such company may make such provisions in such trust-deed or mortgage for pledging or transferring their railroad-track, right of way, depot-grounds, rights, privileges, franchises, immunities, machine-houses, rolling-stock, furniture, tools, implements, appendages, and appurtenances belonging to or used in connection with such railroad or railroads in any manner whatever, as security for any bonds, debts, or sums of money that may be secured by such trust-deed or mortgage, as they shall think proper, and in case of any sale of any railroad or railroads, or any part thereof, constructed or in process of construction, by any railroad company, on or by virtue of any trust-deed or on foreclosure of any mortgage thereupon, the party or parties acquiring title under any such sale, and their associates, successors, or assigns shall have and acquire thereby, and shall exercise and enjoy thereafter, all and the same rights, privileges, grants, franchises, immunities, and advantages in and by said mortgage or trust-deed enumerated and conveyed, which belonged to and were enjoyed by the company making such deed or mortgage, or contracting such

debts, so far as the same relate and appertain to that portion of said road or the line thereof mentioned and described in and conveyed by said mortgage or trust deed, and no further, as fully and absolutely in all respects as the corporation, shareholders, officers, and agents of such company might or could have done, therefore had not such sale or purchase taken place. Such purchaser or purchasers, their associates, successors, or assigns, may proceed to organize anew and elect directors, distribute and dispose of stock, take the same or another name, and may conduct their business generally under and in the manner provided in the charter of such railroad company, with such variations in manner and form of organization as their altered circumstances and better convenience may seem to require; Provided, however, that no greater or enlarged powers shall be exercised by the new organization than are conferred by the charter of such company.

SEC. 2. All rolling stock of any railroad company used and employed in connection with its railroad shall be, and the same are hereby declared to be fixtures, and all such property, and all additional right of way, depot-grounds, and other real property acquired consequently to the executions of such trust-deed or mortgage, which may be described or provided for therein, shall be subject to the same lien as is created by such trust-deed or mortgage upon the property therein described to which such company had title at the time of its execution. Every such mortgage or trust-deed upon any railroad in this State, and upon every part thereof, may be recorded in the office of the secretary of state, in a proper book kept for that purpose, and the certificate of such recording endorsed on such mortgage or trust-deed by the secretary of state shall be evidence thereof, and the said mortgage or trust-deed so recorded shall have the same effect as if recorded in the several counties through which said railroad may be built, and the record of such trust-deed or mortgage so made as above provided shall be evidence and notice of the lien hereby created upon all such subsequently-acquired property, to all persons interested, to the same extent and with the same effect as the same is now by law made notice of the time of such trust-deed or mortgage upon any property to which such railroad had title at the time of its execution.

SEC. 3. It shall and may be lawful for any railroad company, annually or oftener, as its board of directors shall deem expedient, to set apart and appropriate a sum of money not exceeding fifty per cent. of its net earnings or resources in any one year, after paying the current expenses of this road and the interest and its outstanding indebtedness, in order to sink, redeem, pay off, cancel, or discharge the indebtedness of said company incurred in the construction and equipment of its road; and said sums so set apart shall be annually applied to the payment and discharge of such debts of said company as shall be due, and to the purchase and redemption of the outstanding evidences of indebtedness of said company, upon the best and most favorable terms, to be held or cancelled by said company, as the board of directors thereof shall deem most for the interest of said company.

SEC. 4. That all mortgages or trust-deeds heretofore executed by any railroad company are hereby declared to be included within and subject to the provisions of this act as fully and effectually as if its provisions had been incorporated in its charter prior to and at the time of the execution of such mortgages or trust-deed: Provided, however, That such railroad company shall first accept of the provisions of this act by a resolution of its board of directors, and shall cause a copy thereof, under the certificate of its secretary, with the corporate seal thereof attached thereto, to be filed in the office of the secretary of state: And provided further, That this section shall not be construed in anywise to affect any liens acquired by any person or persons, corporation, or body-politic, upon such subsequently acquired property at any time after the execution of such mortgage, and prior to the filing of the acceptance of the provisions of this act, as above provided, in the office of the secretary of state.

SEC. 5. All suits brought or instituted against any railroad corporation created by the laws of this State, except appeals of the awards of commissioners or jurors appointed under its act of incorporation to appraise compensation and damages for property taken for the use of such corporation, shall be brought in same county through which such railroad runs, and no proceedings shall be had or entertained in any such suit unless the process shall have been duly served upon the president, secretary, superintendent, or general attorney of such corporation.

SEC. 6. In case of any sale of any railroad, or of any portion of any railroad, with its appurtenances, property, right of way, franchises, and privileges, or any of them, under and by virtue of any trust-deed or mortgage, now executed or that may be hereafter executed, upon the same, such sale, when made in accordance with the provisions contained in such trust-deed or mortgage, shall be absolute, unless the said company, or any subsequent incumbrances shall, within one year from and after the date of such sale, redeem said railroad and property so sold, by paying the amount of the purchase money on such sale and the interest thereon, at the rate of twenty per cent. per annum, in the manner provided by law, and any such sale shall not be required to be made in accordance with any other law of this State for the sale of real estate under foreclosure of mortgage or otherwise.

The defendant also gave in evidence chapter 308 of the laws of 1860, entitled "An act to facilitate and authenticate the formation of a corporation by the purchase of the Milwaukee and Mississippi Railroad Company," as follows:

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. In case the railroad of the Milwaukee and Mississippi Railroad Company, or any part thereof, shall be sold by virtue of any mortgage or mortgages, or deed or deeds of trust, either by foreclosure or other proceedings in law or equity, or by advertis-

ment in pursuance of a power or authority in any such mortgage or deed of trust contained, the purchaser or purchasers in any such case, his or their associates, successors, or assigns, if desiring to form a corporation under or by virtue of the laws of this State, may file in the office of the secretary of state of this State a certificate specifying the name of the said corporation, the number of directors and their names for the first year, so designated in said certificate or as elected by the said purchaser or purchasers their successors, their associates, or assigns; which certificate shall be signed by the said purchaser or purchasers, or the survivors of them, or their or his successors or assigns, and upon the filing of any such certificate the persons who shall be named therein shall be a body politic and corporate by the name stated in such certificate; and the said corporation shall possess all the privileges, powers, authorities, and capacities acquired by the said purchaser or purchasers, or possessed by the Milwaukee & Mississippi Railroad Company, by virtue of the charter of said company, and of any law of this State, and shall likewise have power by a vote of a majority in interest of the stockholders of the said corporation, and by instruments in writing, to assume any liabilities secured by any previous mortgage or mortgages to that under which said sale and purchase is made, with the restrictions and limitations hereinafter mentioned.

SEC. 2. The stock basis of the said new company shall not exceed seven millions and five hundred thousand dollars.

SEC. 3. The said corporation shall have power to issue as many classes of preferred stock as there are mortgages-liens upon said road, and as may be agreed upon by those in interest not exceeding in amount four million and five hundred thousand dollars, but no dividends shall be declared in any one year beyond eight per centum, until the capital stock of said company shall have been reduced to six millions.

SEC. 4. The preferred stockholders of the first and second class shall elect the directors under the new organization until a dividend shall have been earned in all the preferred shares of the several classes, when all of the preferred stockholders shall elect the directors until a dividend shall have been earned on all the shares of the said company, both preferred and common stock, and thereafter all the shareholders of the said company shall elect the directors.

SEC. 5. The directors of the said corporation shall have no power to borrow money, or mortgage the said railroad, its franchise, or any of its property, unless duly authorized by a vote of two-thirds of the preferred stockholders in amount, but such power or authority shall not be granted except at some general or special meeting of said preferred stockholders, of which thirty days' notice shall be given, and of the object of said meeting.

SECTION 6. All expenses of operating said railroad shall be paid monthly from its earnings before any of its earnings shall be applied to the payment of dividends to any of its stockholders, and when not sufficient to pay expenses, repairs, and damages, from any cause the directors may call a special meeting of the stockholders, who shall provide the means to meet such expenses, repairs, and

damages, and in case they should provide such means by loans, no dividend shall thereafter be made to any of its stockholders until said loans are paid.

SECTION 7. All surplus earnings, after the payment of expenses and repairs, and after payment of dividend to preferred stockholders, not exceeding eight per cent. in any one year, shall be invested in the purchase of the preferred shares of the said company until they shall command par in the city of New York, or until the preferred shares shall have been reduced in amount to three millions of dollars, and thereafter the surplus earnings shall be invested in the purchase of common stock, until the whole capital stock of said company, both preferred and common, shall have been reduced to six millions of dollars and shall earn a dividend on that amount; said stock to be cancelled as fast as purchased.

SECTION 8. When the capital stock shall have been reduced to six millions of dollars and shall have earned a dividend on that amount, in any one year, equal to seven per cent. on the dollar, dividends shall be declared on all the stock of said company, instead of purchasing and sinking the shares as aforesaid, unless otherwise determined by a vote of two-thirds in amount of all the stockholders.

The defendant then gave in evidence the articles of association made by the purchasers of said railroad forming the Milwaukee and Prairie du Chien Railway Company, as follows:

Whereas, the railroad of the Milwaukee and Mississippi Railroad Company has been sold in pursuance of certain foreclosure proceedings had in the United States district court for the district of Wisconsin, on the complaint of George S. Coe, trustee, under a mortgage or deed of trust, made by the said Milwaukee and Mississippi Railroad Company dated June 15th, 1852, and of Issac Seymour, trustee, under several mortgages or deeds of trust, made by the said Milwaukee and Mississippi Railroad Company, and dated respectively April 1st, 1853; June 1st, 1855; July 1st, 1856, and September 17th, 1857, to the records of which court and the proceedings had therein in said complaints reference is made for a more full and particular statement thereof.

And whereas the undersigned have purchased said road at said sales, and all its property real and personal, franchises and privileges:

Now, therefore, be it known that we, the undersigned, purchasers as aforesaid, being desirous of forming a co-operation under and by virtue of the laws of the State of Wisconsin, do hereby associate together for that purpose, and do hereby declare the following to be the certificate or articles of associations, and we execute the same in duplicate to the end that one may be filed with the secretary of state for the State of Wisconsin, and the other to remain in the records of our corporation as a record of our corporate rights, privileges, and immunities.

First, our corporate name shall be the "Milwaukee and Prairie du Chien Railway Company."

Second, the number of directors shall be nine, and a majority shall be citizens or residents of the city of New York.

For the first year, and until others are legally chosen in their place, the following persons are the directors:

Lewis H. Meyer, William P. Lynde, Allan Campbell, Wm. Schall, John Wilkinson, John Catlin, Hercules L. Dousman, Geo. Smith, and N. A. Cowdrey. Our stock basis shall not exceed \$7,500,000 divided into 75,000 shares of one hundred dollars each. The said shares of capital stock shall be subdivided as follows:

An amount not exceeding \$3,651,400 or 36,514 shares shall be set apart and designated as first-class preferred stock; and the full sum, \$100 per share, we hereby declare and acknowledge to be paid thereon, except on so much of this class as is hereafter designated as scrip stock. The said first-class preferred stock shall be entitled to an interest of eight per cent. per annum for each and every year before any payment of interest or dividends to any other class of stockholders. And whenever the company earn sufficient to pay a greater sum on all classes of stock then they shall share pro rata in any dividend greater than eight per cent. per annum. Of the said first-class preferred stock an amount not exceeding \$2,556,000 or 25,560 shares shall be set apart and designated as scrip stock; this scrip stock shall not at any time exceed the amount of the mortgage-bonds hereinafter named. On this stock we hereby declare and acknowledge the sum of one dollar per share to be paid. The scrip stock shall not be subject to any assessment, and shall entitle the person in whose name it stands upon our books to all the rights and privileges of other stockholders, except that it shall not entitle the holder to any dividend or other profit or increase from the income or assets of this company. It shall be issued in certificates of ten shares each, and shall accompany each mortgage-bond of the company. (If any mortgage-bonds of \$500 each are issued by the company, then so many of said certificates as are necessary may be issued in the sum of five shares each.) The holder thereof shall have the right, at any time within 10 days after any dividend shall have been declared and become payable on such first-class preferred stock, to pay the full sum of one hundred dollars per share by the surrender to the company of the mortgage-bond named by its number in his certificate, and upon surrendering said certificate and bond he shall be entitled to receive therefor the same number of shares of first-class preferred full-paid stock and entitled to dividends.

An amount not exceeding \$1,086,800, or 10,868 shares of said capital stock, shall be set apart and designated as second-class preferred stock, and we hereby declare and acknowledge the full sum of one hundred dollars per share to have been paid thereon. This second-class preferred stock shall be entitled to an interest of seven per cent. per annum for each and every year after paying the interest on their mortgage-bonds, the amount provided for the sinking fund, an interest or dividend of eight per cent. per annum for each and every year on the first-class preferred stock, and before the payment of dividends to any other class of stockholders than

those above named. And whenever the company earns sufficient to pay a greater sum than eight per cent. on said first-class preferred _____, and seven per cent. on said second-class preferred stock, as hereinbefore provided, and seven per cent. on the common stock, then the said second-class preferred stock shall share pro rata in any greater dividend which may be made by the company then as above named.

The balance of said capital stock (\$2,761,800, or 27,618 shares) shall be designated as common stock; and we hereby declare and acknowledge the full sum of one hundred dollars per share to have been paid thereon. After the preferred stock above described shall have been reduced in amount to \$3,000,000, as now required by law, the common stock may be increased to the sum of \$3,000,000, but the increase of \$238,200 shall not be sold by the company at less than \$100 per share, cash at the time of sale, and the stockholders shall have it at their option for thirty days to take their pro rata at par.

Fourth. This corporation shall have all the powers, privileges, and immunities of railroad companies under the laws of Wisconsin, and especially to sue and be sued, to acquire, use, and sell, bargain and convey all kinds of property real and personal, necessary or convenient to operate, use, and maintain said railroad, or the part or the whole of any other railroad hereafter acquired by them within the State of Wisconsin; to make any by-laws for the government and management of the corporation, or its officers, not contrary to the laws of Wisconsin, or of the United States; to make, have, and use a common seal, and the same to renew and alter at pleasure. And they are hereby invested with all the powers, privileges, and immunities which are necessary or convenient to carry into effect the purposes and objects of this corporation. They are hereby authorized to transport, take, and carry property and persons by railway, by force and power of steam, or of animal, or of any mechanical or other power, or of any combination of them, which said company may choose to apply, between the city of Milwaukee and the Mississippi River, and to either, and across said river, and to and from all intermediate places. They are also authorized and empowered to lease, buy, purchase, receive, hold, use, sell, and convey all the property and franchises furniture and equipments real and personal, of the Milwaukee and Mississippi Railroad Company; also, the capital stock thereof, and any or all mortgage-bonds, or other evidences of debt, made by it; and when purchased by this company they shall have all the legal and equitable rights that the holders thereof had before their sale to this company. Also to support, maintain, hold, use, sell, and convey one or more steam ferry-boats between Prairie du Chien and McGregor, in the State of Iowa; also to purchase, hold, use, sell and convey upon this line of railroad, or elsewhere, any materials, engines, cars, steam ferry-boats, and any other property, real or personal, necessary or convenient for this corporation, and for their use in transporting persons, goods, and property, to purchase, receive, and hold, and to sell and convey such real estate as may be necessary and convenient in ac-

completing the object for which this company is incorporated.— Also to fix, regulate, and receive the tolls and charges by them to be received for transportation of persons or property. The said corporation shall have power to issue an amount not exceeding two thousand four hundred and twenty-eight bonds of one thousand dollars each, and two hundred and fifty-six bonds of five hundred dollars each, (in all \$2,556,000;) bearing an interest of seven per cent. per annum, the principal and interest payable in the city of New York; the interest semi-annually, the principal in the year A. D. 1891, with a provision, that if the company make default in the payment of interest or sinking-fund, as hereinafter provided, for six months, the principal shall thereupon become due without demand or notice; and, also, whenever the bonds are designated as hereinafter provided to be paid by the trustee or trustees, then the principal of the said bonds so designated shall thereupon become due and to secure the same by a mortgage or trust-deed upon this franchise and all the real estate and personal property of the company, and to embrace the entire corporate property and all its franchises and privileges. It shall also contain a provision for a sinking-fund, by which the company shall be obliged to pay to the trustee or trustees named in the mortgage, or to their successors, such sums of money as shall amount to the difference between \$204,480 and the interest for each year on the outstanding mortgage-bonds; this amount to be paid in equal sums, as near as may be on the first days of April and October in each year, commencing October 1st, 1862, with the payment of \$13,000. The trustee or trustees shall, immediately after the payment is made them, designate by lot so many of the bonds as they have money to pay, to which the sum received by them shall be applied in payment. They shall give notice of the numbers designated in two or more of the newspapers printed in the city of New York, and shall continue said notice once each week until the first day of the succeeding January or July, when the interest on the bonds so designated shall cease; and neither the company or their successors shall be any longer liable for the payment of the interest or principal thereof. Said trustee or trustees shall, on said first day of each January and July, pay the principal and interest of said bonds, and cancel and surrender the same to the company, and also the scrip certificate of stock accompanying said bonds. The company shall keep a proper registry or account of all the bonds thus paid by them, or designated to be paid as aforesaid, and the number of bonds thus cancelled shall be reported by said company to the stock holders at each annual meeting, and said bonds shall be presented and shown at said meeting. The bonds secured by said mortgage shall be convertible, at the option of the holder, into the first class preferred stock at any time within ten days after any dividend shall have been declared and become payable on said preferred stock. The said mortgage-deed and bonds shall be signed by the president and secretary, and the seal of the company shall be affixed thereto. And except as herein expressly provided, the corporation shall have no power or authority to mortgage or otherwise encumber their

property, real or personal, unless the assent in writing of a majority in interest of the owners and holders of all the shares of capital stock issued by said corporation shall be first had and obtained, authorizing the same. No assent shall be taken from agents or by proxy, unless the power of attorney held by the agent shall expressly authorize the particular assent asked for. They shall have power to build and construct any new line of railway necessary or convenient in straightening the old line or in extending it as to conform to the requirements of the charter of the Milwaukee and Mississippi Railroad company, or the law of the State, whenever or wherever the adjoining proprietors or inhabitants will donate the right of way and grade the line; but no expenditure shall be made for this purpose unless it is from the surplus earnings of the company after providing for the payment of interest on all its mortgage-debt, the sum due the sinking-fund, and dividends on the preferred stock.

Fifth. The immediate government and direction of the affairs of the company shall be vested in a board of nine directors; and after the present directors' time expires, they shall be chosen by the stockholders of said company in the manner hereinafter provided, and shall hold their office until the next annual meeting of the company, or until others are duly elected and qualified to take their places as directors. The said directors shall elect one of their number president of the board, who shall also, by virtue thereof, be president of the company, and shall also elect a vice-president from one of their number. They shall also appoint a secretary, and such other officers or agents as the necessity or convenience of the company require. A majority of the directors of the company shall constitute a quorum to do business; a less number may adjourn from time to time. In all meetings of the stockholders of said company each share shall entitle the holder thereof to one vote, which vote may be given by said stockholder in person or by lawful proxy, and the annual meeting of the stockholders of said company for the choice of directors shall be holden at such time and place in the month of April, of each year, and upon such notice as said company in their by laws, may prescribe; and if no regulation as to the time and place of the meetings of stockholders shall be made by the company, then the directors shall appoint the same. In case it shall so happen that an election of the directors shall not be made on the day appointed for that purpose, said corporation shall not, for that cause, be dissolved, but said election may be had on any day to which the stockholders shall adjourn or which shall be appointed by the directors. And said directors shall have power to fill any vacancy which may occur in their board by death, resignation, or otherwise.

The said directors shall have power to make and prescribe such by-laws, rules and regulations as they shall deem proper and needfull touching the disposition and management of the stock, property, estate and effects of said company, not contrary to those established by the stockholders or to this act or to the laws of the State of Wisconsin or the United States, the transfer of shares, the duties and conduct of their officers, agents and servants, and all

matters whatever which may appertain to the concerns of said company. Also to petition and apply for any law of the State of Wisconsin in alteration thereof, and before the same becomes binding shall submit the same to the stockholders for their approval.

Sixth. The signing of this certificate or articles of association is herewith declared to be a special meeting of the preferred stockholders, and a vote, and the assent of the preferred stockholders to borrow the money and to mortgage the road for the amount, as above set forth, and also to be a waiver of any notice required of the meeting on that subject.

Seventh. The certificates of stock issued by this company shall, upon their face, be made subject to all the terms and conditions of these articles of association.

Eighth. Upon the dissolution of this corporation, after the payment of all its debts, the remaining assets shall be divided among the different classes of stockholders according to their preferences, that is to say, the first-class preferred stock, excepting the scrip stock, shall be first paid in full, and then the second-class preferred shall be paid in full, and the balance divided among the common stockholders pro rata.

But this corporation shall not be dissolved by any act of the company without an affirmative vote of two-thirds of each class of stockholders.

Ninth. These articles of association may be modified, altered, or amended at any annual or special meeting duly called, at which a majority in interest of each class of stockholders shall be present and voting in the affirmative. But no stockholder shall become liable to pay any money by any such action unless he shall have voted therefor or assented thereto.

Tenth. Annual meetings of the stockholders shall be held in the State of Wisconsin, in the month of April in each year after 1861, which meeting shall be called by the directors, who shall specify the time and place of holding the same. And thirty days previous to any annual meeting the directors shall send through the post-office to each stockholder, to the address as shown by the company's books, a full and specific statement of all the business, acts, and doings of the corporation up to the first day of January preceeding

Witness our hands at the city of Milwaukee, this 21st day of January, 1861.

L. H. MEYER.
JOHN CATLIN.
ALLEN CAMPBELL.
W. SCHALL.
LOUIS A. VON HOFFMAN.

The defendant next gave in evidence the deed of the Milwaukee and Prairie du Chien Railway Company to the Milwaukee and St. Paul Railway Company, as follows:

This indenture, made the thirty-first day of December, one thousand eight hundred and sixty-seven, between the Milwaukee and

Prairie du Chien Railway Company, a corporation duly formed and organized under the laws of the State of Wisconsin, of the first part, and the Milwaukee and St. Paul Railway Company, a corporation also duly formed and organized under the laws of the State of Wisconsin, of the second part:

Whereas, the stockholders of the Milwaukee and Prairie du Chien Railway Company have duly authorized in writing the sale of their railway and other property to the Milwaukee and St. Paul Railway Company, as more fully appears by their articles of association as amended under date of December 4, 1867, to which reference is here made:

Now, therefore, this indenture witnesseth, that the said party of the first part, in consideration of the premises, and of the sum of five millions of dollars, to it duly paid by the party of the second part, the receipt whereof is hereby acknowledged, hath granted, bargained, and sold, and by these presents doth grant, bargain, sell, convey, and transfer unto the said Milwaukee and St. Paul Railway Company, party hereto of the second part, its successors and assigns, all and singular, the railway heretofore known as the Milwaukee and Prairie du Chien Railway, extending from its terminus or depot in the city of Milwaukee, and State of Wisconsin, to the city of Madison, in said last mentioned State, and running thence westerly through the city of Madison aforesaid, to the Mississippi River, at or near Prairie du Chien, and also an island in the said Mississippi River, opposite Prairie Du Chien aforesaid, and also the branch of said railway running or to run from a point at or near Milton to a point at or near Monroe, and also all other property whatsoever, both real and personal, of the said Milwaukee and Prairie Du Chien Railway Company, and all franchises, rights, and things to the said Milwaukee and Prairie Du Chien Railway Company belonging.

To have and to hold the said railway, with its equipments and appurtenances, and the property, rights, and franchises herein before described, unto to the said party of the second part, its successors and assigns, to the only proper use, benefit, and behoof of the said party of the second part, and of its successors and assigns; subject, nevertheless, to the payment of certain eight per cent. bonds to the aggregate amount of three millions six-hundred and eighty-four thousand dollars, and certain seven and three-tenths per cent. bonds, to the aggregate amount of one million and three hundred and sixteen thousand dollars, bearing even date herewith, issued by the second party hereto of the second part, to secure the payment of five millions of dollars of the purchase-money of the said premises upon the terms and conditions and with the priorities in a certain deed of trust or mortgage, bearing even date herewith, duly executed and delivered by the said party of the second part to Charles Morgan, Russell Sage, and William H. Neilson, mentioned and set forth.

In witness whereof, the said Milwaukee and Prairie du Chien Railway Company have caused this indenture to be subscribed in

their corporate name, by their president and secretary, and have caused their corporate seal to be hereto attached.

MILWAUKEE AND PRAIRIE DU CHIEN RAILWAY COMPANY,
By ALEX. MITCHELL, *President*.

[L. s.]

ALANSON CARY, *Secretary*.

Scaled and delivered in the presence of—

DAVID C. GREEN.

H. COCKER.

UNITED STATES OF AMERICA.

State of Wisconsin, City and County of Milwaukee, ss:

Be it remembered that on the 20th day of May, A. D. 1868, before me, a notary public duly commissioned in and for said city and county and duly authorized to administer oaths and take acknowledgements of deeds, came Alexander Mitchell, president, and Alanson Cary, secretary of the Milwaukee and Prairie du Chien Railway Company, who, being by me duly sworn, did respectively depose and say that they are the president and secretary of the said railway Company; that they know the seal of said company, and that the seal affixed to the foregoing instrument is the common and corporate seal of said company and was affixed thereto by order of the board of directors of said company; and that they signed their respective names thereto as president and secretary by the like order, and they severally acknowledge the execution thereof on behalf of said company for the purpose therein expressed. And I certify that they are known to me to be the persons they are above described to be, and who execute this instrument.

[L. s.]

JOHN JOHNSTON,

Notary Public, Milwaukee County.

The defendant also gave in evidence proof of change of name of Milwaukee and St. Paul Railway Company to Chicago, Milwaukee and St. Paul Railway Company, as follows:

At an adjourned meeting of the Milwaukee and St. Paul Railway Company, held in the city of Milwaukee on the 7th day of February, 1874, at which were present in person and by proxy a majority of all its shareholders; the following resolutions were unanimously adopted:

Resolved, That the corporate name of this company be changed to the Chicago, Milwaukee and St. Paul Railway Company.

Resolved, That the secretary of the company file in the office of the secretary of State, on the 11th day of February, 1874, a copy of the above resolution, certified under his hand and the seal of the company, in order that the change of same take effect from that date.

{ THE SEAL OF THE COMPANY } I, R. D. Jennings, secretary of the
 { UNDER THE NAME OF THE } Milwaukee and St. Paul Railway
 { "CHICAGO, MILWAUKEE AND } Company, certify the foregoing to be
 { ST. PAUL RAILWAY COM- } a true and correct copy from the
 { PANY." } minutes of a meeting of the stock-
 holders of said company held at their office, in Milwaukee, February
 7th, 1874.

Witness my hand and the corporate seal affixed this seventh day
of February, 1874.

R. D. JENNINGS,
Secretary.

Recorded February 11th, 1874.

STATE OF WISCONSIN,
Secretary's Office, ss:

The secretary of state of the State of Wisconsin hereby certifies
that the foregoing has been compared with the original record in
this office, and that the same is a true and correct copy thereof, and
of the whole of such original.

In witness whereof I have hereunto set my hand and affixed the
great seal of the State at the Capitol in Madison, this second day of
June, A. D. 1874.

[L. S.]

PETER DOYLE,
Secretary of State.

The defendant's counsel further proved by the witness L. D. Stone
that the fare established by the company for transportation of pass-
engers from Madison to Janesville was one dollar and sixty cents, at
the rate of four cents per mile, and that had been the rate for more
than six years prior to May 13th 1874; and that he was acquainted
with railroad business and had been engaged in it for nearly twenty
years, and that the rate charged by the company was no more than
a reasonable rate and compensation.

The defendant further introduced proof to show that the Chica-
go, Milwaukee and St. Paul Railway Company was a corporation
organized and existing under the laws of the State of Wisconsin;
that it was formed under the provisions of chapter 121 of the laws
of 1856, which chapter was incorporated into the revised statutes of
Wisconsin of 1858 as a part of chapter 79; that said corporation
was organized and formed on the 5th day of May, 1863, by the pur-
chasers of a portion of the LaCrosse and Milwaukee Railroad at a
sale of said road by the marshal of the district of Wisconsin on the
foreclosure of a mortgage trust-deed given by the last named com-
pany to Green C. Bronson, James T. Sautter, and Shepherd Knapp,
as trustees; that articles of association were made, signed, and filed
by said purchasers in the office of the secretary of state of the State
of Wisconsin, under and in pursuance of the statute above named,
on the said 5th day of May.

(Insert after the close of the defendant's testimony as follows:)

The defendant rested, and the State introduced the following testimony:

The State also offered & read in evidence the following acts of the legislature of the State of Wisconsin:

1st. An act entitled "An act to incorporate the Madison and Prairie du Chien Railroad Company," approved March 24, 1852, being chap. 149 of the laws of 1852.

2. An act entitled "An act to consolidate the capital stock of the Madison and Prairie du Chien Railroad Company with the capital stock of the Milwaukee and Mississippi Railroad Company," approved June 25th, 1853, being chapter 320 of P. & L. laws of 1853.

In Supreme Court.

THE STATE OF WISCONSIN,	}
<i>vs.</i>	
THE CHICAGO, MILWAUKEE & ST. PAUL Railway Company.	

STATE OF WISCONSIN,
Milwaukee County, ss.

James Kneeland, being duly sworn, says that he was one of the first board of directors of the Milwaukee and Waukesha Railroad Company; the said first board of directors was elected on the tenth day of May, A. D. 1849; that said company was organized on that day, and that said company was not organized prior to that day.

JAMES KNEELAND.

Subscribed and sworn to before me this 17th day of September, A. D. 1874.

GEO. H. NOYES,
Notary Public, Milwaukee County, Wis.

At a meeting of the board of commissioners of the Milwaukee & Waukesha Railroad Company, held in pursuance to public notice as prescribed by law—

Present, Samuel W. Weeks, president of board; Daniels Wells, jr., Byron Kilbourn, Alexander F. Pratt, Edward D. Holton, William A. Barstow, Alex. W. Randall, and Josiah A. Noonan—

The following order, among others, was made, to-wit:

It appearing to the board of commissioners, from subscription presented, payments made, and from receipts of the treasurer, that one thousand shares of stock of one hundred dollars each had been subscribed, and five dollars on each share actually paid in, as required by law:

It is ordered that the statement of the secretary and two or more of the commissioners, authenticated by their oaths, that the subscriptions and payments have in good faith been made as required by the act of incorporation be deposited with the treasurer of the county of Milwaukee.

L. W. WEEKS, *Prest.*

Attest: ALEX. W. RANDALL.
Dated April 5th, 1849.

STATE OF WISCONSIN,
Milwaukee County, ss:

Alex. W. Randall, secretary, and L. W. Weeks, Daniel Wells, jr., E. D. Holton, and Byron Kilbourn, commissioners, being duly sworn, do state that the subscriptions and payments mentioned in the foregoing order, which have been made, have been in good faith made.

ALEX. W. RANDALL,
Secretary.

L. W. WEEKS,
 DANIEL WELLS, JR.,
 E. D. HOLTON,
 BYRON KILBOURN,
Commissioners.

Subscribed and sworn to this fifth day of April, A. D. 1849, before me.

[SEAL.]

CHARLES K. WELLS,
Notary Public.

STATE OF WISCONSIN,
Milwaukee County, ss.:

I, Edward Ehlers, treasurer of the county of Milwaukee, in the State of Wisconsin, do hereby certify that the foregoing is a copy of a certain paper now on file in my office, endorsed as being a certificate and statement of the subscriptions of stocks in the Milwaukee and Waukesha Railroad Company; and I further certify that such copy has been compared by me with the original paper now on file in my office, and that it is a correct transcript therefrom, and of the whole shares of stock subscribed.

In witness whereof I hereto signed my name.

EDWARD EHLERS,
Treasurer, Milwaukee County.

Milwaukee, this 18th day of September, 1874.

1863. The testimony here closed.

And the said defendant's counsel then and there asked said circuit judge to charge and instruct said jury as follows, to wit:

1st. The railroad from Madison to Janesville having been chartered by the Territorial legislature prior to the adoption of the State constitution, and the charter having conferred upon the company the right to fix its own charges for the transportation of passengers it was not competent for the legislature of 1874 to pass a law fixing the charges of the company for the transportation of passengers on this road, for the reason that it is in conflict with the Constitution of the United States, as impairing the obligation of contract.

2nd. The Territorial legislature having granted a charter for the

construction of this railroad, and the same having been accepted by the company and the road constructed under it, said charter, on its acceptance by the company, became a valid and binding contract between the company and the Territory, as of the day on which it was passed, and said charter, by its terms, having granted to the company the right to fix its own charges for the transportation of passengers over said road, the act of the legislature of 1874, known as chapter 273, entitled "An act relating to railroads, express, and telegraph company' in the State of Wisconsin," is, so far as it attempts to fix the charges for the transportation of passengers over said road without the consent of said company, *is unconstitutional and void*, as being in contravention of the Constitution of the United States.

3rd. The charter of the company having expressly granted to the company the right to fix its charges for the carriage of passengers over its road, and the road having been constructed under this grant and upon the solemn faith of the government thus pledged to the company, the right so to fix said charges became fixed and vested in the company, and it was not competent for the legislature of Wisconsin for the year 1874 to pass an act taking from the company this right without the consent thereto of the company, and the chapter 273 of the laws of 1874, entitled "An act relating to railroad, express, and telegraph companies in the State of Wisconsin," in so far as it attempts to fix the rates of this company for the carriage of passengers on this road and to take that right from said company is unconstitutional and void, as being in contravention of the Constitution of the United States.

But the said circuit judge did then and there refuse to instruct said jury as requested, and did refuse to give each of said instructions separately as requested by said defendant's counsel. And thereupon the said defendant's counsel did then and there except to each one of said refusals, separately, as made by said circuit judge, and because none of said testimony, rulings, requests, refusals, decisions, and exceptions appear in the record and proceedings of the trial of this cause, and because the said L. D. Stone feels aggrieved by such opinions, directions and judgments of the court, in matters of law, and has alleged exceptions thereto; which have been reduced to writing, as above, and found conformable to the truth of the case, and now here, in the prayer of the said defendant allowed and signed by the judge of said court, at the same term, to wit, the Nov. term, A. D. 1874, to wit, on this 30th day of January, A. D. 1875.

ALVA STEWART, *Judge.*

(Indorsed as follows, to wit:) Filed Jan'y 30th, 1875, L. D. Frost, dep. clerk.

STATE OF WISCONSIN,
Supreme Court, ss.:

The State of Wisconsin to the judge of the circuit court of the county of Dane, in said State, greeting:

Because in the record and proceedings, and also in the rendition of judgment in a suit which was duly tried in the circuit court of Dane County, aforesaid, before you, between the State of Wisconsin, plaintiff, and L. D. Stone, defendant in an action of misdemeanor, manifest error hath intervened to the great damage of the said L. D. Stone, as by his complaint we are informed: and we being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid, do command you, that if judgment be thereupon given, then you send to the judges of the supreme court of the State of Wisconsin, distinctly and openly, under your seal, with all convenient dispatch, a transcript of the record and proceedings of the suit aforesaid, with all things concerning the same, and this writ, so that they may have the same at this term of our said supreme court, begun & held at Madison, in the State aforesaid, on the second Tuesday of January, anno Domini one thousand eight hundred and seventy-five, that, the record and proceedings aforesaid being inspected, we may cause to be further done, for correcting that error, what of right and according to law and the rules of said court, ought to be done.

Witness the Hon. E. G. Ryan, chief-justice of the supreme court of the State of Wisconsin, at Madison, this ninth day of February, A. D. 1875.

[SUP. CT. SEAL.]

LA FAYETTE KELLOGG, *Clerk.*

Attest:

JOHN W. CARY,
Atty. for Plff. in Error.

(Indorsed as follows, to-wit:) State of Wisconsin Supreme Court. L. D. Stone, plff. in error, against the State of Wisconsin, deft. in error. Writ of error. Filed Feb'y 10, 1875. B. C. Slaughter, dep. clerk.

STATE OF WISCONSIN:

Circuit Court for Dane County.

At a regular term of the circuit court in and for Dane county, State of Wisconsin, held at the court house in the city of Madison, on the 4th day of November, in the year of our Lord eighteen hundred and seventy-four, the following} proceedings, inter alia, were had, to wit:

To wit, January 21st, A. D. 1875.

Court opened by proclamation; Hon. Alva Stewart, judge, presiding.

THE STATE OF WISCONSIN }
vs. } Violation of Potter law.
 L. D. STONE. }

And now come the State of Wisconsin, by B. W. Jones, dist. atty., and the defendant in his own proper person, with John W. Cary, his attorney, and, issue having heretofore been joined herein, proceed to trial by jury.

Whereupon a jury is called and sworn as follows, to wit: Richard Butler, John Wall, R. T. Cameron, H. Cramer, N. Johnson, J. I. Berge, I. W. Dopp, Wm. McLaughlin, P. T. Dailey, John Lyford, John Douglass, Isaac Smith.

Thereupon the following named witnesses are severally sworn and examined, to wit: William Welch, 1; L. D. Stone, 2.

And the jury having listened to the argument of counsel, and received the instructions of the court, say they find the defendant guilty in manner and form as charged.

I, B. Esser, do hereby certify that the foregoing is a true copy of the minutes in the above entitled action, now of record in my office.

[CIR. CT. SEAL.]

B. ESSER, *Clerk.*

STATE OF WISCONSIN,
Circuit Court for Dane County, Dane County, ss:

I, B. Esser, clerk of said court, do hereby certify that the foregoing and annexed paper-writings are the original appeal-papers from the court below, order for bail, &c., recognizance, bill of exceptions, and writ of error from supreme court, which have been filed in my office, in the action wherein the State of Wisconsin is plaintiff, and L. D. Stone is defendant, and that the same are hereby transmitted to the judges of the supreme court of the State of Wisconsin, in pursuance of said notice of appeal.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the clerk's office, in the city of Madison, this 11th day of February, A. D. 1875.

[CIR. CT. SEAL.]

B. ESSER, *Clerk.*

Be it remembered that at a term of the supreme court of the State of Wisconsin, begun and held at the capitol at Madison, the seat of government of said State, on the second Tuesday, to-wit, on the twelfth day of January, A. D. 1875, on the fifty-third day of the term, to-wit, on the thirtieth day of April, A. D. 1875—present: E. G. Ryan, chief-justice, and Orsamus Cole and William P. Lyon, associate justice of said court—the following proceedings were had, inter alia, to wit:

Circuit court, Dane county, State of Wisconsin.

L. D. STONE, PLAINTIFF IN ERROR,
vs.
 THE STATE OF WISCONSIN, DEFENDANT IN
 ERROR. }

This cause came on to be heard on the transcript of the record, and on exceptions to the rulings and decisions of the circuit judge of Dane county, and was argued by counsel; on consideration whereof, it is now here ordered and adjudged by this court that the writ of error issued herein be, and the same is hereby, dismissed, and that the exceptions to the rulings and decision of the circuit judge of Dane county in this cause be, and the same are hereby, overruled; and it is further ordered that this cause be removed to the circuit court of Dane county, with directions to proceed to judgment.

STATE OF WISCONSIN,
Supreme Court, ss.

I, La Fayette Kellogg, clerk of the supreme court of the State of Wisconsin, do hereby certify that the above and foregoing is a true copy of the order and judgment of the court in the above-entitled cause, as appears of record.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Madison, this 5th day of May, A. D. 1875.

[SUP. CT. SEAL.]

LA FAYETTE KELLOGG,

Clerk of the Supreme Court of the State of Wis.

(Indorsed as follows, to-wit:) State of Wisconsin. Supreme Court. L. D. Stone, plaintiff in error, against the State of Wisconsin, defendant in error. Remittitur. Filed June 17, 1875. B. C. Slaughter, dep'ty clerk.

Supreme Court, January term, 1875.

STATE OF WISCONSIN }
vs.
 L. D. STONE. }

By the court :

The defendant, who was the passenger-agent at Madison of the Chicago, Milwaukee and St. Paul Railway Company, was prosecuted criminally under chap. 273 of the laws of 1874 (known as the Potter law) for exacting and receiving from a passenger on the railway of that company from Madison to Janesville more than the legal fare established by that act.

The defendant was tried in the municipal court of Madison, and was convicted and fined. He thereupon appealed to the circuit court for Dane County, and a trial in that court resulted in a verdict of guilty. Exceptions were allowed and signed by the judge,

pursuant to the statute, (R. S., chap. 180, sec. 7,) and a stay of proceedings granted.

We find a writ of error in the record; but inasmuch as no final judgment has been pronounced, the writ does not lie. (Bennett vs. the State, 24 Wis., 57; Crilley vs. The State, 20 id., 231.) We must therefore disregard the writ and dispose of the case on the exceptions.

The evidence on the part of the defendant was the same introduced on behalf of the railway company in opposition to the second application for an injunction in the case of the Attorney-General vs. The Chicago, Milwaukee and St. Paul Railway Company, 35 Wis., and its object and purpose was to show that the railway of that company, from Madison to Janesville, was constructed by a company organized under a charter granted by the legislature of the Territory of Wisconsin, to the rights of which company the Chicago, Milwaukee & St. Paul Railway Company had succeeded.

The exceptions before us are to the refusal of the court to give the jury certain proposed instructions to the effect that chap. 273, laws of 1874, so far as it related to such railway from Madison to Janesville, is unconstitutional and void. The opinion by the chief-justice on the second application for an injunction, above mentioned, disposes of these exceptions adversely to the defendant, and further discussion of the questions there considered and determined is unnecessary.

The exceptions must be overruled and the case remanded, with directions to the circuit court to proceed therein to judgment.

STATE OF WISCONSIN,
Supreme Court:

I, La Fayette Kellogg, clerk of the supreme court of the State of Wisconsin, do hereby certify that I have compared the above and foregoing with the original opinion of the court on file in my office in the above entitled cause, and that it is a correct transcript therefrom.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Madison, the 12th day of June, A. D. 1875.

[SUP. CT. SEAL.]

LA FAYETTE KELLOGG,
Clerk of Supreme Court of Wisconsin.

(Indorsed as follows, to wit:) State of Wisconsin, Supreme Court. State of Wisconsin against L. D. Stone. Certified copy of opinion by Lyon, J. Filed June 17, 1875. B. C. Slaughter, d'p'ty clerk. Fee for this copy, \$1.75.

STATE OF WISCONSIN,
Circuit Court for Dane County, Dane County, ss:

I, B. Esser, clerk of the circuit court in and for the county of Dane and State aforesaid, do hereby certify that I have compared the foregoing and annexed copy of files and records with the origi-

nal now of file and of record in my office, wherein the State of Wisconsin is plaintiff and L. D. Stone is defendant, and that the same is a true and correct transcript of said originals, and the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Madison, this 17th day of August, A. D. one thousand eight hundred and seventy-five.

[SEAL.]

B. ESSER, *Clerk.*

Judge's certificate.

STATE OF WISCONSIN,
Circuit Court of Dane County, ss:

I, Alva Stewart, judge of the ninth judicial circuit of the State of Wisconsin, and presiding judge of said court, do hereby certify that the within attestation to the foregoing exemplification of the Judgment-roll, wherein the State of Wisconsin is plaintiff and L. D. Stone is defendant, is in due course of law; that B. Esser is the clerk of said court; that I am well acquainted with his hand writing, and that his signature to said attestation is genuine.

Witness my hand, at Madison, this 17th day of August, A. D. 1875.

ALVA STEWART, *Judge.*

UNITED STATES OF AMERICA, *ss:*

[SEAL.] The president of the United States of America to the judge of the circuit court for Dane County, in the State of Wisconsin, greeting:

Because in the record & proceedings, as also in the rendition of judgment in a plea which is in the said circuit court for Dane County, in the State of Wisconsin, before you, being the highest court of law or equity of said State in which a decision could be had in said suit between the State of Wisconsin, plaintiff, and L. D. Stone, defendant, wherein was drawn in question the validity of a statute of or an authority exercised under said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity, a manifest error hath happened, to the great damage of the said L. D. Stone, as by the complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that

error that of right and according to law and custom of the United States should be done.

Witness the honorable Morrison R. Waite, Chief-Justice of the said Supreme Court of the United States, this ninth day of July, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the one hundredth.

EDWARD KURTZ,

Clerk U. S. Circuit Court for East'n Dist. of Wisconsin.

(Indorsed;) Allowed July 14, 1875. Alva Stewart, judge. Filed July 14, 1875. B. C. Slaughter, deputy clerk.

The United States of America to the State of Wisconsin, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the office of the clerk of the circuit court for Dane County, State of Wisconsin, wherein L. D. Stone is plaintiff in error and you are the defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Alva Stewart, judge of the circuit court of Dane County, State of Wisconsin, this thirteenth day of July, in the year of our Lord one thousand eight hundred and seventy-five.

ALVA STEWART, *Judge.*

(Indorsed:) Supreme Court United States of America. L. D. Stone, plaintiff in error, vs. The State of Wisconsin, defendant in error. Citation.

Due service of the within citation admitted, July 14, 1875.

A. SCOTT SLOAN,

Atty. Gen'l.

Filed July 14, 1875. B. C. Slaughter, deputy clerk.

Know all men by these presents, that we, Sherman S. Merrill and John W. Cary, both of the city of Milwaukee, State of Wisconsin, are held and firmly bound unto the State of Wisconsin in the full and just sum of five hundred dollars, to be paid to the said State of Wisconsin, its certain attorney or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly & severally, by these presents. Sealed with our seals and dated this 14th day of July, A. D. 1875.

Whereas, lately, at a circuit court held in and for Dane County, in a suit depending in said court between the State of Wisconsin, plaintiff, and L. D. Stone, defendant, judgment was rendered against the said L. D. Stone, and the said L. D. Stone having obtained a

writ of error issuing out of the Supreme Court of the United States and filed a copy thereof in the clerk's office of the said court of Dane County, to reverse the said judgment in the aforesaid suit, and a citation directed to the said State of Wisconsin, citing and admonishing to be and appear at the Supreme Court of the United States to be holden at Washington the second Monday of October next:

Now, the condition of the above obligation is such that if the said L. D. Stone shall prosecute said writ of error to effect, and answer all damages and costs if he fails to make good his plea, then the above obligation to be void; else to remain in full force and virtue.

S. S. MERRILL. [SEAL.]
JOHN W. CARY. [SEAL.]

In presence of—
MELBERT B. CARY.

(Indorsed:) Supreme Court United States of America. L. D. Stone, plaintiff in error, vs. The State of Wisconsin, defendant in error. Bond approved July 14, 1875. Alva Stewart, judge. Filed July 14, 1875. B. C Slaughter, dep'ty clerk.

Return to Supreme Court.

STATE OF WISCONSIN,
Circuit Court for Dane County, Dane County, ss.

I, B. Esser, clerk of said court, do hereby certify that the foregoing and annexed paper writings are the original writ of error, citation, and bond on appeal, and exemplified transcript of all the files, records, and proceedings which have been filed in my office in the action wherein the State of Wisconsin is plaintiff and L. D. Stone is defendant, and that the same are hereby transmitted to the judges of the Supreme Court of the United States of America, in pursuance of said notice of appeal.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at the clerk's office, in the city of Madison, this 17th day of August, A. D. 1875.

[SEAL.]

B. ESSER, *Clerk.*

(Indorsement on cover:) No 589. L. D. Stone, plaintiff in error, vs. The State of Wisconsin. Wisconsin, Dane county cir. ct. Filed 14th September, 1875.

BRIEF OF ARGUMENT OF B. C. COOK,

OF COUNSEL FOR APPELLANTS AND PLAINTIFFS IN ERROR.

Statement of the Case.

The facts necessary to be considered in this case are :

That the Wisconsin and Superior Railroad Company, by its charter passed June 3, 1856, was authorized to construct, complete, and perpetually to have, use and enjoy, maintain and operate a railroad from Fond du Lac to the north line of this State, and to operate its road in connection with any road which might connect with it, or to connect with such railroad, or either of them, upon such terms as should be mutually agreed upon, and to demand and receive such sums of money for the transportation of persons or property as it from time to time should deem reasonable; said company was authorized to borrow any sums of money and to execute its bonds and mortgage its property to secure the payment of the same: and it should have title in fee simple to the lands acquired by it in pursuance of said act.

That the Madison and Beloit Railroad Company was incorporated August 19, 1848, and authorized to construct a railroad from Beloit to Madison, to make all needful rules, regulations and by-laws touching the business of said company, and to regulate the amount of tolls and the manner of collecting the same, for the business done upon said road; and that said company should be authorized to connect its road with the road of any railroad company in the State of Illinois, or become part owner or lessee of any railroad in said State, and that any railroad company in the State of Illinois, duly organized under the laws of said State, might connect its road with the road of said company, and might, in like manner, with the consent of said company, become part owner or lessee of said company, or any of its branches, or any portion thereof situated in the State of Wisconsin.

The name of the road was changed to that of Rock River Valley Union Railroad, February 9, 1850, and said company was fully and expressly authorized to borrow money and issue its bonds and mortgages to secure the same.

By act of the legislature of Wisconsin of March 10, 1855, the Rock River Valley Union Railroad Company, in Wisconsin, and the Illinois and Wisconsin Railroad Company, in Illinois, were authorized to consolidate their capital stock, to make the two companies one, and to place the affairs of the two companies under one board of directors, etc.; and said companies were so consolidated March 30, 1855, under the name of the Chicago, St. Paul and Fond du Lac Railroad Company. A portion of said Illinois and Wisconsin Railroad was in the State of Illinois, and this company was authorized by the law of Illinois, passed February 12, 1851, to consolidate with any railroad then incorporated, or that might be incorporated, in

Wisconsin, under the control of a joint board of directors, and upon such terms as might be agreed upon.

The act of the Wisconsin legislature, passed February 12, 1857, authorized the Chicago, St. Paul and Fond du Lac Railroad Company and the Wisconsin and Superior Railroad Company to consolidate their capital stock and franchises, and conferred upon the consolidated company all the rights and franchises which belonged to either company. This consolidation was made March 5, 1857, under the name of the Chicago, St. Paul and Fond du Lac Railroad Company.

March 14, 1859, an act was passed by the legislature of Wisconsin providing that, if the Chicago, St. Paul and Fond du Lac Railroad should be sold by virtue of any mortgage given by it, the purchasers, *if desiring to form a corporation* under and by virtue of the laws of that State, or the States of Illinois or Michigan, or any or all of said States, might file a certificate with the Secretary of State, &c., and said corporation should possess all the powers, authorities and capacities acquired by the purchasers or possessed by the said Chicago, St. Paul and Fond du Lac Railroad Company by virtue of any law of the State of Wisconsin, or of the States of Illinois or Michigan. On February 19, 1859, the legislature of Illinois passed an act by which the same power was conferred upon the purchasers of the said railroad in the State of Illinois that was conferred upon the purchasers thereof in the State of Wisconsin by the act of March 14, 1859, aforesaid.

June 2, 1859, the whole railroad, its property and franchises, was sold as an entire road in both States. June 6th, 1859, the purchasers of said road became incorporated in Illinois and Wisconsin under the acts of February 19 and March 14, 1859, aforesaid, under the name of the Chicago and Northwestern Railway Company.

March 8, 1862, an act was passed by the legislature of Wisconsin recognizing the Chicago and Northwestern Railway Company as the successor of the Chicago, St. Paul and Fond du Lac Railroad Company, and conferring upon it all the rights, privileges, powers and authority contained in the charters of the Chicago, St. Paul and Fond du Lac and the Wisconsin and Superior Railroad companies.

The Galena and Chicago Union Railroad Company was incorporated in Illinois January 13, 1836, and by its charter was authorized expressly to prescribe the manner in which its railroad should be used, the rates of toll for the transportation of persons or property thereon, and to borrow money and to give its bonds and mortgages therefor.

June 2, 1864, the Chicago and Northwestern Railway Company and the Galena and Chicago Union Railroad Company consolidated their franchises and property into one corporation by the name of the Chicago and Northwestern Railway Company, which consolidation was made in pursuance of the laws of Illinois and Wisconsin, and was ratified by the laws of both States after it was made; and the consolidated company became possessed of all the powers and franchises which had been conferred by the laws of the State of Illinois upon the Chicago and Northwestern Railway Company

or the Galena and Chicago Union Railroad Company, or by the laws of the State of Wisconsin upon the Wisconsin and Superior Railroad Company, or upon the Chicago, St. Paul and Fond du Lac Railroad Company, or upon the Chicago and Northwestern Railway Company, among which powers was the right to fix its rates of compensation for the transportation of persons and property. Each of said companies, in pursuance of their charters, issued bonds for money used in the construction of its road, and secured the same by mortgage of all its property and franchises.

The consolidated Chicago and Northwestern Railway Company issued its bonds to the amount of \$48,000,000 to consolidate the debts of all the foregoing corporations. Each of said complainants is the holder of large amounts of the bonds of some of the companies that have become consolidated with the Chicago and Northwestern Railway Company and of said last named company itself, which has executed its trust deed to the Union Trust Company, one of the complainants, to secure said bonds said trust deed covers, its entire property and franchises.

All of the laws aforesaid are printed with the bill in this case, and a full list of the bonds issued by each of said companies is given in the bill, with copies of the bonds and trust deeds.

March 11, 1874, an act was passed by the legislature of Wisconsin, known as the "Potter Law," by which a certain schedule of rates of compensation for the transportation of persons and property was fixed, and the railroad company was prohibited from charging any greater rates, under very heavy penalties to be inflicted both upon the company itself and its agents. They are made liable to heavy penalties for refusing to receive for transportation any freight on account of the prescribed compensation being too low, or for any attempt to violate or evade any of the provisions of the act, and the railroad commissioners are authorized further to reduce the rates specified in the act.

The averments of the bill which are admitted by the demurrer, are as follows:

First.—The company will not derive from all its sources of revenue a sufficient sum of money to pay the operating expenses of said railway and to pay the interest upon its bonds given for money necessarily expended in the construction and equipment of its railway without paying the interest upon its bonds or making any provision for a sinking fund to retire its bonds as they become due, if its railroad is conducted and operated in accordance with the provisions of said act of March 11, 1874.

Second.—That the sole security for the payment of the bonds aforesaid is the railroad, its equipment and appurtenances as described in the trust deed given to secure the same, and that, if said railroad is operated under the provisions of that act, for the rates of freight and fare therein specified, instead of yielding any return whatever to the owners of said road, the same will be operated at a loss, and, consequently, the value of the road will be destroyed and the security given for the bonds held by the complainants will be destroyed and the bonds will become worthless.

Third.—That the classes of freight established by said act are different from the classification of freight established by the States of Illinois, Iowa or Minnesota for the transportation of freight upon the same road, and that it is practically impossible to carry on the business of transportation of freight from the State of Wisconsin to either of those States in pursuance of the provisions of the laws of the several States.

Fourth.—That the defendants, the Railroad Commissioners and the Attorney-General, have instituted a large number of prosecutions against the agents of said company, and are about to commence many suits and prosecutions to enforce the provisions of said act; and an injunction is asked to prevent the institution of new suits, and to restrain the commissioners from further reducing the rates of fare and freight.

Points.

I.

Upon the facts admitted in this record, the enforcement of the "Potter Law" would be to take the property of the railroad company without just compensation. *Miller vs. The State*, 15 Wallace, 498; *Commonwealth vs. Essex Company*, 13 Gray, 253; *Tuckahoe Canal Co. vs. Tuckahoe R. R. Co.*, 11 Leigh, 42.

II.

No such power is given by the reservation in the constitution of the State of Wisconsin to alter and repeal the charters of corporations. *Loan Association vs. Topeka*, 20 Wallace, 662; *Eaton vs. Boston*, *Concord and Montreal R. R. Co.*, 51 N. H., 504; *Wynehamer vs. People*, 13 N. Y. 378, 433; *Walker vs. O. C. & N. R. R. Co.*, 103 Mass., 10, 14; *People vs. Kerr*, 37 Barbour, 257, 399; *Nevins vs. City of Peoria*, 44 Ill., 500; *Pumpelly vs. Greenbay Co.*, 13 Wallace, 177.

III.

The enforcement of the act complained of would be a violation of the contract contained in the several charters of the railroad company. *The State Freight Tax*, 15 Wallace, 257; *The Delaware Railroad Tax*, 18 Wallace, 225; *Tuckahoe Canal Co. vs. Tuckahoe R. R. Co.*, 11 Leigh, 42.

IV.

It would be a violation of the contract made between the corporation of the State of Wisconsin and the corporation of the State of Illinois, which was consolidated under the laws of the two States.

Act of the legislature of Wisconsin conferring powers, etc., on the C. & N. W. R'y Co., passed March 8, 1862.

V.

It would be depriving the creditors of the complainant company of the security for the payment of their demands, and would be a violation of the contract made with them.

The United States vs. Portland Canal Co. (Not yet reported.)

Argument.

The questions arising in this case, stated in the simplest form, are:

First. Has the legislature of Wisconsin the right to decree that this railroad company shall not charge and receive a reasonable compensation for the use of its property, the personal services of its agents, and the risk it assumes in relation to the persons and property transported over its railroads?

Second.—Can this company be compelled to transport persons and property over its road, and to assume the risks of a common carrier in relation to persons and property, without compensation?

Upon these questions I make the following points:

The charters of the several railroad companies are contracts between the State and such companies. Story's *Comm. on Constitu.*, Secs. 1886-7-8; *Wales vs. Stetson*, 2 Mass., 146; *Dartmouth College vs. Woodward*, 4 Wheaton, 518; *Binghamton Bridge Case*, 3 Wallace, 71; *Holyoke Co. vs. Lyman*, 15 Wallace, 511; *Tomlinson vs. Jesup*, 15 Wallace, 457; *Wilmington R. R. Co. vs. Field*, 13 Wallace, 266; *Delaware R. R. Tax Case*, 18 Wallace, 225.

Consequently, the right of this company to fix its own rates of fare and freight is incontrovertible, unless the contract contained in the several charters is modified by the following provision of the Constitution of the State of Wisconsin:

"Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the object of the corporation can not be attained under general laws. All general laws or special acts enacted under the provisions of this section may be altered or repealed at any time after their passage."

The question is, what could the legislature rightfully do under this reservation of power?

That there is some limit to the power of the legislature in dealing with a corporation seems to be settled. In the case of *Miller vs. The State*, 15 Wallace, 498, this court says: "Power to legislate, founded upon such a reservation in a charter to a private corporation, is certainly not without limit; and it may well be admitted that it can not be exercised to destroy or to take away rights acquired by virtue of such a charter, and which, by a legitimate use of the powers granted, have become vested in the corporation; but it may safely be affirmed that the reserved power may be increased to almost any extent to carry into effect the original purpose of the grant, or to secure the due administration of its affairs so as to protect the rights of stockholders and of creditors, and for the proper

disposition of its assets. Such a reservation, it is held, will not warrant the legislature in passing laws to change the control of an institution from one religious sect to another, or to convert the fund of the donors to any new use inconsistent with the intent and purpose of the charter, or to compel subscribers to the stock whose subscriptions are conditional, to waive any of the conditions of their contract."

In the case of *Commonwealth vs Essex Co.*, 13 Gray, 252, Shaw, C. J., says: "The power to amend or alter must have some limit, though it is difficult to define it. Suppose an authority has been given by law to a railroad corporation to purchase a lot of land for purposes connected with its business, and they purchased such lot from a third party; could the legislature prohibit the company from holding it? If so, in whom could it vest? Could the legislature direct it to revest in the grantor, or escheat to the public; or how otherwise?"

If the power to repeal the charter of a railroad company without compensation to the company be admitted, for the sake of the argument, yet it is manifest that a repeal of the charter leaving to the company the absolute right to dispose of or to remove its property, its iron, ties, fences, buildings, structures and equipment, might be a far less injury to the company than the power to compel it, by heavy penalties, to maintain and operate its road without any compensation. It is the nature and extent of the power to alter the charter only with which we have to do in this case.

Does this clause in the constitution give the right to the legislature to say that, hereafter, this railroad company shall maintain and operate its road and be subject to all the liabilities of a common carrier for hire without any compensation whatever? Does it give the legislature the right to require this company, without compensation to furnish locomotives and cars to operate some connecting road upon the ground that the public interest will be promoted thereby? I insist that the true limit of authority of the legislature may be defined as follows;

1. The legislature cannot, by any alteration of the charter of this company, take away any right not conferred upon the company by the charter.

2. The legislature can not, by an alteration of the charter take the property of the company for public use without just compensation.

In discussing the question whether the right to take reasonable compensation for the transportation of persons and property on its road is a franchise conferred by the charter, or is an incident to the ownership of the property, I shall assume that if it is a right which belongs to the company as a necessary incident to the ownership of its property, and does not depend upon the charter, then the mere power to alter the charter does not, of itself, include the right to forbid the company from receiving such reasonable compensation for the use of its property. If a railroad company whose charter only conferred the right to build and operate a railroad and was silent as to any right to demand compensation for the trans-

portation of persons or property, would have no right to receive such compensation, it would be because such right could only be conferred by charter; but if in such case, the company would have the right to receive reasonable compensation, it would be because such right was a necessary incident to its ownership of the property. In what respect does the ownership of property by a corporation differ from ownership by an individual? Has it not the same incidents? The ownership of property by an individual carries with it the right to its beneficial use. Is it so with the property of a corporation? If not, why not?

Did the stockholders of this company acquire their property under the charter so that they can lose their right to the property by an alteration of the charter? Is the railroad itself a franchise, or are the cars and locomotives franchises or parts of a franchise? Surely not, for those things are corporeal, and a franchise is incorporeal. These things are property, held upon the same tenure and upon the same terms that individuals hold property, to wit: with the right to the beneficial use of it and to hold it subject to be taken for public uses only upon just compensation being made.

This property might be held with the same rights attaching thereto, by individual citizens.

It was not necessary that there should, in every case, have been a corporation to construct and operate a railroad. When the Chicago, St. Paul & Fond du Lac Railroad Company was chartered, it was authorized to borrow money, to issue its bonds and to mortgage its property and franchises to secure the payment thereof. It did this, and the entire property and franchises of the company were sold under the mortgages. The purchasers of the property by their purchase, became vested with all the property and rights which had belonged to the railroad company, and these purchasers held that property and those rights for a certain time without being a corporation at all, and in a condition not to be affected by any alteration or repeal of any act of incorporation. The rights of these purchasers were recognized by the legislature in the act "To facilitate and authenticate the formation of a corporation by the purchasers of the Chicago, St. Paul and Fond du Lac Railroad," approved March 14, 1859, which, after providing that the purchasers might form a corporation, *if they desired to do so*, contains the following language: "And said corporation shall possess all the privileges, powers and capacities *acquired by the said purchaser or purchasers*," so that there were privileges, powers, authorities and capacities acquired by the purchasers and held by them without any act of incorporation at all; and I can perceive no reason why ten men of sufficient means may not unite and construct a railroad and use and operate it without any act of incorporation, and without any grant of power from the legislature further than may be necessary to enable them to acquire the right of way for their railroad; and if, as may be supposed for the sake of illustration, the road runs only on lands owned by them, they need have no grant of power from the legislature whatever. Now, if these ten men become incorporated, what rights do they have which they had not before the

act of incorporation was passed? The right to act under a single corporate name, and, perhaps, with a limited liability on the part of the individual stockholders.

The act of the State of Illinois, which, together with the act of the State of Wisconsin, authorized the sale of said road—part of the road being in each State—provided that the purchasers of that road under the trust deeds “shall have and acquire thereby, and shall exercise and enjoy thereafter, all and the same rights, privileges, grants, franchises, immunities and advantages in and by said mortgage or trust deed enumerated and conveyed, which belonged to and were enjoyed by the said Chicago, St. Paul and Fond du Lac Railroad Company, as fully and absolutely in all respects as the Chicago, St. Paul and Fond du Lac Railroad Company, its corporators, shareholders, officers and agents might or could have done theretofore had not such sale or foreclosure taken place.” Here was a railroad without a corporation, and no alteration of any articles of incorporation could affect its right. This right of these purchasers became legally vested in the Chicago and Northwestern Railway Company.

In the case of the Tuckahoe Canal Co. vs. The Tuckahoe Railroad Co. 11 Leigh, 42, the Court says:

“What, then, is here insisted on? Is it a monopoly of the right to take toll for the transportation on the canal? If this be all we can not gainsay it. The canal is their own property: and property necessarily implies a right in the owner to the exclusion of all others. Is it a monopoly of the right to the transportation of the Tuckahoe Valley? If so, the claim is not admitted. Upon the principles maintained by their counsel, it is denied. What right, upon those principles, has the legislature to take from the colliers the liberty of transporting their coal either by wagons or in any mode they may elect? What right to prevent their purchasing from the land-owners the necessary ground and constructing a railroad *without a charter*? So far as respects the canal company, the railroad needed no charter to legalize their operations, if they did not cross the canal. It was only necessary to enable them to condemn the lands of others, and to sue and be sued. They do not derive their right to make such a road for the transportation of coals from legislative grant. They would have had that without it, and it could never be affirmed that a charter to them invaded the previous charter, since, so far as the canal company are concerned, a charter would have given them nothing more than they had before, viz., a right to withdraw their coals from the canal transportation, and to transport them by land for themselves and others, according to their own pleasure and ability.”

If the legislature has the power, under the reservation contained in the constitution, to alter the charter in such manner as to deprive the owners of this property of its beneficial use, it must be upon just compensation. If the charter, when passed by the legislature and accepted by the corporators, became a contract, it may well be that, but for the power reserved in the constitution, it could not be altered in any way so as to impair it without the consent of

the stock-holders, it being protected by the constitution of the United States; so that, no public necessity would have justified the legislature in destroying the contract, even upon making compensation. But the constitution of the United States and of the State of Wisconsin each contain a provision that private property shall not be taken for public use without just compensation, and this clause of the constitution entered into and became a part of the contract as well as the clause which provides that the legislature may alter or repeal the charters of corporations. Both must be construed together. The right to make any alteration of the charter which the legislature may see fit to make, may be conceded for the sake of the argument, but it would by no means follow that such change of the charter could be made without compensating the company for its property if the property was thereby taken away. For instance, is it in the power of the legislature, by an alteration in the charter of the Chicago & Northwestern Railway Company, to provide that it shall furnish ten locomotives and fifty cars to be used on some other road, because the public interest would be promoted thereby, and this without compensation? or that a certain locomotive or car belonging to this company should be transferred, without compensation, to another company? If this could be done, it would be for the reason that there are rights of property beyond the sphere of legislation. I quote from the opinion of this court in the case of Loan Association vs. Topeka, 20 Wallace, 662:

"It must be conceded that there are such rights in every free government beyond the control of the State. A government which recognized no such rights, which held the lives, the liberty, and the property of its citizens subject at all times to the absolute disposition and unlimited control of even the most democratic depository of power, is after all but a despotism. It is true it is a despotism of the many, of the majority, if you choose to call it so, but it is none the less a despotism. It may well be doubted if a man is to hold all that he is accustomed to call his own, all in which he has placed his happiness, and the security of which is essential to that happiness, under the unlimited dominion of others, whether it is not wiser that this power should be exercised by one man than by many."

"The theory of our governments, State and National, is opposed to the deposit of unlimited power anywhere. The executive, the legislative, and the judicial branches of these governments are all of limited and defined powers.

"There are limitations on such power which grow out of the essential nature of all free governments; implied reservations of individual rights, without which the social compact could not exist, and which are respected by all governments entitled to the name. No court, for instance, would hesitate to declare void a statute which enacted that A. and B. who were husband and wife to each other, should be so no longer, but that A. should thereafter be the husband of C., and B. the wife of D. Or which should enact that

the homestead now owned by A. should no longer be his, but should henceforth be the property of B."

If the legislature, under the reserved right to alter the charter of this company, has the right to deprive the company of its property for the public use without compensation, then clearly the right has no limit, and the legislature may do what it pleases with any portion of the property, whether lands, cars or locomotives. But if it be true—as I have endeavored to show—that the legislature has not the right under the reservation in the constitution to deprive this railroad company of its property, without just compensation, then the question is narrowed to this: Does the bill show a state of facts which constitutes such a taking?

The averments of the bill necessary to be considered in determining the question may be stated as follows: The company has constructed and equipped its roads at an expense of many millions of dollars: For a portion of this money which it has borrowed it has given its bonds, secured by a trust deed upon its property and franchises: The act complained of compels the company, under heavy penalties imposed upon both itself and its agents, to operate its road without interruption or cessation: The company is not allowed to receive a sufficient amount to pay the operating expenses of the road and the interest upon the bonds given for money expended in constructing the road, without paying any dividends to its stockholders or providing a sinking fund for the payment of its bonds: The roads—if operated under the act—will be run at a loss, their value be entirely destroyed and the value of the complainants' sole security for the payment of their bonds be entirely destroyed.

Or, if reduced to the simplest form, the averment is, that the company will be perpetually deprived of any beneficial use of its property, and the holders of the bonds of the company will be deprived entirely of the security upon which their money was invested.

The demurrer admits these allegations of the bill to be true, and the question is this: Is this a taking of the property of the company within the meaning of the constitution? It would seem unnecessary to attempt to prove that the right to a beneficial use of property is a necessary incident to its ownership. In so far as the right to use property is limited to the same extent, the ownership itself is limited. I ask leave to refer to the discussion of this point in my brief filed in the case of the Winona and St. Peter Railroad Company vs. Blake *et al.*, rather than to repeat what I have there stated. The point has been settled by the following cases: Eaton vs. Boston, Concord and Montreal R. R. Co., 51 N. H.; Wynehamer vs. People, 13 N. Y., 378, 433; Walker vs. O. C. & N. R. Co., 103 Mass., 10, 14; People vs. Kerr, 37 Barbour, 257, 399; Nevins vs. City of Peoria, 41 Ill., 500; Pumpelly vs. Greenbay Co., 13 Wallace, 177.

I insist that this law does take the property of this company. A substantial restriction of the right of user may not annihilate all the owner's rights in the property, but it is none the less true that a part of the property is taken. To take a part is as much forbid-

den by the constitution as to take the whole. As this case stands before the court, the simple question is: Is the owner deprived of any part of his property when he is deprived entirely of its beneficial use?

In the court below it was insisted, in the broadest terms, that the power of the State over this corporation and its property is unlimited; that this company, by accepting its charter, under the reservation contained in the constitution, had contracted that the State should have an unlimited power over the company and its property; that the legislature might repeal the charter and take away all rights of the company in any manner, and that such power included all other rights to control the use of the property.

There are two answers to this proposition:

First.—The repeal of the charter would leave the company the right to dispose of its property or to remove so much of it as is moveable from the State. This law as stated in the bill, compels the company, under heavy penalties, to continue the use of the property in the State without compensation. The company may well have had regard to the contingency when the contract was made, and have been willing to accept the same without agreeing to be subject to the greater risk and loss implied in the other.

Second.—If the State repeals the charter, the property remains in the company, and the State can neither take nor grant the road to another. The only effect would be to deprive the people of the use of the road entirely, while, were the "Potter law" to be enforced, the State retains the railroad and compels the company to operate it without compensation.

When the stockholders of this company were considering the question whether they would accept the charter and invest their money in the State of Wisconsin, they might well have reasoned thus: The State may repeal the charter, but, in so doing, she would deprive her people of the benefit of this railroad, which it is certain she will never do without some gross misconduct on our part; and so we will not be deterred from accepting the charter because the State may rescind the contract, for the manifest interest of the State will prevent such an act. But, if the proposition had been that the State might deprive the owners of this railroad of all deneficial use of the property without compensation to the company, and still compel it to operate it for the benefit of the public, the answer would have been very different. The answer to such a proposition may be found in the utter paralysis which has come upon all railroad enterprises in Wisconsin—no matter how promising and flourishing they were before the passage of this law—and in the fact that the passage of the law and the adjudications of the courts under it have utterly ruined the credit of American railroad corporations in the money markets of the world—a fact which is abundantly shown by the consular reports to the State Department.

III.

The clause in the State constitution authorizing the legislature

to alter the charter, it is claimed, is a part of the contract. Equally so is the clause in the same constitution that "private property shall not be taken for public use without just compensation." This company never contracted that its property should be taken for public use without compensation. Therefore the question is limited to this: Does this law take the property of the company? And, taking the statements of the bill in this case to be true, as they stand admitted of record, this question only remains: Is it depriving this company of its property to take from it, permanently, all beneficial use thereof?

Two other points have been made by counsel, not appearing in this case:

First—That the railroad is a highway and the State has a prerogative right to control highways; consequently, it was part of this contract that the State should have the right to control it. A sufficient answer—but not the only one—to this proposition, is the fact that the State never had the prerogative right, nor any other right, to compel one person to transport the property and person of another along any highway at less than a reasonable compensation, if at all. The right to construct a railroad, or any other road, and throw it open to the free use of the public, is one thing; the right to compel one man to transport the person and property of another over a public highway and ensure the safety of both, is wholly another; and no such right was ever claimed by any constitutional government by virtue of a prerogative right or any other right.

Second.—It has been insisted that the railroad and its equipment and appurtenances became the property of the State—"a part of the public domain, farmed out for administration." If it did thus become a part of the public domain, it must have been by contract. The rails, ties, locomotives, and cars run over the property of the stockholders; and if the property passed to the public, it must have done so by virtue of a contract to that effect implied in the fact that this property had been put into and upon a railroad. That no such contract can be implied from the language of the charter is decided in the following cases: The State Freight Tax, 15 Wallace, 257.

In that case this court says:

We concede the right and power of a State to tax the franchises of its corporations, and the right of the owners of artificial highways, whether such owners be the State or the grantees of franchises from the State, to exact what they please for the use of their ways. That right is an attribute of ownership."

In the Delaware Railroad Tax case, 18 Wallace, 225, in speaking of a railroad charter, the court says:

"The contract is clearly protected from legislative interference, whether the public is interested in the exercise of its franchise, or the charter be granted for the sole benefit of its incorporators.

In the case of the Tuckahoe Canal Company vs. Tuckahoe Railroad Company, 11 Leigh, 42, speaking of a canal constructed by a corporation under a charter from the State, the court, by Tucker, C. J., says:

“The canal is their own property and property necessarily implies a right in the owner to the exclusion of all others.”

IV.

But the precise words of the charters negative the idea that this road and its equipment were to become “a part of the public domain.” In the charter of the Wisconsin and Superior R. R. Co., one of the constituent parts of this company’s road, these words are used: [The company is authorized] to purchase and manufacture *and own* rails, chairs, spikes, engines, cars, tenders, and all other things necessary or useful for the construction or operation of a railroad, and to sell the same.” That is very singular language to convey the idea that all these things were to become a “part of the public domain.” In the act of March 8, 1862, passed after the consolidation, this language occurs: “And there is hereby conferred upon the said Chicago & Northwestern Railway Company all rights, privileges, power and authority contained in the charter of said railway company, or in the charter of the Chicago, St. Paul & Fond du Lac and the Wisconsin & Superior Railroad Companies, to which the said Chicago & Northwestern Railway Company is the successor.” I think it fair from this grant to affirm that this road and its equipment are owned by the railroad company and not by the State. I submit, therefore, that, upon the admitted facts stated in this record, the “Potter-law” does deprive the railroad company of property which it owns, without just compensation.

V.

But it also deprives the creditors of the company of the security which they had received for their money loaned for the construction and equipment of this road. If the road cannot be operated under the law so as to yield a revenue sufficient to pay interest upon its bonds and operating expenses, as is alleged in the bill and admitted by the demurrer, the road is worthless, and the security which its creditors held is destroyed. This is precisely the principle declared by Mr. Justice Miller in the case of the United States vs. The Louisville and Portland Canal Co. The opinion is not yet reported, but it was printed at length in a letter from the Secretary of War to Congress, transmitting papers relative to the canal at the falls of the Ohio river, December 2, 1872. The case was this: On the 12th of June, 1825, the Kentucky legislature chartered a corporation by the name of the Louisville and Portland Canal Company, to construct a canal around the falls of the Ohio river, with the right to levy tolls on vessels passing through the canal. The tolls collected under the limit of the charter granted by the State yielded such a revenue beyond what was necessary to keep up the canal in repair, that, by the joint legislation of the State and of the United States, and the consent of individual incorporators, a plan was adopted to make the canal free, except so far as it might be necessary to keep it in repair. The stockholders accepted this legislation. This plan

was so far carried out that, in the year 1855, all the shares other than those held by the United States had been bought in, except five shares left purposely in the hands of individuals to qualify them as directors. June 1, 1872, Congress made an appropriation as follows: "For the continuing of the work upon the canal at the falls of the Ohio river, \$300,000; and the Secretary of War is hereby directed to report to Congress, at its next session, or sooner, if practicable, the condition of said canal, and the provisions necessary to relieve the same from incumbrance, with a view to such legislation as will render the same free to commerce at the earliest practicable period, subject only to such tolls as may be necessary for the superintendence and repair thereof, which shall not, after the passage of this act, exceed five cents per ton." The officers of the United States, proceeded to use the money as indicated in the appropriation, but were resisted by the officers of the corporation, the officers of the canal company maintaining that a due regard to their duty to their bondholders and other creditors of the corporation forbade them from accepting the appropriation, either expressly or by such consent as inaction would imply, because, by so doing, they would accept that portion of the act which reduced the tolls to five cents per ton, which would not yield a revenue sufficient to pay the obligations of said company. The United States filed a bill against the company, to enjoin them from interfering with the work. The application was made to Mr. Justice Miller for the injunction. In giving his opinion he uses this language: "There are three parties interested deeply in this trust, and in the manner in which its duties shall be discharged, which I name in order of the superiority of their claims, rather than of their merits:

"*First.*—The holders of bonds secured by the mortgage authorized and placed under the sanction of the legislature of Kentucky and of the Congress of the United States.

"*Second.*—The United States, the holder of all the stock in the corporation, expending a million of dollars besides for the benefit of the canal; and

"*Third.*—The public, the community to whose use, free of all charges but those necessary to keep it in operation, it has been solemnly dedicated by the legislature of Kentucky, by the Congress of the United States, and by the action of the corporation itself.

"As regards the first of these, I have no hesitation in expressing my entire conviction that the bondholders have a lien upon the revenue of the canal, and a right to insist that the corporation shall protect their revenues to the extent necessary to make entirely safe payment of their debt and its accruing interest, and that until that debt is paid, or the mortgage satisfied, or otherwise discharged with the consent of these bondholders, this right of theirs remains with the corresponding duty of the directors of the corporation.

"I am satisfied that the president and directors are honest in their belief that acquiescence on their part in the expending of this appropriation on the canal would bind them legally as an acknowl-

edgment of the Government limitation of the toll, which would be a violation of their official duty.

"If this construction of the statute be correct, then I have no hesitation in saying that that part of it which so limits the toll is void, for the plain reason that it is a legislative attempt to destroy vested rights, and a taking of private property for public use without due compensation."

The same principle is declared in the case of *McCracken vs. Hayward*, 2 Howard, 618, from which I quote:

"In placing the obligation of contracts under the protection of the constitution, its framers looked to the essentials of the contract more than to the forms and modes of proceeding by which it was to be carried into execution; annulling all State legislation which impaired the obligation, it was left to the States to prescribe and shape the remedy to enforce it. The obligation of a contract consists in its binding force on the party who makes it. This depends on the laws in existence when it is made; these are necessarily referred to in all contracts, and forming a part of them as the measure of the obligation to perform them by the one party, and the right acquired by the other. There can be no other standard by which to ascertain the extent of either than that which the terms of the contract indicate according to their settled legal meaning. When it becomes consummated the law defines the duty and the right, compels one party to perform the thing contracted for, and gives the other a right to enforce the performance by the remedies then in force. If any subsequent law affect to diminish the duty, or impair the right, it necessarily bears on the obligation of the contract in favor of one party to the injury of the other; hence any law which in its operation amounts to a denial or obstruction of the rights accruing by a contract, though professing to act only on the remedy, is directly obnoxious to the prohibition of the Constitution."

The same principle is declared in the case of *Bronson vs. Kinze*, 1 Howard, 311.

If the law in question is enforced the contract which this company has made with its creditors becomes incapable of enforcement.

VI.

The State of Wisconsin also, by special act, authorized the companies which then owned that portion of this road located in the State of Wisconsin to contract with the owners of that portion of road which is in the State of Illinois, [see act of March 14, 1859,] to consolidate their respective roads and franchises, and the contract with the Illinois corporation is that if it will merge its property with that of the Wisconsin corporation, the united corporation should have all the privileges, powers, authorities, and capacities acquired by the purchasers of the Chicago, St. Paul and Fond du Lac Railroad, or possessed by that company by virtue of any law of Wisconsin, Illinois or Michigan, among which power

was the right of the Chicago, St Paul and Fond du Lac Railroad Company, in Illinois, to fix its rates of fare and freight. The Illinois company surrendered its franchises and property under that contract. The "Potter-Law" invalidates that contract and virtually deprives the Illinois corporation of its property without compensation, and this it does by destroying the contract made in pursuance of law.

The taking of this company's property, or rendering it valueless, was not necessary. The common law would afford an adequate remedy for extortion by the company, or, if it would not, a statute which should punish the company for exacting unreasonable or unequal rate of compensation for the transportation of persons and property, would fully protect the public and still leave to the company the beneficial use of its property.

I submit this case to the court with this suggestion: The owners of this property have invested their money in this railroad upon the faith that they should derive some reasonable return for its use. As shown by the record they can not secure such return under this act. The property has been so placed that it must be used where it is, or become comparatively worthless. If this property is to be controlled by men who have no practical knowledge concerning it, nor any means of forming an accurate judgment of what is a fair compensation for its use, under any inflexible tariff of rates incapable of being adjusted to the varying circumstances of the time, it will be worthless. This is demonstrated by the fact that the passage of this act has caused the property to depreciate millions in value, and has ruined the credit of every railroad enterprise in the State. The loss in such an event will not fall solely upon the stockholders of this corporation; it will fall also upon the people of the State who can not dispense with the railroads, and who must pay for the risk incurred by those who invest their money in such enterprises in the State of Wisconsin, and it will furnish an example unparalleled in modern history of the folly of depending upon the good faith of a people who make the most sacred rights of property subservient to partisan and personal aggrandisement, and it will add new point and force to the language used by this court in the case of *Loan Association vs. Topeka*, 20 Wallace, 662:

"It may well be doubted if a man is to hold all that he is accustomed to call his own, all in which he has placed his happiness, and the security of which is essential to that happiness, under the limited dominion of others, whether it is not wiser that this power should be exercised by one man than by many."

B. C. COOK.

Of Counsel for Appellant.

BRIEF OF ARGUMENT OF C. B. LAWRENCE,
OF COUNSEL FOR APPELLANTS AND PLAINTIFFS IN ERROR.

Statement of the Case.

This record presents the question, whether an act of the legislature of Wisconsin, approved March 11, 1874, entitled "An act relating to railroads, express, and telegraph companies, in the State of Wisconsin," is a violation of the Constitution of the United States.

The act will be found in full on pages 34 to 40, of the original bill, and is printed as an appendix to this argument. It divides all the railroads of the State into three classes, and fixes the maximum rates of compensation for the transportation of passengers and freight to be charged by each class.

It also authorizes the Governor of the State to appoint three persons as Railroad Commissioners, who are clothed with a general authority over rates of freight. Every agent of a corporation who in behalf of such corporation charges a higher rate of freight than that allowed by the act is declared guilty of misdemeanor and subjected to a fine not exceeding two hundred dollars for each offense. Jurisdiction to impose the fine is conferred on justices of the peace.

Any person who is charged a rate of fare or freight exceeding the limits fixed by this act, may recover back from the company, or its agent, three times the amount of the overcharge.

The officers of the company are to be bound by the decision of the commissioners in regard to freights, and if they disregard such decision, they are made liable to a fine of two hundred dollars for each offense.

The Chicago and Northwestern Railway Company has been organized in its present shape by the consolidation of various railroad companies, incorporated by the States of Illinois, Wisconsin, Michigan, and Minnesota. It is the great channel of commerce from the city of Chicago through the northwest, measuring with its branches more than sixteen hundred miles. It has, in its existing form as a consolidated road, issued its bonds to the amount of over forty millions of dollars, secured by a deed of trust upon its franchises and property. The money received upon these bonds has been used by the company in paying its old indebtedness and in completing and equipping its various lines of road.

At the July term, 1874, of the Circuit Court of the United States for the Western District of Wisconsin, certain holders of the bonds thus issued by this company, one of them, Willem Frederick Piek, a resident of Amsterdam, in Holland, and the others residents of New York, brought a bill in behalf of themselves and other bondholders, against the Railway Commissioners and the Attorney-General of Wisconsin, the object of which was to enjoin them from the execution of said act in regard to the Chicago and Northwestern Railroad. The bill sets forth the grant of public lands made by the Federal Government, to the State of Wisconsin, to aid in the construction of railroads in said State, approved June 3, 1856, the acceptance of said grant by the State, on the 3d of November, 1856, the incorporation of the Wisconsin and Superior Railroad Company, and the grant of a portion of said lands to said company.

The bill further shows the incorporation, by the legislature of Wisconsin, of the Madison & Beloit Railroad Company, its subsequent change of name to the Rock River Valley Union Railroad Company, its consolidation on the 30th of March, 1855, with a corporation of the State of Illinois, called the Illinois & Wisconsin Railroad Company, by virtue of the laws enacted respectively by the legislatures of Wisconsin and Illinois, under which laws, the said consolidated corporations became the Chicago, St. Paul & Fond du Lac Railroad Company.

The bill further shows the consolidation with this company on the 5th of March, 1859, of the company first above named, entitled the Wisconsin & Superior Railroad Company, said consolidated companies retaining the name of the Chicago St. Paul & Fond du Lac Railroad Company. The bill further shows the sale of this railroad on the 2d of June, 1859, under certain trust deeds, that it was sold as one entire road extending from Chicago in Illinois to Fond du Lac in Wisconsin, and was on the second of June, 1859, conveyed by that description to the purchasers. The bill further shows the incorporation of said purchasers under the name of the Chicago and Northwestern Railway Company on the 6th of June, 1859, under the authority of certain acts of the legislatures of Wisconsin and Illinois, passed previous to said sale, by which it was provided, that in the event of a sale of said road under a deed of trust the purchasers should have the right to become a corporation by filing a certificate in the office of the Secretary of State, specifying the name of the corporation, and the names and number of the directors. The bill further shows the consolidation of this company, on the 2d of June, 1864, with another company in Illinois, called the Galena & Chicago Union Railroad Company, under the authority of both States, the said consolidated companies retaining the name of the Chicago and Northwestern Railway Company. The bill further shows the issue, by this company, on the 30th day of November, 1872, of bonds amounting to forty-eight millions of dollars, secured by deeds of trust upon its property executed to the Union Trust Company, of New York, as trustees,

said bonds being issued for the purpose of canceling all previous indebtedness of said company.

The bill further shows that the complainant, William Frederick Piek, is the owner of bonds to the amount of \$217,000, and that the complainants, Henry R. Pierson and Moses Taylor, are also the holders of large amount of said bonds.

The bill further shows that the average of the dividends declared by the company, since the consolidation of the roads, in 1859, does not exceed, including stock dividends, seven and three-quarters per cent. on the preferred stock, or three and three-quarters on common stock.

The bill further shows that the company had, up to the date of filing the bill, paid all its accrued interest on its bonds, but that since December 1872, it has paid no dividends whatever to its stockholders on its common stock, and but three and one-half per cent. upon its preferred stock.

The bill further alleges that the rates of fare and freight as established by the company, are reasonable and just, and are in fact so low as not to produce an income sufficient to pay the legal rate of interest on the money actually invested by its stockholders, after paying operating expenses, costs of repair, and interest on its bonds.

The bill sets forth in full the act of the Wisconsin legislature for the regulation of fares and freights first above stated, and alleges that under the rates of freight and fare prescribed by act as maximum rates, the income of the road will not be sufficient to do more than pay the operating expenses and keep the road and its equipment in proper repair, and the company will be wholly unable to pay the interest upon its bonds.

The bill charges that said act is a violation of the constitution of the State of Wisconsin, and that of the United States, both as to the rights of the stockholders and those of the bondholders.

The bill further charges that various prosecutions have been commenced under said law against agents of the company for charging greater rates of fare and freight than the rates prescribed by said act, under which prosecution said agents have been arrested and required to give bail.

The bill further alleges a request by the complainants to the railway company, to cause legal proceedings to be instituted in its name, for the purpose of protecting the rights of the bondholders against all attempts to enforce the act of March 7, 1874, and the refusal of the company to take any steps in the premises.

The bill makes the Railway Commissioners appointed under the act, and the Attorney-General of the State, parties defendant, and prays an injunction restraining them from prosecuting the agents of the company, or from executing the provisions of said act, as against the Chicago and Northwestern Company.

The bill makes the Chicago and Northwestern Railway Company a defendant, and asks that it may be enjoined from accepting said act.

The Farmers' Loan and Trust Company, and the Union Trust Company, corporations of the State of New York, and trustees

named in the deeds of trust executed by the company, also join in the bill as complainants.

The defendants filed a demurrer to the bill. The case was heard upon the demurrer, at the July term of the circuit court, 1874, and the bill was dismissed. From this decree, the complainants appealed.

The act of March 11, 1874, regulating the rates of fare and freight, is set out in full in the bill. All the other acts referred to in this argument are made exhibits to the bill, and set out in full.

ERRORS ASSIGNED.

1. The circuit court erred in holding that the said act of the legislature of Wisconsin, passed March 11, 1874, entitled "An act relating to railroads, express and telegraph companies in the State of Wisconsin," was a valid law, and not a violation of the Constitution of the United States, or of the act of Congress granting lands to the State of Wisconsin, to aid in the construction of roads, bearing date June 3, A. D. 1856, or of the constitution of Wisconsin.

2. The circuit court erred in holding that the legislature of the State of Wisconsin could determine or appoint commissioners to determine the maximum rates to be charged by the Chicago and Northwestern Railway Company for transporting passengers and freight.

3. The circuit court erred in dismissing the bill.

BRIEF OF THE ARGUMENT.

The power on the part of the State of Wisconsin to pass the act of March 11, 1874, regulating railway fares and freights is claimed under the first section of the 11th article of the constitution of that State. The section reads as follows:

"Corporations, without banking powers or privileges, may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the object of the corporation cannot be obtained under general laws. All general laws or special acts enacted under the provisions of this section may be altered or repealed by the legislature at any time after their passage."

The power to pass the act in question is to be considered:

First, in reference to the rights of stockholders.

Secondly, in reference to the rights to the bondholders.

Under the first head are to be considered:

1st. The rights which the Chicago and Northwestern Railway Company possesses in common with all other railway corporations of Wisconsin, as against the enforcement of the act of March 11, 1874.

2d. The rights which the Chicago and Northwestern Railway Company possesses which are peculiar to itself.

In the argument of this case we shall urge the following propositions:

I.

The act of the Wisconsin legislature under consideration, regarded independently of the clause of the Wisconsin constitution reserving the right to alter or repeal corporate charters, is a clear violation of that provision of the Federal Constitution which forbids a State to pass any law impairing the obligation of contracts. *Wilmington R. R. Co. vs. Reid*, 13 Wallace, 266; *Pacific R. R. Co. vs. McGuire*, 20 Wallace, 42; *Humphrey vs. Piques*, 16 Wallace, 247; *Attorney General vs. Chicago and Northwestern Railway Company*, Sept. Term, 1874, of Supreme Court of Wisconsin, in pamphlet.

II.

The clause of the constitution of Wisconsin, reserving the right to alter or repeal corporate charters, is to be construed in connection with the other provisions in the same constitution forbidding the taking of private property for public use, except on due compensation, and in subordination to the 14th amendment of the Federal constitution, which provides that "no State shall deprive any person of life, liberty, or property without due process of law:" and being thus construed, it follows that the legislature of Wisconsin cannot, under the power to alter or repeal a corporate charter, take from the stockholders of a corporation their charter, or their material property, without due compensation. This the act in question does. *Wynehamer vs. The People*, 13 N. Y. 392; *Attorney General vs. C. & N. W. R. R. Co.*, Supreme Court of Wisconsin, August Term, 1874; in pamphlet; *Pumpelly vs. Green Bay Co.*, 13 Wallace, 466; *Green vs. Biddle*, 8 Wheaton, 355.

III.

The right of a corporation or natural person to demand and receive a reasonable compensation for services rendered to others at their request is not a franchise, that is, a special privilege, derived from the bounty of the State, but a right resting on universal law. So long, therefore, as the State of Wisconsin permits a railway corporation to exist, that is, so long as its charter is not repealed, it can charge a reasonable compensation for the transportation of passengers and freight. The State cannot, by an alteration of its charter, compel it to render these services for less than a reasonable compensation, nor can it be compelled, by fine and imprisonment of its officers, to accept an amendment of the charter. If the State elects to repeal the charter, the stockholders would, after such repeal own the road, and rolling stock as a partnership. Whether the State could prevent their operating the road as a partnership, is a question not necessary to be decided. We deny such power. But

whether it exists or not, so long as the road is operated, whether by the corporation or stockholders as a partnership, those who operate it would have a right to demand a reasonable compensation for their services, which the State could not take away. State Freight Tax, 15 Wallace, 233; *Von Hoffman vs. Quincy*, 4 Wallace, 535; *Curran vs. State of Arkansas*, 15 How., 304; *Beardston vs. Louisville R. R. Co.*, 4 Met., (K'y.) 308; *Sage vs. Dillard*, 15 B. Monroe, 353; *Commonwealth vs. Express Co.*, 13 Gray, 253; *Miller vs. the State*, 15 Wallace, 498; *Holyoke Co., vs. Lyman*, 15 Wallace 522.

IV.

If a company which transports goods at the request of the owner has a right to a reasonable compensation for its services, which the legislature cannot take away, then the question of what is a reasonable compensation becomes a judicial question which cannot be decided by the legislature. Its determination belongs to the courts, where the company can justify its charges by proper evidence, and be heard in its own defense. *Commonwealth vs. Proprietors of Bridge*, 2 Gray, 337; *Attorney General vs. C. & N. W. R. R. Co.*, Supreme Court of Wisconsin, August term, 1874; opinion of Chief Justice Ryan in pamphlet; *P. W. & B. R. R. Co. vs. Bower*, March No., 1874, *Law Register*: *Chicago & Alton R. R. Co. vs. The People*, 67 Illinois, 11; *State vs. Noyes*, 47 Maine, 203; *Stamford vs. Pewlet*, 1 Crompt. & Jervis, 57.

V.

Independently of the foregoing considerations, applicable to all railway companies in the State, the Chicago and Northwestern Railway Company occupies a peculiar position, which places it beyond the reach of the legislative act under consideration, for two reasons :

1. The sale of the Chicago, St. Paul & Fond du Lac road, which is a part of the Chicago & Northwestern road, in 1859, under a deed of trust and the authority of the legislature, vested the title to the road in certain persons as purchasers, with a right to operate it, and their subsequent incorporation conferred no additional right in the road, and the alteration or repeal of the charter cannot impair the right to operate it, which they acquired by their purchase and held as natural persons.

2. The legislature of Wisconsin has entered into a contract with a corporation of Illinois, by which the Illinois corporation has acquired rights in that road which the act in question impairs, in violation of the 10th section of the first article of the Federal constitution. *Coe vs. The Columbus, P. & Ind. R. R. Co.*, 10 Ohio, 386; *Atkinson vs. M. & C. R. R. Co.*, 15 Ohio, 36; *Curran vs. State of Arkansas*, 15 Howard, 534; *Railway Co. vs. Wheaton*, 13 Wallace, 284; *Morris Canal & Bank Co. vs. Townsend*, 24 Barb., 658.

VI.

The act violates in principle the terms of the congressional land

grant of June 3, 1856, which required as one of the conditions of the grant, that the roads receiving its benefits should "remain public highways for the use of the government of the United States, free from tolls or other charges upon the transportation of property or troops of the United States," and that the mails should be transported at such prices as Congress might by law direct. If the legislature of Wisconsin can pass such an act, it can fix a rate of compensation which will prevent the operation of the road or disable it from performing its duties to the General Government. *McCulloch vs. State of Maryland*, 4 Wheat., 316; *Osborn vs. Bank of United States*, 9 Wheat., 740.

VII.

The act in question violates the contract entered into between the corporation and its bondholders, which contract the State has authorized, and thus violates the 10th section of the 1st article of the Federal Constitution, which forbids a state to pass a law impairing the obligation of contracts. *Tomlinson vs. Jesup*, 15 Wall., 457; *Derfee vs. Old Colony*, 5 Allen, 247; *Curran vs. State of Arkansas*, 15 Howard, 304; *Baring vs. Dabney*, 19 Wallace, 8; *Von Hoffman vs. City of Quincy*, 4 Wallace, 458; *Woodruff vs. Trapnall*, 10 Howard, 190; *Hawthorn vs. Calef*, 2 Wallace, 10.

VIII.

The act in question is a regulation of inter-state commerce, and for that reason unconstitutional. 15 Wallace, 232.

IX.

The jurisdiction of the court in cases of this character is settled. *Dodge vs. Woolsey*, 18 How., 331; *U. S. Bank vs. Osborne*, 9 Wheat., 738.

Argument.

I.

The act of the Wisconsin legislature under consideration, regarded independently of the clause of the Wisconsin constitution, reserving the right to alter or repeal corporate charters, is a plain violation of that provision of the Federal constitution which forbids a State to pass any law impairing the obligation of contracts.

We shall take it for granted, in the present argument, that this court does not consider there is anything in the character of railway charters which withdraws them from the operation of the rule laid down in *Dartmouth College vs. Woodward*, 4 Wheat., 515, and so often since announced.

The case of *Wilmington R. R. Co. vs. Reid*, 13 Wallace, 266, *Humphrey vs. Piques*, 16, *ib.* 247, and *Pacific R. R. Co. vs. Maguire*, 20 Wallace, 42, are decisive of this point. If the question can be considered an open one in this court, we have said in regard to it all

we desire to say, in an argument filed at the present term, in the case of the Winona & St. Peter R. R. Company *vs.* Blake, which brings before this court the railway legislation of Minnesota.

II.

The clause in the constitution of Wisconsin reserving the right to alter or repeal corporate charters, is to be construed in connection with the other clause of the same constitution, forbidding the taking of private property for public use, except on due compensation, and in subordination to the fourteenth amendment of the Federal Constitution, which provides that "no State shall deprive any person of life, liberty or property, without due process of law;" and being thus construed, it follows that the legislature of Wisconsin can not, under the power to alter or repeal a corporate charter, take from the stockholders of a corporation their charter or their material property, without due compensation. This the act in question does.

The provision in the constitution of Wisconsin, reserving to the legislature power over corporate charters, was undoubtedly inserted in that instrument for the purpose of securing to the State the same control over persons aggregated into corporations that it could exercise over them in their natural capacity. It was apprehended that under the decision of the Dartmouth College case, corporations, by relying on their charters, or contracts could not only perpetuate their existence, even though such existence should be prejudicial to the State, but under chartered rights unwisely granted, escape the obligation of laws binding upon all other persons.

The constitution of Wisconsin was adopted in convention on the 1st of February, 1848. At the December term of this court, in 1847, the case of West River Bridge Company *vs.* Dix, Howard, 507, was argued. It was then, for the first time, decided by this tribunal that a franchise held under a State charter could be condemned for public use on making due compensation. The contrary position was urged by Mr. Webster and Judge Collamer in argument, and the court, in deciding the case, speaking through Mr. Justice Daniel, says the opinion "seems to have obtained that the right of property in a chartered corporation was more sacred and intangible than the same right could possibly be in the person of the citizen."

Mr. Justice Wayne dissented from the decision altogether. Mr. Justice McLean held the property of a corporation could be condemned, but not its franchise. Mr. Justice Woodbury intimated if a charter contained an express provision that it should not be taken for public use; it could not be condemned.

The constitution of Wisconsin must have been framed before this opinion was published, and probably before it was pronounced, and the case shows that at that time it was supposed corporate franchises could not be condemned for public use, even by making due compensation. In that case, it was held they could be condemned, but it was admitted they could not be taken, even with compensation, except for public use, under the power of eminent domain.

It was to remedy the supposed immunity of corporations from a just subordination to the necessities of the State, that this clause was inserted in the constitution of Wisconsin. It was to prevent an *imperium in imperio*.

Unless we are prepared to attribute to the framers of that constitution the most unworthy motives, we cannot suppose they designed to subject the stockholders of corporations to mere legislative caprice, uncontrolled by the constitutional safeguards which they placed around the property of all other persons. It is morally impossible that they intended to abandon corporate rights and property to legislative spoilation, whenever popular prejudice and passion should rule the hour. They can have intended nothing more than to leave the stockholders in corporations in such a position that the legislature could place them on the same footing with natural persons before the law, and disable them from permanently evading the burdens imposed on all others engaged in similar vocations, by appealing to the letter of their charter. Their object was not to open a door to oppression, but to secure simple equality between citizens of the State, whether working singly or in corporate associations. They did not intend, by this provision, to enable the legislature to overturn the most sacred rights of property which they so carefully guarded by other clauses of the same constitution, merely because such rights were corporate in their character. They did not intend to authorize a species of legislation wholly inconsistent with the principles and objects of all our American constitutions, and of all good government everywhere.

In the same instrument which reserves to the legislature the right to alter or repeal corporate charters, is another clause which says: "The property of no person shall be taken for public use, without just compensation therefor."

But the franchise of a railway corporation is property, and often of great value. When the convention of Wisconsin was framing its constitution, it was commonly supposed, as was stated by this court in the case above cited, that a corporate franchise could not be taken by the State, even by paying for it its full value. Therefore, the convention provided that all corporate charters to be thereafter granted, might be modified or wholly taken away at the pleasure of the State. But at the same time they said no property shall be taken by the State, except on just compensation. Did they then, mean that franchises upon the faith of which millions might have been expended should be thenceforth subject to resumption by the state without compensation? Did they intend anything further than that the State, should have the right to take back all corporate charters thereafter to be granted, but to take them in the same way that the State would take other property, namely, by making due compensation to the owners.

The charter, and the franchises it secures, are the property of the stockholders. They are property in the strictest sense of the word.

The Constitution says they may be taken back by the State. It also says no property shall be taken by the State except by paying its value—which is simply saying that the State shall not rob its

citizens. The State determines to take back a charter and the franchise it secures. Must it not then pay to the owner the value of what it takes?

This court, however, seems in two cases to have taken a different view as to the rights to compensation where a charter was merely modified under a reserved power to do so, and as that question is in no way important in this case I do not press it. I refer to *Sherman vs. Smith*, 1 Black, 587, and *Tomlinson vs. Jessup*, 15 Wallace, 454. In the first case, the general banking law of the State of New York had provided that no stockholder should be individually liable for the debts of the corporation. There was a power reserved to the legislature to repeal or alter the law. Under this power the legislature subsequently passed an act creating individual liabilities on the part of stockholders as to the debts to be thereafter contracted. This act was sustained by this court.

The other case presented this question: The legislature of South Carolina, having chartered a railway company in 1851, by an act passed in 1855, relieved it from taxation. In 1868, a new constitution was adopted which required that the property of all corporations should be subject to taxation. The charter of the company was subject to the provisions of a general law, in force when the charter was granted, reserving the right of repeal or alteration.—The court held that under the new constitution the property was taxable.

While, therefore, these cases may be held to deny a right to compensation, when it is only a naked franchise that is resumed by the State, they do not touch the question of such right, when the State, by an alteration of the charter, seizes the material property of the corporation or its income. In the first of these cases the State, in amending the charter, was simply making the creditors of the banks more secure. In the second it merely terminated an unjust exemption from taxation which had been granted to the corporation years after its creation as a mere gratuity or bounty.

In neither case, did the State take away a right of property existing under the general law, but merely repealed certain unjust exemptions from the general law resting upon special legislative grant. It was merely placing the corporations, in regard to the subject matter of the legislation, in the position of natural persons.

Whatever may be the right of the State in regard to *franchises* under this clause of the constitution, there is no room for doubt, and very little for argument, as to the extent of the power which it may exercise over the material property of the corporation.

It has reserved a right to repeal or alter the charters it may grant. This means, and only means, that it may take back or modify the franchises which it gives. It does not mean that it may take what it has not given, or may control the use of what it has not given, in any larger degree than it could take the same property or control its use, in the hands of natural persons.

A railroad company owns its franchise, its road-bed and rolling stock. Its franchises are derived from the State. Its road-bed and rolling stock came from the money of its stockholders, or of the

persons who bought the bonds issued by the corporation. The charter which gave the franchises, the State may alter or repeal.

It may take back what it gave, whether without compensation is immaterial as to this branch of the argument.

But neither the road-bed nor the rolling stock can be taken by the State, nor the income derived from their use, without making just compensation to their owners.

This is forbidden, not only by the constitution of Wisconsin, but by the 14th amendment of the Federal constitution, which says "nor shall any State deprive any person of life, liberty, or property without due process of law." It is not necessary to discuss in this court the meaning of the phrase, "due process of law," as used in this amendment. Almost every court in the Union has had occasion to define it, and they speak with an unvarying voice. It is universally conceded, that under the safeguard of these venerable words, all private property is safe against legislative aggression.

While the meaning of this clause is familiar to all lawyers, the language of Mr. Justice Selden, in *Wynehamer vs. The People*, 13 N. Y., 392, is so pertinent to the present case, in connection with this clause, that we beg leave to quote it, as follows:

"No doubt, it seems to me, can be admitted of the meaning of these provisions. To say, as has been suggested, that 'the law of the land,' or 'due process of law,' may mean the very act of legislation which deprives the citizens of his rights, privileges, or property, leads to a simple absurdity. The Constitution would then mean, that no person should be deprived of his property or rights unless the legislature shall pass a law to effectuate the wrong, and this would be throwing the restraint entirely away. The true interpretation of these constitutional phrases is, that where rights are acquired by the citizen under the existing law, there is no power in any branch of the Government to take them away; but where they are held contrary to the existing law, or are forfeited by its violation, then they may be taken from him—not by an act of the legislature, but in the due administration of the law itself, before the judicial tribunals of the State. The cause or occasion for depriving the citizen of his supposed rights must be found in the law as it is, or at least, it cannot be *created* by a legislative act which aims at their destruction. Where rights of property are admitted to exist, the legislature can not say they shall exist no longer; nor will it make any difference, although a process and a tribunal are appointed to execute the sentence. If this is the 'law of the land,' and 'due process of law,' within the meaning of the constitution, then the legislature is omnipotent. It may, under the same interpretation, pass a law to take away liberty or life without a pre-existing cause, appointing judicial and executive agencies to execute its will. Property is placed by the constitution in the same category with life and liberty."

We respectfully submit, no legal proposition could well be clearer than that the State of Wisconsin is restrained by this fourteenth amendment, if in no other way, from enacting a law which, under pretense of altering the charter, takes from a railway corporation

any portion of its material property. Indeed, this is admitted by the supreme Court of Wisconsin.

In August, 1874, the Attorney General of the State applied to the supreme court of the State for a writ of injunction to restrain the Chicago and Northwestern R. R. Company from operating their road except upon the terms prescribed by the act in regard to rates, now under consideration. The case was argued, and the supreme court, in awarding the injunction, gave, through the learned Chief Justice Ryan, a long and elaborate opinion. It is written with much ability, but I think I may say, without impropriety or disrespect to the learned chief justice, that it betrays throughout a sentiment of antagonism towards corporations. Nevertheless, the opinion says (page 33 of the pamphlet):

*“The material property and rights of corporations should be inviolate as they are here; but it comports with the dignity and safety of the State that the franchises of corporations should be subject to the power which grants them, that corporations should exist as the subordinates of the State, which is their creator *durante bene placito*.”* (The italics are ours.)

So, too, on page 36 of the opinion, the court says; “Their rights in their material property are inviolate, and shall never be violated with the sanction of this court.”

We must respectfully express our surprise that the Supreme Court of Wisconsin, having conceded this, should have proceeded to award the injunction. The court says, “the material property and rights of corporations should be inviolate as they are here.” Does the law under consideration leave the material property and rights of corporations inviolate? The phrase sounds like judicial mockery. Does a legislative act which prescribes the rent I am to receive for my house, leave “my material property” “inviolate?” Does an act which prescribes that the public shall have a right to travel on all stage coaches within the State of Wisconsin, at the rate of one mill per mile, leave the “property and rights” of the owners of a line of stage coaches inviolate? If the legislature can limit the price which I am to charge for the use of my property, and compel me to take a less sum than I would receive but for such interference, it does in substance take the property itself. The constitution which would only protect me in my naked legal title, and not in the use or income, would be but a miserable delusion, “keeping the word of promise to the ear, but breaking it to the the hope.”

But our system of constitutional law is chargeable with no such wretched sophistry. On this question, this court has expressed itself in no uncertain tones. In the case of *Pumpelly vs. Green Bay Company*, 13 Wallace, 166, this court, through Mr. Justice Miller, used the following language:

“It would be a very curious and unsatisfactory result, if, in construing a provision of constitutional law, always understood to have been adopted for protection and security to the rights of the individual as against the Government, and which has received the commendation of jurists, statesmen and commentators, as placing the

just principles of the common law on that subject beyond the powers of ordinary legislation to control them, it shall be held that, if the Government refrains from the absolute conversion of real property to the uses of the public, it can destroy its value entirely—can inflict irreparable and permanent injury to any extent—can, in effect, subject it to total destruction, because, in the narrowest sense of that word, it is not *taken* for public use. Such a construction would pervert the constitutional provision into a restriction upon the rights of the citizen, as those things stood at the common law, instead of the government, and make it authority for the invasion of private right, under the pretext of the public good, which had no warrant in the laws or practices of our ancestors.”

In the celebrated case of *Green vs. Biddle*, 8 Wheaton, 355, this court said:

“Nothing, in short, can be more clear, upon principles of law and reason, than that a law which denies to the owner of land a remedy to recover the possession of it, when withheld by any person, however innocently he may have obtained it; or to recover the profits received from it by the occupant; or which clogs his recovery of such possession and profits by conditions and restrictions tending to diminish the value and amount of the thing recovered, impairs his right to and interest in the property. If there be no remedy to recover the possession, the law necessarily presumes a want of right to it. If the remedy afforded be qualified and restrained by conditions of any kind, the right of the owner may indeed subsist, and be acknowledged, but it is impaired, and rendered insecure, according to the nature and extent of such restrictions. A right to land essentially implies a right to profits accruing from it, since without the latter the former can be of no value. Thus, a devise of the profits of land, or even a grant of them, will pass a right to the land itself. *Shep. Touch., 93; Co., Litt., 4.* ‘For what,’ says Lord Coke, in this page, ‘is the land but the profits thereof.’”

It is clear from these cases, if authority were needed, that the legislature can no more take the income of railway property than it can take the property itself. Yet that is precisely what this legislation does. It takes, for the public use, a certain portion of the income of every railroad in the State, and in doing this asserts the right to take the whole. Indeed, the right to take the whole was boldly and logically claimed in the argument of the case below, and we were told that railway corporations must have confidence in the justice and magnanimity of the legislature. We reply in the memorable words of Chief Justice Marshall, used in answer to a similar argument as to the taxation of the United States Bank by States, “this is not a case of confidence.” *McCulloch vs. State of Maryland*, 4 Wheaton, 431.

It is plain there is no substantial difference between an act of the legislature which reduces the income of a railroad company thirty per cent., by reducing its tariff, and one which requires it, at the end of the year, to pay over thirty per cent. of its income to the State to be distributed *pro rata* among all those who have paid the

company freight or fare. Both acts would be for the supposed benefit of the public, and both would take, in the name of the public, a portion of the income of the road. The only difference is as to the mode. In the one case, the company is compelled to give up a portion of its earnings to the State; in the other, it is prevented from collecting them. In the one case, the State divides with the company at the end of the year; in the other, it indirectly divides every day. It is difficult to see how one of these acts would be void and not the other.

It is stated in the bill that the tariff for carrying passengers, and freight, prescribed by this act, would only produce a sufficient income to pay the expense of operating the road and keeping it in proper repair, leaving nothing to meet the interest on its debt, and of course nothing for payment of a dividend to the stockholders. These allegations of the bill are sustained by affidavits of experienced railway managers. Even if these allegations are not true, it is too plain for argument that the principle asserted in this act, and upon which it must stand or fall without reference to its details, is the *right* of the legislature to fix any arbitrary rates it may choose, even though insufficient for paying the operating expenses of the road, and to punish by fine and imprisonment the officers of the road if they disobey.

The learned chief justice of the Supreme Court of Wisconsin asserts, it is "a singular perversion of terms" to say that the provisions of this act amount to a confiscation, and he proceeds to define what a technical confiscation is.

This criticism upon such a characterization of the law is a curious instance of the *haeret in cortice*, as to the use of a term.

Notwithstanding the criticism of the learned chief justice, we can not use a more euphemistic expression. We must still venture the assertion, that the principle asserted, in this act is, the right of confiscation by the State, to the use of the public, of all railway property. This court said, in regard to an act of the State of Missouri, that it was "either the imposition of a tax, or an act of high-handed violence; an act which, if "committed by an individual, would amount to robbery." *Pacific R. R. Co. vs. Maguire*, 20 Wallace, 42. There are some legislative acts of which counsel and courts may speak with Saxon plainness.

III.

The right of a corporation or a natural person to demand and receive a reasonable compensation for services rendered to others at their request, is not a franchise—that is, a special privilege derived from the bounty of the State, but a right resting on universal law. So long, therefore, as the State of Wisconsin permits a railway corporation to exist—that is, so long as its charter is not repealed—it can charge a reasonable compensation for the transportation of passengers and freight. The State cannot, by an alteration of its charter, compel it to render these services for less than a reasonable compensation; nor can it be compelled, by fine and imprisonment

of its officers, to accept an amendment of the charter. If the State elects to repeal the charter, the stockholders would, after such repeal, own the road and rolling stock as a partnership. Whether the State could prevent their operating the road as a partnership, is a question not necessary to be decided. We deny such power. But whether it exists or not, so long as the road is operated, whether by the corporation or by the stockholders as a partnership, those who operate it have a right to demand a reasonable compensation for their services, which the State cannot take away.

The essential franchises of a railroad corporation are its right to build a road and ply the vocation of a common carrier thereon in a corporate capacity, to exercise the right of eminent domain, and to construct the roads across highways and rivers.

The right to demand a reasonable compensation for services rendered by it as a common carrier, although frequently called a franchise to take tolls, when there has been no occasion to define its precise character with accuracy, it is not properly a franchise, nor is the compensation charged properly a toll. The right is only a franchise in the sense that it is an act performed by a corporation whose existence is a franchise.

It is not a right derived from the charter in any other sense than that the corporation was created by the charter.

Being once created, it possesses this right by the general law of the land.

This position was laid down by this court, in the case of the State Freight Tax, 15 Wall., 233, in which the following language was used:

"We concede the right and power of the State to tax franchises of its corporations, and the right of the owners of artificial highways, whether such owners be the State or the grantees of franchises from the State, to *enact what they please for the use of their ways. That right is an attribute of ownership.*"

To say that a railway corporation, in demanding compensation for carrying goods or passengers, is exercising a right which rests upon legislative grant, is an entire misapprehension of the nature of a franchise. A franchise is a special privilege, not belonging to the community at large, and given by a sovereign power. The right given to a combination of natural persons, to do business as a corporation, is therefore, a franchise. The power of condemning land under the right of eminent domain is a franchise. But the right of a corporation to demand payment for services rendered by it, at the request of another person, is not, in any proper sense, a franchise. A corporation, in paying a debt, necessarily does so in its corporate capacity; and therefore, in loose language, such as we sometimes find in the books, it may be said, in paying it, to be exercising a corporate right or franchise. Yet it is certainly not exercising a right or franchise derived from its charter. Municipal corporations are under the control of the legislature. Their charters may be taken away or amended at legislative discretion. Yet this court held, in *Von Hoffman vs. Quincy*, 4 Wall., 535, that an act of the legislature of Illinois, which amended the charter of the

city of Quincy, by limiting its power to levy taxes, was void, when it was shown that the result of the act would incapacitate the city to pay its debts. This decision did not proceed upon the ground that the right to pay its debts was a corporate franchise of the city because the corporation was municipal, and its franchises were under legislative control; but upon the ground that the payment of debts was a duty arising under the general law of the land in regard to the obligation of contracts, from which the legislature could not relieve the city by amending its charter.

Now, the right of a corporation to pay a debt is no more a right existing independently of a legislative grant of such power, than is the right of a corporation to receive payment of a debt due to it for services it has rendered.

If the legislature of Wisconsin charters a corporation for the purpose of sawing lumber, the right of the corporation to charge a reasonable compensation for its services would not be a franchise derived from the charter or dependent upon its existence. If the charter should be taken away, this right would survive and belong to the incorporators as joint owners of the mill and machinery.

If another corporation is created for the purpose of transporting this lumber and other productions of the State to market, does its right to a reasonable compensation for its services depend any more upon its charter, or is it any more a franchise than in the case of the mill owners?

A confusion of ideas naturally arises in regard to this matter from the frequent use of the term "tolls" as applied to railway corporations. Their charges are not "tolls" in any proper sense of that term. That word has come into common use, in regard to railways, because it was used in regard to turnpikes and canals. As to them the word is properly applied, but there is no analogy between their tolls and the compensation received by railway companies for their services as common carriers. A railway corporation does not charge other persons for permission to send their own vehicles over the road. It charges for carrying them or their goods in vehicles which the corporation owns, and for which it furnishes the motive power, and for its responsibilities as a common carrier. This is not toll. It is a charge for personal services rendered by employees of the company, using the property of the company.

It is possible that counsel for defendant in error may cite the case of *Perine vs. Chesapeake & Delaware Canal Co.*, 9 Howard, 177, as bearing upon this question; but, in fact, there is no analogy. In that case, the three States of Maryland, Delaware and Pennsylvania had united in granting a charter to a company organized to construct a canal connecting the waters of the Chesapeake and Delaware Bays. The charter provided that the canal should "forever thereafter be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities, or produce whatever, on payment of the toll imposed by this act." The charter also specified the precise sum which the company might charge as toll upon the various articles of commerce, and upon vessels carrying no freight; but gave no additional toll upon

vessels simply because of the passengers on board. The question before the court was, whether the company could charge toll on account of passengers, beyond the toll demandable upon vessels carrying freight, or upon empty vessels? The court held, as a matter of construction of the charter, that the corporation could charge no tolls upon passengers, three judges dissenting.

There is no analogy between that case and the one at bar. A canal is simply an artificial river, on which all persons can send their own vessels, subject only to the payment of the tolls at the locks. The company owning the canal is not a common carrier. It transports neither goods nor passengers. It simply furnishes a water-course, which, by the charter in the case in 9th Howard, was declared free to all the world, upon the payment of the tolls specified with minute particularity in the act. In accepting the charter, the company agreed to charge no more than the amount therein specified. The company was to be paid at that rate for having constructed a water-course open to all comers. This was strictly toll. It was fixed by charter, and the court decided that no toll could be charged except in the cases enumerated by the charter, because the charter provided that the canal was to be free to all persons "on payment of the toll imposed by this act."

What has been said in the case in 9th Howard is true of the case of Stonebridge Canal Co. *vs.* Wheely, 2 Bard. & Ad., 793, which may be cited by opposing counsel. There the act of Parliament, or charter of the company, provided that the canal should be free to all persons to navigate, subject to the payment of certain tolls on passing the locks; and the court held, as a construction of the charter, that Parliament did not intend toll should be charged against boats not passing a lock. This was on the ground that, by the charter, the right was reserved to the public to navigate the canal free of toll, except at the locks; and the court seems to concede, that if the public had no such right by the charter the company might insist on compensation. There are several English cases of the same character, in which the decision involves simply a construction of the charter.

If we are correct in the view we have taken, that the charging a reasonable compensation for the rendition of personal services and the use of the corporate property is not a special privilege or franchise, but the exercise of a right existing by universal law, it then follows that no repeal or alteration of the charter can take that right away.

If a charter grants the privilege to the corporation of charging whatever rate it may deem proper, that would be a special privilege, because natural persons exercising the vocation of a common carrier cannot do that.

They can only charge a reasonable compensation.

The privilege, then, of charging whatever rates it may deem proper, is a franchise which may be taken away under the reserve power, but the right to charge a reasonable compensation would remain as a right under the general law governing natural persons, and not as a special franchise or privilege.

The effect of the alteration or repeal of a charter can be made clearer by supposing the case of a corporation of similar character than a railway company, a corporation for example created for the manufacture of cloth. Suppose the charter of such a corporation to be repealed. The doctrine that on the death of a corporation the corporate property vests in the State has never been the law of this country, and is not now the law of England. This doctrine was repudiated by this court in the case of *Curran vs. State of Arkansas*, 15 Howard, 304, and now the rights of stockholders in the property of a dissolved corporation can no more be seized by the State, than can their title to property belonging to them as individuals.

What then would be the effect of the *repeal* of such a charter? The right of conducting their business as a corporation, with the limited liability resulting therefrom, would be gone, because it was a special privilege resting in legislative grant. But nothing more. The natural property would remain, and would belong to the stockholders as co-partners in proportion to the amount of their respective shares of stock, subject of course to the claims of creditors. The right to continue the business would remain, because the manufacture of cloth is a lawful business under the general laws of the land, as is the business of a common carrier.

The stockholders, by the dissolution of the corporation, are simply remitted to their rights under the general law.

What can the State accomplish by an *alteration* of the charter? The State could modify what it had given. It could introduce the principle of individual liability. It could change the mode of transacting corporate business as established by the general law. But it could not impair the right of the corporation to use its mill and machinery for the manufacture of cloth any more than it could take that right away. The greater includes the less, and the State could not destroy the value of the property under pretense of altering the charter, if it could not do so by an absolute repeal.

It could not compel the corporation to pay a price fixed by the legislature for the wool or fuel it might require. It could not fix the wages of the employees. It could not determine the price at which the manufactured cloth should be sold. Any why? Because the right to use the mill and machinery for the manufacture of cloth, and to sell the cloth for what it will bring in the market, are rights pertaining to the ownership of the property, and which can not be separated from it until our present systems of government are destroyed, and our constitutional guarantees are overthrown.

If the legislature were to seek to enforce the acceptance of such alterations of the charter, and enforce obedience to them by fine and imprisonment of the corporators as the Wisconsin act has done, there is not a court in the country that would hesitate to pronounce the invalidity of such an act.

It may be claimed that a railway corporation differs from one for manufacturing purposes in this: that a railway cannot be built except by the authority of the State.

But this only arises from the necessity of crossing public high-

ways and rivers. If a person owns a tract of land ten miles square, and intersected by no highway, he certainly can construct a railroad on it and transport persons and property from one border of his land to the other, by means of a locomotive and cars as well as by horses and wagons, and can hold himself out to the public as a common carrier to that extent.

In *Redfield on Railways*, a different opinion is expressed, but the Court of Appeals of Kentucky in the case of *Beardstown & Louisville R. R. Co. vs. Metcalf*, 4 Metc., 208, referring to the passage in *Redfield*, uses the following language:

"Possibly these passages were not designed to mean more than this: a road cannot be made over the lands of unwilling proprietors except under authority from the State; and the State, in order to encourage internal improvements, may grant to a corporation or individual the exclusive right to build a road between two points. In the absence of any positive law upon the subject, our opinion is that an individual has as much right to build a railroad over his own land, or the land of others, with their consent, as he has to build a stage or a wagon; and as much right to use the former as the latter in carrying freight and passengers for pay."

This is simple common sense.

So, also, in the case of *Beardsley vs. The Ontario Bank*, 31 Barb., 635, the court said:

"Aside from the right of eminent domain—which, to a certain extent, and to enable them to acquire the title to real property, is delegated to railroad corporations—I think of no privilege enjoyed by them which might not be exercised by individuals without express permission from the Government. The carriage of persons and property by railway is a business open to all who can acquire title to the roadway, and construct and equip the road; and the fact that a railroad, for the purposes to which they are applied, is deemed to be so far public, or for public purposes, as to justify the delegation of this right of acquiring property upon making just compensation to the owner, without his consent, does not affect the character of the property which a railroad company may acquire."

We have assumed, in our argument, that the legislature has no right to determine the wages of labor or the price of commodities, in regard to natural persons. That proposition is one which this court will hardly care to have argued. The absence of legislative power to fix the price of labor or goods, rests upon the same constitutional principles which forbid the legislature to transfer property from one person to another, or to reduce one person under the subjection of another, or to take property for the State, except with due compensation.

It is sometimes said that the regulation by cities of the charges of hackmen is an exercise of this power, the existence of which we deny. But this is a mistaken view. Hackmen require the use of the streets as a standing place for their carriages. The city, in the exercise of its police power, grants them this right, and issues the required license. But one of the terms is, that they shall submit to the regulations of the city as to prices. They accept the license

subject to the condition upon which it is granted. There is, therefore, no analogy between this power and that under discussion.

So, too, it is sometimes said that the State regulates turnpike and ferry tolls. But this power is always reserved, expressly or by implication, either in the special act creating the franchise, or by some general law in force when the franchise is granted, and controlling its exercise. We have not been able to find a case in which this power has been exercised of which the assertion just made is not true.

It is sometimes said that the tolls of mills are regulated by statute. This can only be done where millers are authorized to overflow neighboring lands in securing the necessary water power—a common species of legislation before the days of steam—and the general law authorizing the overflow fixes, or reserves the right to fix, the tolls. But if a person erects a steam mill on his own land, and offers to grind wheat for the public, there is in this country no legislative power to fix his tolls.

These are the only cases which occur to us of the exercise of legislative power over prices, and they stand on ground peculiar to themselves. The idea that the legislature has a general power of that character is at war with every principle of free government, and with all those provisions of our American constitution which were designed to protect the natural rights of men against legislative aggression. It may be also said that while the company continues to operate the road as a corporation, it must accept the terms prescribed by the State, and if it desires to charge reasonable rates of fare and freight, independently of the statute, by virtue of its ownership of the property, it must surrender its charter and cease to operate the road as a corporation. But the fallacy of this argument is palpable. The company, in charging reasonable rates, is only exercising a right belonging to the stockholders under the general law by virtue of ownership of the property. This right is an absolute constitutional right not dependent on the will of the legislature. If the State chooses to take away its franchise as a corporation, because it does not conform its rates to the requisition of the legislature it may do so, but it must leave to the company all its property, with the right to use it for the purposes for which it was created, that is as a line of railway, or it must make due compensation for the property whose value is taken away. As we have already said, it can not compel a railway corporation, by fining or imprisoning its officers, to accept an amendment of its charter; nor can it compel the corporation to voluntarily relinquish its charter. The right of acceptance or refusal is a right which the corporation must necessarily possess—the State, having the correlative right of taking such measures as the constitution may allow, if the proposed amendment is refused.

The right on the part of the corporation seems to be questioned by the Supreme Court of Wisconsin, in the opinion already cited, but with all due respect to that court, the right must exist from the very nature of a private corporation. Natural persons cannot be compelled to become a private corporation against their will.

Charters are contracts which must be assented to as well by the party taking as by the party giving.

The same must be true of an amendment, which is an additional contract.

The corporation can refuse its assent. If it does, the legislature, under the reserved power, can repeal. But the stockholders of a corporation must certainly have the right to elect between the repeal of their charter, and accepting an amendment that would make the charter a source of certain and constant loss.

Suppose the legislature were to require railway corporations to carry passengers at one cent per mile in first-class cars, and freight at the rate of one cent per ton for every mile. The power to do this is asserted by this act, and by counsel. Obedience to such an act would bankrupt railways in a month. Is it true, under our American constitution, that the officers and agents of a corporation can be fined and imprisoned because the stockholders decline to accept such an amendment? Is it true that corporations can be compelled to operate their road under such a law by writs of mandamus or injunction, and imprisonment for contempt, if the officers still decline to accept the amendment, by running at the old rates? Have not the stockholders the poor privilege of saying to the State:

“Repeal your franchise if you wish, but you can not fine us; you can not imprison our agents, you can not confiscate our property, merely because we decline to accept an amendment that would involve us in certain ruin. Not until you can fix the price at which the farmer shall sell his corn, the merchant his goods, or the mechanic his wares, can you practice this tyranny towards us.”

Under a similar reservation of power, the court of appeals of Kentucky used the following language in *Sage vs. Dillard*, 15 B. Monroe, 353, in regard to the right to accept or reject an amendment:

“The reservation of the right to alter, amend, or repeal the act by which this corporation was created, is certainly prudent and salutary; but it seems to be a necessary implication that, if the legislature should undertake to make what in their opinion is a legitimate alteration or amendment, the trustees have the power to accept or reject it, whatever may be the consequences. If, from maladministration or otherwise, the legislature should, at any time, deem it expedient to put the institute out of existence by a repeal of its charter, they have the unquestionable power to do so, but they have, in our opinion, no right or power to compel the trustees to *accept* any act which they may pass, although, in their estimation, it may comport with the power reserved. Indeed, we perceive but little, if any, utility in a reservation of power to alter or amend, when it strikes us as axiomatic that the legislature can impose no alteration or amendment upon the trustees without their consent, either with or without the reservation. The legislature can no more force the trustees to *accept* an alteration or amendment of their charter, than they could have forced them to *accept* the original charter. Under the reservation, they can repeal or destroy, without any consent on the part of the trustees; but so long as

they remain in existence as a corporate body, they necessarily have the power to reject an amendment. What might be the consequences of the rejection of a lawful amendment, it is unnecessary for us to consider."

Under this head of the argument it will be proper to ask the attention of the court to what has been said by this and other courts, in regard to the principle to be applied to the construction of a clause in a charter reserving the power of alteration or repeal.

In all the adjudged cases in which a provision of this charter has been under consideration, it has been held that there are necessary limits to the power of alteration, and among the limitation is this, that the State can not, under this power, entirely change the character of the corporation, or defeat its purpose. A legislative act, which takes the substantial control of the property of a corporation from the stockholders, and vests it in agents of the State, is not, therefore, an act within the reserved power of alteration.

The case of *Sage vs. Dillard*, cited above, was as follows; The legislature of Kentucky had incorporated the Western Baptist Theological Institute, in 1840, with seven trustees, by name, reserving the power to amend the charter. In 1841, an act was passed, authorizing the trustees to increase their number to thirteen, which amendment was accepted. In 1845 another amendment to the charter was passed, authorizing the trustees to increase their number to thirty-six, which was also accepted. In 1848 a third amendment was passed, appointing sixteen trustees in addition to the number then in office, (which was twenty-one,) which amendment a majority of the trustees in office refused to accept, and would not permit the sixteen to act with them. The question was brought before the courts, and the Court of Appeals held that the power which the legislature sought to exercise was not within the reservation of the charter.

In giving their opinion, the court used the following language :

"In our opinion the act of the legislature creating sixteen new trustees without the consent of the board, is not an act coming within the scope and meaning of the power reserved in the act. As it seems to us, the passage of this act was not so much the exercise of the legislative function, as it was the exercise of the ministerial functions, pertaining particularly to the board of trustees. It is an act not changing or amending the mode or manner in which the trustees, to whom has been given, by the founders of the charity, the supervision and visitorial power of the institute, may exercise their power, but it is an act by which this supervision and visitorial power is substantially taken away, and conferred upon others. True, the legislature may, by virtue of the reservation, repeal or destroy; but the power to destroy does not imply a right to cripple or maim. It is said that in the case of *Allen vs. McKean*, 1 Sumner, 277, which involved a question similar to the one under consideration, Justice Story, in commenting upon the reserved power of the legislature to limit, amend or restrain the power vested by the act, uses the following language: 'The language of

that section is certainly very broad, but it is not unlimited. The founder has a right to have the statutes of his foundation, as to the power of trustees, strictly adhered to, except so far as he has consented to any alteration of them. But an authority to alter or modify these powers can never be fairly construed into an authority to take them away from his trustees, and confer the same powers on other persons, and such is our conclusion in this case."

In the case of the Commonwealth *vs.* Essex Company, 13 Gray, 253, the question arose whether the legislature could impose upon a chartered company the obligation of making new fishways around a dam, when a former amendment of the charter, which had been accepted by the company, exempted it from such obligation in consideration of its indemnifying all persons damnified. The company had paid considerable money as indemnity, when the new amendment of its charter was passed. There was a reserved power to alter or repeal.

The court held the new amendmant not obligatory, and the opinion given by Chief Justice Shaw, has the following in reference to reserve power:

"It seems to us that this power must have some limit, though it is difficult to define it. Suppose an authority has been given by law to a railroad corporation to purchase a lot of land, for purposes connected with its business; and they purchased such lot from a third party; could the legislature prohibit the company from holding it? If so, in whom should it vest; or could the legislature direct it to revest in the grantor, or escheat to the public; or how otherwise? Suppose a manufacturing company, incorporated is authorized to erect a dam and flow a tract of meadow, and the owners claim gross damages which are assessed and paid; can the legislature afterwards alter the act of incorporation so as to give to such meadow owners future annual damages? Perhaps from these extreme cases—for extreme cases are allowable to test a legal principle—the rule to be extracted is this: that where, under power in a charter, rights have been acquired and become vested, no amendment or alteration of the charter can take away the property or rights which have become vested under a legitimate exercise of the powers granted."

In the case of Holyoke Co. *vs.* Lyman, 15 Wallace, 500, the principles above announced by Chief Justice Shaw were substantially approved, although under the different facts of that case the Holyoke Company was required to construct new fishways. The court in that case said:

"Charters subsequently granted must be understood as standing just as they would if that reservation of the power to amend, alter or repeal the same had been incorporated into each charter. Power to legislate founded upon such a reservation, is certainly not without limit, but it may safely be affirmed that it reserves to the legislature the authority to make any alteration or amendment in a charter granted subject to it, that will not defeat or substantially impair the object of the grant, or any rights which have vested under it, which the legislature may deem necessary to secure either the

object of the grant or any other public right not expressly granted away by the charter.”

In *Miller vs. The State*, 15 Wallace 498, this court, through Mr. Justice Clifford, expresses itself as follows:

“Power to legislate founded upon such reservation in a charter to a private corporation is certainly not without limit, and it may well be admitted that it can not be exercised to take away or destroy rights acquired by virtue of such a charter, and which, by a legitimate use of the powers granted, have become vested in the corporation, but it may be safely affirmed that the reserved power may be exercised to almost any extent, to carry into effect the original purpose of the grant, or to secure the due administration of its affairs, so as to protect the rights of stockholders and of creditors, and for the proper disposition of the assets. Such a reservation, it is held, will not warrant the legislature in passing laws to change the control of an institution from one religious sect to another, or to divert the fund of the donors to any new use inconsistent with the intent and purpose of the charter, or to compel subscribers to the stock, whose subscription is conditional, to waive any of the conditions of their contract.”

Tried by the principles laid down in the above cases, the act of the Wisconsin legislature must fall. The most vital element in the ownership of railway property and in the management of the affairs of a railway corporation, is the right to classify the various kinds of freight and determine what would be a proper compensation for the transportation of the different classes. To do this properly, both for the interests of the public and the corporation, evidently requires a large experience and the exercise of the soundest judgement.

The act in question takes these vital powers from the corporation and vests them in the State. In brief, it changes the whole character of the corporation by converting it substantially from a private to a public corporation—from a business controlled by the persons who have invested their capital in it, to one controlled by the State. Nay, the change is even more objectionable than this. By this act the State takes the powers of the corporation without assuming its duties. It leaves to it the burden of paying the interest upon its bonds, and yet takes away the means of payment. If the interest is unpaid, the road may be sold. The corporation must prevent this, if possible, and may be obliged to assess its stockholders, while the State, that is the public, appropriates the income which should go to the creditors. We submit, if the State takes control of the means of revenue, it should, at the same time, provide the means of paying the interest on the bonds.

IV.

If a company which transports goods at the request of the owner has a right to a reasonable compensation for its services, which the legislature can not take away, then the question of what is a reasonable compensation becomes a judicial question which can not be

decided by the legislature. Its determination belongs to the courts, where the company can justify its charges by proper evidence, and be heard in its own defense.

We have had occasion to present this proposition to the court in the case of the Winona & St. Peter R. R. Co., *vs.* Blake, now pending in this court, and we beg leave to repeat here what was said in our argument in that case:

This proposition seems so plain as hardly to admit of denial. What would be a reasonable rate of freight is a question to be answered only by an inquiry into many facts. The elements which enter into the determination of the question are also constantly changing. What is reasonable to-day may be far otherwise in six months from to-day. The price of labor, the cost of fuel, the amount of business, the condition of the currency—all these, and many other things, enter into the question of reasonableness or unreasonableness. The cost of the road is certainly an important factor in the problem, since the stockholders are entitled to some return on their investment. One road may have cost \$30,000 a mile and another \$50,000. One may have abundant fuel along its line, another may be obliged to use coal that has been brought hundreds of miles. That the legislature should undertake to determine all these questions in advance, and by an unbending rule applicable to all roads and under all circumstances, is an absurdity. The question to be decided is one vitally affecting the property of the corporation, and and certainly it has the right to be heard before it is despoiled. It was to secure a hearing before property can be taken, and a hearing in an impartial court of justice administering the general law, that our ancestors inserted in Magna Charta that famous safeguard as to trial by jury and due process of law, which we have been so careful to preserve in our American constitution.

That the determination of what is a reasonable compensation is a judicial question, is decided by the court of appeals of Delaware, in the case which we have already cited, from the March number, 1874, of the *Law Register*.

We quote the following:

“The attorney-general, who appeared on behalf of the State, put, in the strongest possible form, the argument in support of this act, as an exercise of internal regulation, by insisting that there must, at all times, inhere in the legislature an authority to protect the public against extortionate charges and unjust discrimination by carriers exercising a public employment, and that to this power railroad corporations, as well as other common carriers, must be held amenable. That the legislature possesses the general power here claimed for it, is not doubted; but the real question still remains, viz: In what mode may such power be continually exercised, at least over corporations? The answer is, that the legislature may, by general laws, forbid extortion and unjust discrimination on the part of common carriers, as it may prohibit any other offense against social order or the general welfare. It was not disputed, in the argument, that, for the breach of such laws, corporations as well as natural persons, may be held liable; but such liability

would be enforced by a judicial proceeding, in which the alleged extortionate or unjustly discriminating character of the charges drawn into question would be judicially ascertained. Such remedies against common carriers already exist at the common law, and to these, as well as to the common law liabilities of common carriers generally, incorporated carriers, as well as natural persons, are subject by the public nature of their employment. Very different, however, from such a mode of regulation by general laws, with a liability to judicial remedy, is the attempt by a legislature to prescribe in advance a law of charges for carriers—to do which is, in effect, to take out of their hands the management of their own business."

The case of *The Commonwealth vs. Proprietors of New Bedford Bridge*, 2 Gray, 339, is also directly in point.

In that case, the charter of the bridge company required it to construct in the bridge "two suitable draws, which shall be at least thirty feet wide." A subsequent act of the legislature required the company to construct a draw not less than sixty feet wide, and in a manner to be approved by a commissioner to be appointed by the governor. The company declined to obey the act, insisting that it was unconstitutional; and the question was brought before the courts. It was contended for the State that the legislature could determine what was a "suitable draw," as it is now contended that the legislature of Minnesota may determine what is a "reasonable compensation." The opinion of the court upon this point is so clear and conclusive, that we will give a considerable extract from it, commencing on page 349:

"But it is urged—and this constitutes the stress of the argument on this part of the case—that the use of the term "suitable" in the act incorporating the defendants, as applied to the construction of the draws, being a term in its nature indefinite and uncertain, did not fix and absolutely settle the duty and obligation of the defendants in this particular; that these, with the exception of the minimum width of the draw, were thereby left open and undetermined; and by necessary implication the legislature have the right reserved to them of regulating, from time to time, the construction of the draw, and of prescribing what shall be suitable, as respects their location, materials and dimensions. But we cannot yield to the force of this argument. It is founded on an entire misapprehension of the relations of the parties, as created by the act of incorporation. They are but parties to a contract. Each has equal rights and privileges under it, and neither can interpret its terms authoritatively, so as to control and bind the rights of the other. The commonwealth has no more power or authority to construe the charter, than the corporation. By becoming a party to a contract with its citizens, the government divests itself of its sovereignty, with respect to the terms and conditions of the compact, and construction and interpretation, and stands in the same position as a private individual. If it were otherwise, the rights of parties contracting with the government would be held at the caprice of the sovereign, and exposed to all the risks arising from the corrupt or ill-judged

use of misguided power. The interpretation and construction of contracts, when drawn in question between the parties, belongs exclusively to the judicial department of the government. The legislature have no more power to construe their own contracts with their citizens than those which individuals make with each other. They can do neither without exercising judicial power, which would be contrary to the elementary principles of our Government, as set forth in the Declaration of Rights, article 30. No better illustration of the dangerous consequences which would follow from a different doctrine could be had than is afforded by the case at bar. If the legislature have the power to decide upon the meaning of the terms of the contract, and to determine what shall be deemed suitable in the construction of the bridge and draws, there can be no limit placed upon the exercise of this power. If they have the right to prescribe a draw of sixty feet in width, they may hereafter require the defendant to extend it to one hundred feet, or to build it across the entire space between the shore and adjacent island. So, too in regard to the construction of the bridge itself. The act of incorporation required that it should 'be well built, at least twenty-four feet wide, of good and suitable materials.' By parity of reasoning it would be competent for the legislature to enact that the bridge should be rebuilt one hundred feet in width, and be constructed of iron. In a word, the argument leads directly to the conclusion that the legislature have the power to annex new and onerous conditions to the contract at their pleasure, and thus effectually destroy the value of the franchise granted to the defendants.

Such a doctrine can not be maintained without overthrowing all the salutary and well established principles applicable to this species of contract between the Government and its citizens. For these reasons, we are of the opinion that the act of 1851, c. 318, *ex proprio vigore*, has no binding force upon the defendants, and that this indictment can not be sustained against them upon proof of a neglect and refusal to comply with its requisitions. * * *

"Whether the defendants have, in fact, complied with the terms of their charter, by constructing their draws in a suitable manner, so as not unreasonably or unnecessarily to obstruct or impede public navigation, is a question which neither the legislature nor the defendants can determine absolutely, without the consent of the other, when it is drawn in question between the defendants and the commonwealth. Like all other matters involving a controversy concerning public duty and private right, it is to be adjusted and settled in the regular tribunals where questions of law and fact are adjudicated on fixed and established principles, and according to the forms and usages best adapted to secure the impartial administration of justice."

The same question was adjudged by the supreme court of Illinois, in the case of the Chicago & Alton R. R. Co. vs. The People, 67 Ills., 11.

The act before the court, in that case, was intended to impose a fine upon any railway guilty of unjust discrimination, and it made the fact that a railway company charged a larger sum for carrying

freight any distance than it charged for carrying the same quantity and kind of freight a greater or the same distance, though on another portion of the road, conclusive evidence of unjust discrimination. The court held the act void, on the ground that all discriminations were not necessarily unjust, and whether they were, in any given case, reasonable and proper, was a judicial question upon which the railway companies had a right to be heard and to take the verdict of a jury. In giving the opinion the court used the following language:

“But the act itself goes further. It forbids any discrimination, whatever, under any circumstances, and whether just or unjust, in the charges for transporting the same classes of freight over equal distances, even though moving in opposite directions, and does not permit the companies to show that the discrimination is not unjust.”

“The mere proof of the discrimination makes out a case against the railway companies, which they are not allowed to meet by evidence showing the reason or propriety of the discrimination, and then, upon this sort of ex-parte trial, the act imposes as a penalty for the offense a forfeiture of the franchise, which might be equivalent to a fine of millions of dollars. The object of the law is commendable, but such a proceeding, to be followed by such a penalty for the first offense, can not be sustained. It could only have been authorized through the inadvertence of the legislature. The law, as it now stands, makes an offense out of an act which might be shown not to be an offense, but an exercise of wise discretion, really beneficial to the people of the State, and while debarring the companies from all right of explanation, confiscates their franchises upon the first conviction. The legislature can not raise a conclusive presumption of guilt against a natural person, from an act that may be innocent in itself, taking from him the privilege of showing the actual innocence or propriety of the act, and confiscating his property as a penalty for the supposed offense.

“Those provisions of our constitution which forbid the deprivation of life, liberty or property, except by due process of law, and which guarantee the right of trial by jury, as heretofore enjoyed, and the right in all criminal prosecutions to appear and defend in person and by counsel, would all be violated by such a law. Those provisions, it is true, are designad to apply only to natural persons; but artificial persons must be permitted to invoke the spirit of justice which prompted them, so far as may be necessary to protect their property and franchises against the operation of a law that substantially condemns without a trial.”

In the case of *Stamford vs. Pawlet*, 1 Crompton & Jervis, 57, a question was before the court of exchequer, as to the right of a corporation to take reasonable tolls. The court, after deciding in favor of the right, makes the following remarks which are very germane to the point now under consideration:

“We also think the observation that to permit a grantee to take whatever may appear to him to be a reasonable toll, is to make a grantee a judge for himself, and to expose the subject to extortion, has received a satisfactory answer. The grantee demands it at his

peril, and at the hazard of a private, as well as a public prosecution—of a private at the suit of the party injured; of a public at the suit of the attorney-general, in the name of his majesty.

“The inconvenience of raising such questions can not be avoided by specifying the sum. The king can not grant an unreasonable toll; and it is competent to every subject of the realm, from whom the toll is demanded, to question its being reasonable, even when the exact sum is specified in the charter.”

“This question may always be brought under discussion in whatever terms the grant may be expressed.”

In the case already referred to, which was brought by the attorney general before the supreme court of Wisconsin, at its August term, 1874, to enforce obedience to this act, the court held that the original charter for a part of the road operated by the Milwaukee and St. Paul Company was granted and accepted before the adoption of the State constitution, and did not fall under the reserved power. The court therefore held that the charter gave a right to reasonable tolls, which was not affected by the law—the question of what was reasonable being a judicial question. We quote the following from the opinion of Mr. Chief Justice Ryan, page 40 of pamphlet:

“We are of opinion that the franchise is not one vesting in the corporation an absolute right of exacting whatever tolls it might see fit. The courts have authority to limit the right to reasonable tolls—to tolls reasonable, not in the arbitrary judgment of the corporation, but in fact.

“That is, indeed, as against a great railroad company, not a very effective remedy. But the law gives the remedy to all aggrieved by the exaction of reasonable tolls. The question here, however, is not what the courts can do to control the exercise, but what the legislature can do, by statute, to limit the right of a franchise so broad that it seems to invite extortion.

“We have already sustained the power of the legislature to limit rates of toll of railroads, subject to legislative control. But that power rests on the authority of the legislature, not on the reasonable rate of tolls fixed. And the restraint of a franchise to take reasonable tolls—to tolls reasonable in fact—is a judicial, not legislative function.

“But the right of the corporation here to take tolls, at discretion, being thus fixed by express franchise in their charter, there seems to us to be no room for doubt that, viewing the charter as a contract, the franchise is a positive grant to take tolls in the manner and to the extent prescribed by it, subject to such judicial construction and control as it may bear, and is a vital part of the contract of the charter within the authorities.”

V.

Independently of the foregoing considerations, applicable to all railway companies in the State, the Chicago and Northwestern Railway Company occupies a peculiar position, which places it beyond

the reach of the legislative act under consideration, for two reasons:

1. *The sale of the Chicago, St. Paul and Fond du Lac road, which is a part of the Chicago and Northwestern road in 1859, under a deed of trust and the authority of the legislature, vested the title to the road in certain persons as purchasers, with a right to operate it. Their subsequent incorporation conferred no additional right to operate it, and the alteration or repeal of the charter can not impair the right to operate it which they acquired by their purchase, and held as natural persons.*

2. *The legislature of Wisconsin has entered into a contract with a corporation of Illinois, by which the Illinois corporation has acquired rights in that road, which the act in question impairs, in violation of the tenth section of the first article of the Federal Constitution.*

On the 10th day of March, 1855, the legislature of Wisconsin passed an act authorizing the Rock River Valley Union R. R. Company to consolidate its stock and franchises with the stock and franchises of the Illinois and Wisconsin R. R. Company, which was a company existing under a charter granted by the State of Illinois. This act is set forth with the bill as Exhibit 6. The company to be formed by this consolidation was to have one board of directors, and take a new name. The legislature of Illinois passed a similar act in regard to the Illinois and Wisconsin company. (Exhibit 7, of bill.)

By virtue of these two acts the companies consolidated, and took the name of the Chicago, St. Paul and Fond du Lac Railroad Company. This consolidated company issued bonds, and executed a mortgage. In 1859 the legislature of Wisconsin and Illinois passed each an act providing that, if this road should be sold, the purchasers might incorporate themselves by filing a certificate in the office of the Secretary of State, specifying the name of the new corporation, and the number and names of the directors. (Exhibits 8 and 9 of bill.)

The road was sold at Janesville, in Wisconsin, on the 2d of June, 1859.

There was not a separate sale of the portion situated in each State, but a sale of the consolidated road, as one road, extending from Chicago, in Illinois, to Fond du Lac, in Wisconsin. The purchasers, four days after the sale, incorporated themselves, by virtue of the acts above referred to, under the name of the Chicago and Northwestern Railway Company.

These facts appear in the bill.

The purchasers of the Chicago, St. Paul and Fond du Lac road were, then, from the 2d to the 6th of June, 1859, the owners, as natural persons, of the road-bed, the rolling stock, and the right to operate the road as common carriers, and necessarily to charge a reasonable compensation for services thus rendered. Was that right subject to be taken away or modified by the legislature, except in the same way and to the same degree that natural persons exercising the vocation of a common carrier could be controlled?

Clearly not. The 11th article of the constitution of Wisconsin, which reserves power over charters, is as follows:

“Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes, and cases where, in the judgment of the legislature, the objects of the corporation can not be obtained under general laws. All general laws, or special acts enacted under the provisions of this section, may be altered or repealed by the legislature at any time after its passage.”

It will be observed that this clause does not reserve power to the State to repeal or alter all *franchises*. It simply reserves the power to repeal or alter all general or special laws by which *corporations* shall be created. A franchise granted to a natural person, or to several natural persons, to be exercised by them in their natural capacity, would be, when accepted and acted upon by them, a contract with the State, which the legislature could neither repeal nor modify by virtue of its reserved powers over charters of incorporation. Such a contract would be protected by the provision of the Federal Constitution.

On the 14th day of March, 1859, as already stated, the legislature of Wisconsin passed an act, authorizing the persons who should become the purchasers of the Chicago, St. Paul and Fond du Lac road, at the anticipated sale under the deed of trust, to become incorporated, by filing a certificate with the Secretary of State, setting forth the name of the new incorporation and the number and names of the directors. But it was not made obligatory upon the purchasers to become a corporation. It was left entirely optional with them. Suppose they had not done so. They could have continued to operate the road as natural persons. The State could not have prevented it, because it had authorized and even invited them to buy the road. Having done that, it could not have forbidden them to use it. If such a case had arisen, this court would have said the State had entered into an implied contract with those purchasers that, if they would buy the road, they should have the right to operate it either as natural persons or as a corporation, as they might elect. The State retained its constitutional right to repeal or alter the charter of the Chicago, St. Paul and Fond du Lac Company, which still had a legal existence, but that would not have affected the right of the purchasers of the road, as natural persons, to operate it, with the inseparable right to demand a reasonable compensation for the services rendered as common carriers. This right would have inhered in the ownership and use of the property, and would also have existed under the implied contract with the State, growing out of the sale under the authority of the State, and the purchase on the faith of such authority.

With this right, then, vested in the purchasers of this road—a right indefeasible by the State—what was the effect of their becoming incorporated in conformity with the act of March 14, 1859? (Exhibit 8 of the bill.) They received no charter of incorporation granting or defining their franchises. What did they do to become incorporated? They simply filed a certificate with the Secretary

of State, "specifying the name of said corporation, the number of the directors, and the names of the directors, for the first year." this is the language of the act. What did they acquire by the act of incorporation? Only a corporate name, and the right to operate the road in a corporate capacity. This was all. What, then, can the State take away under the reserved power to *repeal* charters? It can take away the corporate name, and the right to do business in a corporate capacity. There would then remain the right to operate the road as natural persons. What can the State do, under the power to *alter*? It can alter the name assumed by the corporation, and alter the law of corporate business, or the rules of law by which corporations are governed. But beyond that the State can not affect this corporation under the power of altering and *repealing* charters, because there is nothing in the charter of this corporation, as then granted, beyond a name, and the power of doing business in a corporate capacity. Perhaps other grants of power have since been made that may be resumed, but we are speaking of what was given to the purchasers of the road when they became a corporation, and of what would remain if they should cease to be a corporation.

As we have said, during the four days that the purchasers under the deed of trust held this road—namely, from the 2 day of June, 1859, when they bought it, to the 6 of June, 1859, when they filed their certificate of incorporation—they owned the road and rolling stock as natural persons. They also, by their purchase, acquired the right to operate the road. When a railroad is sold under a deed of trust, conveying the property and franchises, and executed by authority of the legislature, the property and all the franchises necessary to its use pass to the purchasers. But the franchise of being a corporation does not pass. The original corporation remains in existence. It has lost its property, and the franchises belonging to the property; but its own existence remains. The franchise of being a corporation belongs to the *stockholders*, and not to the corporation, and that is not sold. But the franchises belonging to the corporation, as such, have passed to the purchasers, so far as may be necessary for operating the road.

In the case of *Coe vs. The Columbus, Piqua & Ind. R. R. Co.*, 10 Ohio, 386, the effect of such a sale is very elaborately discussed, and the court says:

"After an act of disposition, which separate the franchise to maintain a railroad and make a profit from its use, and the franchise of being a corporation, though a judgment of dissolution may be authorized, yet, until there be such judgment, the rights of the corporators, and of third persons, may require that the corporation be considered as still existing. When that judgement is had, those rights would be protected."

The court, in its opinion, also quotes the following language, as sued by Curtis J., in *Hall vs. The Sullivan R. R. Co.*, 22 *Law Reporter*, 138:

"The franchise to be a corporation is, therefore, not a subject of seal and transfer, unless the law, by some positive provision, has

made it so, and pointed out the modes in which such sale and transfer may be effected. But the franchise to build, own and manage a railroad, and to take tolls thereon, are not necessarily corporate rights. They are capable of existing in, and being enjoyed by, natural persons, and there is nothing in their nature inconsistent with their being assignable."

In the case of *Atkinson vs. The M. & C. R. R. Co.*, 15 Ohio, 36 the court, in speaking of a railway company whose property and franchise had been sold under a mortgage, used this language:

"Although it may be divested of its property, together with the franchise of operating and making profit from the use of its road, its corporate existence survives the wreck, and endures until the State sees fit to terminate it by a proper proceeding."

In this case the court held that a special act, passed prior to the sale of the road, which provided that the charter should go to the purchasers, was really inoperative for that purpose, because it was creating a new corporation by a special act, which was forbidden by the constitution.

It is clear, from these authorities, that the purchasers, at the sale on the 2d of June, 1859, did not acquire the charter. The deed of trust, under which the sale had been made, conveyed only the property and franchises, and that was all the law authorized the company to convey. The franchises belonging to the corporation, so far as necessary to operate the road, passed by the sale. The franchise of being a corporation, which did not belong to the corporation, but to the stockholders, did not pass. The purchasers then held the road as natural persons, with such franchises as were necessary to its operation, and under the act of the Wisconsin legislature above cited, which invited them to buy, an implied contract had arisen between the State on one side, and the purchasers and their successors on the other, that they might hold, own and use this road for its proper purposes, with the same rights they would have had if they had originally built it as natural persons; in which event there would have been no pretense that the State could exercise, in regard to them, a species of legislative power existing only by virtue of the reservation in the constitution, and existing only in regard to the charters of *corporations*.

That an implied contract, to the effect we have stated, arose between the State and the purchasers at the sale, is well illustrated by a very important case, decided by this court. *Curran vs. State of Arkansas*, 15 Howard, 534.

The State of Arkansas had incorporated a State bank, in which it was itself the owner of all the stock. The bank was therefore a public corporation. The bank became insolvent, and the State having sold its own bonds to create the capital of the bank, and claiming therefore, to be a creditor, undertook, by an act of the legislature, to appropriate all the assets of the bank to itself. A private creditor filed his bill to reach the assets, and this court, through Mr. Justice Curtis, thus spoke in reference to the implied contract, arising between the State and the creditors of the bank, as to the

proceeds of the sale of the State bonds, which had formed the capital of the bank.

“The bank received the money from the State as the fund to meet its engagements with third persons, which the State, by the charter, expressly authorized it to make for the profit of the State. Having thus set apart this fund in the hands of the bank, and invited the public to give credit to it, under an assurance that it had been placed there for the purpose of paying the liabilities of the bank, whenever such credit was given, a contract between the State and the creditor not to withdraw that fund, to his injury, at once arose. That the charter, followed by the deposit of the capital stock, amounted to an assurance, held out to the public by the State, that any one who should trust the bank might rely on that capital for payment, we can not doubt. And when a third person acted on this assurance, and parted with his property on the faith of it, the transaction had all the elements of a binding contract, and the State could not withdraw the fund, or any part of it, without impairing its obligation.”

In that case the court would not permit the State to violate a contract implied from the circumstances. Certainly the implication in favor of the purchasers of the road, and against the State, in the present case, is far stronger. The State invited purchasers to buy a railway, the continued operation of which was of great importance to the State. Certain persons bought the road, and brought it into successful operation, and thereby added millions to the value of property in the State. The State can not now take from the purchasers the benefit of the purchase; and when it seeks to do so, it violates the Constitution of the United States, not less than did the act of the State of Arkansas.

2. There is another view which we submit is decisive against the application of this act to the Chicago and Northwestern Railway Company. It is this:

The power to pass this act rests solely upon the provision in the Wisconsin constitution, authorizing the legislature to create corporations, and to repeal or alter all general or special laws creating them.

Now this gives no authority to rescind or alter a contract entered into between the State of Wisconsin on the one side, and a natural person, or a corporation created by another State, on the other. That any State has a right to make such a contract, unless forbidden by its constitution, there can be no doubt.

As we have already shown to the court, the Chicago and Northwestern Railway Company was in part formed by the consolidation of the Rock River Valley Union Railroad Company of Wisconsin, and the Illinois and Wisconsin Railroad Company of Illinois, under the authority of the legislature of each State. The act of the Wisconsin legislature was passed March 10, 1855, and is Exhibit 6 of this bill.

At the end of the second section of this act, it is provided that the said corporation, thus formed by consolidation, “shall have all the rights, privileges, and franchises conferred on the said compa-

nies by the laws of the States of Wisconsin and Illinois respectively, the same and not otherwise as though the said consolidation had not taken place, and the right of way may be taken in the same manner, in all respects, as though the said companies had not consolidated."

By this act the State of Wisconsin contracted with the Illinois and Wisconsin Railroad Company of Illinois, that if it would unite itself with the Wisconsin corporation, the two companies thus united should have all the "rights, privileges, and franchises" conferred on either company by the laws of their respective States. The Illinois corporation was to have the same rights in Wisconsin that it possessed in Illinois, one of which was the right to demand reasonable rates of fare and freight, without any pretense on the part of the State to exercise the control claimed by Wisconsin over its own corporations, there being no "reserved power" in Illinois. The State of Wisconsin said to the Illinois corporation, "if you will unite your capital with that invested in the road built within my borders, and consolidate your stock with the stock of that road, you shall lose none of your rights, privileges or franchises."

The offer thus made was accepted, but the pledge has been kept with Punic faith.

The 5th section of the same act provides as follows:

"The said consolidated company shall be and remain subject to the laws of the State of Wisconsin and the State of Illinois, respectively, and shall have in all respects the same privileges as though this consolidation had not taken place; *provided*, the laws of the State of Illinois shall have no force or effect in the State of Wisconsin under the provisions of this act."

This clause is an additional pledge that although the road in each State would remain under the control of the local laws, yet the Illinois company should have "in all respects the same privileges as though the consolidation had not taken place"—that is to say, it should lose none of its rights by virtue of the consolidation. But in defiance of this pledge, its right to control its own business and rates, the State of Wisconsin now seeks to take away.

It would be mere paltering with good faith to say that the act under consideration only applies to the consolidated road within the limits of Wisconsin, and, therefore, is no violation of the contract with the Illinois corporation. There is now, as a matter of fact, no such separate corporation. The interests of the stockholders of the Illinois corporation are identified and consolidated with those of the stockholders in the Wisconsin corporation. A blow at the Wisconsin portion of the road is the same as if struck in Illinois. While, in a metaphysical sense, there may be distinct entities in the two States, in substance, and for all the actual purposes of corporation life, and in reference to all the actual interests of the stockholders, the two corporations are but one. The State of Wisconsin, by this legislation, is destroying the interests of the stockholders in the Illinois corporation in a mode which could not have been adopted by the State of Illinois, and is doing this in de-

fiance of its pledge to the Illinois company, that it should lose none of its rights by consolidation.

Besides the contract of the State of Wisconsin, already stated, the State made a subsequent pledge of the same character.

On the 2d day of June, 1864, the Chicago and Northwestern Railway Company consolidated its stock with an Illinois corporation, known as the Galena & Chicago Union Railroad Company, the consolidated road retaining the name of the former company.

On the 15th of February, 1865, the legislature of Wisconsin passed an act in relation to this road (Exhibit 12 of bill), the third section of which provides that the consolidated company "may have and exercise all the powers heretofore conferred by the laws of this or any other State, upon the Chicago and Northwestern Railway Company, and the Galena and Chicago Union Railroad Company, or any other company consolidated with it."

Although the State of Wisconsin can repeal or alter the charter of any corporation it may itself create, yet if it makes a contract with a corporation of another State, such contract is as far beyond its power to violate as if made with a natural person.

If the State of Wisconsin should become by any mode the owner of a railroad within its borders, it could unquestionably contract with an Illinois corporation to operate the road, and it could not alter such contract by virtue of any control given to it by its constitution over corporations of its own creation.

Such foreign corporations would not, by such contract, become a Wisconsin corporation created by that State, and it is only as to such corporation that it can claim to be exempted from the provision of the Federal Constitution, forbidding the violation of contracts.

In the case supposed, the Illinois corporation would be exercising its faculties in the State of Wisconsin, under a contract with the latter State, but it would still retain its identity as a foreign corporation.

In the case of *Railway Co. vs. Whiton*, 13 Wallace, 284, this court used the following language in explaining the meaning of a previous decision, and what is said is precisely applicable to the point we are seeking to present.

Referring to the case of the *Railway Company vs. Harris*, 12 Wallace, 65, the court, by Mr Justice Field, said:

"In that case a Maryland railroad corporation was empowered by the legislature of Virginia to construct its road through that State, and by an act of Congress to extend a lateral road into the District of Columbia. By an act of Virginia the company was granted the rights and privileges in that State, which it possessed in Maryland, and it was made subject to similar pains, penalties and obligations. By the act of Congress the company was authorized to exercise in the District of Columbia the same powers, rights and privileges in the extension and construction of the road as in the construction and extension of any railroad in Maryland, and was granted the same rights, benefits and immunities in the use of the road which were provided in its charter, except the right to construct from its

road another lateral road, and this court held that these acts did not create a new corporation, either in Virginia or in the District of Columbia, but only enabled the Maryland corporation to exercise its faculties in that State and District: they did not alter the citizenship of the corporation of Maryland, but only enlarged the sphere of its operations, and made it subject to suit in Virginia and in the district. The 'corporation,' said the court, 'cannot migrate, but may exercise its authority in a foreign territory, upon such conditions as may be prescribed by the law of the place.'"

In the case of *Morris Canal & Banking Company vs. Townsend*, 24 Barb., 663, the court used the following language:

"It is contended that our legislature cannot authorize a foreign corporation, located in another State, and subject to no power of visitation or control on the part of our functionaries, to take lands in this State belonging to its citizens. There is certainly nothing in our constitution thus restricting the power of exercising the right of eminent domain. The objection must be urged on the allegation of incompatibility. But incompatibility with what? Certainly not with our ordinary practice. We have recognized the existence of foreign corporations in various ways, and granted to them many privileges in this State. We have to prevent the forgery of the bills of foreign banks. We authorize foreign insurance companies to transact business in this State. Foreign corporations may institute, maintain and defend suits in our State courts, and they do so. And we have authorized a railroad company of another State—the New York & New Haven Railroad Company—to extend their road into this State, to acquire (compulsorily, if need be) the title to, or the right to use the lands of our citizens in the county of Westchester. So far as I have heard, none of the acts conferring such privileges, powers and rights, have been deemed incompatible with our institutions, or the rights of our citizens, and therefore void."

These cases clearly show that a State may contract with a foreign railway corporation. The State of Wisconsin has done so, and we ask that it shall not be permitted to violate its contract.

VI.

The act violates, in principal, the terms of the Congressional Land Grant of June 3, 1856, which required, as one of the conditions of the grant, that the roads receiving its benefits, should "remain public highways for the use of the Government of the United States, free from toll or other charges upon the transportation of property or troops of the United States," and that the mails should be transported at such prices as congress might by law direct. If the legislature of Wisconsin can pass such an act, it can fix a rate of compensation which will prevent the operation of the road, or disable it from performing its duties to the general Government.

The State of Wisconsin desired to obtain a grant of government land to aid the building of railroads. It obtained it on the above

conditions, and by an act passed November 3, 1856, it accepted the grant on these conditions. The legislature of the State can pass no law violative of these conditions; and yet the act under consideration asserts a power and is founded upon a principle completely destructive of the conditions of the congressional grant. It is plain, if the legislature of Wisconsin can determine the precise rate at which this corporation shall perform its duties, or can fix an arbitrary maximum, it can take from the corporation all power to operate the road. It can annihilate it. This act says to the corporation, in effect, "if you do not transport freight and passengers at the rates fixed by this act, you shall lose your franchises and cease to exist." It is not in the power of the State to say this, because the corporation owes a duty to the Federal Government which the State can not incapacitate it to perform. The charter in terms imposed that duty upon the company; and independently of the charter, the terms of the congressional grant would have required it. It is plain that the corporation can not perform this duty to the government unless it is permitted to charge a reasonable compensation for performing its duties as a common carrier to the people of Wisconsin.

The act in question is found on page twenty, volume second of United States statutes at large, and is entitled "An act granting public lands to the State of Wisconsin, to aid in the construction of railroads in said State." The third section provides that "said railroads shall be and remain public highways for the use of the Government of the United States, free from toll or other charge upon the transportation of property or troops of the United States."

The fifth section, provides "that the United States mail shall be transported over said roads, under the direction of the Post-office Department, at such price as Congress may by law direct."

VII.

The act in question violates the contract entered into between the corporation and its bondholders, which contract the State had authorized, and thus violates the tenth section of the first article of the Federal Constitution, which forbids a State to pass a law impairing the obligation of contracts.

The charters of the various companies, by the consolidation of which the Chicago and Northwestern Railway Company was formed, expressly empower the corporations to issue their bonds, and to mortgage their property to secure payment of the debt. The act authorizing their consolidation contained the same grant of power. Under this authority this company has contracted and now owes a debt amounting to above forty millions of dollars. These bonds have gone over this country and Europe, into the hands of persons who knew they were issued by the authority of the State of Wisconsin, and who never could have supposed that a State, deriving its very existence from a constitution, designed to secure a system of just laws and the security of natural rights, either would

or could take to itself the income of the property thus mortgaged, and deprive the company of all means of paying its bonds.

This corporation has contracted to pay a vast sum of money in return for the same amount received and expended by it in an enterprise which has added vastly more than that amount to the value of the property owned by the citizens of the State. The State now passes a so-called law taking from the corporation a large portion of its income, for the supposed benefit of the public, and thereby taking away, to a great extent, the means of performing its contract with its creditors. But the defenders of the act say the legislature had a reserve right to pass it, and perpetuate this injustice. It had a right to amend the charter of this company. If, before these bonds were issued, it had thought proper to take away the right to issue them, its power to do so could not have been denied. But we do deny, the bonds having been issued, that it can now impair the contract between the corporation and the bondholders, by taking from the corporation for public use, and without compensation, the means of payment. Under the power given by the legislature, the company has conveyed its property subject to the right of redemption. Can the legislature, under pretense of amending its charter, cancel that conveyance? Can it enact, as in principle it has done, that all the income from the property conveyed above the expense of operating the road shall, be paid into the State treasury, or devoted to public uses? Is this in any just sense, an amendment of the charter?

The contract between the company and its bondholders has become an accomplished fact, which the legislature cannot change. The legislature has authorized the creation of the debt, and the conveyance of the property to secure it, and whatever amendment of the charter it may make, it cannot take from the mortgagee either the property conveyed or its income. It might as well undertake, under pretense of amending the charter, to amend in express terms, the deeds of trust executed by the corporations.

No court has ever held that under the reserve power to alter or repeal charters, contracts between the corporation and third persons can be impaired, except the Supreme Court of Wisconsin, when passing upon this law. As the question arises under the Federal Constitution, the decision belongs to this tribunal. The Supreme Court of Massachusetts explicitly denies that contracts between the corporation and third persons can be affected by an alteration of the charter. In *Durfee vs. Old Colony*, 5, Allen, 247, that court speaks as follows:

"It would be well to add, in order to avoid misapprehension, that we do not intend to say that the legislature have any power to change or modify an act of incorporation in such a way as to affect, in a material particular, a contract which they have entered into with a third person. Such an exercise of legislative power would be unconstitutional and invalid, because it would impair the obligation of a contract."

In *Tomlinson vs. Jessup*, 15 Wallace, 459, this court says:

"The reservation affects the entire relation between the State

and the corporation, and places under legislative control all rights, privileges and immunities derived by its charter directly from the State. Rights acquired by third parties, and which have become vested under the charter in the legitimate exercise of its powers, stand upon a different footing; but of such rights it is unnecessary to speak here."

A question which seems identical with this in principle has already been decided by this court, in the well-known case of *Curran vs. The State of Arkansas*, 15 Howard, 304, already cited in another connection.

The State of Arkansas owned the entire stock of the Bank of Arkansas, and was its creditor for a large amount. The legislature passed an act, appropriating all the property of the bank to the payment of debts due the State, leaving no means of paying private creditors. The question of the validity of that act came before this court, and it was held unconstitutional, because impairing the obligation of a contract.

The court, after stating the contract of the bank with its billholders, proceeds in its opinion as follows:

"Such were these contracts and their obligations; and it would seem to require no argument to prove that a law authorizing and requiring such a corporation to distribute its property among its stockholders, or transfer it to its sole stockholder, leaving its bills unredeemed, would impair the obligation of the contracts contained in those bills. The cases of *Bronson vs. Kinzie et al.*, 1 Howard, 311, and *McCracken vs. Hayward*, 2 *ibid*, 608, which will be more particularly averted to hereafter, leave no doubt on that point. Indeed, it has not been attempted to maintain that such a law, operating on the property of a mere private corporation, whose charter the legislature could not repeal, would be valid. But it is argued that this is a different case; that the legislature has power to destroy the corporation, and thereupon its contracts are no longer in existence, and can not be enforced against the property of the corporation, which, upon the repeal of its charter, reverts to the grantors of its lands and escheats, so far as it is personalty, to the State, and that if it be in the power of the State thus to destroy the remedies of creditors, by repealing the charter, their rights must be considered to be entirely subject to the will of the State, and no law can impair the obligation of their contracts, because subjection to any law which may be passed, belongs to the very existence of such contracts. Or, to express the same ideas in different words, that the State created and can destroy the corporation and all its contracts, and, as it can thus destroy them by repealing the charter, it can modify, obstruct, and abridge the rights of creditors and the obligations of their contracts, without repealing the charter.

"Neither these premises, nor the conclusion deduced from them, can be admitted.

"This banking corporation having no other stockholders than the State, it is not doubted that the State might repeal its charter; but that the effect of such a repeal would be entirely to destroy the

executory contracts of the corporation, and to withdraw its property from the just claims of its creditors, can not be admitted."

It will be perceived the court expressly admits that, the bank being wholly owned by the State, its charter could be repealed, and of course could be altered. The State of Arkansas had then at least all the power over the charter which the State of Wisconsin has over the charters of railway companies which it has incorporated. The parallel, thus far, is complete. The State of Arkansas undertook to appropriate the property of the bank to the payment of a debt due to itself—that is, to the people. The State of Wisconsin has undertaken to appropriate the property of the railway company, or its income, which is the same thing, to the benefit of the people, without even the excuse which Arkansas had—that there was a debt due the State. Arkansas took the property under pretense of paying a debt due to itself. Wisconsin takes the property without any pretense at all, except that of power. This court interfered, and said the State of Arkansas could not do this as against the creditors of the bank. Why should not the same thing be said in reference to the State of Wisconsin?

Mr. Chief Justice Ryan, in the opinion already cited, says, in reference to this position, on page 35 of his opinion:

"These defendants took their franchises, and their creditors invested their money, subject to the reserved power, and suffer no legal wrong when that is exercised."

Equally true was it that the creditors of the Arkansas bank took the notes of the bank, subject to the power of alteration or repeal, and that position was taken in the argument of that case, as shown in the extract from the opinion above given. Nevertheless, this court held this power could not be so exercised as to take from the bank the means of paying its creditors.

It is said by Mr. Chief Justice Ryan that the obligation of the railway company to its creditors remains, and is not impaired by lessening the means of payment.

The same position was taken by Mr. Justice Daniel, in his dissenting opinion in the Arkansas case, but the majority of the court, speaking through Mr. Justice Curtis, held otherwise, and said:

"The obligation of a contract, in the sense in which those words are used in the constitution, is that duty of performing it which is recognized and enforced by the laws; and if the law is so changed that the means of legally enforcing this duty are materially impaired, then the obligation of the contract no longer remains the same." (Page 319.)

A very similar question arose in the late case of *Baring vs. Dabney*, 19 Wallace, 8.

In that case, an act of the legislature of South Carolina in regard to a State bank—in which the State was the sole stockholder—came under review, and the principles announced in *Curran vs. State of Arkansas* were re-affirmed.

The case of *Von Hoffman vs. city of Quincy*, 4 Wallace, 548, is also strikingly analogous to the case at bar.

The city of Quincy, in Illinois, had incurred a large indebted-

ness, by subscription to railway stock, for which it had issued its bonds.

By the law in force when the bonds were issued, the city had power to levy and collect a special annual tax sufficient to enable it to pay the annual interest on any bonds it might issue for railway purposes. Subsequently to the issuing of the bonds, the legislature passed an act limiting the rate of taxation for the city. The revenue raised, under the new law, was not sufficient to enable the city to pay the interest on its bonds, after meeting all the expenses of municipal administration. Thereupon the holders of certain of these bonds, having obtained judgment, applied to the circuit court of the United States for a mandamus to compel the city to levy a special tax sufficient to pay the judgment. The city answered, setting up that it had levied and collected all the taxes which its charter, as amended, would permit.

We pause here a moment to note the almost exact parallelism between that case and the one at bar. In that case, the legislature of Illinois had all the power to alter or repeal the city charter, the corporation being public, that the State of Wisconsin can have under any construction, to alter or repeal a railroad charter. It exercised its power in the same way that Wisconsin has sought to do. It limited the rate at which the municipal corporation should tax its citizens. The State of Wisconsin has attempted to limit the rate at which the railway corporation may charge the public for services rendered. A creditor of the municipal corporation appealed to the courts, and asked that this attempted limitation of the city's power should be pronounced invalid, because it impaired the obligation of his contract. A creditor of the railway corporation now makes a similar appeal. In the former case, this court held the limitation invalid. Must it not do so in the case at bar?

It is true, in that case, the creditor did not come to the courts until the city had actually defaulted as to its interest. In this case, the creditor has not waited until an actual defalcation has occurred. But the question in the two cases is the same. It is merely brought before the court by different methods. If the Wisconsin act would be held invalid after the railway company had defaulted in its interest, it must be held equally so before such defalcation. It is the *principle* of the act that is in question. Its validity must depend on that, and not upon events subsequently to occur. If the railway company, rather than destroy its credit, borrows money for the payment of its interest, the fact of payment does not change the character of this act. In the case cited, the court said:

"It is equally clear that where a State has authorized a municipal corporation to contract and to exercise the power of local taxation to the extent necessary to meet its engagements, the power thus given can not be withdrawn until the power is satisfied. The State and the corporation, in such cases, are equally bound." (Page 554-5.)

I respectfully submit that no solid distinction can be drawn between that case and the case before the court.

Hawthorne vs. Calef, 2 Wallace, 10, and Woodruff vs. Trafnal, 10

Howard, 190, are also cases in which it was held that an amendment of a charter could not impair the rights of creditors of a corporation.

VIII.

The act of the Wisconsin legislature under consideration is void, because it is a regulation of inter-state commerce.

The 18th section of the act of the Wisconsin legislature is as follows :

"Sec. 18. Nothing contained in this act shall be taken as in any manner abridging or controlling the rates for freight charged by any railroad company, in this State, for carrying freight which comes from beyond the boundaries of the State, and to be carried across or through the State; but said railroad companies shall possess the same power and right to charge such rates for carrying such freight as they possessed before the passage of this act."

The court will observe, the act being general, and the exception being only as to freight coming from beyond the limits of Wisconsin, and traversing the State to some point *without* its limits, it of course follows that as to all freight shipped *within* the limits of Wisconsin, and destined to a point beyond its boundaries, the act applies. Whatever the object of this provision may have been, it is directly in conflict with the Constitution of the United States, inasmuch as it is a regulation of inter-state commerce. On this point this court has spoken, and it is only necessary to quote the language of the decision.

In the case entitled "State Freight Tax," 15 Wallace, 232, the court said:

"If, then, this is a tax upon freight carried between States, and a tax because of its transportation, and if such a tax is in effect a regulation of inter-state commerce, the conclusion seems to be inevitable that it is in conflict with the Constitution of the United States. It is not necessary to the present case to go at large into the much debated question, whether the power given to Congress, by the Constitution, to regulate commerce among the States is exclusive. In the earlier decisions of this court, it was said to have been so entirely vested in Congress that no part of it can be exercised by a State. It has, indeed, often been argued and sometimes intimated by the court that, so far as Congress has not legislated on the subject, the States may legislate respecting inter-state commerce. Yet, if they can, why may they not add regulations to commerce with foreign nations beyond those made by Congress, if not inconsistent with them, for the power over both foreign and inter-state commerce is conferred upon the Federal Legislature by the same words. And certainly it has never yet been decided by this court that the power to regulate inter-state, as well as foreign commerce, is not exclusively in Congress. Cases that have sustained State laws, alleged to be regulations of commerce among the States, have been such as related to bridges or dams across streams wholly within a State, police or health laws, or subjects of a kind-

red nature, not strictly commercial regulations. The subjects were such as in *Gilman vs. Philadelphia*, (3 Wallace, 713), it was said, 'can be best regulated by rules and provisions suggested by the varying circumstances of different localities, and limited in their operation to such localities, respectively.' However this may be, the rule has been asserted with great clearness, that whenever the subjects over which a power to regulate commerce is asserted are in their nature national, or admit of one uniform system or plan of regulation, they may justly be said to be of such a nature as to require exclusive legislation by Congress. Surely transportation of passengers or merchandise through a State, or from one State to another, is of this nature."

In another part of the opinion, the court speaks as follows:

"Nor is a rule prescribed for carriage of goods through, out of, or into a State, any the less a regulation of transportation, because the same rule may be applied to carriage which is wholly internal. Doubtless a State may regulate its commerce as it pleases. If a State chooses to exact conditions for allowing the passage or carriage of persons or freight through it into another State, the nature of the exaction is not changed by adding to it similar conditions for allowing transportation wholly within the State."

No language of ours can add force to the above quotations. The court says, in terms: "Surely transportation of passengers or merchandise through a State, or from one State to another, is of this nature"—that is, of such a nature as, in the language of the court, "to require exclusive legislation by Congress." This act, in terms, regulates the transportation of freight from within the State of Wisconsin to points without the State, and is therefore void, under the express language of this decision. This point is decisive of the invalidity of this law, and we can not add to its weight by further comment.

We do not know that the jurisdiction of the court will be questioned. It is settled by the following cases: *Osborn vs. U. S. Bank*, 9 Wheat., 738; *Dodge vs. Woolsey*, 18 How., 331.

In connection with the act under consideration, we wish to bring to the cognizance of the court another act, which went through the legislature of Wisconsin side by side with the one now drawn in question, and became a law on the following day. We insisted, in the case decided by the supreme court of Wisconsin, that this act worked a repeal of the act first passed. That court held otherwise, and upon this question we suppose this court will be governed by that ruling. We bring this act before the court, because it shows how railway companies in Wisconsin may be confined within reasonable charges by constitutional legislation, and because it is a legislative recognition of the fact that what are reasonable rates is a judicial question. It also shows that there were intelligent men in the legislature, who had no faith in the validity of the first act, and therefore insisted upon the passage of the second.

This second act contains various provisions in regard to railways, and declares that any railway company, which shall charge more than a fair and reasonable rate of compensation, shall be deemed

guilty of extortion, and fined not less than five or more than twenty-five hundred dollars, either party being entitled to a jury.

Both of these acts are printed as an appendix to this argument.*

We have endeavored to show, in the preceding pages, the invalidity of the act of the Wisconsin legislature under the Federal Constitution. With the impolicy or immorality of such legislation the court has little concern. Still, if it be dishonest in principle, and unwise in policy, even in the lowest sense of that term, it is certainly not entitled to a favorable consideration from this tribunal in the settlement of doubtful questions.

The State of Wisconsin has some thousands of miles of railway, built by foreign capital. These roads were indispensable to the development of the great material resources of the State. To secure them, it held out every inducement within its power to the citizens of other States and countries to invest their fortunes under the protection of Wisconsin laws. Not a dollar of this capital would ever have been furnished, if it had been supposed the railways when built, were to be managed by State commissioners invested with power to determine the rates of fare and freight. But the sentiment of the State, no doubt, was as expressed by its supreme court, through Chief Justice Dixon, in the following words:

“This obligation and promise, which sprang from the act of incorporation and invitation by the State to persons to invest their money in the stock, it is presumed no legislative body would disregard, except when the company, by gross and wanton abuse of its privileges had forfeited its rights, and then, instead of legislative action, it is also presumed the regular course of judicial proceedings would be preferred.” *Whiting vs. S. & F. R. R. Co.*, 25 Wis., 167.

These were just words, and honestly uttered. But the legislation of the session, which gave birth to the act under consideration, was inspired by a different spirit. One of those gusts of popular passion, to which all communities are liable, has swept over the West. While the principle which underlies this movement is hostility to accumulated wealth in any form, it has aimed its first blows at corporate and especially railway property. Under the wretched sophistry embodied in the cry that “the creature is not greater than the creator,” the leaders of this mad crusade have blinded the judgment even of honest men. Railway corporations unavoidably commit occasional injustices in their vast business, and by skillfully inflaming the prejudice or passion thus excited, it was easy for the net work of farmers’ clubs and granges which cover the State, to send members to the legislature, to whom argument and explanation were addressed in vain. They not only passed the obnoxious law now under consideration, but at the same session they increased the rate of taxation against the railway company from three per cent. of its gross earnings, which it had previously been, to four per cent., adding thereby sixty thousand dollars to its annual taxation, and thus exacting for the coffers of the State thirteen per cent. of the net income of the road.

* See pp. 1-9 of Appendix “A” to this Volume.

And what has been the result of this interference with the rates? We copy the following paragraph from the annual report, made to the stockholders in August, 1875, by Mr. Keep, the president of the Chicago and Northwestern Railway Company:

“An examination of the business of the year shows that more than one-half the decrease in gross earnings was caused by a reduction of passenger and freight rates, mainly induced by the operation of the ‘Potter-Law,’ and by the enforcement of other kindred statutes ‘regulating’ transportation on railroads in the States of Illinois, Wisconsin, Iowa, and Minnesota.

“There was an average reduction of $\frac{18.52}{10000}$ cents per passenger per mile, amounting to \$216,267.96; and a reduction on freight of $\frac{17.42}{10000}$ cents per ton per mile, amounting to \$791,819.95; giving a total of \$1,008,087.91, taken from the revenue by reduction of rates, and not by reduction of business.”

This sum, more than a million of dollars, has been taken for the benefit of the public, from the annual income of a railway company which has never paid the legal rate of interest upon the money invested in its construction, and which, since the year 1872, has not been able to pay any dividend whatever to the luckless owners of its common stock. Yet we are gravely told by the supreme court of the State, that “their rights in their material property are inviolate and shall never be violated with the sanction of this court.” And that court virtually censures counsel because they characterize such a legislative proceeding as “confiscation,” and says “the people of Wisconsin are too intelligent, too staid, too just, too busy, too prosperous for any such horror of doctrine; for any leaning towards confiscation or communism.” That the people of Wisconsin are prosperous we do not doubt. The railways have made them so. That they are as just as men in general is probably true. We trust, however, that the holders of the bonds and stocks of Wisconsin railroads may be pardoned the opinion, that the *justice* shown in the recent railway legislation is best expressed in the words which a great poet has put into the mouth of a Highland chieftain who lived two centuries ago:

“The good old rule sufficeth me; the simple plan,
That he should take who hath the power
And he should keep who can.”

The act in question has overthrown the most sacred rights of property. It has checked the growth of the State by substantially putting an end to the construction of railways. It has tarnished the reputation of the State and that of the country at large, in every community in the world where American railway bonds are bought and sold. We submit the case, relying upon the wisdom and justice of this great tribunal for the protection of rights secured, as we believe, by the solemn guarantees of the Federal Constitution.

C. B. LAWRENCE,
Of Counsel for Appellants.

BRIEF OF ARGUMENT OF JOHN W. CARY,

OF COUNSEL FOR THE APPELLANTS AND PLAINTIFFS IN ERROR.

The bill of complaint states, in substance, that the defendant railway company has executed several mortgages or trust-deeds, upon portions of its line of railway in Wisconsin, to secure its negotiable bonds. The complainants, Farmers' Loan and Trust Company, and Union Trust Company, are trustees named in two of said deeds, and the other complainants are holders of bonds secured by those trust-deeds. The complainants are not residents or citizens of Wisconsin. The defendants are all citizens of that State. The bonds were negotiated in good faith, the purchasers relying solely upon the net income to be derived from the operation of the mortgaged property, for the payment of the principal and interest of said bonds. The railway company has no other means of paying the same. The State of Wisconsin has passed an act, set out at length in the bill of complaint, on pages 16 to 21 of record,* which assumes arbitrarily to fix the rates of compensation to be hereafter charged by said railway company for the transportation of freight and passengers. The rates so prescribed, if adopted by the railway company, and the road operated in pursuance thereof, will yield no net revenue, and in consequence neither principal nor interest of said bonds will be paid.

The said act is claimed to be unconstitutional and void, the said defendants, Paul, Osborn and Hoyt, who have been appointed Commissioners under said act, and are by its terms authorized to reduce said rates, even below the figures named therein and are especially charged with its execution and enforcement, and the said defendant, A. Scott Sloan, who is attorney-general of State, thereafter to enforce said law, and to bring a multitude of suits against said railway company, its officers and agents, to compel said company to adopt the rates of compensation named in said act, and otherwise oppress said company, and that if not rectified, will compel said railway company to operate its road under said rates, so as to produce no net revenue; and that in consequence said bonds will become worthless, and great and irreparable injury result to said complainants. An injunction against all the defendants is prayed, restraining them from enforcing said act. The great question, however, involved in these suits and this controversy, is whether

the legislature has the right and power to assume not only the management and control of the railroads of the State, but also of the whole business of common carriers by railroad, to fix their compensation, regulate the manner and mode of transacting their business, and prescribe the number, time and speed of trains. Said chapter 273, of the laws of 1874, of Wisconsin—either directly or through its commissioners assumes all these functions, and practically takes possession of the business transacted over them. The people instead of calling upon the officers and managers of the company for accommodations and railroad facilities, are directed to look to the railroad commissioners, not only to redress their grievances, but to order and direct the management of the ordinary business of the company, and letters are received notifying superintendents that they propose to apply to the attorney-general for orders compelling the delivery of cars off the line of the company's road, if they are not furnished at such points, when and as often as desired for the accommodation of parties requesting them.

The State of Wisconsin, through its legislature, claims all these powers. Its supreme court, after a full hearing, has adjudged the claim well founded, and has hastened, by a preliminary injunction to enforce obedience to it. The average politician and granger within its borders are now jubilant over the prospect open to their view of enjoying other people's property without compensation, or if any is to be paid, then only such as they may choose to dictate, and the grave question comes before this court to determine whether such claims are to be recognized as law—whether, in fact, we are gravitating towards barbarism, or whether our course is still onward in the march of civilization and progress.

The court has jurisdiction and can grant the relief prayed.

1st. It has jurisdiction of the parties.

The complainants are all citizens of foreign states or countries, and therefore entitled to sue citizens of the State of Wisconsin in this court.

The defendants are all citizens of the State of Wisconsin, and may be sued in this court by persons not citizens.

The fact that some of the defendants hold State offices, and that the suit is against them in that character, or rather for their acts done or threatened, by virtue of, or *in colore officii*, does not exempt them from the process and jurisdiction of this court. Their office clothes them with no sanctity. Their acts are either legal or illegal. If legal, they will be protected in this tribunal; but if illegal, the fact that they were State officers is no justification for the injury which they threaten to commit. It is their individual action that is complained of, and it is claimed that such action is wrong and not justified by law.

In *U. S. Bank vs. Osborn et al.*, 8 Wheaton 738, the defendants were State officers, auditor, treasurer and collector, their acts official acts, in collecting a tax assessed by the State against the bank. The State was sole party interested in the subject matter of the suit. Yet the supreme court held the action properly brought, that the State was not a party, and that the court had jurisdiction.

In *Dodge vs. Woolsey*, 18 Howard 331, the complainant was a citizen of Connecticut, a stockholder in a bank, and filed his bill against the directors of the bank, the bank itself, and George C. Dodge, the treasurer, and collector of Cuyahoga County, to restrain the collection of a tax levied by the State of Ohio on the bank, in violation of its charter, and the injunction was granted. See also *Gordon vs. Hobart*, 2 Sumner, C. C. Rep. 401.

2d. This Court has jurisdiction of the subject matter of the action.

The complaint sets forth that an injury is threatened by the citizens of this State, against the property and rights of the complainants, and this court is asked to restrain the threatened injury. But it is claimed that the persons threatening the injury are State officers, and the acts charged, which they are about to commit, are authorized and enjoined upon them by a State law. Therefore, that it is the State that is acting, and that the restraint of her officers is a restraint upon the State, and that the granting of the complainant's prayer, would in effect be an injunction against the State, and prevent her from carrying out and executing her laws.

Suppose we admit it, what then? Is the court ousted of jurisdiction, and the complainants deprived of a remedy from the threatened injury? If so, upon what principle? The nature of the injury threatened is such that the court may be properly invoked to prevent it. The State has no more right to commit an injury against the rights of the complainants, than any other person or corporation. It has no right to enact a law in violation of the constitution, either State or Federal. Such a law if enacted, is no protection to the State or its officers, and all attempts to enforce it may be lawfully resisted. All acts and attempts in that direction are unlawful. And all persons whose property or rights are invaded and injured by such unlawful acts, are entitled to protection and indemnity. Prior to the adoption of the 11th article of amendments to the Constitution of the United States, the State itself might have been made a party in its corporate name, in any action to redress or prevent a wrong done or threatened to citizens of a foreign state or country. This right would still remain, but for that 11th article of the amendments. That article provides, that; "the judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced, or prosecuted, against one of the United States, by citizens of another State, or by citizens or subjects of any foreign State."

This amendment simply forbids making a State a formal party to the record—nothing more. It does not prohibit the making of the persons holding State offices such parties. They are amenable to the process of this court, and liable for all the consequences of their acts. The judgment in this case will not bind the State. The injunction will not restrain it, but will operate only upon the parties named as defendants. They are individually responsible for their acts, and the injunction will operate to restrain their individual, personal, action only. It is not, therefore, an action against the State, or in violation of the 11th article of amendments to the Constitution of the United States.

This precise question was discussed at length, by Chief Justice Marshall, in *Osborne vs. United States Bank*, 9 Wheaton, pages 846 to 859. The conclusion that he arrived at is as follows:

“It may, we think, be laid down as a rule, which admits of no exception, that in all cases where jurisdiction depends on the party, it is the party named in the record. Consequently the 11th amendment, which restrains the jurisdiction granted by the constitution over suits against States, is of necessity, limited to those suits in which a State is a party on the record. The amendment has its full effect, if the constitution be construed as it would have been construed had the jurisdiction of the court never been extended to suits brought against a State, by the citizens of another State, or by aliens.”

The case of *Mayor of Baltimore vs. Pittsburgh and Connellsville R. R. Co.*, 1 Abbots, U. S. C. C. Rep. 9., was a case where the city of Baltimore, had advanced money to the railroad and the charter was subsequently in part repealed and route changed. The city filed its bill in the western district of Pennsylvania, before Judge Grier, to restrain the railroad company from accepting or acting under the charter as amended, and to have the amendment declared unconstitutional. The jurisdiction was sustained and the relief granted.

The jurisdiction of the court both as to the parties and subject matter being settled, we are now to inquire whether the relief prayed can be granted.

The allegations of the bill are fully supported by the affidavits. The interest of the complainants is manifest. The danger apprehended eminent and threatening. Unless the relief prayed can be granted, great and irreparable injury will result. Can this danger be averted?

The defendants claim to be acting under and in pursuance of the law (chapter 273, of 1874) set out in the complaint, and that all their proposed action is based upon, and enjoined upon them by that act, and that, however injurious it may be to the interest of the complainants, their action is authorized and lawful, and that said act is a full justification to them in all courts and places. Such an act has been passed, and if valid as a law, authorizes all that is claimed for it. We are therefore brought to the consideration of the constitutionality of that enactment. If constitutional and valid, then the defendants are justified in their proceedings, and the complainants are remediless. But, if that act is unconstitutional and void, then the defendants are not justified in their proceedings, and the complainants are entitled to the relief prayed in the bill of complaint.

The said act (chapter 273, of the laws of 1874) among other things, assumes arbitrarily, to determine the compensation which the defendant Railway Company may charge for the transportation of freight and passengers over its line of road, and necessarily assumes, to that extent, the control over, and the appropriation and disposition of the use of the property of the defendant company, without their consent. We therefore insist

II.

That said act, so far as it attempts to fix the rates of compensation to be charged by the defendant company, for the transportation of freight and passengers, is unconstitutional and void.

The right to control one's property and fix the price for its use, is an attribute of ownership, and the right to fix and determine the compensation, for which any one will render his personal services, and incur risks and dangers in transacting the business of another, is a personal right necessary to man's freedom and independence. This pretended law ignores those rights, and thereby violates both the constitution of this State and of the United States.

1st. It is repugnant to section 13 of the Declaration of Rights of Wisconsin. "The property of no person shall be taken for public use without just compensation therefor," 2d. It is in violation of section 1, of article 14, of amendments of the Constitution of the United States. "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protections of the laws."

The law in question assumes to take property now in possession of the company, and which the shareholders of the company claim to own, and exercise over it such control as only the owner can exercise. To that extent the owner is deprived of his property. The most important and valuable function connected with the ownership of property, is the right to determine the compensation to be paid for its use. Property is chiefly valuable to the owner on account of the income it yields. This law takes this right from the owner, and without it the property may be entirely worthless. All right of control is taken from him, and the authors and advocates of this law claim that it has been enacted for the public benefit; hence, if this be true, the property and rights of the owner, so far as he has been deprived of them, have been devoted or subjected, to public use. The same is true of the labor, the mind and talent or capacity for transacting the business of a common carrier, of the owner himself. If, therefore, we are the owners of this property, and of the labor, mind and capacity necessary to transact the business of a common carrier, we are, *pro tanto*, deprived of our property and rights, and under pains and penalties, fine and imprisonment, compelled to use our property, contribute our time and labor, and incur the risks and hazards attendant on the business of a common carrier, for the compensation prescribed in this act, and are thereby deprived not only of our property, but of our just rights and the equal protection of the laws. It is denied, however, that we are the owners of this property, and hence not entitled to invoke the protection of the constitution, but that the railroad is the property of the State, farmed out to the company during the State's pleasure; that it can at any time take possession, not only of the corporate franchises, but of the property itself, without compensation to the company or its shareholders.

Were we to admit this proposition, monstrous as it is, still on what principle could this law be sustained, for not only is the railroad and all the property of the company confiscated by it, but the business of a common carrier as well. Certainly, the labor, mind and capacity, necessary to carry it on, does not belong to the State. Admitting, for the moment, that the State owns the railroad, or has the right to fix the compensation for its use, still that would give it no right to fix the compensation of a common carrier doing business on it. The road is one thing, the business of a common carrier quite another. In some instances railroad companies simply furnish cars and haul them for a given compensation, for parties who are engaged as common carriers, as in the case of express companies. In other cases they simply haul the cars of other parties for a given compensation. In the last report of the Massachusetts commissioners, they express the opinion that the time is coming when railroads will cease to transact the business of common carriers, as at present, and confine themselves simply to the business of hauling cars over their respective roads for a given compensation. Whether such a result is to happen time alone will determine, but certain it is, the two things are not the same, nor are they, in the nature of things, necessarily connected. Whether they can be practically separated need not now be determined. We insist however, under this head,

1st. That the shareholders of the company are the absolute owners of the railroad and all the property of the company.

This proposition is so plain and elementary, and has been so often and uniformly asserted by the courts, that it seems a work of supererogation to adduce authorities to substantiate it. But as the opposite doctrine has been asserted, and would seem to be a necessary foundation for such a structure as the Potter-law of last winter, I will ask the indulgence of the court, while I cite a few of the many authorities of our courts to show that the above proposition is correct.

The company is chartered by the State, and is endowed with the privilege of exercising the power of eminent domain, so far as it may be necessary to procure the right of way for its road, but in fact more than ninety-nine hundredths of all its grounds of every description are acquired by negotiation and purchase, and the title conveyed to the company by warranty deed in fee-simple. The remaining hundredth part is generally acquired, after proceedings to condemn have been instituted, by purchase, and the title conveyed by deed, the commissioners only naming the amount which the company must pay. Hardly any of the grounds of the company are held by judgment entered in proceedings authorized by the charter for acquiring land by the exercise of the right of eminent domain. All the lands, however acquired, are paid for wholly by the company. The road is constructed by the company, and at its sole expense. All the property of every description belonging to the company, and used in operating the railroad, is purchased and paid for by the company. Applying the rules of law to such a case,

the ordinary mind would naturally come to the conclusion that the company, or its shareholders, owned the road and the property of the company. It would seem to need no argument or authority to prove it, and that it would require a sort of sublime impudence to assert, before an intelligent court or public, that the state, under such circumstances, and not the company, was the owner of the property.

Angell and Ames, section 40, class railroads as private corporations, and in section 31 they say "railroads are private corporations." * * * "Both the property and the sole object of every such corporation are essentially private."

In *Whiting vs. the Sheboygan and Fond du Lac Railroad Company* 25 Wis. 167, the supreme court of this State decided that railroad companies are private corporations and the owners of their property. And the Supreme Court of the United States, in reversing this case on another point expressly affirm it on this, and say: "That railroads, though constructed by private corporations and owned by them, &c." Again they say: "The owners (of a railroad) may be private companies," &c., full recognizing the doctrine that a railroad company owns its road.

In the people ex. rel., vs. Salem, 20 Mich. 447, Judge Cooley says: "The road, when constructed, is nevertheless to be exclusively private property, owned, controlled and operated by a private corporation for the benefit of its own members, and to be subject to the supervision and control of the State only as private property." Again he says, page 478: "They are private property whose owners make it their business to transport persons and merchandise in their own carriages, over their own land, for such pecuniary compensation as may be stipulated."

In *People vs. Batchellor*, 53 N. Y. 140, the court, speaking of railroads, says: "But it is equally clear that property acquired by the corporation, belongs to it exclusively, and its ownership is as absolute as that of any private individual of property belonging to him. It is also clear that so far as the road is operated for the benefit of its stockholders, the corporation is private. We have then an artificial being created by the legislature, endowed with public franchises, the absolute owner of property of which it cannot be deprived by legislation except for public purposes, carrying on business for the private emolument of its stockholders."

"The roadway of a railroad, however, is but a small part, comparatively, of the property of a company. The grades, ties and track, the buildings, bridges, and other works, with the shops, machinery, and equipments, together with the roadway and the outlaying lands, represent the outlay and property of the corporation. These are all recognized and declared, by every elementary work relating to railroad corporations, to be private property, owned, operated, and used by the company as a private corporation for the benefit and advantage of the stockholders; and I am not aware of any decision of any court that announces its judgments in the English tongue, to the contrary."—Judge Swan's pamphlet. *Donher vs. State of Miss.*, 8 Smedes and M., 649, 661; Trustees, etc., vs.

Auburn and Roch. R. R., 3 Hill, 570; Ohio, etc., R. R. vs. Ridge, Blackf., 78; Bonaparte vs. Camden and Amboy R. R., 1 Bald. C. C., 205, 222; Dearborn vs. Boston and Montreal R. R., 4 Fos., 179; Tinsman vs. Belv. and Del. R. R. Co., 2 Dutch., 148.

The same doctrine is maintained by Redfield.

1 Redfield on railways, 53. and many cases cited in its support.

We therefore say that the company, or more properly its shareholders, are the owners of the railroad property.

It being settled that we are the owners of this property, the next question to be considered is:

2. *Does this law take our property, or any part thereof, or deprive us of its beneficial use and enjoyment?*

The value of a railroad to its owners, is the right to operate it so as to make what is commonly know as net earning. This is the beneficial use; without it the road is of no benefit or value to the owner. Hence, if this law deprives us of the right and ability to make net earnings from its operation, our rights are evaded, our property confiscated and taken from us without due process of law. The taking of the beneficial use of the property, is a taking of the property just as effectually as though we were deprived of the actual possession.

Prior to the passage of this law, we, as owners, were entitled to fix the compensation to be paid to us for the transportation of freight and passengers over our road.

In the case of the State freight tax, 15. Wallace 227 and 8, Judge Strong says: "we concede the right of the owners of artificial highways, whether such owners be the State, or grantees of franchises from the State, to exact what they please for the use of their ways. *That right is an attribute of ownership.*" But there is no necessity to cite authority to show that the owner of property has the absolute right of disposition, not only of the property but of its use. It is an elementary principle, and axiomatic even. We possess this right as owners of the railroad and its appurtenances. By the exercise of that right a scale of prices was fixed for the business of 1873, by which some net revenue was realized, but less than four per cent. upon the capital invested. The total cost of the property in Wisconsin was \$28,074,317.35. The total gross earnings in Wisconsin for 1874 is \$3,190,523.64. The total net revenue applicable to interest and dividend is less than thirty per cent. of the gross earnings, (Record, pp. 14 and 15.) This act assumes to fix our rates nearly thirty per cent. below the rates fixed by the company, on which the business of last year was transacted. Hence, if this law is enforced, we have this result: This property operated under the control and direction of the company, and as they lawfully might do, yielded a net revenue to the company of nearly four per cent. on its cost. About the sum of one million of dollars, and very nearly thirty per cent. of its gross receipts. The same business transacted on the same road this year under the rates fixed by the Potter-law, yields a gross income thirty per cent. less than was received in 1873. and no net revenue is realized. And as the net in-

come or revenue constitutes the sole profit and measure of value of the road, if this law is sustained, and retained, as the permanent policy of the State, the value of the road is entirely destroyed, and lost, both to the bond and stockholders. Is it not plain, therefore, that this law not only takes, but confiscates the property of the company? The deduction from the rates of the company is a deduction to be taken entirely from the net earnings. The deduction is thirty per cent. nominally from the gross earnings, but as the expenses are in no way decreased, the same amount now required for operation will be required under this law; consequently the whole deduction made by the law comes from the net earnings and completely absorbs them. Had the act, chapter 273, of 1874, provided that the company should, by State authority be deprived of thirty per cent. in miles of the entire length of the road, its operation would not have been as injurious to the company as it now is, especially if the company could have selected the portion to be taken. But even taking an average of the lines of the company, it would have been less injured by a total deprivation of thirty per cent. in length of its lines than by the confiscation of thirty per cent. of its income, as the law now stands. Taking thirty per cent. in length of the road would be simply taking that amount of the company's property; but taking thirty per cent of its entire gross earnings is equivalent to taking the whole property, for thereby the whole property is made valueless to the owners. No net revenue can be realized from any part of it; consequently the company would have nothing with which to pay either interest or dividend. It would have only the poor and barren privilege left of operating the road for the public without any compensation, while its bondholders would have to be content without either principal or interest on their money, and the shareholders would look in vain for any return to their investment. It is not necessary to spend time in argument to show that such a taking and interference with the use of the property of another, is as emphatically a taking within the meaning of the constitution, as it would be were the company actually ousted from the possession of the property. In the year 1873, we were authorized to take the rates fixed by the company, and but for this law, might have charged and received the same in 1874. But by this act we are prohibited from using and enjoying our property in our own way, and, as would have been most beneficial to us, and are compelled to abandon all beneficial use thereof to the owners. This we insist is a taking, a depriving us of our property, either partial or total, and just as effectual and complete as though we had been driven from the actual possession thereof, and the agents of the State had taken possession and were now operating the road. The case of *Pumpelly vs. Green Bay Company*, 13 Wallace, 166, was a case where the waters of Lake Winnebago were raised by a dam so as to set back upon plaintiff's land and deposit earth and ground thereon, and the nature of the injuries was such as to show that it worked an almost complete destruction of the value of the land. It was there claimed that there was no taking of the land

within the constitutional provision. In disposing of this point, page 177, Mr. Justice Miller says: "It would be a very curious and unsatisfactory result, if in construing a provision of constitutional law, always understood to have been adopted for protection and security of the rights of the individual as against the government, and which has received the commendation of jurists, statesmen, and commentators, as placing the just principles of the common law on that subject beyond the power of ordinary legislation to change or control them, it shall be held that if the Government refrains from the absolute conversion of real property to the uses of the public, it can destroy its value entirely, can inflict irreparable and permanent injury to any extent, can, in effect, subject it to total destruction without making any compensation, because, in the narrowest sense of the word, it is not *taken* for the public use. Such a construction would pervert the constitutional provision into a restriction upon the rights of the citizen, as those rights stood at the common law, instead of the Government, and make it an authority for invasion of private right under the pretext of the public good, which had no warrant in the laws or practices of our ancestors." Is not this language equally applicable to the case in hand? Technically, in the narrowest sense of the term, our property is not taken—we are not actually ousted from its possession—but we are deprived of the control of our property and of the only valuable attribute it possessed—the ability to make net earnings, and thus furnish an income to the owner. We submit that we have now shown. 1st. That the company or its shareholders were the owners of this property. 2d. That it has been taken from it, or them, or its beneficial use seriously impaired by this law. We now ask,

III.

By what right has this been done?

If it was a taking of our property for public use, it was in violation of the constitution of Wisconsin, because no compensation was made. If without due process of law, then it is in violation of section 1, of the 14th article of amendments to the Constitution of the United States, and void.

If taken for public use, then just compensation must be made. But the act provides no means for ascertaining or making compensation. Hence it cannot be sustained as a taking for public use under the right of eminent domain, and that an act of the legislature is not due process of law in such a case, needs no argument before this court.

That the company by this act suffers loss and damage through the taking of its property or its beneficial use, is clear, and unless there is some authority for it, which overrides the clauses of the constitution above referred to, the act must be held unconstitutional and void.

But it is insisted that this act is not repugnant to the constitution, for the reason that the charges of railroad companies for the

transportation of freight and passengers, may be regulated and fixed by the legislature, without any violation of their vested rights, or these provisions of the fundamental law.

1s. Because the power to exercise the right of eminent domain is conferred upon them by the State on this condition.

2d. That railways owned and built by private corporations are public highways and are the property of the State, and subject to its control the same as common highways.

3d. That the business of a common carrier is of a public nature, and for that reason, the State cannot only regulate it, but can also fix the compensation that may be charged and received.

4th. That the reserve power, so-called, section 1, article 11, of the constitution of Wisconsin, gives this authority to the legislature, and overrides all other provisions of that instrument.

Of these in their order. *First*, as to the grant of *Eminent Domain* conferred upon the company, I have already said in regard to this power that very little of the real estate of any railroad company in Wisconsin is held by any such title. That nearly all of their rights of way and grounds are held by deed conveying the title in fee simple, and while it is true that all the railroad companies of the State are clothed with the power to exercise this right, and that it is necessary that they should possess it, still it would be purchased at too dear a price, if in exchange for it, we are compelled to surrender all control of the compensation to be paid us, not only for the use of our property, but also, for our personal services, the material necessarily furnished, and risks incurred, in carrying on the business of common carriers.

The right of eminent domain may be exercised not only when the safety, but also when the interests or even the expediency of the State is concerned, or where the land of the individual is wanted for a road, canal or other public improvement. If the public interest can be in any way promoted by the taking of private property, it must rest in the wisdom of the legislature to determine whether the benefit to the public will be sufficient to justify the taking. Any improvement of a public nature, in which the public or any considerable portion of them would be benefited, their condition bettered, or their convenience subserved, and which cannot be accomplished without the exercise of this power, is a proper object for its exercise, whether the improvement is to be made by the State or by private parties, and the legislature is the sole judge as to the propriety of granting or withholding it.

In the 25 Wisconsin, 196, it is claimed that the "public use, which has been held to justify the application of the doctrine of eminent domain, in the case of railroads owned and operated by private individuals, consists in the fact, that the owners cannot, without reasonable excuse, refuse to receive and transport passengers or freight, when offered, at usual rates, and in the fact that the state retains the power to regulate and control the franchise, and limit the amount of tolls which it shall be lawful to charge."

The first part of this proposition we find no fault with. It is a correct statement of a part of the duty of a common carrier, and is as

true of the carrier by wagon or steamboat, as of the railroad built through the exercise of his right of eminent domain. No additional duty in this respect, is cast upon the carrier by railroad in consequence of the exercise of this right. But the balance of the proposition is denied. The only authority cited by the Chief Justice to sustain that opinion, is an *obiter dictum* of Justice Woodbury, in a sort of personal, half way dissenting opinion, given in *West River Bridge Company vs. Dix*, 6 Howard, 546. The question before the court at that time was whether the franchise and property of the said Bridge Company could be taken for public use. There was nothing in the case to call for the expression found in the opinion which is quoted and the expression or statement made by Mr. Justice Woodbury, I humbly submit, is not correct in point of law, as appears from the whole legislation of the country for the last twenty-five years upon this subject. It is that, it, (the improvement), "*must be under public regulations as to tolls, or owned, or subject to be owned by the state*, to make the corporation and object public for the exercise of the right of eminent domain." Such has not been the understanding or the practice of the legislature or the courts. But no such conditions and restrictions have been attached to such legislation. The power has been granted in the great majority of cases, coupled with provisions directly in conflict with such conditions. The only other authority in support of the view advanced by the chief justice in 25 Wisconsin, is a remark of Chancellor Walworth, made in *Beckman vs. the Saratoga and Schenectady R. R. Company*, 3 Paige 45, p. 74, which was an application for an injunction to restrain the company from taking or entering upon land. The Chancellor says; "The legislature may also, from time to time, regulate the use of the franchise and limit the amount of toll which it may be lawful to take, in the same manner as they may regulate the amount of tolls to be taken at a ferry or for grinding at a mill, unless they have deprived themselves of that power by legislative contract with the owners of the road."

The case of *Railroad Company vs. Chappell*, 1 Rice, S. C. 383, has also been referred to as an authority, holding that "a railroad must be held as a part of the public domain, farmed out to individual men for its practical administration and order alone." The case in Paige was decided in 1831; in Rice in 1838, and *West River Bridge case* in 1847. They were in the infancy of railroads in this country, and when the practice of conferring the right of eminent domain upon private companies had been but little practiced. The doctrine was bitterly assailed in some of the States, particularly in New Hampshire, and judges, in sustaining the power, in some instances, as in the above cases, gave unsound reasons for their judgments. But in later years the doctrine was fully established and put on the right grounds for public use, benefit and advantage of the proposed improvement of the people at large. It was a great question at that day, as to whether all charters should not provide, as indicated by Mr. Justice Woodbury, that the State might become the owner of all such improvements at some future period, and such provisions were sometimes inserted in the charter. But no

such conditions ever obtained in the legislature of Wisconsin, and such conditions are not generally inserted in charters granted in the different states, although once thought a matter of importance.

It is manifest that the law in regard to the exercise of the right of eminent domain, as now settled, is not subject to the doubts and qualifications expressed by some of the judges in those cases. For instance, Mr. Justice Woodbury says, in the case above cited: "Who ever heard of laws to condemn private property for public use, for a marine hospital or a State prison? So a custom house is a public use for the General Government, and a court house or jail for a State. But it would be difficult to find precedent or argument to justify taking private property without consent, to erect them on, though appropriate for the purpose." 6 Howard, 546. Yet, Judge Cooley, in his valuable treatise on constitutional limitations, written nearly thirty years later, and after the law on this subject had become settled, says: "When property is needed for a district school house, it is proper that the district appropriate it, and it is strictly in accordance with the general theory as well as with the practice of our government for the State to delegate to to the district the exercise of the power of eminent domain for this special purpose. So a county may be authorized to take land for its court house or jail; a city for its town hall, its reservoirs of water, its sewers and other public works of like importance." (p. 537.) The decisions on the subject of eminent domain in the different States, certainly have not been based on the theory that the State reserved a right to regulate, and control, and limit the amount of tolls which it might be lawful to charge. If this principle attaches to the exercise of this right by one corporation, it must apply to all. It cannot be limited to railroads only. It would apply with equal force to a gas company, or a company to supply cities or towns with pure and wholesome water. These are public purposes, and the right of eminent domain would be granted to either; yet, could it be pretended that because it was so granted that the State would thereby be entitled to regulate the charges that the company should make for its gas in one instance, or water in the other? Nothing of the kind would be claimed, and yet there would be just as much propriety in it as there is in claiming that the rates of fare for passengers and freight on a railroad are subject to any such rule.

"The right of exercise of the power of eminent domain, may be conferred upon an individual, as well as a corporation. It has been done in England, and in many of the States—as in Pennsylvania, to enable the owner of mineral lands, to reach them across the lands of another. By the exercise of this power A appropriates the lands of B, and is thereby enabled to bring his coals to market, and derives an income, from his otherwise dormant capital; but does this grant to A give the State the right to fix the price of the product?"

A private corporation may be empowered to exercise the right of eminent domain to obtain a way along which to lay pipe for the transportation of oil to a railroad or navigable water. West Vir-

ginia Transportation Co. vs. Volcanic Oil and Coal Co., 5 West Va. 382. Who would fix the price of this oil? Yet if by the exercise of this right the cost of producing and marketing the oil is reduced, it is a public benefit and a wise exercise of the power.

The right of the legislature to fix the toll of a ferry or bridge rests upon an entirely different basis from that of fixing the tariff to be charged by common carriers by railroad. The stream across which the ferry or over which the bridge is built, is the property of the State, and the State, unless prohibited by its contract, may make such disposition of it as it pleases and prescribe its own terms. Not only so, but the charge in such a case is a specified toll for crossing. It is toll in its proper signification, so the charge made by the owner of a canal to a common carrier engaged in carrying goods, is a fixed amount for being allowed to carry on his business on another's canal. The business and charges of a railroad are entirely different. It consists not only of a charge for the use of the railroad, but for the personal services of those engaged in operating it, of the material to be used in operating and compensation for the risks and damages incurred in the business. There is in fact no analogy between the toll charged for crossing a ferry, and the rates to be charged for transportation over a railroad, or carrying on the business of a common carrier. Is there anything in the delegation of the right of eminent domain that should or ought to change the nature or control of railroad property? Railroads are needed for the public. The State is unable or unwilling to furnish them; individuals or private corporations can better supply the public than the State itself. Such individuals or corporations are ready to furnish this public want at their own expense, and ask only that they may be allowed to take the necessary land to construct them on, paying its full value to the owners, including all damage of every kind. Is it equitable or just, that in consideration of that right they shall be deprived of the ownership or control of any part or portion of their investment? Is not the public benefit conferred far in excess of the right given? Especially is it so when we remember that in practice the exercise of this right is rather nominal than real.

Again, the legislation in regard to railroads in this State, flatly contradicts this theory put forth in the 25th Wisconsin, that the right to regulate and control the toll or charges of railroads is incidental, or adheres to the grant of the right to exercise the power of eminent domain. Every charter granted by the State so far as my examination extends, expressly confers the power upon the board of directors of the company, to regulate the tolls and to fix such rates for transportation of freight and passengers over the road, as they from time to time may deem reasonable. In some of the States the general statutes of the State authorizing the formation of railroad companies have fixed and prescribed maximum rates to be charged by such companies, and in other States the special charters of the companies have contained such limitations. In all such cases the charters were accepted with that limitation, and it

is binding upon the company and will follow the road, should it pass out of the hands of the original company, even to one authorized, to charge a higher rate on roads constructed by it. The original limitation adheres to the property, unless removed by the legislature, and is a proper exercise of the power of the State. But it was left for Wisconsin to lead the way, in this attempt to have the legislature fix the compensation of railroads, after they had been built, and rights vested upon the understanding that the company possessed that right. Had the power to regulate tolls inhaled in the grant of the right of eminent domain to the State, it is strange that no State has ever asserted it or acted upon it.

No such doctrine is found in any well considered case where that question was in issue. The case in 25 Wisconsin, where the doctrine was distinctly put forth, was a case on the power to tax for the benefit of the railroad, Justice Woodbury was not delivering the opinion of the court in the case in 6 Howard, but expressing his views generally, upon the subject of exercising the right of eminent domain by any other than the government, at a time of considerable excitement on that subject, when that was not the point before the court, it would not be unreasonable to suppose, that his views were somewhat warped by the bitter contest that then raged in his own State, which had divided his friends, and separated the Nestor of the democratic press, from the younger and radical portion of the party. The statement of Chancellor Walworth was not an adjudication upon that point, and the doctrine or practice contended for in 25 Wisconsin, has never been the law in New York. It has been said by a learned jurist that, "if the public interest can be in any way promoted by the taking of private property, it must rest in the wisdom of the legislature, to determine whether the benefit to the public will be of sufficient importance to render it expedient for them to exercise the right of eminent domain, and to authorize an interference with private rights of individuals for that purpose." 2 Kent, 260; 3 Paige 73; Cooley's Limitations, 530 to 539.

This is the only true ground upon which the right rests. It should be granted or refused, according as the public interest will, or will not be promoted thereby. The judgment of the legislature alone must determine this question, and when granted it is upon such conditions, and such only as the legislature shall prescribe. Therefore, in order to ascertain the conditions, if any attached, we must examine the terms of the grant. If none are found, then none attach, and only such as are found in express terms, or by necessary implication, can be enforced.

Second. Another ground taken by some in favor of the authority of the State to prescribe the charges of railroads, is that they are public highways. The property of the State farmed out to the company for operating, and not the property of the company.

We have already discussed the question of ownership, and here only, briefly answer this claim of right to fix rates.

Senator Carpenfer, who has published his opinion on the subject,

says: "If railroads are mere private estates, owned by the corporations in absolute right, then they are no more subject to legislative control than a farm or other mere private property. If, on the other hand, railroads are public highways, then they are a part of the public domain of the State, farmed out for administration, but subject to the control of the legislature like any other highway by land or water." This is a fair statement of the matter. It frankly admits that if the companies, that is the shareholders, own the roads, then they are entitled to their management and to fix their rates. In other words in the language of Mr. Justice Strong, that the fixing of the compensation to be paid for their use is an attribute of ownership. It is true that Mr. Carpenter is of opinion that the companies do not own their own roads, that they have built and paid for, and on that account thinks their compensation may be fixed by the legislature. But we are obliged to him for his statement of the question.

That a railroad is a highway, in a certain sense, is not disputed; that it is not a highway, in the common, ordinary sense of the term, is equally certain; in the sense that it is a great thoroughfare over which great numbers of persons and great quantities of property is transported in cars by the company is true; but that it is open to the public, owned by the State, or in any manner controlled, or managed, or used as common highways, is not true. There is no dispute that it was built for public use, and if used at all must be used for the public or as a public use. Its ownership is exclusively in the company. It is their right to operate and control it in their own way, subject to such police and other regulations as the State may lawfully make in respect to any other property owned by any citizen of the State. That the word highway has different meanings, and is employed in different senses in the authorities cited by Judge Strong, in *Alcott vs. Supervisors*, is most forcibly illustrated by those authorities themselves. The case in 3d Paige, 45, is the one before referred to, where the sole question before the court was whether the construction of a railroad was so far a public use as to warrant the exercise of the right of eminent domain. The case of *Bloodgood vs. The Mohawk and Hudson River Railroad Company*, was trespass for entering his close before making compensation, and the case in *Metcalf* was an application to compel the proper officers of Worcester to list the railroad for taxation. The motion in the last case was denied on the ground that it was a highway, and no more liable to taxation than other common highways. Now, in the sense that the term highway was used by Chancellor Walworth, in 3 Paige, in the 18th of Wendell, and as I understand the case of *Alcott vs. Supervisors*, in 16 Wallace, the railroad remains the property of the company. And the word highway is used in a general sense, indicating a thoroughfare, used for the transportation of freight and passengers in a peculiar manner, and not entitled to the exemptions of a common highway. Not the property of the State, but the property of a private company, and therefore taxable as other property or in such manner as the legislature might prescribe. But in the case in 4th of Met-

calf, Chief Justice Shaw gave it a different meaning, and held that the property was actually not taxable because a highway. In that case the state had reserved in the charter of the company a modified right of control of its tolls. The legislature of the State of Wisconsin treats railroads as private property, not as common highways. They have always been subject to taxation, and the same legislature that passed this Potter-law raised the tax on railroads so that the amount to be paid this year amounts to nearly half a million of dollars. The absurdity of attempting to treat railroads as highways of the common character, and owned by the State, is still further illustrated by a reference to section 31 of chapter 119, general laws of 1872, "in relation to railroads and the organization of railroad companies," which prohibits any person, under a penalty, to ride, drive, or walk along on such railroad. If a highway belonging to the State, as other highways, why this prohibition? It is admitted that railroads are highways, in one sense of the term, but denied that the title thereto is vested in the State, or that the State has any other control over them by reason of the title of the road, than it has over any other property owned by a private citizen, or any greater or different control over it than it would have if owned by any other citizen of the State.

The sense in which the term highway is used as connected with railroads, is discussed in 53 New York, 140. "It is manifest that the question presented in this case was not determined in that (*Alcott vs. Board of Supervisors*, 16 Wal. 678) unless it shall be further held that a railroad, owned and controlled by a corporation and operated by it for the benefit of its stockholders is a public highway in the same sense as the common roads of the country. The towns through which the latter run may be compelled to construct and keep them in repair for the common use of the public. The substantial question in the present case is whether they may be so compelled to construct and repair railroads owned and operated for the benefit of the stockholders. It is clear that they may be if they are public highways in the same sense as common roads. It has been uniformly held that the right of eminent domain may be exercised so far in behalf of a railroad corporation as is necessary for the construction and operation of the road, upon the ground that the road and its operation was for a public purpose, and therefore the real estate condemned for its use was taken for public and not private use."

Public highways are owned by the State, are open to all persons to travel upon in such manner and with such carriages as they may choose. The land upon which they are constructed is taken by the exercise of the right of eminent domain, and paid for by the State or some one of its subdivisions and are not subject to taxation. On the other hand railways are owned by private companies. They are open to no one to travel upon, or use, or operate, and any person entering upon them is a trespasser. The land upon which they are constructed may have been taken by the right of eminent domain, but was paid for by the company, and the road is subject to taxation as other private property. The only right which the pub-

lic have in a road so owned is at certain stated times to be transported over it in cars provided and run by the company, and to have their goods transported in like manner for a certain compensation. We therefore insist that railways are not public highways in the ordinary sense of that term, and that they are not owned by the State, but are owned by the companies or their stockholders as private property.

Third. It is also claimed in support of this law, that the business of a common carrier is of a public nature, and therefore that the State can not only regulate it, but can also fix the compensation that may be charged or received.

A common carrier is one engaged in the business of transporting passengers or property or both from one place to another for hire. This business may be transacted by any person and by any of the modes known to man. It may be carried on by a person traveling on foot, on horseback, or with a wagon, by any kind of a boat, or vessel, or by a railroad. That it is a public business in so far as the carrier has to do with many persons is true, nevertheless the business or employment is strictly private. That there are certain regulations governing the transaction of the business for the safety of the public is admitted. But that the State or any other power, except the parties engaged, can fix the compensation to be paid the carrier is denied. Is it the footman who carries small packages, the man on horseback, or the wagoner, whose compensation can be prescribed or fixed by the State? Can the State fix the amount the master of a vessel or the captain of a propeller shall charge for carrying a cargo of wheat from Milwaukee to Buffalo? It will be admitted that no law has ever fixed the compensation to be paid in such cases. Yet if the compensation of neither of these carriers can be fixed by the State, can it fix any carriers rates on the ground simply that he is a common carrier? By what authority can it fix the amount to be paid a railway company for transporting a like quantity of wheat between the same points? So far as the business is concerned they all stand on the same plane, and the rule that governs one must apply to all. It matters not whether a carrier transports one passenger or a thousand, or one ton of freight or hundreds of tons. It is the same business, and if the State has a right to fix the compensation in one case on account of the nature of the business, it has in the other. How does it make any difference in what manner the transportation is effected, whether by wagon, steamboat, or railroad? It cannot be seriously contended that the nature of this business gives the State any right to fix the carrier's compensation. I am not aware that it has ever been attempted in any civilized State, save in the peculiar legislation which has afflicted a few of the States in the Northwest for the past two or three years. The business is no more of a public character than a hundred other kinds of business, which are admitted to be private, and the compensation fixed by those engaged therein, without the interference of the State. It must be admitted, therefore, that if the State has the right to prescribe the compensation

to be paid a common carrier, the same right extends to all other business, and the State can fix the price of labor and services in all cases by an arbitrary enactment. If this can be done, the same principle would give to the State in like manner, the right to fix the price of all products of the farm and the manufactory.

No such power has ever been conceded, or exercised by the State, in this country, and it is in conflict with the whole structure and theory of our government, hostile to our liberty and freedom, and destructive of all progress and improvement. The late Judge Curtis, in his published opinion furnished this company on this subject, says:

"The true inquiry here is, what are the limits in this particular case beyond which the legislature cannot pass, by virtue of this 11th article of the constitution?

First. One of these limits may be found in the nature of the act attempting to alter or amend the charter. Charters are to be amended or altered by the exercise of legislative power, and if the act in question, when rightly viewed, is not an exercise of legislative power, but passes beyond the field of legislation, then it cannot be deemed to be authorized by this article of the constitution.

And my opinion is that it is not within the field of legislation, under any American constitution, to fix and prescribe for the future what prices shall be demanded either for commodities or for personal services, or for a union of both. I do not believe it is within the power of any legislature in the United States to compel owners of property or persons, natural or political, to part with their property or render their personal services at their own expense and risk to the public for prices fixed by the legislature. If the legislature in this instance can be deemed to have possessed that authority, it must be because this particular case is an exception to the general rule. I suppose the ground upon which an exception would be attempted, is that railroads have often and correctly been said to be public highways. They are so in some sense. They are usually authorized by the State to be constructed, and the power of eminent domain is entrusted to the corporation to enable it to locate and construct the road; but when constructed it is out of the means of a private corporation, which is the owner of the road in the same sense that a private corporation is the owner of a bank. Property acquired by the corporation belongs to it exclusively, and its ownership is as absolute as that of any private individual, of property belonging to him. (The People, Ex. Rel., &c., vs. Batchellor, 53 New York R., 140.) Moreover, this fact that a railroad is in some sense a public highway, stops far short of what is necessary in order to lay the foundation for such legislation as is found in this act, because this legislation undertakes to prescribe the prices which shall be paid, not for tolls for passing over the road, but for the service rendered by the corporation as common carriers transporting at its own expense and risk, persons and property from point to point on the road, as well as for receiving and delivering the persons and the property. Now here again there is an element of publicity in the character of the corporation, and of its bus-

iness. Being common carriers of persons and property, the law requires them to transact business for all applicants, at reasonable times and for reasonable rates of compensation. But a railway corporation when carrying on the business of common carrier at its own expense and risk and for its own profit, cannot be distinguished from any other common carrier. Its duties, its liabilities, and its rights are the same, whether they transact the business over a road which they own, or which they hire, or which nature has made for them in the shape of a navigable river, or which the public has built at its expense and thrown open for the common use, and unless it can successfully be maintained that the legislature may, by what is in truth a legislative decree, establish for the future prices for personal service and expenditures and risks incurred in rendering it, I am unable to see how this law can be brought within the field of legislation."

It is claimed that the State has the right to fix the tolls to be charged on bridges and ferries, turnpikes, canals and railroads, and that this gives them the right to fix the compensation to be charged by a common carrier by railroad. If this be true, could they not also fix his charges on turnpikes or canals? Where is the difference? Toll is the sum required to be paid by the common carrier or other persons for crossing a bridge, or ferry, or traveling over a turnpike, or for the right to navigate his boat on a canal, but it in no instance includes the compensation to be paid to a common carrier. In fact, it is the tribute paid, mostly by common carriers, to the owners of a bridge, ferry, turnpike, canal, or other like improvement for the privilege of using such improvements in transacting their business as common carriers. It is not a term used to express the compensation to be paid to a common carrier. Applying it to a railroad it would express only the compensation to be paid for the use of the railroad, and that alone. It would not include the compensation to be paid to the company, for discharging the duties and functions of a common carrier, for the labor and services necessarily bestowed, the risks incurred and the expense attendant on the proper transaction of the business. These are the proper duties of a carrier, and for performing which, he would have the same right to charge his compensation, in addition to the tolls paid for the use of the railroad, as he would to charge for like services, in addition to the tolls paid on a canal, turnpike or any other like improvement. The fact that the same company is common carrier and owner of the road, makes no difference. He is entitled to pay for the use of his road, and he is also entitled to his compensation as a carrier. If, therefore, for the sake of the argument, we admit the right of the State to fix the amount of toll to be paid for the use of the road, still it would have no more right to fix the compensation of the company, or its lessee as a common carrier, than it would to prescribe the compensation of all other carriers. Hence granting the right, as to fixing tolls, does not give the State the right to fix the pay of a common carrier, and this law could not be sustained. But the right of the State to fix *tolls* even, arbitrarily after the improvement has been made, and against the will of the

owner, is by no means admitted, and we believe that a careful examination of the cases will show that such fixing of tolls of ferries, bridges, and canals by the legislature, has, only, been done in the original charter, or in pursuance of some right reserved to fix or prescribe them, and not in violation of vested rights in property.

Fourth. It is claimed that the furnishing of the means of communication between different localities of a State is a *prerogative right*, and belongs to the State, and that no subject or citizen can establish a road, bridge, ferry, canal or railroad, without the express leave of the ruling authority of the country in which it is to be done, nor charge for the use thereof, or for transporting passengers and freight, without such express license of the State.

If it is meant by this, that the government has the right and power to establish such means of communication, and that it is one of the important ends for which government is established to provide, or cause to be provided, suitable highways of travel and inter-communication between the different parts of a country, we do not dispute it. But, if it is claimed that a citizen or citizens of a State where there is no statute prohibiting it, cannot establish a bridge, ferry, road, canal, or railroad, and receive pay for its use, the proposition is denied. Suppose that a citizen of Wisconsin should desire to build a bridge across the Wisconsin River, or establish a ferry at any point on it where he owned the land on each side—would there be any legal objection to his doing it? Of course, he could not obstruct the navigation of the river, but, aside from that, what legal objection could there be to his placing a bridge on his own land across said stream? Or placing a ferry-boat thereon? Who could object? How could he be prevented? Whose rights would be infringed by his so doing? Is there any *prerogative right* vested in the State that would render such acts illegal, if there was no statute prohibiting it?

After his bridge was built or his ferry established, would there be any legal objection to his allowing teams to pass over his bridge, or to his transporting them across his ferry? Could he not make a reasonable charge for this service and use, and collect it from those availing themselves of his improvements? If not, why? Could the parties using his bridge or ferry avoid paying a reasonable charge therefor? Or could the State by any proceedings prevent his transacting the business or receiving a reasonable compensation for his services and use of his property? Again, could not a citizen open a road through his own premises, whether one mile or fifty in length, and construct thereon a turnpike for the purposes of travel? And when constructed could he not legally charge a reasonable compensation for its use, to be paid by those who saw fit to use it? And might not this road cross other highways which it intersected in its course? Could not all this be done without any special authority from the State, provided there was no law prohibiting it? I confess that I know of no law that would prevent it. I am aware of many decisions in which the right to establish a bridge or ferry has been drawn in question, and where the declaration has been made that the subject could not establish a ferry

without the authority of the King, but in all these cases I think it will be found that the controversy was with the owner of another ferry, who claimed that his rights were infringed; or if with the government, it was because some regulation in respect to revenue or license was involved. I know of no law that would prevent such action in this country, nor do I know of any authority by which the State could interfere by an act of legislation, arbitrarily, to fix the compensation to be paid for the use of such improvement below a reasonable amount.

I am aware also that the impression appears to prevail that in order to build, own and operate a railroad, it is necessary to have permission from the legislature, and that a railroad could not be operated without such authority. I know of no reason why any natural person, if possessed of the requisite means and ability, might not build, own and operate a railroad in the State of Wisconsin, and receive pay for the transportation of freight and passengers. It is true that the charters for railroad companies always contain provisions authorizing them to build, own, operate and receive pay for transportation of freight and passengers. These provisions are necessary to authorize a corporation to do it, but an individual could do all these acts of natural right, the same as he could engage in the business of a common carrier in any other manner.

In the case of *Bank vs. Edgerton*, 30 Vermont, R. 182, the court say: "There is indeed nothing in the right of constructing and operating a railroad, and taking charges for use which is necessarily of a corporate character, or which might not with perfect propriety belong to, or be exercised by natural persons."

And Mr. Justice Allen, now of the court of appeals of New York, in discussing this question in *Beardsley vs. Ontario Bank*, 31 Barbour, 625, says: "Aside from the right of eminent domain, which, to a certain extent, and to enable them to acquire the title to real property, is delegated to railroad corporations, I think of no privilege enjoyed by them which might not be exercised by individuals without express permission from the government. Carriage of persons and property by railway is a business open to all who can acquire title to the roadway, and construct and equip the road, and the fact that a railroad, for the purposes to which they are applied, is deemed to be so far public, or for public purposes, as to justify the delegation of this right of acquiring property upon just compensation to the owner, without his consent, does not affect the character of the property which a railroad company may acquire." In *Hall vs. The Sullivan Railroad*, 22d Law Reporter, 138, Mr. Justice Curtis, says: "But the franchises to build, own, and manage a railroad, and to take tolls thereon, are not necessarily corporate rights; they are capable of existing in, and being enjoyed by natural persons; and there is nothing in their nature inconsistent with their being assignable. See also second, *Redfield on Railway's*, 517 and 570; *Coe vs. Columbia, Piqua & Ind. L. R. Co.*, 10th Ohio St. 372.

Any person therefor who could get, or who was possessed of sufficient means or ability might build a railroad anywhere through

the State of Wisconsin, where he could secure the necessary grounds and right of way, and could operate such road and carry on the business of a common carrier, without any permission or aid from the law-making power of the State, such property would be private property and the State would have no more right to fix the charges which should be made on it, than it would have to fix the charges for a line of stage coaches engaged in carrying passengers, or wagons engaged as carriers of merchandise. Neither a railroad company or an individual can exercise the right of eminent domain except as the State confers it upon one or the other, and this power may be conferred upon one as well as the other. It is now conferred by our law on individuals by the mill-dam act, and it is competent for the legislature to confer it either on individuals or corporations as the interest of the public may require. And Judge Cooley, p. 538, says;

"Accordingly, on the principles of public benefit, not only the State and its political divisions, but also individual and corporate bodies have been authorized to take private property for the works of public utility, and when duly empowered by the legislature so to do their private pecuniary interest does not preclude their being regarded as public agencies in respect to the public good which is sought to be accomplished." Again he says, p. 536. "Although property can only be taken for a public use, and the legislature must determine in what cases, it has been long determined that it is not essential; the taking should *be to or by the State* itself. If by any other agency in the opinion of the legislature the use can be made equally effectual to the public benefit." Again, on page 537, he says: "Although the practice is not entirely uniform on the subject, the general sentiment is averse to the construction of railways by the State, and the opinion is quite prevalent if not general that they can be better managed, controlled and operated for public benefit in the hands of individuals than by State municipal agencies." It may be assumed therefor as the settled belief and practice that railroads can be better built, managed, controlled and operated *for the public benefit* in the hands of individuals or private corporations, than by the State or municipal officers or agents. Consequently the wisest and best exercise of the right of eminent domain for that purpose is to commit it to the hands of such individuals or corporations."

I therefore insist that not only might an individual build a railroad without grant or permission of the government, except so far as the power to exercise the right of eminent domain might be necessary, but he might purchase, own and operate any of the railroads now built, and charge for the transportation of freight and passengers without interference or control from the government other than that his charges should be reasonable.

Fifth. The so-called reserved power of the constitution does not authorize the enactment of a law establishing rates to be charged for transportation of freight and passengers.

Section 1, of article 11 of the constitution of Wisconsin, is as

follows: "Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporations cannot be attained under general laws. All general laws or special acts enacted under the provisions of this section may be altered or repealed by the legislature at any time after their passage."

This section relates exclusively to the *formation or creation* of corporations, and provides that it may be done by general laws, and in some cases by special act, and further provides, that all such general laws or special acts may be altered or repealed at any time after their passage. That is, laws *forming or creating* corporations. It is not that all laws relating to or affecting corporations may be altered or repealed, but only those under which they are formed or created. What is the correct construction of this clause? It certainly does not, by its terms, give that unlimited power over corporations, which is claimed by our opponents, but is confined to laws under which corporations are formed or created.

In order to properly understand and construe this clause of the constitution, we must consider, 1st. What are corporate franchises or privileges? 2d. What was the object to be attained by this provision? 3d. The distinction between corporate property and corporate franchises.

1st. What are corporate franchises or privileges? A corporation is a legal entity, or ideal existence, created by the legislature; an artificial being, clothed with certain franchises or privileges. These franchises are, 1st. Continued or indefinite existence, with perpetual succession of membership. 2d. The right to transact the business for which the corporation is created, in its corporate name. Under our constitution, such artificial beings are created by the legislature, and may be altered or abolished by the legislature at its pleasure, except where rights have become vested, or the alteration would violate some portion of the constitution, either State or federal. Without the clause above quoted, the power to create would have belonged to the legislature, the same as now, but not the power to alter or abolish. Natural persons always form or constitute the corporation. It is a franchise granted to a certain number or society of individuals, and the business to be carried on is in fact their business, and by organizing the corporations, they are authorized and enabled to transact it in the name of the corporation. These two are the essential franchises necessary to their creation or formation as corporations. Other powers or franchises are conferred upon corporations, such as the power to exercise the right of eminent domain, but they are not essentially or necessarily corporate rights, and may with equal propriety be conferred upon and exercised by natural persons as by corporations. I am not aware of any business transacted, or authorized to be transacted, by a corporation, except, perhaps, issuing currency, which natural persons might not do as a matter of right, without statutory authority. It is not necessary that any business carried on by corporations should

be so conducted. It might all be done by natural persons, and as of their own right.

But it is more convenient, and in many cases practically necessary, that certain kinds of business and certain enterprises should be carried on by corporations, in order that there may be no change of interest by death, and that the several parties may have their interests represented by stock in an available shape.

What, then, are corporate powers which the legislature may alter or repeal, without invading the inviolability of private property? Many individuals desire to associate together in a work requiring a large amount of capital, and they prefer to act and conduct such business in an artificial name,—to purchase and hold property by that name,—to issue certificates of stock to the owners of such property, according to the amount of capital each individual has invested in the enterprise. The sole object of those who invest their capital in such business, is private gain or emolument. The State grants this privilege, and this is the franchise of the corporation. It is simply a grant of authority from the State to its citizens, to conduct certain specified business, by an artificial or corporate name. These are franchises that the State may alter or repeal, and when they are repealed, the parties who form the corporation will own the corporate property and hold it in the corporate name, as before the repeal, and will manage it, and operate and enjoy it, as tenants in common. *Bacon et al., vs. Robertson*, 18 Howard, 480.

I am aware that it is claimed that this reserved power extends far beyond these bounds, and reaches every right, power, and grant given to or possessed by corporations and to the utter destruction not only of the corporation, but of all beneficial use of its property. This claim will be examined hereafter.

2d. What was the object to be obtained by inserting this provision in the constitution? The decision of the courts had settled the law, that a charter for a corporation granting corporate privileges was a contract with the State, and irrevocable and unalterable by subsequent legislation. This provision was for the purpose of bringing such laws under the control of the legislature, the same as all other acts of the legislature. It was not intended thereby to give the legislature any control over the property of individuals or corporations, not otherwise possessed, but simply, power to deal with the charter of a company in the same manner that they could with any other law passed by a prior legislature. The rights of property were not disturbed by this reservation. No affirmative power is given by this provision. It is only a reservation of the power which the legislature possessed before and at the time of granting the charter. If before granting the charter it had the right to fix and determine the prices that should be paid for property or its use, or the compensation to be paid individuals for services rendered or risks incurred, it retains it as to the corporation created. It is not estopped to exercise it by the charter granted. But if no such right existed previously, it is not created by this reserved power, and can not be exercised under it. In other words, it operates to relieve the legislature from a restriction upon their

power, which would otherwise have attached as to corporate franchises, but granted to them no additional authority beyond what they already possessed as to all natural persons in the disposition and enjoyment of property. Without this reservation of power, the charter of an incorporated company could not be altered. Laws that might be passed as respects an individual, carrying on particular business, could not have been passed in respect to a corporation carrying on the same business. That is, the legislature now has the same power over the business and property and corporations that it has over individuals, but nothing more. No additional power beyond this is granted by it.

3d. The distinctions between corporate franchises and corporate property:

It is true that corporate franchises may be said to be a species of property and are of value; but they are entirely distinct from what is ordinarily understood by the property and are of value; but they are entirely distinct from what is ordinarily understood by the property of the corporation, or shareholders. No modification or repeal of the corporate franchises, under which corporators have purchased and hold property, can invade or impair any estate or vested right of the corporators in such property, and on the repeal of their charter, it would remain the property of the corporators, to be used by them according to the original design and purpose for which it was created. It must be apparent to all, that the State should not, and cannot recall any more rights or privileges than it has granted. Whatever other rights the corporation has acquired, are as inviolate as those of natural citizens. Property owned by an incorporated company is just as sacred as if owned by a natural person. It cannot be taken for public use or confiscated by legislation any more than the property of natural persons. Hence, while the legislature has reserved the right to alter the chartered rights of corporate companies, it has no greater power over their property than over that of other persons. And Judge Swan, in his pamphlet on this subject, says:

“And now it seems necessary to reiterate distinctly and emphatically that a railroad, with its rolling stock, buildings, shops, fixtures, and other property pertaining to it, and its uses as property for emolument, is not the artificial being called a corporation, not corporate powers, but property, private property, just as truly so, with the incidents and vested rights of property, as the site, building and furniture of an incorporated hotel. Both as private property, are inviolate, whatever may become of the artificial corporate powers which the private owners as corporators have obtained from the legislature. It is doubtless within the power of the legislature under the constitution of Wisconsin to repeal all laws, general or special, authorizing the formation of corporations, and perhaps put an end to all corporate existence. Whether such repeal would have that effect on existing corporations formed under general laws, may be questioned. The supreme court of Iowa, in ——— held that the repeal of a general law authorizing the formation of ——— did not have the effect to terminate the existence of corporations

organized under it. But granting that such repeal would put an end to all existing corporations, would it have any effect upon their property? It would not revert to the State, but would remain the property of the shareholders as at present, and in the same proportion, and they alone would have the right to manage and conduct it. Such repeal would in no manner change the property or its use. Instead of being owned by the shareholders in their corporate name as a corporation, it would be owned by them as tenants in common and managed as a partnership in the corporate name or any other that they might elect to assume. In that case the *reserved power* so called, certainly could not be invoked as authority for the legislature to fix the rates of compensation to be paid for the use of the property of the services of the partners in transacting the business. The reserved power would end with the corporate existence. Its entire force would be spent in effecting the repeal. It could exercise no power over the property or the services of its owners. Hence, we insist that this power gives no authority to the legislature to fix the compensation to be paid for the use of the property of the corporation, or for transacting the business of a common carrier in connection with it.

Suppose, instead of a legislative repeal of the charter that the company as they were authorized to do, should have leased its road for a term of years to an individual, who was engaged in operating the same as a common carrier, at the time of the passage of this law, would this *reserved power* operate upon him so as to authorize the legislature to fix his compensation for transacting the business of a common carrier? If so would it release him from paying the stipulated rent, which he could afford to pay when the lease was made, but which could not be earned under the provisions of chapter 273?

This reserved power is the same as to all corporations of the State. Hence, if it gives the right to fix a tariff of rates for the railroads, upon which they are to do business, it also reaches all other corporations of the State, and empowers the legislature to fix the price at which their services must be rendered, their business transacted, and their products disposed of. It would give them power to fix the rates at which life insurance companies should take risks on lives; at which fire and marine companies should insure our buildings, our property, and our vessels and their cargoes; at which the rolling-mill should sell its rails, and re-roll old rails; the price at which our leading newspapers should furnish their several issues and do their advertising; at which the Park Hotel, and other similarly situated hotels, should furnish their accommodations; at which the gas companies shall furnish the gas; and the lumber companies their lumber; and last, but not least, the price at which Best's Brewing Company and other brewers operating under charters, shall furnish their lager. Even the modern institution called the grange, when incorporated, may be subjected to this supervising power of the legislature, and compelled to dispose of the goods of the grange store, and the agricultural products of the farm, at such prices as the law-making power shall establish.

By the construction which the attorney-general of Wisconsin and his associates give to this reservation, not only all the above corporations, but all the others in the State, will be subjected to the control of the legislature, in fixing and determining the price, not only, for the use of their corporate property, but also for their services and commodities. The present law has only fallen upon railroad, express and telegraph companies—but let this be sustained, and who can tell what particular class of corporations will next become obnoxious to the legislature? or how ruinous the next scale of prices may be, not only to railroad companies, but to all others, whether engaged in the business of common carriers, insurance, manufactures, or any other industrial pursuits? The opinion of the attorney-general furnished by the governor on this subject includes them all; and if, by virtue of this power to alter or repeal, the legislature can fix the charges of railroad companies, they can also fix the price of flour manufactured by a milling company, and the price at which cloth shall be sold by the factories. The spectacle would be presented of two factories, one owned by an individual, the other by a corporation, both engaged in the same business, yet one would be allowed to fix his own prices, while the prices at which the other should sell its goods would be prescribed by the legislature. It was claimed in the court below that this result would not follow for the reason that the miller or manufacturer would not be compelled to submit to the terms imposed by the legislature, as he could abandon his corporate existence and conduct his business in his individual character. This we insist, also, might be done by the owners of the railroad; *first*, on the principle of natural right already discussed; and, *second*, on the ground hereafter stated that the right to own and operate a railroad inheres in the property, by virtue of the acceptance of the charter and the construction of the road, and that the repeal of the corporate franchises will not divest the owners of this right. This view will be considered hereafter in this argument. But, is not the reason here given for the difference, really an admission by our opponents, that the reserved power, does not give them a right to fix our compensation? It is an admission on their part that their pretended right to fix compensation, is only effectual where they possess the power to destroy the business by killing the corporation. But if the business can live after the corporation is dead, they admit they are without power to fix rates. In other words, it is simply saying to the railroad companies, we have the power to destroy you and will do it unless, you submit to such rates as we prescribe.

IV.

This power reserved in the constitution of Wisconsin, to alter and repeal laws creating corporations, is not without limit.

It is well settled that this power of alteration is not an arbitrary and unlimited power. The power to repeal, and thus put an end to the corporators' right to conduct their business in their corporate name is admitted. That is a mere privilege granted to natural

persons, and may be withdrawn, and the corporators would then be left to conduct their business in their own names, as other natural persons conduct theirs. But the right to alter, or, in other words, the right to prescribe the manner in which the corporation shall conduct its business and use its property, is limited. This matter has frequently been before our courts; and while the exact limits of this power may not have been definitely prescribed in all cases, it is distinctly settled by all the courts that have passed upon it, except the supreme court of Wisconsin, that there are limits to its exercise, and that it must be exercised in subordination to the provisions of the Constitution of the United States, and in harmony with the other provisions of the constitution of Wisconsin; that vested rights cannot be disturbed, nor can the company be deprived of its property, or the use thereof, acquired under a legitimate construction of the powers granted in the charter.

It matters not whether this reserved power is contained in the charter, a general law, or the constitution. It is equally operative in the one case as the other, and the construction and effect the same.

1st. This provision does not dominate the other provisions of the constitution. It has no superiority over them, and must be construed in harmony with them, and in subordination to the federal constitution.

The discussions of this subject have appeared to assume that this provision was superior to all others, and that it has been construed as if it stood alone, unlimited by any other clause of the constitution. Chief Justice Ryan, speaking of this power, says: "This power is limited by its own words only. Any limitation of it must come from those words." I need not say that such is not the fact.

Section 1, of article 14 of the amendments to the Constitution of the United States, provides that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law."

The Constitution of Wisconsin provides that "the property of no person shall be taken for public use without just compensation therefor." (Sec. 13, article 1.)

"The right of trial by jury shall remain inviolate." (Section 5, article 1.)

"Writs of error shall never be prohibited by law." (Section 21, article 1.)

"Every person is entitled to a certain remedy in the laws, for all injuries and wrongs, which he may receive in his person, property, or character." (Section 9, article 1.)

All these provisions of the constitution of Wisconsin are of equal force and potency. In order to test this question, let us suppose that said chapter 273 had, in addition to its other provisions, enacted that in any suit brought under its provisions, the railroad company should not be entitled to a jury trial, or that its employees should not be entitled to a writ of error on conviction under it.

Could such enactments have been sustained under this *reserved power* of the constitution? Of course not. But why not? Simply because the proposed alteration would be in conflict with the other parts of the same constitution. It is therefore necessary to construe these clauses together. Let us place them in apposition, and see how they will read: "All general laws or special acts enacted under the provisions of this section may be altered or repealed by the legislature at any time after their passage, *provided* 'that such alteration shall not impair the right of trial by jury,' or 'the right to a writ of error.'" Again, such laws may be altered or repealed, *provided* that thereby "the property of no person shall be taken for public use without just compensation therefor," or "*provided*, that thereby no person shall be deprived of life, liberty, or property, without due process of law, or his privileges or immunities abridged."

We have already shown that by this law privileges and immunities as American citizens have been abridged, in that, we are not allowed to fix the compensation for our services which we are compelled to render. That we are deprived of our property without due process of law, in that, we are compelled to suffer its use for an inadequate compensation. That our property has been taken for an alleged public use or benefit without just compensation. In that, we are compelled to furnish our property and services for the benefit of the public, for less than a reasonable or fair remuneration. These facts stand admitted upon the record in this case.

1st. That the compensation allowed by chapter 273, is not a reasonable or adequate compensation for the use of the property and services required.

2d. That it compels the owners of the railroads to perform all services that may be required of them, in the transportation of freight and passengers, for an inadequate and insufficient compensation, against their will.

3d. That it enforces the performance of these duties by penalties and fines against the company, and by criminal prosecutions and imprisonment against its employees.

4th. That it actually deprives the owners of all beneficial use of their property, and takes from them one million of dollars per annum, which, but for this law, they would have rightfully and properly received for the use of their property and the transaction of their business.

Can it be pretended that such an act is not an abridgment of the privileges and immunities of citizens of the United States? Does it not deprive them, not only of their property, but of their liberty even, without due process of law? The sole pretence on the part of the legislature for the passage of such an act is the public benefit, but it is a benefit conferred only by taking our private property. It is, therefore, a taking of private property for public use, without any compensation, and in violation of just as plain and imperative a provision of the constitution, as that which declares that "the right of trial by jury shall remain inviolate," or that "writs

of error shall never be prohibited by law." This court cannot hold, that the legislature are at liberty to disregard the 13th section, but not the 5th, and 21st, of article one, of the Constitution of Wisconsin, in order to give full force and unlimited power to section 1, of article 11, of the same instrument. The time may come when the 5th section, even, may be revoked in aid of the rights of corporations, and the 21st is now, one of their most reliable safe-guards.— All of these sections must be construed together, so as to give each its proper force and effect, and each one is limited by the others.— While section 1, of article 14, of the amendments of the Constitution of the United States, is supreme over all the provisions of the Constitution of Wisconsin, and they must bow to *its* mandate. Hence the *reserved power*, cannot be so used as "to abridge the privileges and immunities of citizens of the United States or to deprive any person of life, liberty or property without due process of law."

2d. *Vested rights cannot be disturbed, in virtue of this reserved power.*

I am not aware that it is claimed by the advocates of this power, that vested rights can be disturbed by legislation. But they claim that no rights can become vested, in a corporation, or in favor of it, where the *reserved power* exists. It is claimed that in such a case a charter from the State is not a contract, but a sort of license, revocable at pleasure, and that no rights as against the State, and in favor of the corporation can ever exist. The full meaning of which, is that it is not competent for the State to make a valid contract with one of its corporations, so that it could be enforced against the State, against its will; but that the legislature, would have full authority, at any time, to put an end to the corporation and the contract, or to alter its terms by a law, altering the terms of its existence. In other words, that the State may, at all times, plead its *minority* in avoidance of all contracts made with chartered companies, notwithstanding that the corporation has fully performed its part of the agreement. The whole doctrine in reference to executed contracts, and the rights accruing to the contracting parties therefrom, is wholly ignored. Corporators who have performed all the conditions of their charter contract with the State, in the estimation of our opponents, have acquired no right which the legislature, in the exercise of this *reserved power*, is under any obligation to respect.

It is admitted that the contract entered into by the State with the corporations, so far as it relates to the formation of the corporation, its existence, and the manner of conducting the corporate affairs, is subject to alteration or repeal at the pleasure of the legislature. But so far as it relates to the property of the shareholders, to be managed by the corporation, there *is* a contract which is ir-repealable, and which protects the property from interference and invasion by the legislature, just as effectually as the private property of an individual. This right of property, and its enjoyment and use, in the manner prescribed by the charter, becomes vested in the corporators, and cannot be disturbed by any legislative act. For

instance, the legislature grants to certain individuals the franchise to be a corporation, and to transact business in a corporate name; and they are further empowered, in that corporate name, to construct and operate a railroad, and charge for the transportation of freight and passengers such rates as they may deem just and proper. The corporators accept the franchises granted, and from the corporation construct the railroad, and engage in the business of transportation. The legislature may at its pleasure annul the grant to exist as a corporation, or change its organization or the management of its corporate affairs, but it cannot interfere with the railroad, or deprive the corporators of its ownership, or the right to use and control it in the manner, and for the uses and purposes specified in the original grant. The rights of the corporators in property is a vested right, that cannot be disturbed by any legislative action, and the right to use, control and fix, and charge compensation for its use, inheres in the property, and is vested in the corporators just as absolutely as the right to any property vested in any individual.

The legislature of Wisconsin, granted to the original corporators, the franchise to form a corporation, to use a corporate name, and to construct or purchase and operate a railroad, and to charge such rates of compensation for the transportation of freight and passengers as they should from time to time fix and establish. This was a proposal on the part of the State to the corporators. The acceptance of this proposal by the corporators, changed it into an executory contract between the State and the corporators. By the subsequent construction and equipment of the road by the corporators, it became an executed contract, and the right to the compensation, to the enjoyment of the use and profits of their property, within the limits of the executed contract, passed from contract to grant.

“The charter fixed and determined, between the State and the owners of the property, the terms and rights of enjoyment of the property, which is inseparable from, because they constitute a part of, the estate in the property; and, therefore, any substantial invasion afterwards, by the legislature of the enjoyment of the estate and vested rights therein, would be an impairment of the obligations of a contract, the violation of an estate in property, and retroactive legislation.”

We admit the power of the State over the corporation, but not over the property. In that the shareholders have a vested right of property, which no legislation under the *reserved power* relative to corporations, can in any manner affect.

The State, by the charter, expressly granted to the corporators the right to fix and establish their own tariff of charges for the transportation of freight and passengers. On the faith and credit of the State, thus pledged, the corporators made the necessary investment and constructed the road, and in all things performed the contract on their part, relying on the faith of the State so solemnly pledged. Among honorable men such a provision would never be displaced by a tariff of rates prescribed by a legislature, after the expenditure had been made. The companies trusted to the charter as made,

and have expended their money and completed the roads. But to their surprise and injury, the contract is now repudiated under circumstances, that, as between individuals would be characterized as little better than obtaining property under false pretences.

If the legislature intended that after citizens had embarked their private fortunes in one of these gigantic enterprises on the faith of this prescribed right of enjoyment, all the estate and ownership in it that was of any value as property was left to the caprice of the majority of the legislature at each session, and with the power to reconsider what estate the corporators should hold and enjoy in their private property, the legislature should have expressly reserved such power of invasion of property; and had they reserved it, without limitation upon their future action, I will venture the assertion that no railroads would have been constructed under it." By this act the State is now attempting to repudiate its solemn contract, and its pledged faith, and, arbitrarily, to fix a rate of compensation in violation of both, which is manifestly unjust and admitted to be wholly inadequate.

By a general law of the State of Wisconsin, approved October 10, 1856, (Session-laws, page 213,) and afterwards incorporated into the revised statutes of 1858, (sections 33 to 38, inclusive, chapter 79.) It was provided that any railroad company might borrow money and as security therefor, pledge by way of mortgage or trust-deed, their railroad track, right of way, depot-grounds, rights, privileges, franchises, immunities, and appurtenances, and that on a foreclosure and sale thereof, the party or parties acquiring title under such sale, and their associates, successors, and assigns should have and acquire thereby, and should receive and enjoy thereafter, all and the same rights, privileges, grants, franchises, immunities, and advantages in and by said mortgage or trust-deed enumerated and conveyed, which belonged to and were enjoyed by the company, making such deed or mortgage, or contracting such debt as fully and absolutely in all respects as the corporators, shareholders, officers, and agents of such company might or could have done therefor, had not such sale or purchase taken place, such purchaser or purchasers, their associates, successors, or assignees might proceed to organize anew, and elect directors, distribute and dispose of stock, take the same or another name, and might conduct their business generally under and in the manner provided in the charter of such railroad company with such variations in manner and form of organization as their altered circumstances and better convenience might seem to require: *provided, however*, that no greater or enlarged power should be exercised by the new organization than were conferred by the charter of said company. Many of the charters also contain express provisions authorizing a lease or voluntary sale by the companies of their railroad and its appurtenances, as in the case of the La Crosse and Milwaukee charter now forming a part of the Chicago, Milwaukee and St. Paul Railway Company.

Let us now consider the effect of these provisions and the acts thereby authorized, with respect to the operation of this *reserved power* upon the property, as claimed by the counsel opposed. It is

said that by virtue of this *reserved power*, the legislature may at any time repeal the charter, and thereby put an end, not only to the corporation, but also to the franchise to operate the road, and thus render the property practically worthless.

Of course, such an exercise of the *reserved power*, with such consequences, would be justified only on the ground that the public benefit required it. If so, the logical sequence would seem to be, that the State should pay the owners for the property thus taken or destroyed, and, under the provisions of the constitution already cited, this court would be bound to hold any law effecting such a result unconstitutional and void, unless accompanied with provisions for ascertaining and paying for the property thus destroyed.

But it is denied that any such consequence could or would result from the repeal of the charter. The grant to build, own and operate a railroad, in the case at bar, by the State of Wisconsin, was to the Madison and Beloit Railroad Company. Its name was subsequently changed to the Rock River Valley Union Railroad Company. This company mortgaged its road and franchises under the provisions of the statute above cited. The mortgage was foreclosed, and the purchasers formed and organized the Chicago, St. Paul and Fond du Lac Railroad Company. This company also mortgaged its line of road and franchises, which was foreclosed and sold, and the purchasers formed and organized the present company, the Chicago and Northwestern Railway Company. The Madison and Beloit Railroad Company, and the Chicago, St. Paul and Fond du Lac Railroad Company, have long ceased to exist as corporations, but their road, which was once their property, is an existing fact—is an estate owned by the Chicago and Northwestern Railway Company, and which it now operates by virtue of the franchise originally granted to the Madison and Beloit Railroad Company. No other franchise has ever been granted for that purpose. But the original one has been transmuted, through all these various changes to the present company, as a part of the property authorized to be mortgaged and conveyed. Great numbers of persons, on the faith and credit of the legislation of the State, have invested their fortunes in the bonds issued by these several companies, and in the stock of the present company, relying for a return to that investment on the road constructed with the franchise to be operated in accordance with the original grant upon which it was built and has been transferred to its present owners. Nearly the whole value of the property consists in this franchise to operate the road in pursuance of the original grant. Yet, it is contended, that the legislature, by the repeal of the charter granted to the Madison and Beloit Railroad Company, a corporation which long since ceased to exist for any purpose, would thereby repeal all right which the present company has to operate said road, and practically destroy the whole property. The doctrine is monstrous, and we deny it *in toto*, and insist that the right granted by the State to build, own, run and operate this road for the transportation of freight and passengers, for hire, according to the original grant, is a franchise and right that inheres in the property, and is irrepeala-

ble and indestructible, and that it belongs to the owners of the property as a vested right in the property, and cannot be disturbed by the action of the legislature under the *reserved power*, or in any other manner. That it is not affected by the repeal of the original charter; nor would it be by the repeal of the charter of the present company, for it would then exist in the shareholders as the owners of the property, and as a part thereof.

What was it that our legislature intended should be mortgaged, by the law above quoted, or sold by voluntary sale when authorized? Was it a railroad without the right to operate or use it? or was it a road possessing franchises to be operated and used according to the grant under which it was built? Certainly the latter. Any other construction would operate as a fraud, and a cheat upon the purchaser. The original company could exist without its property; so, too, it could die, without destroying the property. *City of Bridgeport vs. N. Y., N. Haven R. R.*, 36 Conn., 266; *Coe vs. Columbus, &c.*, 10 Ohio State, 374; *Atkinson vs. Marietta, &c., R. R.*, 15 Ohio State, 36.

But it is answered that the bondholders and all other parties, took their interest and made their investment in this property with full knowledge of the *reserved power*. It is true they took it with knowledge of the provisions of the constitution and of all those provisions. But not with knowledge of such a construction as is now attempted. No ordinary foresight could guard against *such* an exercise of such a power. And if such a construction of this power is possible, then we say,

“O, it is excellent to have a giant's strength: but it is tyrannous
To use it like a giant.”

We insist that on the sale of a railroad by the owner, all the estate as above described, with the full right to fix the compensation for its use and enjoyment would pass to the purchaser, regardless of what might be the fate of the particular corporation that constructed it. The *reserved power*, may have been exercised to its full extent, by the repeal of the charter of such original company. Yet the property would survive, endowed with all its original capacity, and attributes, which would inhere to it as property, and the new owner would have the same right to use, operate and enjoy it that was granted to the original corporators. *Coe vs. Columbus, Piqua, Ind. R. R. Co.*, 10 Ohio State, 377-386; *Hall vs. Sullivan R. R. Co.*, 22 Law Rep. 138 to 140 *Redfield*, 571; *Bank, of Middlebury vs. Edgerton*, 30 Vermont, 182 to 190.

In all cases of the transfer of railroads, whether by voluntary conveyance, or by operation of law, the right to make profit of the use of the railroad is so connected with the real estate of the corporators, that by and with the sale and transfer of the roadway, the right of the original company to take compensation passes to the purchaser, unaffected by the fate of the original company. And if by the original charter, any limitations or restrictions were imposed upon this right, they inhere in the property and control it in the hands of the purchaser. *Commonwealth vs. Canal Co.*, 66 Pa. 41;

Atkinson et. al. vs. Marietta R. R. Co., 15, Ohio State 36; Johnson vs. Hamilton, 23 Ohio State, 168 to 187; Commonwealth vs. Central Pass. Ry., 52, Pa. 506; Phil. & Wilm. R. R. Co. vs. Maryland, 10 How. 376.

Under the laws of Massachusetts, since, 1831, all acts of incorporation are "at all times subject to amendment, alteration, or repeal, at the pleasure of the legislature," yet the courts have uniformly held that this power has some limits. In *Commonwealth vs. Essex Co.*, 13 Gray, p. 253, this question came before the supreme court of Massachusetts. The case was an indictment against the Essex Company for neglecting to make and maintain around their dam across the Merrimac River, at Lawrence, a suitable and sufficient fish-way for the usual and unobstructed passage of fish. The company had built fish-ways in accordance with the terms of the charter, and had settled certain claims for damage of some of the owners of the fisheries, as required by their charter in 1847-8. Subsequently the legislature passed an act in 1856, requiring the company to build further fish-ways, and the indictment was for the neglect of the company to comply with its terms. Chief Justice Shaw delivered the opinion of the court, and held the law null and void as in violation of vested rights, and said in reference to this reserved power: "It seems to us that this power should have some limit, though it is difficult to define it. Perhaps the true rule is this: That where under power in a charter, rights have been acquired and become vested, no amendment or alteration of the charter can take away the property or rights which have become vested under a legitimate exercise of the powers granted."

In *Commissioners, &c., vs. Holyoke, &c.*, 104 Mass., p. 451, it is held that the law does not reserve to the legislature authority to so alter or amend a charter as to defeat or substantially impair the object of the grant, or any rights which have vested under it.

The same principle is recognized in Kentucky: "A reservation in a legislative charter of the power to alter, amend, or repeal, does not imply the power to alter the vested rights acquired by the incorporators under the charter, and to add new parties and managers without the consent of the incorporators."

In this case, the legislature incorporated the Western Baptist Theological Institute, making Cave Johnson and six others incorporators, and the board of trustees was fixed at thirty-six. The last section of the charter declared that any future legislature might alter, amend, or repeal the act whenever they might think right or proper to do so. Subsequently, in 1848, the legislature passed an amendatory act, increasing the number of trustees to fifty-two, and appointing sixteen new trustees, and appointed by name the sixteen additional trustees, and required that all trustees thereafter appointed should be citizens of Kentucky. The court held the amendment unauthorized, and say:

"In our opinion the act of the legislature creating sixteen new trustees, without the consent of the board; is not an act coming within the scope and meaning of the power reserved in the act. As it seems to us, the passage of this act was not so much the exercise

of a legislative function as it was the exercise of the ministerial functions pertaining exclusively to the board of trustees. It is an act not changing or amending the mode or manner in which the trustees to whom had been given by the founder of the charity, the supervision and visitorial power of the institute, but it is an act by which this supervision and visitorial power is substantially taken away and conferred upon others. True, the legislature may, by virtue of the reservation, repeal or destroy, but the power to destroy does not imply a right to cripple or to maim."

In *Allen vs. McKeon*, 1 Sumner, 276, Judge Story quotes the reserved power of the charter as follows: "the legislature may grant further powers to, or limit, annul, or restrain any of the powers by this act vested with the corporation, as shall be judged necessary to promote the best interests of the college," and then says, "whatever it may do, then, must be done to promote the best interest of the college. It is true, that it is constituted the sole judge. What is the best interest of the college, but still it cannot do anything pointedly destructive of that interest. Its authority is confined to the enlarging, altering, annulling or restraining of the powers of the corporation. It cannot intermeddle with its *property*."

In *Miller vs. State*, 15 Wallace, 478, the same question was presented. The case arose in the State of New York, and after judgment in the court of appeals, went to the Federal court on error, upon a question involving the constitutionality of an act of the legislature. In New York there was the same constitutional reservations relative to incorporations as in Wisconsin. One of the judges of the State court, in defining the extent of such reserved powers, uses the following language: "The legislature which creates the artificial body must necessarily have power to prescribe the organs through which it shall act. But this is a different thing from arbitrarily taking possession of the corporation itself, and through it the property of the parties for whose benefit the corporation was created. They cannot be presumed to have anticipated that a charter giving them the privilege of managing their property, for their own benefit, in a certain way, could be transferred by this reserved power of amendment into a vehicle which should transfer from them to the State or its appointees all control over the property which they have invested in the corporate enterprise. To hold such a doctrine would be to place all property invested in corporate enterprises beyond the pale of the protection of the federal constitution. Such an act would approach nearer to one of confiscation than of legislation."

Has the legislature of Wisconsin attempted less than this?

On page 498, 15 Wallace, Mr. Justice Clifford says: "Power to legislate, founded on such reservation in a charter to a private corporation, is certainly without limit, and it may well be admitted that it cannot be exercised to take away or destroy rights acquired by virtue of such a charter, and which, by a legitimate use of the powers granted, have become vested in the corporation."

In 21 Grattan, 593, the court held the power is limited, and that the corporation cannot be forced to accept the amendment, but

may cease to do business as a corporation. In *Miller vs. N. Y. and Erie R. R.*, 21 Barbour, 513, the court held that an act requiring the company to give the land and make a road across the track was unconstitutional, as depriving the company of its property without compensation.

The same doctrine was held in 66 Penn., 41. In *Commonwealth vs. Canal Company*. See also *Cooley's Constitutional Limitations*, 577 and 8.

Such a reservation will not warrant the legislature in passing laws to change the control of an institution from one religious sect to another, or to divert the fund of the donors to any new use inconsistent with the intent and purpose of the charter, or to compel subscribers of stock, whose subscription is conditional, to waive any of the conditions of their contract. *Zabriskie vs. Railroad Co.*, 3 C. E. Green, 180; *Railroad vs. Veazie*, 39 Maine, 587.

3d. Nor can the company be deprived of its property, or the benefits thereof, acquired under a legitimate use of the exercise of powers granted by the charter.

It has already been shown that for the State to take the property of a corporation for the public benefit, under a pretended exercise of this reserve power, without making just compensation, would be a violation of section 13 article 1, of the Constitution.

That to deprive the corporation of its property, without due process of law, would be in violation of section 1, article 14, of the amendments to the Constitution of the United States.

It has also been shown that the effect of this law is to deprive the company of thirty per cent. of its gross earnings, amounting to at least one million of dollars per annum. The whole amount of the net revenue of the road in Wisconsin, and that the only value of a road to its owners is to produce net revenue. Therefore, it is clear, that this law does for the time being, deprive the owners of all beneficial use of their property, which is a taking or depriving them of their property. But it is claimed that this taking of the beneficial use of the property, and depriving the owner of all income therefrom, is not a taking of the property, or depriving the owner of it. Chief Justice Ryan says:

"It was said that chapter 273 violates the rights of property of these defendants. We cannot perceive that it does. Whether it will lessen the income of their property, we cannot foresee. We only know that it does lessen their rates of toll. But it does not wrongfully touch their property. As far as the franchise is to be considered property, it was subject to this very limitation, and the limitation is the exercise of a right over it, which does not violate it. The right of limitation entered into the property, and qualified it. And the act does not at all meddle with the material property, distinct from the franchise. It acts only on the franchise, not at all upon the material property. And it is sufficient to say that they acquired the material property, as distinct from the franchise, subject to the alteration of the franchise under the reserved power. That was a condition under which they chose to hold their property,

and they have no right to complain when the condition is enforced. Their rights in their material property are inviolate, and shall never be violated with the sanction of this court. But they are no more violated by this act, and its enforcement than by foreclosure of a mortgage or ejection by paramount title. It is a right over property which is enforced, not a wrong to right in property." (Page 35 of opinion.)

That is, the chief justice does not see that it lessens the amount to be paid for use and services thirty per cent., yet he does not know that it will decrease their income. He knows that experts, skilled in the operation of the road, have testified that it would decrease the income of the road, and render it valueless to the owners, and there is no evidence to contradict it. Yet he does not *know* that it will render the property less valuable to the owners, and insists that so long as the law does not authorize a manual touching of the dirt, wood and iron constituting the road, the property is not interfered with. The fact, that we actually are, or may be, deprived of all right or ability to use it or enjoy it by this action of the legislature, is not an interference with the property in the estimation of the chief justice.

It is submitted however, that to any ordinary mind, not a chief justice, it is entirely clear that the property may be interfered with and utterly ruined, and its value substantially destroyed, without manual interference with the material property and without ousting the owners therefrom. If, as it is claimed, the road can only be operated in virtue of the franchise granted, and that franchise does not inhere in the property, so as to be irrevocable, and such repeal can be effected in virtue of the *reserved power*; then most assuredly section 1, of article 11, of the Constitution, does dominate all other provisions of that instrument, and while overriding the vested rights of the owners of this property also overrides the provisions of the Constitution of the United States. If the legislature were authorized to pass chapter 273, they are equally authorized in the coming session to pass another act, taking away all right to compensation, and still compel the company to continue to operate its road under pains and penalties of new fines and imprisonment. They were not bound to stop at thirty per cent., they could by the same authority, have taken fifty per cent., or the whole. If they had the right to take thirty per cent. of our earnings, there could be no limit to their action, and if the doctrine laid down by the chief justice is correct, they would not have interfered with our property, when they had deprived us of all right to compensation. Our material property would still remain and our vested rights would not have been disturbed.

The chief justice says, "the reserved power in our constitution is a positive provision, entering into all charters under it." This is admitted as to all matters relating to their creation or formation, as corporations and their existence as such. But the right to build, own, and operate a railroad, whether it be held a natural right or a franchise granted by the State, is not a corporate right, pertaining or relating to the creation or formation of a corporation. If a fran-

chise, it may be granted to an individual or to individuals as well as to a corporation, and when granted to either, and accepted and acted upon on the faith and credit of the State, and an investment made that cannot be withdrawn, and can only be used and made available through a continuance of the franchise, it needs no argument to demonstrate that a withdrawal of or prohibition to use the franchise operates just as effectively to destroy the property as it would for the State to withdraw from the owners the material part of the property, or prohibit its use by them, and this is equally true whether the grant is made in the first instance to a corporation or to an individual.

There is no doubt that the legislature might grant this franchise to build, own or operate a railroad to an individual or to individuals, without an act of incorporation, and that on such a grant they might build and operate a railroad. There is just as little doubt that after they had constructed their road, their rights thereto, with all its privileges, would become vested rights, of which they could not be divested by an act of the legislature. Now, in the case of the La Crosse and Milwaukee Railroad Company, the State of Wisconsin created that company, and authorized it to build, own and operate a railroad from Milwaukee to La Crosse, and also authorized said company, at its discretion, to mortgage, lease or sell its road, when constructed, with all its rights and franchises, and that the purchaser or lessee should, on a sale or lease, take all its rights and franchises. That road was afterwards sold on a decree of the United States court, entered on a mortgage given by said company, and at the sale was purchased by Pratt & White, and the sale duly confirmed. Now what title did they get by that purchase? Did they not get precisely the same title to that road and its franchises, to own and operate it according to the grant originally made to the La Crosse company, that they would have had, had the State made the original grant, to build, own and operate that road, to said Pratt & White, and they had constructed the road under such grant? Did not the title to said property, including the franchise to operate it as a railroad, according to the original grant, become vested in them as an estate, of which they could not be divested, except by due process of law?

It is true that the chief justice of Wisconsin denounced this position as "a mere *petitio principii*, and hardly worthy of notice," yet it is modestly submitted to this honorable court as worthy of their consideration.

Again, the chief justice says (page 35 of opinion):

"Of the same type is the argument that chapter 273 violates the contracts of these defendants with their creditors. This position appears to us to rest in the absurdity that the mortgagor can vest in his mortgagee a greater estate than he had himself. Perhaps the statute may lessen the means of payment of the defendants. So would a fine for homicide, under the police power of the State. But to lessen the means of payment of a contract is not to impair the obligation of the contract. These defendants took their fran-

chises, and their corporators invested their money, subject to the reserved power, and suffer no legal wrong when that is exercised."

Is it not also true, that every creditor trusts his debtor with full knowledge that the State possesses the reserved power, at any time it sees fit, to extent the exemption-law so as to cover all the debtor's entire property? Yet the courts have held such extension exemptions, and all similar laws, unconstitutional as to existing debts. *Danks vs. Quackenbush*, 1 Denio, 128; Denio, 594: 1 Comstock, 129; *Bronson vs. Kinzie*, 1 Howard, 311.

And although the very learned chief justice of Wisconsin, in his able opinion, speaking for the supreme court, reprimanded the counsel engaged for denouncing chapter 273 as an act of confiscation unworthy of that great State, we still adhere to the opinion then expressed—that it is, in all essential particulars, an act partially confiscating the property of the railroads of that State for the benefit of a certain portion of the community, and if sustained by the courts, opens wide the door through which the total confiscation will be consummated whenever it shall please the parties interested to effect it. It is the beginning of the operations of the commune in the legislation of this country, and if not checked at the threshold, will ultimately overthrow not only all rights of property, but personal liberty and independence as well. Our last appeal is to this honorable court.

V.

This chapter 273, of the laws of 1874, is void, because it is in violation of that principle of constitutional law, which prohibits unequal and partial legislation upon general subjects.

The law arbitrarily names certain corporations which it says shall charge one price, certain other corporations named shall charge another price, and others shall charge a different price for performing the same services and doing the same acts. This is an arbitrary proceeding, and is partial legislation. Some of the companies are allowed to charge twenty-five per cent. more than others, for no apparent reason. The pretended classification of the companies by the law into A, B, and C, is no classification. It is based upon no reason or principle, but simply changes the names of certain companies, and says they are A, and certain others B, and still others C. It is the same as though no classification was attempted, and the discrimination is arbitrary and partial, and for that reason the law is invalid. If it were possible to classify the roads and then prescribe different rates for the different roads, still the classification must be made on some principle or recognized basis. *Non constat*, but that the roads allowed to charge the highest price are receiving the greatest income per mile, or have been specially favored by the State.

"This law has not even the merit of uniformity. It imposes burdens upon one class of corporations not placed upon another of the same class. It grants to one privileges denied to another of the

same class. It enacts that the Wisconsin Central Railway Company may so use and enjoy its property as to derive an income, while this right is denied the Chicago, Milwaukee & St. Paul Railway Company. It is class legislation in all its nakedness and deformity, without even a shadow or color of equity."

"A statute would not be constitutional which should proscribe a class or party for opinion's sake, or which should select particular individuals from a class or locality, and subject them to peculiar rules, or impose upon them special obligations or burdens, from which others in the same locality or class are exempt." Cooley's Constitutional Limitations, page 390.

"Mr. Locke has said of those who make the laws, they are to govern by promulgated, established laws, not to be varied in particular cases, but to have one rule for rich and poor, for the favorite at court and the countryman at the plough, and this may be justly said to have become a maxim in the law, by which may be tested the authority and binding force of legislative enactments." Civil Government, Sec. 142; State vs. Duffy, 7 Nev., 349.

But if the legislature shall undertake to provide that persons following some specified lawful trade or employment should not have capacity to make contracts, or to receive conveyances, or to build such houses as others were allowed, *or in any other way to make such use of their property as was permissible to others*, it can scarcely be doubted that the act would transcend the due bounds of legislative power, even if it did not come in conflict with express constitutional provisions. The man or the class forbidden the acquisition or the enjoyment of property in the manner permitted to the community at large, would be deprived of *liberty* in particulars of primary importance to his or their pursuit of happiness."

In Wally's Heirs vs. Kennedy, 2 Yerg., 554, it is said, "the rights of every individual must stand or fall by the same rule or law that governs every other member of the body politic, or land, under similar circumstances; and every partial or private law which directly proposes to destroy or affect individual rights, or does the same thing by affording remedies leading to similar consequences, is unconstitutional and void. Were it otherwise, odious individuals and corporations would be governed by one law, the mass of the community and those who made the law by another, whereas the like general law affecting the whole community equally could have passed." Also Durham vs. Lewiston, 4 Greenl., 140; Holden vs. James, 11 Mass., 396; Piquet, appellant, 5 Pick., 64; Budd vs. State, 3 Humph., 483.

See also on the subject Cooley on Constitutional Limitations, 389 to 394.

But this matter has been fully considered by the supreme court of this State, and the late chief justice in an able and exhaustive opinion, in which all the authorities are collected, has applied and enforced the principle with his usual ability and learning. Drake vs. City of Janesville, 28 Wis. 464; Bull vs. Conroe, 13 Wis. 238-244.

This act is also in violation of the 7th subdivision of the amend-

ment of the constitution of this State, adopted in 1871, which prohibits special legislation, "for granting corporate powers or privileges, except to cities." This act is special legislation. Corporate powers and privileges cannot be granted by special act. This act is special in its character, and in violation of that amendment. One company is authorized to charge three cents, another three and a half, and another four. This is special legislation and is prohibited by the amendment. In this particular it is not general law.

VI.

The act of March 12, 1874 which was passed subsequent to chapter 273, which assumes to fix rates, is repugnant to said chapter so far as it prescribes rates and repeals it.

Chapter 273 was passed and approved March 11, 1874. It assumes to fix arbitrary rates to be charged for the transportation of freight and passengers and made it a criminal offence to charge more than the rates so fixed punishable by fine.

On the next day, March 12, 1874, an act was passed entitled "an act in relation to railroads," which purports to be a revision of the whole subject matter in regard to railroads and their charges, and prescribes a new and different set of penalties for violation thereof.

The act of March 11, chapter 273, fixes the rates to be charged, and imposes a penalty of not exceeding two hundred dollars for a violation of the rates there specified.

The act of March 12, 1874, provides that railroads are highways, and the companies common carriers, and shall transport all passengers and freight without unreasonable delay; prohibits favoritism and unreasonable discrimination; consolidation; leasing parallel lines; prohibits free passes to State officers and others; provides that any officer, agent, or employee of the company who shall violate any of the provisions of the act, shall be guilty of a misdemeanor and punished by fine or imprisonment, or both—the fine to be not less than five hundred dollars or more than five thousand dollars, and the imprisonment not less than thirty days or more than one year. It provides for punishing State officers for accepting a pass. Then follows sections 9 and 10, in these words:

"Sec. 9. If any railroad company or corporation, organized or doing business within this State, shall charge, collect, demand or recover more than a fair and reasonable rate of compensation upon any line of road within this State, which it has the right, license, or permission to use, operate or control the same, shall be deemed guilty of extortion, and, upon conviction thereof, shall be fined in any sum not less than five hundred (\$500) or more than two thousand dollars (\$2,000) for each offense, with costs of suit, and reasonable attorney's fees, to be fixed by the court; provided that in all cases under this act either party shall have the right to trial by jury.

"SEC. 10. All acts or parts of acts contravening or conflicting with the provisions of this act are hereby repealed."

We insist that the provisions of section 9, authorize the companies to charge and receive a reasonable rate of compensation for transporting of freight and passengers, that it abolishes so much of the Potter-law as fixes arbitrary rates for such transportation, and operates a repeal thereof; that extortion is the taking of more than a fair and reasonable compensation, and that taking more than is allowed by the act of March 11 would not be an extortion or a crime unless the amount taken exceeded a fair and reasonable compensation, and that the penalties are those prescribed in the act of March 12, instead of those named in the act of March 11; that the provisions of the last act, that no more than a fair and reasonable compensation should be charged or received, was a revision of the former law, and inconsistent with it, and that chapter 273 was repealed by implication, and, in addition to that the repealing clause expressly repeals the former act, inasmuch as the first contravened and conflicted with the last.

It is impossible that both acts can stand together. The first makes it a crime to charge or receive more than the amount prescribed in the first act. The latter makes it a crime only in case you receive more than a fair and reasonable compensation, and the latter affixes different penalties from the former. The prohibition *to receive more than a fair and reasonable compensation* is a tacit permission to charge and receive what is reasonable, and the maxim of *expressio unius exclusio alterius*, applies and authorizes all companies to charge and receive a fair and reasonable compensation without regard to the terms of the law, approved on the 11th of March. There is no saving clause in the last act, making the schedule of rates contained in the first *prima facie* evidence, even of fair and reasonable rates. Hence, in all prosecutions and actions, the fact must be shown affirmatively that the rates charged are more than fair and reasonable compensation, or the prosecution fail. *Burlander vs. Mil. & St. Paul Railway Company*, 26 Wis. 76.

We therefore insist that chapter 273, of the laws of 1874, is unconstitutional and void.

1st. For the several reasons above stated; and,

2d. That it is repealed by an act of March 12, 1874.

JOHN W. CARY,
Of Counsel.

BRIEF OF ARGUMENT OF LUTHER S. DIXON,

OF COUNSEL FOR THE RESPONDENTS AND DEFENDANTS IN ERROR.

These two appeals present the same questions, and may properly be discussed and considered together as one action. The suit first entitled is by the plaintiffs Piek, Pierson and Taylor, as the holders of sundry interest or coupon bonds issued or guaranteed by the defendant, the Chicago & Northwestern Railway Company.

The plaintiff, The Farmers' Loan and Trust Company, sues as the representative of the holders of bonds secured by two mortgages executed to it as trustee, by the defendant railway company, which mortgages were executed and bonds issued respectively April 1, 1871, and June 1, 1871. The mortgage dated April 1, 1871, is of that part of the railway company's road extending from the city of Madison, in the State of Wisconsin, to a junction near the city of La Crosse, in said State, with the La Crosse, Trempealeau and Prescott Railroad, a distance of about 126 miles, and given to secure, in the aggregate, the sum \$3,150,000 bonds, known as the "Madison Extension First Mortgage Sinking Fund Bonds." The mortgage dated June 1, 1871, is of that part of the railway company's road constructed from the town of Fort Howard, in Wisconsin, northerly to the State line, being about 120 miles, to a junction with the line of railroad in Michigan owned by the defendant railway company, and given to secure \$2,700,000 bonds known as "Menominee Extension First Mortgage Sinking Fund Gold Bonds."

The plaintiff, The Union Trust Company, sues as the representative of the holders of bonds secured by a mortgage executed to it as trustee by the railway, on the 30th day of November, 1872. This mortgage is of all the railway company's lines of road in several states, and was given to secure what are known as the "General Consolidated Gold Bonds" of the railway company, amounting in all to \$48,000,000, only a small portion of which have as yet been issued.

The plaintiff, Piek, is the holder of \$12,000 "Madison Extension" bonds, \$120,000 "Menominee Extension" bonds, and \$217,000 "General Consolidated" bonds.

The plaintiff Pierson holds \$25,000 "Menominee Extension" bonds.

The plaintiff Taylor holds \$101,000 of the bonds of the La Crosse, Trempealeau and Prescott Railroad Company, a corporation created by act of the legislature of the State of Wisconsin, approved

March 6, 1857, the payment of which bonds has been guaranteed by the defendant, The Chicago and Northwestern Railway Company, under authority of an act of the legislature of the same State, approved March 10, 1871. Taylor is also the holder and owner of bonds of the Winona & St. Peter Railroad Company to the amount of \$115,000, the payment of which is alleged to have been guaranteed by the defendant railway company under and by virtue of the same act of March 10, 1871. In addition to these Taylor holds and owns \$157,000 of the "Consolidated Sinking-fund Bonds" issued by the defendant railway company, and bearing date February 1, 1865.

The bill contains a history of the Chicago & Northwestern Railway Company and of the various corporations out of which it has arisen, and with which it has been consolidated or become connected in business, since its inception in the charter of The Madison and Beloit Railroad Company, passed in 1848; and appended to the bill, in the form of exhibits, are copies of all the acts of the legislature of Wisconsin pertaining to corporate rights and franchises of the company. Active operations on the part of the company or its predecessors, in the way of building roads and incurring indebtedness, were commenced about the year 1855 or 1856.

The object of the bill is to restrain by injunction the public authorities of the State of Wisconsin from executing the provisions of an act of the legislature of said State passed and approved March 11, 1874, to take effect April 28, 1874. The act is popularly known as the "Potter Law," and is set forth at length in the bill of complaint, on pages 16 to 21 of the printed record.

The defendants, Paul, Osborn and Hoyt, are the railroad commissioners of the State of Wisconsin, appointed by the governor of the State under and in pursuance of the provisions of the act, and who are charged by the act with the performance of certain important functions made necessary by it.

The defendant, A. Scott Sloan, is the attorney-general of the State, upon whom, by the constitution and laws thereof, devolves the duty of representing the State and its people, in their sovereign capacity, in all judicial proceedings of a public nature, and the obligation of seeing that the laws of the State are judicially enforced.

The act of the legislature complained of, and against which relief by injunction is thus sought, is an act regulating the rates and charges at which passengers and freights are to be carried by railroad companies in the State of Wisconsin, and reducing such rates and charges in some particulars below those fixed by the railway companies themselves, prior to the passage of the act, and when no such statutory regulations existed.

The ground of objection to the act, is, that it so reduces the prices at which the defendant railway company is required to transport passengers and freights, that the income and revenues of the company, after defraying the necessary expenses of operating and maintaining its road, will be insufficient to pay the interest upon the bonds held and owned by the plaintiffs and those whom the plaintiffs represent. This is an apprehended grievance merely, and

not one which was or could be known at the time of filing the bill as actually existing, or which would exist or certainly follow as one of the consequences of enforcing the act of the legislature complained of.

The theory of the bill is that the several acts of the legislature of the State of Wisconsin, under and by virtue of which the defendant railway company has its existence, and from and through which it derives all its corporate rights, franchises and privileges, became and were contracts between the State and the railway company, protected by the Constitution of the United States against change or modification by the State; and that the act in question contravenes that clause of the constitution, and is void on that ground. The bill charges that the legislature of Wisconsin had no constitutional power to pass the act, and that it is without any binding force upon the railway company.

A further theory of the bill is, that, although the act may be valid and obligatory as against the railway company, yet it is unconstitutional and void as against the plaintiffs, who are creditors of the company, because the effect of it is, or may be, to diminish or destroy the ability of their debtor to pay the debts due to them. This, it is charged, is a violation of the obligation of the contracts between the plaintiffs and the railway company, within the meaning of the clause of the Federal Constitution above referred to.

The bill likewise states other and minor grounds of objection to the validity of the act, some of which may hereafter be noticed, but it is conceived that the action of the complainants must stand or fall according as the two foregoing principal propositions upon which it is founded may or may not be found to be correct. If either be found correct the action may be maintained. If both are incorrect it must fail.

The action secondly above entitled, is like the first, except that it is instituted by the plaintiffs as holders and owners of stock in the railway company defendant. These stockholders complain in like manner, and upon like grounds, that the act in question is invalid. They say it violates the charter of the company as a contract between the State and the company, and likewise that it violates the obligation of the contracts entered into between them and the company when they became stockholders, by diminishing or taking away the ability of the company to pay expected dividends or profits upon their stock, thus rendering their stock less valuable, or, by possibility, reducing it to a nominal value.

Such are the chief questions presented on these appeals, of which the first, namely, as to the contract relation between the State and the railway company, is the primary and most important one; for if it be found that no such relation exists, then it is believed that the court will experience very little difficulty in disposing of the second question.

I.

Section 1, of Art. XI, of the constitution of the State of Wiscon-

sin, adopted prior to the passage of any of the laws under which the railroad company was incorporated, and holds its franchises and privileges, and which was in force as part of the fundamental law of the State at the time when those laws were severally enacted, declares: "Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts enacted under the provisions of this section, may be altered or repealed at any time after their passage."

We propose first to consider the effect of this reserved power of the State, in the light of authority. Afterwards it will be examined on principle. The question is not a new one in this court, nor in the courts of Wisconsin, as well as the courts of several of the States.

In Wisconsin, it was judicially considered and determined years before any of the contracts relied upon by the complainants were entered into, and a considerable time anterior to the building of any of the roads now owned and operated by the defendant railway company, and anterior to the incurring of any indebtedness by that company, or by any of its predecessors.

As early as the June term, 1854, the supreme court of the State held, in *The Madison, Watertown & Milwaukee Plankroad Company v. Reynolds*, 3 Wis., 287, 293-6, that a subsequent act of the legislature restricting the amount of tolls which the Plankroad Company, plaintiff in that case, was entitled to charge and receive under its original charter, was valid, obligatory upon the company. The question in that case arose, not upon the language of the constitution, but upon a reservation of power contained in the charter, which was one granted by the Territory of Wisconsin before the formation of a State government. The reservation was in these words; "This act may be amended by any future legislature of the territory or State of Wisconsin."

Again at the same term of court, in *Pratt v. Brown*, 3 Wis., 603, 611-13, the court had occasion to consider the reservation as contained in the constitution, and used the following explicit language: "The doctrine that a charter of incorporation, conferring franchises upon a company or individual, was in the nature of a grant, and hence protected from encroachment or attack by the shield of the federal constitution, which prohibits the States from passing laws impairing the obligation of contracts, was established, after elaborate argument and on full consideration, by the Supreme Court of the United States in the Dartmouth College case. This doctrine has, since that decision, been generally acquiesced in by nearly, if not all the state courts in the Union. It is competent, nevertheless, for each State, by constitutional regulation or specific legislative enactment, to reserve the power to modify or repeal all such acts of incorporation.

"Where the power of modification or repeal is reserved, either in the one mode or the other, it is obvious that the grantees must

rely, for the perpetuity and integrity of the franchise granted to them, solely upon the faith of the sovereign grantor. Hence, since the decision of the Dartmouth College case, some of the States, and our own among the number, have, by constitutional provision, reserved to their legislatures the right of modification or repeal of all special acts of incorporation; and all such corporations now rest upon the faith of the State, taking care to deserve its favor, or command its justice, by observing strictly the limit of their powers, and accomplishing by all legitimate means the objects of their creation. * * * * * But is it not obvious that such corporations may hold and exercise such power only at the will of the legislature, circumscribed either by fundamental law or by the particular act of incorporation? Sometimes the grant of such franchises is in perpetuity; sometimes for a given number of years; and sometimes during the pleasure of the sovereign grantor. But by whatever mode, or at whatever time, the franchise is determinable, it is nevertheless dependent upon the sovereign power, at its will, constitutionally expressed. While the corporate existence and franchises remain, all acts done in conformity therewith are lawful; but on their extinction, either by lapse of time or by the sovereign mandate, the acts which were before lawful become unlawful, and the powers and franchises are resumed by the government. The latter in effect declares that the public good or necessity no longer requires the exercise of those powers, and the agency of the corporation through which they have been exercised is thenceforth dispensed with."

The same doctrine was distinctly recognized in *Nazro vs. Merchant's Mutual Insurance Company*, 14 Wis., 295, 299, decided in 1861.

And again, the reason for the constitutional reservation and the effect of it were similarly explained and affirmed in *Kenosha, Rockford and Rock Island Railroad Company vs Marsh*, 17 Wis., p. 16, decided in 1863.

In *Whiting vs. The Sheboygan & Fond du Lac Railroad Company*, 25 Wis., 197, 198, 202, decided in 1870, the court say that "under the principles announced in the Dartmouth College case, and in the numerous cases which have followed it in the same court, and by the authority of which the courts of all the States are bound, this power of the State to regulate and control the franchises and fix the amount of tolls has frequently been wholly lost. * * * But be this matter as it may in other States, the question can never arise in this State. Our people by a most wise and beneficent provision in their constitution, have perpetually reserved the power to the legislature to alter or repeal all charters or acts of incorporation at any time after their passage. * * * As yet we believe, the power has never been exercised with respect to any railroad company organized in this State, and possibly it may never be. It is valuable, however, as a check upon the rapacity which these corporations sometimes exhibit, and the time may come when the legislature will be imperiously required to exert it; but when it does, if ever, it will not be to deprive the corporation or its stockholders

of their legitimate rights, but to correct abuses and save the rights of the people. The legislature will not reduce the tolls or rates to an unreasonably low figure, or so as to disappoint the just expectations of the owners of stock."

In *State v. Milwaukee Gas Light Company*, 29 Wis., 461, 462, decided in 1875, speaking of an exclusive privilege which had been conferred upon the Gas Light Company to supply the city with gas, the court say: "Of course, the whole matter, under our constitution, is under the control of the legislature, which can take away from the defendant his exclusive privilege whenever it sees fit to do so." Again: "The legislature retains control over such charters in this State, and has the power to take away any exclusive privilege or franchise which it may have improvidently granted."

Again in 1874, the extent of the reserved power was involved and under consideration in *The West Wisconsin Railroad Co. v. The Board of Supervisors of Trempealeau County*, 35 Wis. 257, and the unqualified right of the legislature to alter and repeal any and every corporate franchise and privilege, was broadly asserted and affirmed.

And lastly, in *The Attorney-General v. Railroad*, 35 Wis. 425, in an opinion remarkable for its learning and ability, this question was once more fully considered with respect to the very act here complained of, and the act was determined by the court to be a proper and valid exercise of the reserved power contained in the constitution. The court (p. 576) say: "The reserved power in our constitution is a positive provision entering into all charters under it, and must be construed as written. We cannot construe away its meaning, or hold it to mean something else, which we or others might consider wiser or better. We are bound, in our construction of it, by the very words used. We refer to a large number of cases on this point, collated in *Bluffham v. City of Racine*, 26 Wis. 451 to 465. The power is limited by its own words only. Any limitation of it must come from those words. And we must be guided in our construction of the words used, if the words will admit of it, by the purpose of the provision, to do away in this State, the rule in the *Dartmouth College* case, so far as it relates to charters of private corporations. The power to repeal can bear but one construction; nor, if its use, the word has but one meaning. The power to alter depends on the meaning of the word alter. To alter is to make different, without destroying identity (*Crabb*); to vary without entire change (*Webster and Imp. Dict.*) A corporate charter of one kind cannot be altered to a charter of an entirely different kind. But a corporate charter may be altered so as to make it different in detail, so long as the general identity of the corporation remains; so that it is varied without entire change. This is the obvious meaning to lawyer or layman. Arguments *ab inconvenienti* cannot weigh against the manifest meaning of the word used; they may go to impeach the wisdom of the power, but not to impair its import."

Such is, and from the earliest period of time has been, the clear and uniform course of opinion and decision of the Supreme Court of

Wisconsin, by which, long before the bonds and stocks in question were issued, this clause of the constitution of the State had received a well established and well known judicial construction. The clause was itself fair notice, beforehand, of the public right to alter or repeal at discretion. The judicial decision of the highest court of the State made such notice still more clear and emphatic. All were purchasers of the stocks and bonds with notice. It is not claimed, and cannot be, that this clause of the State Constitution violates or in any manner conflicts with any article or provision of the Federal Constitution; and where such is the case, nothing is better settled by the decision of this court than that this court will adopt and be governed by the construction given by the court of the State to its own written constitution. The same rule extends, under the circumstances, to the judicial construction given by the State court to a State statute. It is the function of the State court, and not of this court, in all such cases, to interpret and expound its constitution and laws, and this court receives them as thus interpreted and expounded, and gives them the same force and effect which they have in the State, or before the judicial tribunals of the State. It is respectfully submitted, therefore, that the interpretation given by the Court of Wisconsin to the provision of the written Constitution of the State here under consideration, must be followed by this court, and is decisive of this question.

In this court the same construction has been given to the same words, and the scope and operation of the reserved power has been held the same, whether contained in a special act by which a corporation has been created, a general law of the State applicable to all future acts of incorporation, unless specially excepted, or, as in this instance, in the constitution of the State by which the legislature is bound, and under which no unalterable or irrevocable charter can be granted. The question has been several times before this court, and always with one result. The exercise of the reserved power has invariably been sustained.

It is a historical fact, familiar to all who have given the subject any attention and study, that one principal object of reserving the power to alter or repeal is, and always has been, so far as it concerns railroad companies, turn-pike, plank-road or ferry companies, and other like corporations performing public or *quasi* public functions, and upon which certain public rights and franchises are conferred, to enable the legislature at any future time to regulate and restrict the tolls and fares to be demanded by such corporations. The reserved power is and ever has been regarded by the State and the people, with respect to such corporations, as chiefly valuable because it gave to the legislature this right; and accordingly we find this court, in *Olcott v. The Supervisors*, 16 Wallace, 678, 694 which was a Wisconsin case, and where the court was speaking of the very clause of the State constitution now involved, using the following language: "That the legislature of Wisconsin may alter or repeal the charter granted to the Sheboygan and Fond du Lac Railroad Company, is certain. This is a power reserved by the constitution. The railroad can, therefore, be controlled and regu-

lated by the State. Its use can be defined; its tolls and rates for transportation may be limited."

In *Pennsylvania College Cases*, 13 Wallace, 119, 230, the operation and effect of the reservation is thus stated by the court: "Cases often arise where the legislature, in granting an act of incorporation for a private purpose, either make the duration of the charter conditional, or reserve to the State the power to alter, modify or repeal the same at pleasure. Where such a provision is incorporated in the charter, it is clear that it qualifies the grant, and that the subsequent exercise of the reserved power cannot be regarded as an act within the prohibition of the constitution. Such a power also—that is the power to alter, modify, or repeal an act of incorporation—is frequently reserved to the State by a general law applicable to all acts of incorporation, or certain clauses of the same, as the case may be; in which case it is equally clear that the power may be exercised whenever it appears that the act of incorporation is one which falls within the reservation, and that the charter was granted subsequent to the passage of the general law, even though the charter contains no such condition, nor any allusion to such a reservation. Reservations in such a charter, it is admitted, may be made, and it is also conceded that where they exist the exercise of the power reserved by a subsequent legislature does not impair the obligation of the contract created by the original act of incorporation."

Tomlinson v. Jessup, 15 Wallace, 454, 458-9, affirms the same doctrine. The court say: "The object of the reservation, and of similar reservations in other charters, is to prevent a grant of corporate rights and privileges in a form which will preclude legislative interference with their exercise if the public interest should at any time require such interference. It is a provision intended to preserve the State control over its contract with the incorporators, which, without provision, would be irrevocable and protected from any measures affecting its obligation. The reservation effects the entire relation between the State and the corporation, and places under legislative control all rights, privileges, and immunities derived by its charter directly by the State."

Other instances of the affirmance by this court of the reserved power will be found in the following cases: *Sherman v. Smith*, 1 Black., 587; *Miller v. The State*, 15 Wallace, 478; *Holyoke Company v. Lyman*, *ib.* 500.

In *The Binghampton Bridge*, 3 Wallace, 51, 75, the rule of construction, as between the State and the corporation, is thus laid down by the court: "In the case of the Charles River bridge, 11 Peters, 544, the rules of construction known to the English common law were adopted and applied in the interpretation of legislative grants, and the principle was recognized, that charters are to be constructed most favorably to the State, and that in grants by the public, nothing passes by implication. This court has repeatedly since re-asserted the same doctrine; and the decisions of the several States are nearly all the same way. The principle is this: that all rights which are asserted against the State must be clearly de-

finer, and not raised by inference or presumption; and if the charter is silent about a power it does not exist. If, on fair reading of the instrument, reasonable doubts arise as to the proper interpretation to be given to it, those doubts are to be solved in favor of the State; and where it is susceptible of two meanings, the one restricting and the other extending the powers of the corporation, that construction is to be adopted which works the least harm to the State."

Again, in *Home of the Friendless vs. Rouse*, 3 Wallace, 430, 437, where the question was as to whether there was a contract between the State and the corporation, the court say: "It is true that legislative contracts are to be construed most favorably to the State if, on a fair consideration to be given the charter, any reasonable doubt arises as to their interpretation; but as every contract is to be construed to accomplish the intention of the parties to it, if there is no ambiguity about it, and this intention clearly appears on reading the instrument, it is as much the duty of the court to uphold and sustain it, as if it were a contract between private parties."

The observations of the court, 13 Wallace 498 and 522, that the power to alter is not without limit, are certainly correct, and not susceptible of mistake or misapplication. "Such a reservation, it is held, will not warrant the legislature in passing laws to change the control of an institution from one religious sect to another, or to divert the fund of the donors to any new use inconsistent with the intent and purpose of the charter, or to compel subscribers to the stock, whose subscription is conditional, to waive any of the conditions of their contract." This is a limitation implied from the word alter, and dependent on the meaning of that word. It is the very same limitation recognized by the court of Wisconsin in one of the extracts above made. The legislature cannot under the reserved power change a corporation of one kind into one of another kind, nor change the substantial purposes of it, and for which it was created and its funds contributed by the incorporators or donors, for this would not be alteration. It cannot, without the assent of the stockholders or incorporators, change a railway corporation into one for the manufacture of agricultural implements, nor an incorporated banking company into one for doing the business of insurance. Alteration preserves identity both in kind and purpose. Change destroys identity, although the thing substituted may be of the same general kind. "We *change* a thing by putting another in its place; we *alter* a thing by making it different from what it was before; we vary it by *altering* it in different manners and at different times. We *change* our clothes whenever we put on others; the tailor *alters* clothes which are found not to fit; and he *varies* the fashion of making them whenever he makes new. A thing is *changed* without *altering* its kind; it is *altered* without destroying its identity; and it is *varied* without destroying the similarity. We *change* our habitation, but it still remains a habitation. We *alter* our house, but it still remains the same house; we *vary* the manner of painting and decoration, but it may strongly resemble the man-

ner in which it has been before executed.”—Crabb’s English Synonyms.

The controversy reduces itself, therefore, to the meaning of a single word. Whatever is within the scope of the authority conferred or retained by that word, that the legislature may freely do whenever the public necessity or convenience requires, and of which necessity or convenience the legislature alone are to judge. Whatever is beyond the scope of such authority, of course, the legislature cannot do, and all such legislative action taking place under pretense of being an exercise of the reserved power must fall, if found by the courts to be repugnant to the constitution of the State or of the United States.

Another limitation suggested by the language of the court above quoted, and likewise by the remarks found in 15 Wallace, 459 and 519, is to the effect that the reserved power cannot be used to destroy or impair rights which have become vested under the charter. At page 459 the court says: “Rights acquired by third parties, and which have become vested under the charter, in the legitimate exercise of its powers, stand upon a different footing; but of such rights it is unnecessary to speak here. The State only asserts, in the present case, the power under the reservation to modify its own contract with the corporators; it does not contend for the power to revoke the contracts of the corporation with other parties, or impair vested rights of property thereby acquired.”

It could never be contended that such acts as these are within the reserved power, or that the legislature could directly interfere in a contract lawfully entered into between a subscriber to the stock and the corporation so as to deprive the subscriber of the benefits of such contract, or that it could in like manner take away vested rights of property, whether belonging to the corporation or third persons, or that it could revoke the contracts of the corporation with other parties, or impair any vested rights thereby acquired. The legislature cannot take the property of a corporation and transfer it to a third party, nor absolve the corporation from any debt or obligation which it owes or has entered into with a third party. These would not be acts of legislation under the reserved power, because they would not operate upon or affect any of the “rights, privileges, or immunities of the corporation derived by its charter directly from the State.” They would operate upon and affect, not franchises bestowed by the State, but vested rights acquired and coming from an entirely different source, namely, the contracts entered into by the parties, and which they had legal capacity to make. These are not so much instances of limitation upon the power derivable from the meaning of the word by which it is reserved, as in cases falling wholly without the scope of the power.

But it seems obvious that the court did not intend and ought not to be understood by these remarks as indicating that the legislature may not, by way of alteration or repeal, operate upon the franchises of the corporation, as it finds public and private convenience and utility to require, although the effect of such action may be in-

identally to diminish the ability of the corporation to pay its debts, or to depreciate the value of its stocks or bonds. All such incidental effects consequent upon the exercise of the reserved power may be fairly said to have been in the contemplation of all stockholders and creditors at the time they acquired their interests. The decision in the case (*Tomlinson vs. Jessup*) in which this language of the court occurs, is itself a refutation of the proposition that the incidental effect thus produced by the exercise of the reserved power can constitute any legal ground of complaint on the part of any one, or be assigned as a reason for holding such exercise of the reserved power invalid. It will be remembered that that was an action by a shareholder to restrain the collection of the tax imposed upon the reserved power, and to have such imposition declared unconstitutional and void, on the ground that it would destroy the value and render worthless the shares of stock held and owned by the plaintiff. But the court said: "It may be equally true, as stated by counsel, that the exemption from taxation added greatly to the value of the stock of the company, and induced the plaintiff to purchase the shares held by him. But these considerations cannot be allowed any weight in determining the validity of the subsequent taxation. The power reserved to the State by the law of 1841 authorized any change in the contract as it originally existed, or as subsequently modified, or its entire revocation. The original corporators, or subsequent stockholders, took their interests with knowledge of the existence of this power, and of the possibility of its exercise at any time, in the discretion of the legislature." So it is submitted here that the indirect results, if such should be, springing from the exercise of the reserved power, in affecting the price or value of the stocks or bonds of the corporation, or the ability of the corporation to pay its debts, cannot have any weight in determining the validity of the action of the legislature. This point is briefly but ably considered by the court of Wisconsin, 35 Wis., 578, 579.

It is manifest, if any such limitation attaches to the reserved power to alter or repeal, it must result in defeating such power altogether as to every corporation having stockholders or creditors, and thus the State or the legislature, in a vast majority of cases, would end just where they began, having gained nothing whatever by the reservation. Logically considered, as the court of Wisconsin say, this is only a denial in another form of the power to alter or repeal. It is clear that whatever limitation of the kind attaches to the power to alter, the same must also attach to the power to repeal, and as there can be no absolute repeal of the charter of a corporation having stockholders and creditors, which may not, or which may almost be said will not, injuriously affect the pecuniary interests of its stockholders and creditors, it follows that the power is gone or can only be exercised in a few minor and comparatively unimportant cases. Few corporations are created without authority to issue stock, and the number is very small indeed of those not having the capacity to contract debts, both which things are invariably done. By issuing stock or contracting debts,

and continuing either of those relations, the corporation, through the agency of its stockholders and creditors, nullifies the reserved power or secures perpetual immunity and exemption from its exercise. It seems impossible that such a proposition should be sustained, or that argument should be needed to refute it. It defeats itself by disproving the very words of the reservation, which are things incapable of disproof. It is a vain effort to put a limitation upon the words or the power reserved by them where no such limitation exists—a limitation also utterly inconsistent with the meaning of the words and with the existence and nature of the power. Courts do not set aside and amend the contracts of parties in this way. The compacts and stipulations solemnly entered into with States and governments, securing valuable public rights and privileges, cannot thus be invaded and destroyed. It may be regarded as not very questionable, indeed, as quite certain, that over the same words found in a contract between private individuals no such controversy would ever have arisen. Acquiescing in the rule that courts interpret contracts, where interpretation is necessary, not make or unmake them, and that they give effect to them without looking to the consequences lawfully ensuing from the free acts and stipulations of the parties, or which have knowingly and voluntarily been incurred by others who have become interested, the same words in such a contract would have been permitted to have their effect according to their plain import and meaning, and as they must have been understood by the parties. The magnitude of the interests here involved, or the fact that the people of a great State, or of many States are interested, cannot vary the question, for it is not by considerations like these that courts are governed in the construction of contracts. Effect here must be given to the words in their entirety, without forced or unnatural restrictions or conditions which will operate to defeat the plain purposes of the parties in employing them. Within the scope of the power reserved, the authority of the legislature is unlimited. It is, as this court has declared an authority to be exercised "in the discretion of the legislature."

The inquiry, therefore, is as to the extent of the power, or what acts are to be considered as within it. This inquiry has also been answered by this court. "All rights, privileges, and immunities derived by its charter directly from the State," are subject to legislative control, modification or repeal under the reserved power. Whatever is given by statute may be taken away by statute. *State vs. Hoeflinger*, 31 Wis., 262, 263, and authorities there cited. Vested rights of property cannot be taken away by statute, because the statute does not give them, but only the capacity to acquire them. The capacity to acquire such rights in the future may be restricted, modified, or taken away, because that capacity of the corporation is given to it by its charter. *Perrine vs. Canal Co.*, 9 How., 184. Contracts lawfully entered into by or with the corporation cannot be interfered with or revoked for a similar reason. The legislature cannot say the corporation shall not be bound by its contract, nor impose upon it a contract obligation against its will.

In this case the only question is whether the right to charge and receive fares and tolls for the transportation of passengers and goods by a railroad company is a right granted by the State under the charter, for it is only upon this right the legislature has sought to operate by the act in controversy. We answer that beyond doubt it is such a right. The right of opening and establishing highways of all kinds for the use and accommodation of the public, including railroads, plankroads, turnpikes, canals, bridges, and the like, is a public right. It is a right inhering in the State as a necessary and inseparable attribute of its sovereignty. "Of the necessity and convenience of all roads and other public works and improvements, of their fitness, and the best mode of providing them, the established government of the State, acting by the legislature for the time being, must necessarily judge and determine." 2 Gray, 33. "It is plainly within the province of the legislature to determine and regulate the use of all common and public rights and easements." 13 Gray, 247. And the same is true of the right to manage and control all roads, and other such means of public travel and intercommunication. The right to charge and receive tolls for the use of roads, bridges or ferries, designed for the convenience and accommodation of the public, and used by the public, is essentially a public right, and when granted, as it can only be by the State to a natural person or corporation, it is in the strictest sense of the term a grant of a franchise. No man has a right to build a bridge over a river, or to set up a ferry, or construct and operate a railroad, for the use of the public, without the authority of the State. All these are franchises belonging to the sovereign, and not to be exercised by individuals or corporations without the grant or license of the sovereign. We are not aware that these principles were ever before seriously disputed.

They are principles which were frequently conceded by the very able counsel on both sides in the argument of Charles River Bridge vs. Warren Bridge, 11 Peters, 420.

They are directly affirmed by this court in Perrine vs. Chesapeake and Delaware Canal Co., 9 How., 172, where it was held that a corporation, except as authority is granted by the State, cannot lawfully demand or receive toll for the transportation of passengers.

And again this court recognizes and affirms the right as a public, not a private one, in *Olcott vs. The Supervisors*, 16 Wallace, 695, where it is said; "Whether the use of a railroad is a public or private one, depends in no measure upon who constructed or who owns it. It has never been considered a matter of any importance that the road was built by the agency of a private corporation. No matter who is the agent, the function performed is that of the State. Though the ownership is private, the use is public. So turnpikes, bridges, ferries, and canals, though made by individuals, under public grants, or by companies, are regarded as *publici juris*. The right to exact tolls or charge freights is granted for a service to the public."

"A ferry is *publici juris*: it is a franchise that no one can erect

without the king's license." *Blesset vs. Hart*, Willes' Reports, 512. See also 7 Pike, 496.

"The right to run a railroad, taking tolls or fares, is a franchise which no person or corporation can legally exercise without a special grant from the legislature." *Whiting vs. The Sheboygan R. Co.*, 25 Wis., 206.

"The privilege of making a road and taking tolls thereon is a franchise, as much as the establishment of a ferry or a public wharf and taking toll for the use of the same." *Bleekman vs. Saratoga & Schenectady Railroad Co.*, 3 Paige, 75.

"When individuals, under a charter from the Government, construct works for the public accommodation, and open the works to the use of the public, this is, in law, a dedication of the works to the public use, and no toll can be demanded unless it be authorized by the charter. The reason of this is that a toll, in such a case, is a common charge which it is the prerogative of the government alone to impose and regulate. This principle seems to be well settled. Thus turnpikes have been held to be public highways, and the erection of a gate upon them without the authority of the legislature has been adjudged a public nuisance. And money exacted as a toll at such gate has been held to be illegally taken, and the person who received it compelled by action to refund it.

"So it has been held that if individuals build a bridge by virtue of an act of the legislature they cannot legally demand toll without authority from the legislature. It is also well settled that a ferry is *publici juris*. It is a franchise which no one can erect without authority from the government. If a ferry be erected without authority, or if a franchise be abused, an information in the nature of a *quo warranto* lies." *Olcott v. Banfill*, 4 N. H. 545.

"But the right to build and run a railroad, and take tolls or fares, is a franchise of the prerogative character, which no person can legally exercise without some special grant of the legislature." *State v. Boston, Conrod & Montreal Railroad Co.*, 25 Vt., 442.

"It is true the plaintiffs had a right to take tolls from all who traveled or carried freight on it, according to certain rates fixed by the charter, but that was a mere franchise; a privilege derived entirely from the charter, and it was gone when the charter was repealed. The State may grant to a corporation, or to an individual, the franchise of taking tolls on any highway, opened or to be opened, whether it be a railroad or river, canal or bridge, turnpike or common road. When the franchise ceases by its own limitation, by forfeiture or by repeal, the highway is thrown back on the hands of the State, and it becomes her duty, as the sovereign guardian of the public rights and interests, to take care of it." *Erie & Northeast Railroad Company v. Casy*, 26 Pa. St., 307.

"The subject of controversy is a mere naked, incorporeal right, claimed by the plaintiffs, to have and enjoy a right to maintain a railroad, and to take the tolls and profits thereof, a right created and granted to them by the government of the State; and they allege, whether correctly or not is hereafter to be considered, that the defendants have disturbed them in the enjoyment of this incorpo-

rated right. It is a right or title which, if it exists at all, is purely a statutory right. It is created by law, it exists only in contemplation of law, it is invisible, intangible, and incapable of a physical possession, and depends on the law for its protection. * * *

It was certainly a stipulation on the part of the government, regulating its own conduct, and putting a restraint upon its own power to authorize any other railroad to be built, with a right to levy toll; but without an authority from the government, no other company or person could be authorized so to make a railroad and levy tax toll, and of course no other such road could be lawfully made." *Boston and Lowell Railroad Corporation v. Salem and Lowell Railroad Company*, 2 Gray, 27, 30.

"A railroad company for popular use is *publici juris*; it cannot be legally erected without a legislative permission." *Rar. & Del. Bay R. Co. v. Del. & Rar. Canal Co.*, 18 N. J. Eq. (3 C. E. Green), 570.

The principle was also affirmed by the same court in *Del., Lack. & Western R. Co., v. Erie R. Co.*, 21 N. J. Eq. (6 C. E. Green), 298.

And again in *Mc Gregor v. Erie Railway Co.*, 35 N. J. Law (6 Vroom), 97, 98, where after quoting with approbation the language of the court of Vermont, the court says: "These references indicate the current of the judicial mind, and the principle of them arises from the very nature of a railroad. A public ferry is a franchise, and consists not merely in the building of the ferry and the furnishing of the boats, but in the running of them. The right of the public to use them is common, but the running of the ferry is a part of the franchise. The running of the ferry is a part of *itself*, and so the running of a railroad is part of *itself*. Whoever, therefore, is found running a public railroad for public purposes, is found exercising a function of government. Rights of this kind are only lodged in the hands of others by legislative action." See also *Blake v. Railroad Co.*, 19 Minn. 418, 421, and authorities cited.

Such are some of the authorities to prove that the right to operate a railroad for the accommodation of the public, and to receive tolls or fares, is a right or franchise derived by the corporation under its charter from the State, and which can be derived from no other source. It is believed that no adjudications or even *dicta* to the contrary can be found. The right to demand tolls is, therefore, by the decision of this court, the proper subject of legislative regulation and control under the reserved power. It is a matter resting wholly in the discretion of the legislature, when and how such regulations shall be made, and what they shall be in every particular.

Another limitation attaching to the reserved power may be found to arise out of the nature of the corporation itself, or the business in which it is authorized to engage. If it be an ordinary commercial or manufacturing corporation, authorized to trade or traffic in or to manufacture some article or articles which every man has a natural right to buy or sell, or to manufacture, it would not seem

to follow that the prices at which the corporation should buy or sell or manufacture might be regulated under the reserved power. The distinction between mere private corporations of this kind and those endowed with and exercising certain public or *quasi* public functions, has frequently been noted by the courts. The right to buy, sell, and manufacture, being a private and natural one, and not a public one, or one pertaining to the functions and prerogatives of the State, like the demanding of tolls, it would not be a right or privilege granted by the State, and so not one to be regulated or controlled by it.

Other limitations upon the reserved power, or cases not falling within it, may suggest themselves; but it is unnecessary to pursue the subject further here.

Other courts have expressed the same views, and held the same doctrines as to the nature and extent of the reserved power.

In New York, the decisions have been quite numerous, and may be referred to as follows: *McLaren v. Pennington*, 1 Paige, 102; *The Schenectady, etc., Plank Road Co. v. Thatcher*, 10 N. Y., 102; *Buffalo and N. Y. City R. R. Co. v. Dudley*, 14 *id.*, 336; In the matter of *Oliver Lee & Co.'s Bank*, 21 *id.*, 9; In the matter of the *Reciprocity Bank*, 22 *id.*, 9; *The Albany Northern R. R. Co. v. Brownell*, 24 *id.*, 345; *The Northern R. R. Co. v. Miller*, 10 Barb., 260; *White v. Syracuse and Utica R. R. Co.*, 14 *id.*, 559; *Hyatt v. McMahon*, 25 *id.*, 457; In the matter of the *Reciprocity Bank*, 17 How., Pr., 323.

In 21 N. Y., 20, the court say: "The power of the corporation to contract at all was a corporate franchise, and subject to the control of the legislature, by force of the reservation. They might wholly annihilate the power to control by repealing the act, or continue it, subject to such conditions or restrictions as they saw fit to impose. Where a party has a discretion to prohibit an act altogether, if he considers it best for his own interest, he is never bound, absolutely or unconditionally, to forbid it. He may allow it on such conditions as he supposes to be consistent with his interests."

"Regarding the reserve power to alter, modify or repeal, as a part of the compact, its literal and obvious interpretation is, that the franchises and privileges granted were at all times subject to abrogation or change by the legislative power of the State. The power reserved in this charter was one to be exercised at any time by the existing legislative authority, however constituted, and in any mode conforming to the organic law of the State for the time being." 22 N. Y., 14.

"It may be admitted that, under this reserved power to alter or repeal, the legislature would have no right to change the fundamental character of the corporation and convert it into a different legal being; for instance, a banking corporation, without absolving those who did not wish to be bound." 14 N. Y., 348.

And again, at pages 354 and 355 of the same report: "The power reserved to the legislature in the original act of incorporation, to alter or repeal the act, is as broad in this case as in that. It is, indeed, entirely unlimited. Under the rule established in that case, no

mere addition to or alteration of the charter, however great, would operate to discharge a stockholder from his obligation to the corporation. To work such a discharge the charter must be repealed, or the legislation must be such as to subvert the corporation itself; or, at least, to destroy its identity. A mere change in name has been repeatedly held not to have that effect."

In Massachusetts the question has been considered and the same general principles affirmed in the following adjudications: *Crease v. Babcock*, 23 Pick., 334; *Roxbury v. The Boston & Prov. R. R. Cor.*, 6 Cush., 424; *Boston & Lowell R. R. Cor. v. Salem & Lowell R. R. Co.*, 2 Gray, 1; *Mass. General Hospital v. St. Mut. Life Ass. Co.*, 4 Gray, 227, 234; *Commonwealth v. Essex Company*, 13 Gray, 239; *Fitchburgh R. R. Co. v. Grand Junct. R. R. Co.*, 4 Allen, 198; *Commonwealth v. Eastern R. R. Co.*, 103 Mass., 254; *Commissioners of Fisheries v. Holyoke Company*, 104 Mass., 446; *Mayor, etc., of Worcester, v. Norwich & Worcester R. R. Co.*, 109 Mass., 103; *Parker v. Metropolitan Railroad Company, ib.*, 506.

The case last cited confirmed the validity of an act reducing and limiting the rates of toll to be charged by ferry companies for passengers transported on the cars of street railway companies.

In *Mayor, etc., of Worcester v. Norwich and Worcester R. R. Co.*, p. 113, the court say: "As the right of the legislature to alter, amend or repeal the charters of these corporations is absolute, and not dependent upon their consent, it is immaterial whether such consent has been given or not."

In Maine the question has been considered in the four following cases, and perhaps others: *Proprietors, etc., v. Haskell*, 7 Greenl., 474; *Read v. Frankfort Bank*, 23 Maine, 318; *Meadow Dam Co. v. Gray*, 30 *ib.*, 547; *Oldtown & Lincoln Railroad Co. v. Veazie*, 39 *ib.*, 571.

In New Jersey the decisions are the same. *Story v. The Jersey City, etc., Pl'k R'd Co.*, 16 N. J. Eq. (1 C. E. Green), 13; *The State v. Miller*, 30 N. J. Law (1 Vroom), 368; *The State ex rel., etc., v. Miller*, 31 N. J. Law (2 Vroom), 521; *The State ex rel., etc., v. The Mayor, etc., ib., ib.*, 575.

In the case first cited, p. 21, the Chancellor says: "When the charter of the company of which the complainant claims to be a stockholder, was granted, it was provided by general law of the State that the charter of every corporation, granted by the legislature, should be subject to alteration, suspension and repeal, in the discretion of the legislature. The legislature, therefore, in granting the charter to the plankroad company, must be deemed to have reserved to themselves the right of altering, suspending or repealing the charter, whenever, in their discretion, the public good might require it, as fully as if the reservation were inserted in the charter. And all contracts, expressed or implied, resulting from the act of incorporation and its acceptance by the stockholders, must be deemed to have been entered into by both parties, subject to the reservation.

In the other cases it was resolved by the court:

1. "That no irrevocable contract can result from the provisions

in a charter which is made, in terms subject to alteration, amendment or repeal, by the power granting it."

2. "Where the right to alter or amend a charter, whenever the public good may require, is reserved, the legislature is the proper tribunal to determine when the right shall be exercised."

In Indiana the words, to alter or repeal, have received the same construction. *Wilson v. Tesson*, 12 Indiana, 285. The court say: "It was in the power, then, of the legislature to terminate the existence of banks, created under said act, at its pleasure."

In Rhode Island a like construction has been given: *Bailey v. Trustees, etc.*, 6 R. I., 491; *Gardner v. Hope Insurance Co.*, 9 R. I., 194.

In Minnesota likewise, *Perrin v. Oliver*, 1 Minn., 202; *Blake v. Railroad Co.*, 19 Minn., 418.

In Iowa, *Miner's Bank v. The United States*, 1 Green, 563.

In Kentucky, *Sage, v. Dillard*, 15 B. Mon., 347; *Louisville v. President, etc.*, *ib.*, 642.

And in Pennsylvania, *Erie & Northeast Railroad v. Casey*, 26 Pa. St., 287, 302.

Such are the authorities, and when the question comes to be considered on principle, it is difficult to perceive how otherwise it could have been held and decided by the courts. The creation of corporations is a prerogative of sovereignty—an absolute, unqualified power of the State, to be exercised or not as the legislature shall see fit; and at such times, in such manner, and subject to such conditions and reservations as the legislature, in its own sovereign pleasure, shall determine, regard being had only to the restrictions upon the legislative power contained in the constitution of the State. The legislature may, therefore, by statute, or the people by fundamental law, reserve whatsoever control and authority over these beings of their creation they will, and there is no power lodged elsewhere under our system of government to deny this sovereign right, or to interfere or prevent its exercise. The power which creates at its own free will and pleasure, may reserve the power to destroy the corporation or being created, or so prescribe the conditions upon which its future or continued existence shall depend.

This principle has been so recently and fully and clearly recognized by this court, that a quotation of the language of the court suffices to put the matter at rest. In *Railroad Company vs. Maryland*, 21 Wallace, 471, the court says: "This unlimited right of the State to charge, or to authorize others to charge, toll, freight, or fare, for transportation on its roads, canals, and railroads arises from the simple fact that they are of its own work, or constructed under its authority. It gives them being. It has a right to exact compensation for their use. It has a discretion as to the amount of that compensation. That discretion is a legislative—sovereign—discretion, and in its very nature is unlimited and uncontrolled. The security of the public, against any abuse of this discretion resides in the responsibility of the public, of those who for the time being are officially invested with it. In this respect it is like all other legislative power when not controlled by specific constitutional

provisions, and the courts cannot presume that it will be exercised detrimentally."

The power of the state, when reserved as in this case, over the corporations to which it has given being, is in character and extent the same as its authority over its own works of internal improvement. It is a sovereign legislative power, in its very nature unrestricted and uncontrolled.

Nor is this control of the State over corporations, by which the value of their franchises may be destroyed or the value and productiveness of their property or of the property of their stockholders or creditors may be diminished or taken away, anything new in the history of American law upon this subject. In one sense, a broad political one, all citizens and subjects, corporations included, are indebted to the government for all their rights of property, as well of life and liberty, for without the aid and protection of the State no such rights could exist or be maintained. Property in the legal sense, that is, the right of possession, enjoyment and transmission, according to the the concessions and provisions of municipal or particular law enforced by the present command and sanction of the State, is a creation of the State. In this sense the property of all citizens belongs to the State, and may be appropriated by it as the exigencies of its affairs demand. In this sense it is the duty of every citizen to yield all, and in the power of the state to take all, if the the necessities of the State require. The duty of the citizen arises out of the protection which the State has afforded and will afford in the future. This is the source of the taxing power and the ground on which it rests. That this is a power without restriction; one "which acknowledges no other limits than those expressly prescribed in the constitution, and like sovereign power of every other description, is trusted to the discretion of those who use it," is a principle which is well settled and well understood. "All subjects over which the sovereign power of a State extends, are objects of taxation. The sovereignty of a State extends to everything which exists by its own authority, or is introduced by its permission. The power of taxing may be legitimately exercised on the objects to which it is applicable, to the utmost extent to which the government may choose to carry it. The power to tax involves the power to destroy." *McCulloch v. Maryland*, 4 *Wheaton*, 427, 428, 429, 431.

This power to destroy corporations of its own creation each State of the Union has always possessed, even where the charter of the corporation became a contract between the State and the corporation, within the protection of the clause of the Constitution of the United States prohibiting the State from passing any laws violating the obligation of contracts. The power to tax is not limited by that clause of the federal Constitution, but overrides it. This was expressly held by this court in *Providence Bank v. Billings*, 4 *Peters*, 513; "A power to tax the bank may unquestionably be carried to such an excess as to take all its profits, and still more than its profits, for the use of the State, and consequently destroy the institution. Now, whatever may be the rule of expediency, the

constitutionality of a measure depends not on the degree of its exercise, but on its principle. This vital power may be abused; but the Constitution of the United States was not intended to be the corrective for every abuse of power which may be committed by State governments. The interest, wisdom, and justice of the representative body, and its relations with its constituents, furnish the only security, where there is no express contract, against excessive and unjust taxation, as well as against unwise and unjust legislation generally."

And the same principle was again distinctly affirmed in *Bank of Commerce v. New York City*, 2 Black., 620, 630, where it is said that uniformity of taxation is a restraint self-imposed by the State, and that the State, in the exercise of the power, may discriminate so as to destroy; and these questions are asked and answered: "But is this court a fit tribunal to sit in judgment upon the question whether the legislature of a State has exercised its taxing power wisely or unwisely over objects of taxation, confessedly, as the argument assumes, within its discretion? And is the question a judicial question? We think not."

A still more remarkable instance where the power to tax was confessedly used as a power to destroy, is found in the law of Congress taxing the circulation of the State banks, the constitutionality of which was upheld by this court in *Veazie Bank v. Fenno*, 8 Wallace, 533. It was there decided that Congress might constitutionally resort to the power of taxation as a means of destroying the currency of the States, in order to carry into effect the constitutional powers of the federal government to provide a currency for the whole country.

Another means always at the command of a State, by which to destroy or render valueless the franchise of a corporation of its own creation, was by the creation and fostering of rival institutions of the same kind. This was decided in the celebrated case of the rival bridge charters, *Charles River Bridge v. Warren Bridge*, 11 Peters, 420. The power of the legislature, which it might always exercise, unless restricted by express words in the charter of the corporation first created, was likened by the court to the power of taxation. At page 547 the chief justice says: "The argument in favor of the proprietors of the Charles River Bridge is the same almost, in words, with that used by the Providence Bank; that is, that the power claimed by the State, if it exists, may be so used as to destroy the value of the franchise they have granted to the corporation. The argument must receive the same answer; and the fact that the power has been already exercised so as to destroy the value of the franchise, cannot in any degree affect the principle. The existence of the power does not and cannot, depend on the circumstance of its having been exercised or not." See also, *Turnpike Co. v. The State*, 3 Wallace, 210; *Railroad Co. v. Railroad Co.*, 13 Howard, 71.

II.

Have the stockholders or creditors of the corporation any right beyond and superior to those possessed by the corporation itself, in

respect to the reserved power, for the protection of which they can intervene between the State and the corporation, so as to prevent the exercise of a power expressly retained by the act of incorporation, and as a part of the law by which the corporation has its existence? Can a corporation whose existence and all whose franchises are expressly determinable by the power creating it, defeat the exercise of such power by issuing stocks and contracting debts? Can it mortgage itself or its franchise into perpetuity? Can it defeat the reserved power to alter or amend, or prolong its existence, or the existence of its franchises and privileges, indefinitely, without alteration or amendment, by like means? Can it give to its stockholders or creditors rights which itself does not possess? Can a corporation expressly limited by its charter to a duration of twenty years, extend that period to a hundred years by incurring a debt which will require for it that length of time to pay? Can such a corporation prolong its existence and hold and exercise its franchises forever, by contracting a debt which it can never pay? To answer these questions in the affirmative requires a degree of assurance seldom witnessed. It would be to carry the doctrine of the protection afforded by the Constitution of the United States to the obligation of contracts, to a most unprecedented and alarming length. All reason and authority is against such a solution of the question.

It is a general principle, elementary in its nature, too plain to admit of argument in its support, that no one can transfer to or vest in another a right or title which he himself does not possess. The exceptions to this rule growing out of the doctrine of estoppel, or out of the rules of the law merchant and those governing in some other cases, are purely legal and technical, and have no application to the facts of this case. "The rule which limits the right of the buyer by that of the seller, and subjects the title of the one to every drawback or defect which attached to that of the other, is a general rule, both of law and of reason." *Basset v. Nosworthy*, 2 Lead. Cases in Equity, 12, 80, note. This rule was applied as between mortgagee and mortgagor in *John v. Larson*, 28 Wisconsin, 604.

The same rule is recognized by this court in *Judson v. Corcoran*, 17 Howard, 612, 615, where it is thus stated: "It is certainly true, as a general rule, as above stated, that a purchaser of a chose in action, or of any equitable right, must abide by the case of the person from whom he buys, and will only be entitled to the remedies of the seller."

Speaking of the opposite position, as contended for by stockholders and creditors, the court of Wisconsin say: "This position appears to us to rest in the absurdity that the mortgagor can vest in his mortgagee a greater estate than he had himself. Perhaps the statute may lessen the means of payment of the defendants. So would a fine for homicide, under the police power of the State. But to lessen the means of payment of a contract, is not to impair the obligation of the contract. These defendants took their franchises, and their creditors invested their money, subject to the reserved

power, and suffer no legal wrong when that is exercised." 35 Wis., 578.

No positive or written law can be more public than that found in the constitution of a State, and presumptively none can be more widely known or generally noticed and understood, by persons interested in the legislation and affairs of the State, than the provisions of such a law. "This act is a public act, accessible to all, and supposed to be known to all; and the plaintiffs must, therefore, be presumed to have dealt with the defendants with a full knowledge of their respective rights, whatever those rights may be. Jervis, C. J., in *The East Anglian Railways Company v. The Eastern Counties Railway Company*, 11 Common Bench (2 J. Scott), 775, 811. 73 English Common Law, 810. Just so it must be said here, that the plaintiffs dealt with the defendant company, or in its stocks and securities, with a full knowledge of the rights of the company, whatever these rights may be, and that coming with such knowledge, and assenting to such rights and disabilities of the company, they must share the legal fate of the company, whatever that fate may be. This was their agreement, and they can not now be permitted to set up the obligation of a contract which they never made, which the State never made with them, nor authorized the company to make, and which the company was especially incapacitated from making. The company could give to its stockholders no perpetual rights to hold their stocks and receive dividends upon them, and the stockholders knew it. Neither could the company give to its mortgagees or bondholders any perpetual rights to hold its franchises in mortgage or to use and enjoy such franchises, beyond the power of the State to alter or repeal, because the company had no such rights to give, and the mortgagees knew it. There was not, therefore, and in the nature of the case could not be, any such contract or obligation of contract as that of the violation of which the plaintiffs complain.

That the repeal of the charter or the dissolution of the corporation, the legislature having authority to do so, would not infringe the obligations of its contracts with its creditors, has already been decided by this court. That the alteration of the charter, authority for that purpose existing, does not do so, is equally clear. In *Muma v. The Potomac Company*, 8 Peters, 281, 286, the court say: "We are of opinion that the dissolution of the corporation, under the acts of Virginia and Maryland, cannot in any just sense be considered within the clause of the Constitution of the United States on this subject, an impairing of the obligation of the contracts of the company by those states, any more than the death of a private person can be said to impair the obligation of his contracts. The obligation of those contracts survives, and the creditors may enforce their claims against any property belonging to the corporation which has not passed into the hands of *bona fide* purchasers, but is still held in trust for the company, or for the stockholders thereof, at the time of its dissolution, in any mode permitted by the local laws." This language was approved by the court in *Curran v. The State of Arkansas*, 15 Howard, 311.

Again, in Pennsylvania College Cases, 13 Wallace, 218: "Undoubtedly the corporate franchises of the two institutions were contracts of the description protected by the clause of the constitution which ordains that no State shall pass any law impairing the obligation of contracts, but the contract involved in such an act of incorporation is a contract between the State and the corporation, and as such the terms of the contract may, as a general rule, be altered, modified or amended by the assent of the corporation, even though the charter contains no such reservation, and there was none existing in any general law of the State at the time the charter was granted. Persons making contracts with a private corporation know that the legislature, even without the assent of the corporation, may amend, alter or modify their charters in all cases where the power to do so is reserved in the charter or in any antecedent general law in operation at the time the charter was granted, and they also know that such amendments, alterations and modifications may, as a general rule, be made by the legislature with the assent of the corporation, even in cases where the charter is unconditional in its terms, and there is no general law of the State containing any such reservation. Such contracts made between individuals and the corporation do not vary or in any manner change or modify the relation between the State and the corporation in respect to the right of the State to alter, modify or amend such charter, as the power to pass such laws depends upon the assent of the corporation or upon some reservation made at the time, as evidenced by some pre-existing general-law, or by an express provision incorporated in the charter."

"The creditors of the bank cannot object to the constitutionality of the act dissolving the corporation, when it was done for causes which by the charter were sufficient for the purpose, and when the repeal was conclusive upon the bank. Indeed, it is not seen how any objection can be made by those who had no other connection therewith than that of being creditors. Whoever entered into contracts with it, exposed himself to losses which might arise from its dissolution, as he would with natural persons, by their death. No security was provided in the charter, or other statute, against such an exposure to injury." *Reed v. Frankford Bank*, 23 Maine, 318.

"But it is said that the corporation could not, by any act or omission of its own, implicate its stockholders in a liability which they had not consented to assume, and which, on the contrary, they had declared they would not incur. But they had voluntarily consented to become stockholders upon the conditions held out by the general banking law. One of those conditions was that the legislature might amend and alter the act, and in that way change and modify the constitution of the corporation. A change under this reservation to alter might render their investment more or less profitable, or their position more or less hazardous. Whatever peril it entailed they consented to assume. Stockholders cannot put in a plea *non in haec foedera veni*." 21 N. Y., 20, 21.

"Every one who enters into such a company is aware of the reservation of the power and of the possibility of its exercise, and

trusts, as in many other matters he must, to the wisdom and justice of the legislature that this power will not be abused." 1 Kernan, 114.

It is confidently submitted, therefore, that where the corporation itself cannot complain of the exercise of the reserved power to alter or repeal, then no stockholder or creditor can do so, or interpose to set aside the laws of the State constitutionally enacted.

III.

The question whether chapter 273 of the laws of Wisconsin, passed in the year 1874, being the act in question regulating freights and fares, was repealed by section 2 of chapter 292 of the laws of the same year, as submitted in the bill of complaint, is one which belongs to the State court, and which has already been decided by that court adversely to the plaintiffs. So of all other questions of statutory construction raised by the plaintiffs. The *Attorney-General v. Railroad Companies*, 35 Wisconsin, 425.

IV.

And the same is true of the objection that the act in question contravenes the article of the constitution of the State of Wisconsin that "the property of no person shall be taken for public use without just compensation therefor." The court of Wisconsin in the same case, giving a construction to this article of the constitution of the State, has decided that the act does not conflict with it. It is obvious that the exercise by the State of the reserved power to alter or repeal the charter of a corporation bears no more resemblance to the exercise of the right of eminent domain than does the exercise of the power of taxation. In a case of taxation—a Wisconsin case—this court has said: "The objection that these acts take private property for public purposes without compensation, and hence are within the prohibition of the State constitution upon that subject, is also without foundation. The clause of the constitution refers solely to the exercise, by the State, of the right of eminent domain." *Gilman v. City of Sheboygan*, 2 Black., 513.

V.

The inter-state commerce question raised by the bill has been disposed of by this court in a cause decided since the bill was filed. *Railroad Company v. Maryland*, 21 Wallace, 456. That case directly affirms the right of the State to regulate the rates of tolls and fares on its own roads, canals, and railroads, or those constructed under its authority and within its borders, and that such regulations for passengers or freight to be taken up in the State and carried out of it, or received out of the State and brought into it, are not inconsistent with the provisions of the Constitution of the United States giving to Congress the power to regulate commerce between the States. It is difficult to perceive, at all events, how regulations

like those here complained of, calculated to facilitate commerce and travel between the States and not impede them, and making no unjust discriminations, can be said to violate that provision of the Federal Constitution. There is not the slightest analogy between this case and that of *Crandall v. Nevada*, 6 Wallace, 35, nor any other in which it has been held or suggested that State regulations were invalid on the ground here taken.

VI.

The position that the legislature of Wisconsin, by authorizing the corporation of its own creation to consolidate with one of the same or a different name, incorporated by the legislature of another State, whose charter was irrevocable, thereby lost control under the reserved power, seems altogether untenable. It is wholly incompetent for the legislature in this or in any other way to release or destroy the reserved power. The power remains by the constitution, whatever the legislature may say or do. But the effect of such consolidation was not to change or affect in the least the Wisconsin corporation for all the purposes of the reserved power. Speaking of a like case, where the corporations of the different States had been authorized by laws of Massachusetts and Rhode Island to consolidate, Judge Story says: "Although by virtue of these several acts, the corporations acquired a unity of interest, it by no means follows that they ceased to exist as distinct and different corporations. Their powers, their rights, their privileges, their duties, remained distinct and several, according to their respective acts of incorporation." *Farnum v. Blackstone Canal Co.*, 1 Sumner, 47, 62. Such still continues to be the relation of the Wisconsin corporation to the State of Wisconsin, by which it was created, notwithstanding the assent of the legislature of the State to its consolidation with a corporation created by the State of Illinois, or by any other State. It is still subject to the reserved power, and to such control over its franchises as the constitution gives.

Speaking of the effect of the consolidation of an Illinois railroad company with a Wisconsin railroad company under the authority of acts of legislatures of each State, the Supreme Court of Illinois held: "While it created a community of stock and of interest between the two companies, it did not convert them into one company, in the same way, and to the same degree that might follow a consolidation of two companies within the same State. Neither Illinois nor Wisconsin, in authorizing the consolidation, can have intended to abandon all jurisdiction over its own corporation, created by itself. Indeed, neither State could take jurisdiction over the property or proceedings of the corporation beyond its own limits, and, as said by the court in *The O. & M. R. R. Co. v. Wheeler*, 1 Black., 297, 'a corporation can have no existence beyond the limits of the State or sovereignty which brings it into life and endows it with its faculties and powers.' In the same case the court says that a corporation cannot be created by the co-operating legislation of two States, so as to be the same legal entity in both States,

and where two States have each created a corporation of the same name, for the same purposes, and composed of the same natural persons, it must nevertheless be considered as a distinct corporation of each State." See also, McGregor, *qui tam, v. Erie Railway Co.*, 35 N. J. Law (6 Vroom), 115, 118, and cases there cited.

In conclusion it is submitted that the State of Wisconsin has committed no wrong, violated no rule or principle of constitutional law, state or national, by the legislative act complained of. Nay more, it is submitted that the reproach of violating the principles of national justice ought not to, and does not rest upon the State. Whether the act will lessen the income of the property of the defendant company, no one can foresee. This is, or until recently has been, matter of conjecture merely. Experience—actual trials thus far had under the act, have not demonstrated that it will be so. On the other hand it is believed by many, whose judgment and opinions are based on careful examination and study of statistics and comparisons of figures, that such has not been and will not be the effect of the law. It is believed by many, well able to judge, that the incomes and earnings of the railroads of Wisconsin have increased, and will continue to increase, under the law. But should the fact be otherwise and the claim of the plaintiffs prove true, the State will be the first to recognize it, and to correct the wrong by the repeal or modification of the law. The honor of the State, her sense of justice, the interests and prosperity of her people, as also those principles of law to which all civilized nations must yield, will all equally bind the State to do this, and these are obligations from which she will never seek to escape. They are obligations which could not be disregarded by the State without forfeiting her honorable position among the States of the Union. Let it be shown that the act is oppressive and wrong in the particulars complained of, the plaintiffs will not appeal to the State in vain for redress. Their objections will be listened to with respect, and examined with that impartiality and care which justice and equity demand. As yet it is believed that the conduct of the State has been neither undignified nor unjust, whilst she has been met at every point by the railway companies, and those interested in them, only in a spirit of open and uncompromising defiance and hate. The excited popular sentiment, if any such exists in the State of Wisconsin against railroad corporations, and which has certainly been greatly exaggerated, is attributable, therefore, to the conduct and attitude of the corporations themselves. The cause being removed, the days of calmer judgment and wiser counsels will soon be restored. The people of Wisconsin will submit to anything rather than a sacrifice of their honor, or that any stain should rest upon their name. They are fully conscious that the great elements of public liberty lie in the firm protection of private vested rights. They are deeply interested, too, in the preservation of those principles by which such rights shall not be unsettled, or subjected to mere popular whim or caprice, as any people can be; and yet they are at the same time sensible that vested rights, so called, may be urged to such extremes

as to become grievous public burdens, and inconveniences intolerable to the State. Such, they submit, is the character of the rights, improperly so denominated here, and such would be the consequences of a decision upholding them as claimed by the plaintiffs in these actions. Cheerfully submitting their rights to the determination of this honorable court, and confiding in its judgment, the people of Wisconsin cannot believe that the doctrine of vested rights will be carried to such dangerous extremes, or that there is to be any presumption here that the State is incapable of guarding her own honor, or will pursue, towards her own corporations or citizens, any but an enlightened, liberal and just policy.

L. S. DIXON,

Of counsel for the defendants.

OCTOBER 18, 1875.

BRIEF OF ARGUMENT OF I. C. SLOAN,

OF COUNSEL FOR THE RESPONDENTS AND DEFENDANTS IN ERROR.

Abstract of Case.

The complainants are non-residents of the State of Wisconsin, and are owners of first-mortgage bonds of the Chicago & Northwestern Railway Company. They file their bill of complaint to restrain said railway company from obeying; and the defendants, George H. Paul, Joseph H. Osborn, and John W. Hoyt, who are Railroad Commissioners, and A. Scott Sloan, who is Attorney-General of the State of Wisconsin, from enforcing a law of the State, (chapter 273, laws of 1874,) which limits the rate of charges for transporting passengers and freights on all the railroads in this State.

The bill sets out the various acts by which the said railroad company was incorporated.

That the company was authorized to borrow money and to execute mortgages to secure the payment of the same.

That the complainants are severally the owners of bonds issued or guaranteed by said railroad company and secured by mortgages upon various portions of its railroad, executed in pursuance of the laws of the State.

That the tariff of rates charged by said company before the passage of chapter 273, laws of 1874, did not produce sufficient income to pay operating expenses, repairs, interest on the debt, and the legal rate of interest allowed by the laws of this State to its stockholders.

Sets forth in full chapter 273, laws of 1874.

That the enforcement of said act "will be either the failure of the company to pay its bonded debt and interest, or a suspension of the operation of its railroad in Wisconsin, and the consequent destruction of the securities held by the complainants."

That the classes of freight established by section three of said act are different from the classes of freight established by the laws of Illinois, Iowa, and Minnesota, for the transportation of freight upon the railroads of said company in said several States, and that it is practically impossible to carry on the business of transporting freight from Wisconsin to either of the other States mentioned.

That the complainants are advised that the enforcement of said act would impair the obligation of the contract entered into between

the said railway company and the complainants, and for that reason the said law contravenes the Constitution of the United States.

That said act is in violation of the thirteenth article of the bill of rights of the constitution of the State of Wisconsin, viz:

"The property of no person shall be taken for public use without just compensation therefor."

That the legislature of Wisconsin had no constitutional power to pass said act.

That the eighteenth section of said act is a regulation of inter-State commerce, which the legislature of Wisconsin had no power to enact.

That said railroad company has never accepted said act, but that it will be obliged to accept the rates of fare and freight specified in said act, or cease the operation of its road in Wisconsin, unless said act shall be held to be unconstitutional and void, as the complainants are advised and believe, "and in either event the security which is held by your orators severally for the payment of the bonds owned by them would be wholly destroyed." (Page 45.)

That by chapter 341, laws of 1874, being an act of the legislature of Wisconsin, passed March 12, 1874, which was a day subsequent to the passage of said chapter 273, said railroad company was authorized to charge reasonable rates; and submit whether said first-named act did not repeal the latter.

Also, that chapter 292, laws of 1874, State of Wisconsin, repealed said chapter 273, laws of 1874.

That George H. Paul, Joseph H. Osborn, and John W. Hoyt have been appointed railroad commissioners of the State under said chapter 273; have accepted the appointment, and entered upon the discharge of their duties. That the complainants greatly fear that said commissioners will proceed to classify in some one or other of the classes named in the act, the articles of freight which are not specifically classified by the act; and that said commissioners will also proceed to reduce the rates of freight and fare upon the railroad of said company, unless restrained by an order of the court.

That sundry prosecutions have already been commenced against the agents of said company, at different places in the State, for alleged violations of said law in charging greater rates of toll than those prescribed by chapter 273; that said agents have been arrested, and would have been imprisoned if the company had not procured bail for them.

That the Governor of the State has issued two proclamations since the law took effect, in which he states his intention to enforce all the provisions of said act by all the means in his power; and in one of said proclamations requests and enjoins all district attorneys promptly and vigorously to prosecute to conviction and punishment, all offenders against said law; and further states that "printed forms and instructions for the prosecution of such actions will be promptly furnished on the request of any officer of the law made to the Attorney-General at Madison."

That other persons, whose names are unknown, but whom leave is asked to make parties when discovered, are preparing and in-

tending to bring suit against said company for the purpose of enforcing said act. That said company will be harrassed with a great multiplicity of suits, and its business seriously injured and impaired, and the security of complainants greatly impaired and depreciated, unless the parties named shall be restrained.

That in consequence of the passage of said chapter 273, and the proposed enforcement of the same by the said Railroad Commissioners and the Attorney-General, and the arrest of the agents of said railway company, the value of the securities held by the complainants has very greatly depreciated; and the complainants have applied to said railway company, and requested it to cause such legal proceedings to be instituted in its name as would effectually protect the rights of the holders of the bonds of said railway company against all attempts to enforce the said act, either through the Railroad Commissioners or by prosecution of the officers of said company, because the enforcement of the act would impair the obligation of the contract made by the said railway company with the holders of said bonds, and greatly impair the value of their securities. That complainants requested said company to consider the fact that the passage of the act had already greatly depreciated the value of said bonds, and that the proposed enforcement of said act, in the way contemplated by its provisions, must inflict irremediable injury upon the property which stands as security for the bonds of said company. But said company, acting through its board of directors, have declined to take the steps necessary to protect the rights of the complainants, either by the institution of the necessary legal proceedings or in any other manner.

The complainants, therefore, charge that the defendants, Geo. H. Paul, Joseph H. Osborn, and John W. Hoyt, and A. Scott Sloan, the Attorney-General of said State, are preparing to institute, or cause to be instituted, a great multiplicity of suits against the said railway company and its agents, for the purpose of enforcing the provisions of said chapter 273; and unless said Railway Commissioners and Attorney-General are restrained by the order of this honorable court, they will cause a great number of suits to be instituted against the local agents of said company, which suits would greatly embarrass said company, subject it to heavy expenses, and compel it, in whole or in part, to suspend its business, and thereby impair its means of discharging the interest due complainants and other bond-holders.

The complainants further charge that said Railroad Commissioners and Attorney-General are preparing to have the agents of said railway company, along all the line of its railroad in Wisconsin, arrested and imprisoned under the provisions of said act, and that they will do so unless restrained by order of this honorable court, and that if the agents of said company are so arrested the said company will be compelled either to operate its railroad under said act in such manner as to fail to raise sufficient revenue to pay the necessary running expenses thereof, and to pay for keeping such roads and their equipments in a proper state of repair, and to pay the interest on its bonds, and to provide a proper and reasonable

sinking fund to pay the principal on said bonds, or to cease from operating said railroads altogether, and in either case the value of the stock (bonds) owned or held or represented by said complainants, would be greatly depreciated or wholly destroyed.

Prayer, that the railroad company may be enjoined from accepting the act or complying with its terms in operating their road.

That the Railroad Commissioners be enjoined from fixing rates or classifying freight; and,

That the Railroad Commissioners and Attorney-General may be enjoined from arresting, or causing, or aiding, or abetting in the arrest of any agent of said railway company, or from instituting or causing to be instituted against said company, its agents or officers. any suit or proceeding to enforce the said chapter 273.

To this bill the Railroad Commissioners and Attorney-General interposed a general demurrer for want of equity.

The demurrer was sustained, and a decree dismissing the complaint entered, reserving the rights to the defendants to raise any question as to the jurisdiction of the circuit court or otherwise, which they might think proper.

Points and Authorities.

I.

The circuit court had no jurisdiction of this cause, because the State was the real party in interest.

The defendants are only nominal parties. The relief really sought is to enjoin the State from testing in its own courts the validity of one of its own laws.

By the eleventh amendment to the Constitution of the United States, the State cannot be made a party. The same exemption should be extended to the officers or agents of the State unless they do or threaten to do some act for which an action should lie against them personally.

This case is distinguished from all the reported cases, in which this court has decided that United States circuit courts had jurisdiction of action against the officers and agents of States in this; that, in all those cases some acts have been committed or threatened which would have rendered the officer or agent personally liable, in an action brought by the party injured by such act. But here the only allegations, in substance, are that the Attorney-General will institute proceedings in the courts to have the validity of the law determined, and if valid to have the penalties enforced, and that the Railroad Commissioners will classify freights, and fix rates for transportation of such as are not definitely fixed by the law, and that the Attorney-General and commissioners intend to prosecute the agents of the company in the courts, to enforce the penalties given by the law.

It will be observed that there is no allegation that either the Attorney-General or commissioners have done any acts on which the fears and conclusions of the complainants are based.

This court will take judicial notice of the public statutes of Wisconsin, and therefore know that neither chapter 273, laws of 1874, nor any other statutes of the State imposes the duty of prosecuting the agents of the company for violation of that act, upon either the Attorney-General or Railroad Commissioners, and it is submitted that the allegations are not sufficient to warrant the court in concluding that these officers are about to do any of the acts which the complainants fear they may do. But, however, that may be, the allegations in the bill furnish no sufficient grounds for the circuit court to assume jurisdiction of the cause, or to enjoin those State officers from performing their duty to the State as required by the law.

There is no pretense that they intend to take or in any way interfere with the property of the railroad company, or to do any act for which an action at law could be maintained against them personally.

In *Osborn vs. U. S. Bank*, (9 Wheat., 738,) the money of the bank had been actually taken and was then in the possession of the defendants. Chief Justice Marshall, in delivering the opinion of the court, says, page 842:

“It is admitted that the privilege of the principal is not communicated to the agent; for the appellants acknowledge that action at law would lie against the agent, in which full compensation ought to be made for the injury. It being admitted, then, that the agent is not privileged by his connection with his principal, that he is responsible for his own act, to the full extent of the injury, why should not the preventive power of the court be applied to him? Why may it not restrain him from the commission of a wrong which it would punish him for committing? * * * * Now, if the party before the court would be responsible for the whole injury, why may it not be restrained from its commission if no other party can be brought before the court? * * * * Will it be said the action of trespass is the only remedy given for the injury? Can it be denied that an action on the case for money had and received to the plaintiff's use might be maintained? We think it cannot; and if such an action might be maintained, no plausible reason suggests itself to us for the opinion that an injunction may not be awarded to restrain the agent with as much propriety, as it might be awarded to restrain the principal, could the principal be made a party.”

It is apparent that there is a wide difference in the facts between that case, and the one at bar. Here there is no allegations that the Attorney-General or Railroad Commissioners, contemplate doing any act which would make them amenable to an action brought by either the complainants or the railroad company in any form or in any court. But it is proposed to the United States circuit court, to invade the offices in the State Capitol, and there suspend the functions of the State officers, and to silence the Attorney-General in the courts of the State by injunction. As well might the United States circuit court have enjoined the Governor from approving the law, or the legislature from passing it, upon the allegation that its

passage or approval would injuriously affect the securities of the complainants.

There is also a wide difference between the character of the parties in the two cases. In the reported case the complainant was the fiscal agent of the United States, created and invested with its powers and rights by act of Congress, and the case involved an inquiry as to public rights. The chief justice states the question on page 849, as follows:

"The question, then, is, whether the Constitution of the United States, has provided a tribunal which can peacefully and rightfully protect those who are employed in carrying into execution the laws of the Union from the attempts of a particular State to resist the execution of those laws."

In the case at bar private right is alone involved—rights affecting only the State and one of its own corporations, or what is the same thing, the creditors of such corporation.

This straining after power by the Federal circuit courts can only be excused upon the injurious assumption that the courts of the State are either incapable or unwilling to administer justice fairly and impartially. The case of *Dodge vs. Woolsey*, 18 Howard, 331, also differs from the one at bar, in this, that the defendant, Dodge, as tax-collector threatened to seize the money or property of the bank and thus to commit an act which would have made him liable in an action of trespass, or for money had or received, thus bringing the case within the principle laid down in *Osborn vs. The Bank*, *supra*.

But here neither the classifying freights nor fixing the tolls therefor, nor the commencement of proceedings in court, would have been any interference with the rights of the property of the complainants or of the company, or rendered the Commissioners or Attorney-General liable to an action. The allegation that the Commissioners and Attorney-General were about to prosecute the agents, states a conclusion, which could only rightfully be drawn from facts, that is from their own acts or sayings, none of which are stated, for the simple reason that none existed. Courts of equity ought not to issue injunctions upon such loose statements of mental conclusions. The facts from which the pleader draws his conclusions should be stated.

We therefore protest against the exercise of the jurisdiction claimed for the circuit court in this case as being an unwarranted invasion of the sovereignty of the State, and an unnecessary and dangerous encroachment on State rights.

II.

Chapter 273, laws of 1874, is valid. The legislature possessed the constitutional power to enact it.

Upon the subject of corporations the constitution of Wisconsin is as follows:

Article XI, Sec., 1. "Corporations without banking powers or privileges may be formed under general laws, but shall not be cre-

ated by special act except for municipal purposes, and in cases where, in the judgment of the legislature, the object of the corporation cannot be attained under general law. All general laws or special acts enacted under the provisions of this section may be altered or repealed by the legislature at any time after their passage."

The power reserved to the legislature to alter or repeal acts of incorporation is in its terms unlimited; the object of this reservation of power is well known. Since the decision of the Dartmouth-College case, in 1819, in which this court held that a charter of incorporation was in the nature of grant creating a contract, beyond the power of the legislature to impair, many of the States have, by general statutes, special clauses in corporate charters, or by constitutional provisions, sought to re-establish over such corporations the legislative control which has always existed in England, and which previous to that decision was supposed to exist in this country.

The language employed to reserve this power in the constitution of Wisconsin is so plain and unambiguous, the intention is so obvious, and the object sought to be attained so evident, that the question whether the legislature of the State has the power to limit the tolls and charges of corporations can hardly be considered debatable.

Twenty years ago, before any of the complainants had invested money in the securities of the railroad corporations of the State, the Supreme Court of Wisconsin had occasion to state the true construction and effect of the provision in our constitution reserving to the legislature power to alter and repeal acts of incorporation. In *Pratt vs. Brown*, 3 Wis., 603, decided in June, 1854, the court say, p. 611 :

"The doctrine that a charter of incorporation conferring certain franchises upon a company or individual was in the nature of a grant, and hence, protected from encroachment or attack by the shield of the Federal Constitution, which prohibits the States from passing any laws impairing the obligation of contracts, was established, after elaborate argument and on full consideration, by the Supreme Court of the United States, in the Dartmouth College case. This doctrine has since that decision been generally acquiesced in by nearly, if not quite, all the State courts in the Union. It is competent, nevertheless, for each State, by constitutional regulation or specific legislative enactment, to reserve the power to modify or repeal all such acts of incorporation.

"When the power of modification or repeal is reserved, either in the one mode or the other, it is obvious that the grantees must rely, for the perpetuity and integrity of the franchises granted to them, solely upon the faith of the sovereign grantor. Hence, since the decision of the Dartmouth-College case, some of the States, and our own among the number, have by constitutional provisions reserved to their legislatures the right of modification or repeal of all special acts of incorporation, and all such corporations now rest upon the faith of the State, taking care to deserve its favor or command its justice by observing strictly the limit of their powers, and accomplishing by all legitimate means the object of their creation."

This is a very just and clear exposition of the meaning and scope of the reserved power, and was early notice to all who might desire to invest in the stock or securities of corporations existing under the laws of Wisconsin, that such corporations were under the absolute control of the legislature, and that their franchises might be restricted or their charters repealed at any time at the will of the legislature.

The adjudication of the courts of the other States and of this court are all in harmony with the interpretation given to the power reserved over corporations in similar language in the laws and constitutions of other States.

In Massachusetts, *Crease vs. Babcock*, 23 Pick., 334, a bank of which the defendant was a stockholder, had been incorporated with power to repeal, reserved only in case of some violation of the charter, or other default. In that State stockholders were only liable individually on the expiration of the charter, and the defendant insisted that under the clause reserving the right to repeal the charter the default of the bank must first be ascertained and determined by the courts, and until that were done the legislature could not exercise the power of repeal; but the court held that the acceptance of the charter made a compact under which the legislature could repeal, "and the grantees could have no reason to complain of the execution of their own contract." The court also held, that they would presume the contingency upon which the right to repeal depended had happened.

In *Roxbury vs. Boston & P. R. R. Co.*, 6 Cush., 424, the object of the bill was to require the defendant to erect a bridge along the highway over the track of defendant. The defendants resisted on the ground that the legislature could not impose this burden on the company.

On page 433, the court say:

"If this act adds anything or makes more explicit the duty imposed by the act of incorporation, it affects the remedy only, and perhaps would be within the competency of the legislature without any reservation of the power of amendment, but if otherwise it was fully warranted by the reservation made by the statutes of 1830, C., 81."

In *Commissioners vs. Holyoke W. P. Co.*, 104 Mass., 446, the defendants were the owners by purchase of a dam across the Connecticut River, erected by the Hadley Falls Co., under a charter passed in 1848, which provided that the company should pay such damages to the owners of fishing rights then existing above the dam, as might be assessed by the county commissioners, and such damages were duly assessed and paid.

It was proved that since the building of the dam the number of shad below the dam had gradually diminished; that a small but appreciable portion of the decrease was due to the dam.

The commissioners determined that the defendants should put in fish-ways. This they refused to do on the ground that the legislature had no power under the circumstances to require them to put in fish-ways because it would impair the obligation of the contract contained in the charter.

The court say, page 448:

"In England, where the power of the legislature are unfettered by a written constitution, and no act of a prior parliament can abridge the power of a subsequent one, there could be no doubt of the authority to pass a statute requiring the owner of any dam to erect and maintain such fish-ways as commissioners appointed for that purpose might prescribe. 1 Bl. Com., 90, 160, 161; *Hodgelon vs. Little*, 14 C. B., (N. S.) 111, 16 C. B., (N. S.) 198; *Rolle vs. Whyte*, Law Rep., 3 Q. B., 286, 306.

In the United States it has been settled for more than half a century by the decision of the Supreme Court that a grant or charter from a State legislature is a contract within the meaning of the articles of the constitution which declare that no State shall pass any law impairing the obligation of contracts. *Fletcher vs. Peck*, 6 Cranch, 87; *Tenett vs. Taylor*, 9 Cranch, 43; *Dartmouth College vs. Woodward*, 4 Wheat., 518. In a still earlier case, Chief Justice Parsons delivering the judgment of this court, clearly stated the true rule, saying: "We are satisfied that the rights legally vested in this or in any corporation cannot be controlled or destroyed by any subsequent statute unless a power for that purpose be reserved to the legislature in the act of incorporation." *Nales vs. Stetson*, 2 Mass., 143, 146.

But, no act of the legislatures is to be declared invalid by the courts as a violation of a paramount and controlling article of the constitution unless the repugnancy between the two is manifest and unavoidable. When a statute has been passed with all the forms requisite to give it the force of law, it must be regarded as valid unless it can be clearly shown to be in conflict with the constitution. *Fletcher vs. Peck*, 6 Cranch, 87, 128; *Dartmouth College vs. Woodward*, 4 Wheat., 518, 625; *Norwich vs. County Commissioners*, 13 Peck, 60."

It will be noticed that in this case the decision in the case of the *Essex Co.*, 13 Gray, 239, is so far modified that it is held that if the fisheries below the dam were injured whilst compensation was made for the fishing rights above the dam, it was competent for the legislature to require that fish-ways be made, notwithstanding the former act of the legislature, provided that the company should be relieved from the burden of making fish-ways on payment of compensation for the fishing rights above the dam, adopting in this respect the views of this court in reference to the case of the *Essex Company* as expressed in *Lyman vs. Holyoke Co.*, 15 Wal., 500.

In *Parker vs. Metropolitan R. R. Co.*, 109 Mass., 506, the same question as presented by the case at bar, came before the court for adjudication.

The *East-Boston Ferry Company* was incorporated in 1852. The charter provided that the company "shall be allowed to collect and receive such tolls as the said mayor and aldermen (of Boston) shall determine; *provided, however*, that the rates of ferriage shall never be so much reduced as to reduce the yearly dividends of said company to an amount less than eight per cent. on the amount of capital stock actually invested." The rates of ferriage were established

at three cents for adult passengers, and two cents each for children, by the mayor and aldermen of Boston, by an order passed October 4 1869. The legislature, in 1864, passed an act, chapter 226, § 26, limiting the rate of toll to one cent for each passenger.

By an act passed in 1830, the legislature reserved the right to alter, amend, or repeal every act of incorporation at pleasure.

The court held that the ferry company accepted their charter subject to this reserved power as one of the terms or conditions created by it, and on page 509 say: "The power of regulating tolls upon incorporated ferries, bridges, and turnpikes, has been constantly exercised by the legislature. The great object of such corporations is the accommodation of public travel; and most, if not all, the charters creating them contain provision for the regulation of the tolls they are entitled to charge the public. The charter of the East-Boston Ferry Company contains such provisions. The legislation in question, therefore, is not upon a subject foreign to the provisions of the charter or the objects of the grant. It is strictly an alteration or amendment of such provisions, and it is designed to promote the chief object of the grant.

We have no doubt it was competent for the legislature, under the power reserved to alter or amend this charter, to pass the law we are considering, and that from its passage it fixed the rate of toll which the ferry company was entitled to exact for passengers carried over their ferry in the cars of the defendant."

The acts of incorporation under which the Chicago & Northwestern Railway Company was organized contain provisions in regard to the tolls they are entitled to charge. In Exhibit I, page 31, section 6, confers the right on the company thereby created, "to demand and receive such sum or sums of money for the transportation of persons and property, and for the storage of property, as it shall from time to time deem reasonable."

In exhibit Q, page 35, section 7, the company thereby created is authorized "to regulate the amount of tolls and the manner of collecting the same for such transportation," &c.

The right to charge toll is derived from the act of incorporation of this company, and does not exist except by virtue of such acts.

Chapter 273, of laws of Wisconsin, 1874, is, in the language of the opinions last cited, "strictly an alteration of such provisions," as confer upon the company the right to charge tolls. It substitutes for the discretion of the company to fix rates. The rates prescribed by the act and those to be fixed by the Railroad Commissioners.

In New York the cases are equally clear and explicit.

In *McLaren vs. Rennington*, 1 Paige, 102, the legislature of New Jersey had incorporated a bank to continue not exceeding twenty-one years, with a proviso that it should be lawful for the legislature at any time to repeal the charter. As a consideration for the charter, \$25,000 was paid by the banking company to the State. The bank was organized in June, 1824, paid the \$25,000, and commenced operations. In November following, the legislature repealed the act of incorporation, and the court held, Walworth,

chancellor, not only that the power to repeal existed under the reservation, but that the court would not presume it to have been improperly exercised.

In the matter of Oliver Lee Bank, 21st N. Y., 9, the bank was organized in 1844, under the general banking law of 1838, which exempted the stockholders from personal liability and become insolvent in 1857.

The 14th section of the articles of association is in the following words:

"The shareholders of this association shall not be liable in their individual capacity for any contract, debt, or engagement of the association," and the certificate of incorporation contained a similar provision.

The constitution of the State, adopted in 1846, contained a provision imposing personal liability on the stockholders of banks.

The right was reserved in the general banking law of 1838, to alter or repeal it at any time. The court, Denio, justice, page 16, speaking of the reserved power, say: "This, according to one view, is the reservation of a right only to change or repeal it prospectively, from the passage of the modifying or repealing law, so that the association which had been organized in the meantime would remain unaffected by such modification or repeal. On the other hand it is insisted that it enabled the legislature to deal with the associations as though they were directly established by a statute, containing in itself the usual reservation. I am of opinion that the latter is the correct view.

By the revised statutes, the charter of every corporation thereafter to be granted by the legislature, was declared to be subject to alteration, suspension, or repeal, in the discretion of the legislature, (1 R. S., 600, 8.) This provision incorporated itself into and became a part of every special charter which was itself silent as to the power of repeal or change."

After holding that the adoption of the constitution of 1848, containing the provision which imposed personal liability, was an alteration of the charter of the Oliver Lee Bank, on the question as to the right of the State to impose personal liability on the stockholders without their consent, the court say, page 21:

"But they had voluntarily consented to become stockholders, upon the conditions held out by the general banking law; one of these conditions was that the legislature might amend and alter the act, and in that way change and modify the constitution of the corporation. A change under this reservation to alter *might render their investment more or less profitable and their position more or less hazardous. Whatever perils it entailed they consented to assume.* Stockholders cannot put in the plea, *non hic fœdera veni*; for although they have not by a direct act become parties to the contracts of the association, they have conferred powers upon others to contract to a limited extent in their behalf. In the first place, they have empowered the corporation to affect their individual interests to the extent of the corporate authority, and then they have agreed that the corporate power may be changed by the legisla-

ture. * * * The superadded liability is as clearly within their contract as that incurred in the first instance, for it has been incurred according to an arrangement to which they were parties. In the two cases referred to in Kernan reports, (1 Kern., 102; 4 Kern., 336,) the defendants insisted that they had never contracted to embark their money in the enterprises which were being actually prosecuted by the directors, but the answer which this court gave was that they had voluntarily embarked their credit in corporations whose powers were liable to be enlarged by the legislature."

In the matter of the Reciprocity Bank, 22 N. Y. 9. This bank was incorporated in 1834. By a special charter which contained a provision that the legislature might "at any time alter, modify, or repeal the same," no personal liability was imposed on the stockholder by the original charter. The same question was presented as in the Oliver Lee Bank case, *supra*, whether the constitution of 1846 and general statute of 1849 had the effect to alter the charter and impose upon the stockholders personal liability for the corporate debts. Referring to the case of the Oliver Lee Bank, the court say, page 3:

"In holding that a personal liability could be lawfully imposed upon the shareholders of that bank, the decision was placed upon the reserved right to alter or repeal the general act under which it was organized. In the present case, as well as in that, the exercise by the legislature of the power in question is certainly none the less effectual because it has the super-added sanction of a constitutional provision. Nor can a constitutional provision, declaratory of a change in the principles of a corporate organization, be said to affect or impair a charter which, in its own terms, admits of the very change declared. If the legislature, in pursuance of a right reserved, may alter or repeal the charter of a corporation without violating the obligation of a contract, the same thing, I apprehend, may be done by the people when they establish the fundamental law of the State."

The alteration in the last two cases cited was of a vital character, when it is considered that profit is the controlling motive which induces investment in the stock and securities of corporations; here was a burden of personal liability imposed which might be and was of a very onerous and perhaps ruinous character to the stockholders. Not only was the money invested in the stock lost, but they were called upon to part with a portion of their fortunes which they never intended to place in jeopardy by becoming stockholders. In the first case, to the suggestion that if the stockholders did not desire to take the risk of the new and extended liability imposed, they might surrender their franchise and stop business. It was answered that the parties litigating before the court were a minority of the stockholders and were powerless to prevent a continuance of the business of the bank as against the determination of the majority of the stockholders. To this it was replied that that was one of the risks assumed in becoming stockholders and they could not complain that one of the conditions of the agreement they had

made was being executed, however onerous and disastrous it might prove.

We might cite the decisions of other States, but it is deemed unnecessary in view of the fact that the question of the extent of such reserved power has been so often and fully considered recently by this court that we do not regard it as an open question. The case of the Oliver Lee Bank, *supra*, was appealed to this court and is reported under the title of *Sherman vs. Smith*, 1 Black, 587. The decision of the court of appeals of New York was fully sustained, this court saying on page 593:

"Now the 32d section, which reserved to the legislature the power to alter or repeal the act by necessary construction, reserved the power to alter or repeal all or any one of these terms or conditions or rules of liability prescribed in the act."

Pennsylvania-College cases, 13 Wal., 190.

In 1802, the legislature chartered a college by the name of Jefferson College. Section 1 provided "that there be and hereby is erected and established in Cannonsberg, &c., a college," &c.

Power to alter was reserved by section 5, as follows: "And the same (the charter) shall not be altered or alterable by any ordinance or law of said trustees, nor in any other manner than by an act of the legislature of this commonwealth."

By an act of the legislature, passed March 4, 1865, Jefferson College was united with a college at Washington, in the same county, into one corporation, providing for the education of certain classes of the students in each college-building, and dissolving the original corporation, except so far as was necessary to close up its business.

By an act passed February 26, 1869, the several departments of the consolidated corporations were authorized to be located either at Cannonsberg, Washington, or some other suitable place in the State. Subsequently the whole college was fixed at Washington, thus wholly obliterating the original college at Cannonsberg. The question was, whether, under the power reserved, the legislature could thus deal with the chartered rights of Jefferson College?

The court say, page 213, *et seq.*; "Charters of private corporations are regarded as executed contracts between the Government and the corporations, and the rule is well settled that the legislature cannot repeal, impair or alter such a charter against the consent or without the default of the corporation, judicially ascertained and declared. Of course these remarks apply only to acts of incorporation which do not contain any reservations or provisions annexing conditions to the charter modifying and limiting the nature of the contract. Cases often arise where the legislature, in granting an act of incorporation for a private purpose, either make the duration of the charter conditional, or reserve to the State the power to alter, modify, or repeal the same at pleasure. Where such a provision is incorporated in the charter it is clear that it qualifies the grant, and that the subsequent exercise of that reserved power cannot be regarded as an act without the prohibition of the constitution. Such a power, also, that is, the power to alter, modify, or repeal an act of incorporation, is frequently reserved to the

State by a general law, applicable to all acts of incorporation, or to certain classes of the same, as the case may be in, in which case it is equally clear that the power may be exercised whenever it appears that the act of incorporation is one which falls within the reservation, and that the charter was granted subsequent to the passage of the general law, even though the charter contains no such condition, nor any allusion to such a reservation. Reservations in such a charter, it is admitted, may be made; and it is also conceded where they exist, the exercise of the power reserved by a subsequent legislature does not impair the obligation of the contract created by the original act of incorporation.

In *Tomlinson vs. Jessup*, 15 Wal., 454. The Northeastern Railroad Company was incorporated in 1851. A general law of the State, passed in 1841, provided that every charter or incorporation should "at all times remain subject to amendment, alteration, or repeal by legislative authority."

In 1855 an act was passed by which the stock and real estate of the company should be exempted from taxation during the continuance of the charter, which was fifty years.

It does not appear from the case, but it is presumed this exemption was made as an inducement to subscribe for stock and purchase the bonds of the company.

In 1868 a new constitution for the State was adopted which provided that the property of all corporations should be subject to taxation.

The court say, page 459:

"The object of the reservation and of similar reservations in other charters, is to prevent a grant of corporate rights and privileges in a form which will preclude legislative interference with their exercise, if the public interest should at any time require such interference. It is a provision intended to preserve to the State control over its contract with the incorporators which, without that provision, would be irrepealable and protected from any measure affecting its obligation."

Again on page 459, it is said: "The reservation affects the entire relation between the State and the corporation, and places under legislative control, all rights, privileges, and immunities derived by its charter directly from the State."

The case of *Miller vs. State*, 15 Wall., p. 478, was where a railroad company was organized under the general laws of the State of New York, whose constitution had a similar clause to our own, as to alteration and repeal. By the original charter of the company a capital of \$800,000 was provided for, to build a road fifty miles in length. The city of Rochester was authorized by law to subscribe for \$300,000 of capital stock, and was to have the right, by the act of the legislature, to appoint four out of the thirteen directors of the company. All but 18 miles of the road was abandoned, and the legislature afterwards passed an act, authorizing the city of Rochester to appoint seven directors, that being a majority of the whole number, and this last act was assailed as impairing the obligation of contracts. The courts of New York held the act

constitutional, and the Supreme Court of the United States affirmed the decision, citing and approving the language above quoted from 15 Wallace.

And on pages 488-9, the court say:

"Such power also, that is the power to alter, modify, or repeal an act of incorporation is frequently reserved to the State by a general law, applicable to all acts of incorporation, or to certain classes of the same, as the case may be, in which case it is equally clear that the power may be exercised whenever it appears that the act of incorporation is one which falls within the reservation, and that the charter was granted subsequent to the passage of the general law, even though the charter contains no such condition, nor any allusion to such a reservation."

In this last case cited, by an arbitrary act of the legislature the control was taken out of the hands of the persons to whom it was entrusted by the original charter, and given to other persons, and yet the power of the legislature to do so is fully sustained.

These cases place the reserved power to alter or repeal any act of incorporation which is subject to it, upon too firm a basis to be shaken. She right to destroy a corporation by repeal would of itself include the power to impose any condition or burden upon it which the legislature might think proper, and if such condition or burden should prove too onerous to be borne, or so decrease or destroy the revenues of the company that it could no longer continue business, such condition or burden would have no worse effect than an absolute repeal of the charter, which no one, so far, in this discussion, has had the temerity to deny. The legislature possesses the power to do so, and may exercise it at pleasure.

In the case of *Olcott vs. The Supervisors*, 16 Wall., 673, this court had the question in the case at bar of the right of the legislature of Wisconsin to regulate and limit the tolls and rates of compensation of railroad companies in that State before it, and applied the doctrine of the cases cited. Opinions, p. 688, as follows:

"That the legislature of Wisconsin may alter or repeal the charter granted to the Sheboygan & Fond du Lac Railroad Company is certain. This is a power reserved by the constitution. The railroad can therefore be controlled and regulated by the State. *Its use can be defined; its tolls and rates for transportation can be limited.*"

This was said in a case where it was claimed, and the claim was sanctioned by this court, that railroad companies are so far public corporations that money may be raised by taxation and donated to them to aid in the construction and operation of the roads.

The following, taken from the opinion of the attorney-general of the State, presents a just view of the claim set up that there are certain limitations on the powers under consideration, not apparent from the language employed in expressing it which restricts the power to alter, to the non-essential franchises and places the most important franchise conferred upon railroad corporations, that of exacting tolls, beyond the reach of legislative control. He says:

"It is, I understand, conceded by all who have given opinions hostile to this legislation, that, by virtue of the constitutional reservation, all acts of incorporation may be absolutely repealed and the corporations created by them dissolved. If the legislature can thus wholly destroy every corporation it has created, and compel a total surrender of all franchises and privileges, and of all power to transact business, except such as may be necessary to convert its property into money and wind up its affairs, it seems difficult to urge any valid reason against legislation which merely limits the corporate power and restricts the privilege of charging higher rates for transportation than the legislature may deem just and equitable. But it is now claimed by those who propose to disregard the law of 1874, that although the power reserved in the constitution to alter all acts creating corporations is in terms unlimited, this reserved power is still subject to certain latent limitations, which it is the duty of the courts to recognize and define; that among the latent limitations one is to be found or created which prevents the legislature from reducing the charges for transporting passengers and freight below a reasonable compensation.

"The result of this doctrine would be practically to repeal the constitution of the State, so far as this clause is concerned, and to restore to corporations in this vital particular that exemption from legislative control secured to them by the Dartmouth-College decision, and to guard against which the clause was incorporated into the constitution of the State.

"The power to alter is given, by the constitution, just as clearly as the power to repeal, and it is difficult to see why a limitation cannot as well be applied to the one as to the other. If the State may take away the franchise entirely, why may it not so regulate and control its exercise as to further the public purpose for which it was bestowed? Ordinarily the greater includes the less; here the lesser power is given in express terms. The legislature may 'alter,' and this word must be given some signification different in sense or in degree from the power to repeal. It cannot be said to apply to the right of taxation and police regulation, for these are inherent in the State, applicable alike to individuals and corporations, and in no way dependent on the clause of the constitution referred to. It must mean that the legislature may in its discretion, instead of taking the extreme and severe measure of repeal, exercise the lesser and milder right, and impose such restrictions and conditions upon the conduct of the affairs of the corporation, and so limit its charges as will best promote the object of its creation and prevent the abuse of the powers and privileges granted to it.

"The corporations cannot justly complain of this. They have accepted their charters subject to this express reservation, and having so accepted, they hold them upon the faith of the State only, taking care to deserve its favor or command its justice by the manner in which they observe the power conferred. If a wrong is done or a mistake made in the exercise of the reserved power, the aggrieved party must resort to the legislature for redress. This was the agreement created by the acceptance of the charter and the

application for relief must be made to the tribunal selected by the contracting parties. The courts cannot interfere, for, says Chancellor Kent, 'the legality of the reservation cannot be questioned.' Should the legislature refuse or fail to correct the wrong, no worse results could ensue to the corporation than would have followed from absolute repeal. But it is hardly to be supposed that the legislature would fail to respond to any application founded in justice. The people cannot fail to appreciate the necessity of railroads to the business and industrial interests of the State and to the convenience and prosperity of all its citizens. They do not desire any unwilling or uncompensated service from the railroads, nor will they consent that the State should be placed in a condition of servitude to the corporations."

"But if this limitation, that the rates fixed by the legislature must be reasonable, exist at all, it arises not from the reservation or its construction, but rather out of the common law rule that in the absence of any legislative enactment on the subject, common carriers are bound to carry all freight and passengers which are offered at reasonable rates, and cannot discriminate unjustly between shippers. In my judgment it is impracticable to apply this common law rule to railroad corporations, as a substitute for legislative control and regulation.

"The use of railroads has increased the business of transporting freight and passengers to immense proportions; it has brought about great and radical changes in the commerce and business of the country; it has created new and diverted old channels of trade; built cities and formed States. The gigantic corporations controlling the railroads of the country, with their great wealth and influence are practically placed beyond the reach of the common law obligation, and this warrants the position that legislative control ought to be and is put in the place of this common law liability of common carriers. Besides a suit by the individual to enforce the common liability settles nothing. No general rule can be established in a single suit, while such a suit would involve an inquiry and determination of the cost of the road and its equipment, the operating expenses, the amount and character of the business, and the whole detail of the condition, management, and relative cost of everything connected with the road. When this is done the reasonableness of the charge in every other instance remains open to be litigated at such an expenditure of time and money as to deter individuals from entering such a field of hopeless litigation. I am led to the conclusion that the better view is, that the judgment of the legislature is by the reservation of power, and the necessities of the case; the measure of the reasonableness of the regulation imposed. The corporation certainly cannot arbitrarily determine the question, and on the assumption that the rates are unreasonable, disregard the law. The legislative act is conclusive that the rate is reasonable. The exercise of the power is of itself an assertion of its justice and of its necessity. The railroads cannot question it; the courts may not review it, for by the agreement of the parties in accepting the charters under the reservation, the whole

subject is withdrawn from the domain of judicial decision and remains only a matter for the legislative conscience.

"And so with the objection that the provisions of this law assumes control of the property of the corporation, and deprives them of its use without making any compensation, and is therefore in conflict with the constitution of the State and of the United States.

"As these corporations have no natural existence, but are created wholly by legislative enactments, their power to act, in every particular, is derived from the State; their capacity to make contracts, acquire and use property, and to charge for its use comes from the State, and is granted on such terms and to such extent as the legislature may prescribe; the power of the State to grant is given by the constitution, and coupled with this power is found in the same fundamental law, the authority to alter the act of incorporation as the legislature may think the public interests demand. The rights and privileges conferred cannot be separated from the restrictions and duties imposed. The power to take toll cannot be distinguished from the duty to take only such as the legislature shall establish. It is difficult to see how restricting these tolls within certain limits which the legislature deems just, is any more depriving the corporations of their property than it would be to repeal their charters and thus deprive them of the power of charging any rates at all, and this latter power may confessedly be exercised without making compensation.

"Whether the State can compel the companies to operate their road for such compensation as it chooses to prescribe, is another and different question, not involved in this discussion. The only inquiry, while companies are openly violating the law by charging higher rates than it allows is, as to the power of the legislature to prohibit them from charging above certain fixed rates.

"If it shall be made to appear that the companies cannot operate their roads except at a loss under the rates fixed by the law, the remedy is not in an attitude of open hostility to the law, but in an application to the legislature for its modification. As suggested in relation to the other objection, this is the forum which the constitution has provided for the determination of that question, and in accepting the charters, the companies assented to be governed and bound by the legislative sense of justice. This sense of justice will undoubtedly coincide with the mutual interests of the people and of the railroad companies. These interests demand, with a force almost equal to the provisions of positive law, that remunerative rates shall be allowed for the services of these corporations; but as a mere question of legal right, full power has been reserved by the constitution, in the language of *Olcote vs. Supervisors, supra*, to alter or repeal the charters of these corporations, and the roads can *therefore* be controlled and regulated by the State, their use can be defined, and their tolls and rates for transportation limited."

While the exercise of the reserved power has been upheld in every instance in which any case involving its exercise has come

before the courts, State or national; yet, in some of the cases dicta may be found to the effect that the power of the legislature to alter acts of incorporation is not wholly unlimited.

This dicta first appears in the case of the *Essex Co.*, 13 Gray, 239, and in the case of *Miller vs. The State*, 15 Wall., 478, the limitation of this power is referred to and defined as follows:

“That it cannot be exercised to take away or destroy rights acquired by virtue of such a charter, and which, by the legitimate use of the powers granted, have become vested in the corporation.

* * * * *

Such reservation, it is held, will not warrant the legislature in passing laws to change the control of an institution from one religious sect to another, or to devote the fund of the donors to any new use inconsistent with the intent and purpose of the charter, or to compel subscribers to the stock, whose subscription is conditional, to waive any of the conditions of their contract.”

This is really only repeating the limitation which exists on all legislative power, and has no special application to legislation under the reserved power. It is simply declaring that the legislature cannot transfer by an arbitrary act of legislation the property of one person or class of persons to another, whether the title to such property be in a corporation or natural person, and cannot annul valid contracts.

We do not claim that this reserved power gives to the legislature any right over the property of the corporation. It can only deal with franchises. Over them it has absolute control.

That the right of a corporation to take tolls is a corporate franchise, is too well settled to admit of doubt.

In *Thorpe vs. R. & B. R. R. Co.*, 27 Vt., p. 146, the court say:

“The privilege of running the road and taking tolls or fare and freight is the essential franchise conferred.”

In *B. & L. R. R. Co. vs. S. & I. R. R. Co.*, 2 Gray, 27, the court say:

“A right to maintain a railroad and take the tolls and profits is created and granted them by the government of the State * * It is a right or title which, if it exist at all, is purely a statute right. It is created by law; it exists only in contemplation of law.”

Again, on page 29, the court say:

“A toll is granted for the sole benefit of such corporation upon all passengers and property of all descriptions which may be conveyed or transported on said road at such rate as the company in the first instance shall fix. This is in every respect a public grant; a franchise which no one could enjoy, but by the authority of the Government.”

In *Alcott vs. Banfil*, 4 New Hamp., 545, the court say:

“When individuals, under a charter from the Government, construct works for the public accommodation and open the works to public use, this is, in law, a dedication of the public use, and no toll can be demanded unless it be authorized by the charter.”

In *Hull Dock Co. vs. Brown*, 1 East., 575, “Where no tolls are

expressly imposed they are not imposed by inferences; those who seek to impose a burden upon the public must take care that the claim rests upon plain and unambiguous language."

But this question was long ago fully and fairly settled by this court, and is no longer debatable.

In *Perrine vs. Chesapeake & Del. Canal Co.*, 9 How., 172, the court say, p. 184:

"It is the well settled doctrine of this court that a corporation created by statute is a mere creation of the law, and can exercise no powers except those which the law confers upon it, or which are incident to its existence. *Head, et. al. vs. The Providence Insurance Co.*, 2 Cranch. 127; *Dartmouth College case*, 4 Wheat., 636; *Bank of United States vs Dandridge*, 12 Wheat., 64; *Charles River bridge vs. Warren bridge*, 11 Pet., 544; *Bank of Augusta vs Earle*, 13 Pet., 587.

The error consists in regarding the title of the company to the property as derived to them upon common law principles. The corporation has no right of property except those derived from the provisions of the charter. Nor can it exercise any power over the property it holds, except those with which the charter has clothed it. And whether it may demand compensation from a person whom it permits to pass over its property must depend upon the language of its charter and not upon the rules of the common law."

In view of this emphatic declaration of the law on this subject, it is vain for learned counsel to argue that the Chicago and Northwestern Railway Company possesses any right to demand or receive compensation for the transportation of persons and property upon its railroad except what is expressly granted by its charter, and such grant must of necessity be alterable under the power reserved in the constitution of the State. Chapter 273 is a strict exercise of this right to alter the franchise of the corporation to exact tolls. It changes this franchise from an unlimited one to a limited one. A strong effort is made in this case, as it was in the case last cited, to establish the power of a corporation to take tolls, as existing outside of the powers granted by the legislature, and one learned counsel, driven by the decisions of this court from the domain of the common law, appealed to the "higher law," as the source of this right, whilst another equally learned counsel thought it might be derived from the law of nations. All discussion of this question only serves to strengthen and confirm the rule of law on this subject as settled by this court. And the conclusion is inevitable that, if it be a franchise granted by the legislature, it is alterable at the legislative decision.

And while it may be freely conceded that the legislature can not appropriate the property of the corporation to the public use, or transfer it to other corporations or individuals, any more than it can the property of individuals, yet it can prohibit the corporation from using it as a corporation, or from charging any tolls, or more than fixed rates of tolls, for its use. The cases cited hold that this right of charging tolls is a franchise granted by the State, and

such franchises as the State grants it has reserved the power to alter or repeal, in unmistakable language. No one will dispute that it would have been clearly within the legislative power, when the acts creating the corporation were passed, to have limited its charges; and, under the power to alter, it may do everything which it might have done at the time of creating the corporation.

III.

It is also claimed that although it be held that the legislature of Wisconsin had the constitutional power to reduce the tolls of the company, yet that power could only be exercised on making compensation to the corporation, or the stockholders thereof. In other words, that chapter 273 is a violation of the thirteenth article of the bill of rights in the constitution of Wisconsin, which is as follows:

“The property of no person shall be taken for public use without just compensation therefor.”

It would be a sufficient answer to this claim that chapter 273 does not in any way take or deprive the corporation of its property.

But it is argued that the income or profit of property is essentially the property itself, and that by reducing the tolls below the point of compensation the property is really destroyed, if not taken.

But this result would follow the repeal of the charter to a still greater extent, and no one has ever contended that where a charter was rightfully repealed, the stockholders would be entitled to compensation, in either case of the reduction of tolls below compensatory rates or the repeal of the charter; the title to the property is unaffected. It remains a fund,

1st. For the payment of the corporate debts.

2d. The residue is to be distributed amongst the stockholders.

The franchises which the State granted are alone altered or recalled; in these the corporation had no right of property, had no right to expect their continuance beyond the pleasure of the legislature. It was the condition upon which they were granted and accepted, that they might be altered or repealed at pleasure of the State, and certainly no one can complain that the condition is enforced.

This question has already been fully adjudicated in principle by this court.

In *West River Bridge Co. vs. Dix*, 6 How., 307, it was held that the property of a chartered company might be taken for public use upon compensation being made.

In Vermont there was no reserved power to alter or repeal acts of incorporation.

Mr. Justice McLean stated the true principle governing the franchise on page 539. He says:

“No State could resume a charter under the power of appropriation and carry on the functions of the corporation. A bank charter

could not be thus taken, and the business of the bank continued for public purposes. Nor could this bridge have been taken by the State and kept up by it as a toll-bridge. This could not be called an appropriation of private property to public purposes. There would be no change in the use except the application of the profits, and this would not bring the act within the power. The power must not only be exercised *bona fide* by a State, *but the property, not its products, must be applied to public use.*"

In other words, taking the property of a corporation by the right of eminent domain is wholly different from recalling its franchises by an act of the legislature under the reserved power. The State has no use for the particular franchises granted to a corporation. They emanate, when granted, from the sovereign power of the State; when the grant is repealed, their use is wholly destroyed. It is, therefore, impossible for a State to apply the particular franchises possessed by a corporation to a practical use; when recalled, they are merged in the higher sovereign power of the State. The alteration or repeal of corporate franchise is, therefore, not in any respect an exercise of the right of eminent domain, and no compensation is required to be made.

In *Charles River bridge vs. Warren bridge*, 11 Pet., 420, where the question arose whether the legislature had the right to wholly destroy the value of the Charles River bridge, which was erected and maintained in pursuance of a franchise granted by the State, by authorizing the erection of a free bridge so near as to render the Charles River bridge valueless.

The same argument was urged in that case as in the one at bar; but the court say, page 545:

"But the case most analogous to this, and in which the question came more directly before the court, is the case of the *Providence Bank vs. Billings, et al.*, 4 Pet., 514, and which was decided in 1830. In that case it appeared that the legislature of Rhode Island had chartered the bank in the usual form of such acts of incorporation. The charter contained no stipulation, on the part of the State, that it would not impose a tax on the bank, nor any reservation of the right to do so. It was silent on this point. Afterward, a law was passed imposing a tax on all the banks in the State, and a right to impose this tax was resisted by the Providence bank upon the ground that, if the State could impose a tax, it might tax so heavily as to render the franchise of no value and destroy the institution; that the charter was a contract, and the power which may in effect destroy the charter, is inconsistent with it, and is impliedly renounced by granting it. But the court said the taxing-power was of vital importance and essential to the existence of government, and that the relinquishment of such a power is never assumed.

* * * * *

The case now before the court is, in principle, precisely the same. It is a charter from a State. The act of incorporation is silent as to the contested power. The argument in favor of the proprietors of the Charles River bridge is precisely the same, almost in words, with that used by the Providence bank, that is, that the power

claimed by the State, if it exists, may be used to destroy the value of the franchise they have granted to the corporation. The argument must receive the same answer, and the fact that the power has already been exercised so as to destroy the value of the franchise cannot in any degree affect the principle. The existence of the power does not and cannot depend upon the circumstance of its having been exercised or not."

If a State can thus destroy the value of corporate property acquired under franchises which are granted unconditionally and are in the nature of a contract, there would seem to be no room for doubting that it may do so in any case where the power to alter or repeal the franchise is expressly reserved.

This doctrine is re-affirmed in *Turnpike Co. vs. the State*, 3 Wal., 210. The court say, p. 213:

"No exclusive privileges had been conferred upon it, (Turnpike Co.,) either in express terms or by necessary implication; and hence, whatever may have been the general injurious effects and consequences to the company from the construction and operation of the rival road, they were simply misfortunes which may excite our sympathy but are not the subject of legal redress."

The principle deducible from these cases, as applicable to the one at the bar, is, that if a legislative power exist, no matter how injuriously its exercise may affect the value of property, no claim for compensation for such injuries can be made except where the property is actually taken for the public use; such losses are simply misfortunes which may excite the sympathy of courts, "but are not the subject of legal redress."

V.

The bondholders and mortgagees of the company have no greater rights, or immunity from legislative control, than the corporation itself, and the existence of such obligations in no way impairs or defeats the power of the legislature to alter or repeal the corporate franchises.

None of the cases cited for the complainants sustains the doctrine contended for.

Bronson vs. Kensie, 1 How., 311, holds that the law known as the stay-law of Illinois, giving mortgagors a year after sale to redeem, and forbidding a sale of the mortgaged premises at less than two-thirds of the appraised value, unconstitutional as impairing the obligation of the contract.

McCracken vs. Hayward, 2 How., 608, is a decision on the same law in respect to execution sales, and is to the same effect as the case last above cited.

Curran vs. Arkansas, 15 How., 305. The State, having chartered a bank and invested it with capital and power to issue bank-notes, afterwards withdrew the funds and appropriated them to State use; held that as against the creditors of the bank such act was invalid. Opinion by Curtis, J., in which he expressly recognizes the right of the State to repeal the charter, but holds the prop-

erty of the bank to be a trust fund for the payment of its debts, and that the State could not appropriate such property to its own use, as against the equitable lien of the creditors.

In *Hawthorne vs. Calf.*, 2 Wal., 10, the State of Maine incorporated a railroad company. The charter provided that the shares of stockholders should be liable for the debts of the corporation, and, in case of deficiency, the shareholders should be liable to the creditors in amount equal to their respective shares. There was no reservation of power to alter or repeal the charter. A few months after the debt to Hawthorne was contracted, the legislature repealed the individual liability clause. Held, that the provision of the charter making the stockholders liable to the creditors of the corporation became incorporated into the contract, and the legislature could not destroy it. Citing *Woodruff vs. Trapual*, 10 How., 190 and *Curran vs. Arkansas*, *supra*.

These were all cases where by act of the legislature it was attempted to put the property of the corporation beyond the reach of the creditors, who had an equitable lien upon it, or to destroy contracts under which rights had vested where there was no reserved power.

The case of *Miller vs. Erie R. R. Co.*, 21 Barbour, 513, which was cited by complainants counsel on this point in the court below, (and which is cited in 15 Wal., 498,) was overruled by the court of appeals in the *Albany N. R. R. Co. vs. Bradwell*, 24 N. Y., 357.

On the other hand, the rule of law is well settled in this court that creditors and stockholders have no rights superior to the corporation itself as against legislative inferences.

In *Muma vs. The Potomac Co.*, 8 Pet., 281, the court say, page 287:

"A corporation by the very terms and nature of its political existence, is subject to a dissolution by a surrender of its corporate franchises, and by a forfeiture of them for willful *misuser* or *non user*. Every creditor must be presumed to understand the nature and incidents of such a body politic, and to contract with reference to them. And it would be a doctrine new in the law that the existence of a private contract of the corporation should force upon it a perpetuity of existence contrary to public policy and the nature and objects of its charter."

In *Pennsylvania College cases*, 13, Wall., *supra*. Jefferson College had issued a large number of contracts for scholarships, for the purpose of raising an endowment fund. Such contracts were outstanding to a large amount at the time of the passage of the act, altering the charter of the college, and a claim was made, on the part of the holders of these contracts for scholarships that the act of the legislature altering the charter impaired the obligation of such contracts. In answer to this claim the court say, page 218:

"Persons making contracts with a private corporation, know that the legislature, even without the assent of the corporation, may amend, alter, or modify their charters in all cases where the power to do so is reserved in the charter, or in any antecedent general law, in operation at the time the charter was granted, and they

also know that such amendments, alterations and modifications may, as a general rule, be made by the legislature, with the assent of the corporation, even in cases where the charter is unconditional in its terms, and there is no general law of the State containing any such reservation. Such contracts made between individuals and the corporations do not vary, or in any manner change or modify the relation between the State and the corporation, in respect of the right of the State to alter, modify, or amend such a charter, as the power to pass such laws depend upon the assent of the corporation or upon some reservation made at the time, as evidenced by some pre-existing general law or by an express provision incorporated into the charter."

This clear and just exposition of the relation which creditors bear to the corporations and to the legislative power of the State which creates them, renders it unnecessary to protract discussion on this point.

It would be a remarkable condition of things if it were held, that under this reserved power the legislature could alter at pleasure the franchises of a corporation so long as it kept out of debt; but by contracting debts the corporation could suspend the power, and by thus keeping in debt wholly defeat its operation.

The acts of the legislature limiting the tolls and charges of the complainant, is not an encroachment on the power of Congress to regulate commerce among the several States.

No discrimination is made between freights carried for citizens of the State, or persons not citizens thereof.

It would seem that the statement of this proposition was sufficient proof of it.

It has never been intimated anywhere, that the power which railway companies exercise to fix their rates of charges and tolls, was an invasion of the power of Congress, to regulate commerce among the States. How is it any more objectionable for the State to reserve that power to itself, either in granting a charter, or by a subsequent alteration of it, than it is to confer it on the corporation itself. The power to fix and limit the charges of railroad corporations, must reside some where, either in the State, or the corporation, and its exercise by the one is no more a regulation of commerce among the States, than by the other.

It is very justly said, in the case of the State Freight Tax, 15 Wal., 277:

"We concede the right and power of the State to tax the franchises of its corporations; and the right of the owners of artificial highways, whether such owners be the State or grantees of franchises from the State to exact what they please for the use of their ways. The right is an attribute of ownership."

Here it is complained that the cost of transportation is being cheapened instead of increased.

The contract of a railroad company which provides that all grain passed over its road should be handled by an elevator company at a fixed price for fifteen years, although it may increase the cost of transportation of grain, is not an infringement of the power of Con-

gress to regulate commerce. *Railroad Company vs. Richmond*, 19 Wal., 584.

But this question may be regarded as settled by the decision of this court in *Railroad Company vs. Maryland*, 21 Wal., 456. The court say, p. 471:

“This unlimited right of the State to charge, or to authorize others to charge toll, freight, or fare for transportation on its roads, canals, and railroads, arises from the simple fact that they are its own works or constructed under its authority. It gives them being.—It has a right to exact compensation for their use. It has a discretion as to the amount of that compensation. That discretion is a legislative—a sovereign—discretion, and in its very nature is unrestricted and uncontrolled. The security of the public against any abuse of this discretion, resides in the responsibility to the public of those who, for the time being, are officially invested with it. In this respect it is like all other legislative power, when not controlled by specific constitutional provisions, and the courts cannot presume that it will be exercised detrimentally.”

The other minor questions, such as that chapter 273 was repealed by other acts, were rightfully disposed of by the circuit court, and are not, we think, worthy of serious argument here.

A. SCOTT SLOAN,

Att'y-General and Sol'r for Def'ts.

I. C. SLOAN,
Of Counsel.

BRIEF OF ARGUMENT OF E. W. STOUGHTON,

OF COUNSEL FOR THE APPELLANTS AND PLAINTIFFS IN ERROR.

These causes are presented to the court on appeal from decrees of the circuit court of the United States for the western district of Wisconsin, dismissing the bills upon demurrer filed thereto, July 8, 1874. The bill, in the case first entitled, was filed by Piek, an alien, by Taylor and Pierson, citizens of the State of New York, and by the Farmers' Loan and Trust Company, and the Union Trust Company, corporations of said State, against the appellees, citizens of the State of Wisconsin, to restrain the acceptance of the Northwestern Railway Company, and the enforcement by the appellees, of the provisions of an act of the legislature of Wisconsin, approved March 11, 1874, and printed on pages 17 to 21 of record 459, upon the ground that said act is in violation of the constitution of that State and of the United States, and is, therefore, for these and other causes void.

The bill, in the case secondly above entitled, was filed by complainants therein, stockholders of said company; a portion of the stock owned by Waite Talcott being delivered to him on his surrender of stock by him owned in the Galena and Chicago Union Railroad Company at the time of its consolidation with the Chicago and Northwestern, as stated in their bill. (Record, 482, pages 3-15.) With this exception, the two bills are substantially the same; and the cases will, with the permission of the court, be argued as one cause; the record in the case first entitled being that hereinafter referred to.

The appellants, Piek, Pierson, and Taylor, are owners of certain bonds issued by said railway company, secured by several mortgages executed by it upon their property and franchises severally to the Farmers' Loan and Trust Company, by which there was conveyed unto them, as trustees, for the benefit of such bondholders, the property, tolls, income and corporate franchises, of said railway company, at the times and for the purposes in said record stated, from pages 7 to 14. Copies of these mortgages will be found commencing respectively at pages 51, 61, and 85, of the record.

It is insisted, by the appellants, that the act of Wisconsin of March 11, 1874, was repealed by that of March 12, 1874, printed at pages 75, 6 and 7 of the record, and that if not thus repealed, it is void, as conflicting with that provision of the constitution of that

State which declares, "that the property of no person shall be taken for public use without just compensation;" and also with the several provisions of the Constitution of the United States, declaring that no State shall pass any law impairing the obligation of contracts, and that no person shall be deprived of property without due process of law.

A clear presentation of these constitutional questions, and of others incidental to, and connected with them, which will be hereafter stated, requires that the organization of the Chicago & Northwestern Railway Company and the corporate franchises conferred upon it by the joint acts of the legislatures of the States of Illinois and Wisconsin should be carefully stated; and this court will then perceive that the enforcement of the act complained of would not only violate the rights of the bondholders and also of the stockholders generally, for the reasons suggested, but especially those of the Illinois stockholders who have surrendered their stock in two railway corporations of that State, and on the faith of the Statutes of Wisconsin and of the compact of that State with Illinois, accepted in return therefor stock in the consolidated company, of no value whatever if the act of March 11, 1874 shall be enforced.

Organization of the Chicago & Northwestern Railway Company, its franchises, and the rights of its stockholders.

On the 3d. of June, 1856, by act of Congress, entitled "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," printed in Statutes at Large, vol. 11, page 20, there was granted to that State certain sections of land for the purpose of aiding in the construction of railroads therein mentioned; and by the third section of the act it was expressly declared that such land should be subject to the disposal of the legislature of said State *for that purpose, and no other; and that such railroads should be and remain public highways for the use of the Government of the United States, free from toll or other charge upon the transportation of property or troops of the United States.*

The trust and duty thus devolved upon the State of Wisconsin it accepted, and undertook faithfully to execute by an act approved October 11, 1856, entitled "An act to execute the trust created by the act of Congress, entitled 'An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State,' approved June 3, 1856, by incorporating the Wisconsin and Superior Railroad Company, and granting a portion of said lands thereto." (See record, p. 28.)

The attention of the court is especially called to the provisions of this act, not only because the corporation created under it is the foundation of—consolidated into and forms part of the Chicago and Northwestern Railway Company—but because the legislatures of Wisconsin and Illinois have repeatedly declared, by enactments, that all the franchises, powers and privileges by said act of incorporation conferred upon and vested in said Wisconsin and Superior Railroad Company shall be held and enjoyed by the Chicago and Northwestern Railway Company, which is declared to be its successor. (Record, page 46.)

Assuming this so, let us consider briefly the provisions of the act.

The purpose of Congress in granting lands to Wisconsin to aid in the construction of railroads therein, was to develop its resources, promote its wealth, and increase the comfort and happiness of its people; and in return for these benefits, the only consideration exacted was that the railroads, so constructed should be and remain (of course forever) public highways for the use of the Government of the United States, free from toll or other charge upon the transportation of its property or troops. To execute this trust and duty required that the corporation receiving these lands from the State should be endowed with the capacity of perpetual succession, with power so to conduct its affairs that its railroads should forever remain public highways, in such condition and so equipped as to be fit for the use required by the Government; and as this was to be free of charge, it was indispensable that the company owning the roads should, from other sources, obtain the means of so operating them as to be able at all times to render the stipulated service.

The State of Wisconsin did, by its act in execution of this trust, endow the corporation thereby created with all needful powers and facilities. It was declared to have perpetual succession and perpetual right, power and authority to carry persons and property upon such roads as it might construct, by the force of steam and otherwise. It was authorized to receive conveyances in fee simple of the lands granted by the United States at the times, and upon the conditions of the said act of Congress mentioned, and was expressly subjected to all the restrictions, impositions, duties and obligations by said act imposed. The lands which the corporation might acquire it could hold or sell in fee simple. Its affairs were to be conducted and carried on by a board of directors, who should be stockholders and by stockholders be chosen; and the charter of the corporation expressly declared that it might demand and receive such sum or sums of money for the transportation of persons and property, and for the storage of property as it should from time to time deem reasonable. It was also empowered to borrow money—to issue and sell bonds, &c., payable at such times and places as it saw fit, and execute conveyances to trustees to secure the same of all its property, corporate franchises and privileges; and to authorize such trustees to enter into possession thereof, and to enjoy and use or sell the same. These are some of the principal powers and franchises thus conferred, and it is perceived they were needful, and yet ample to enable the corporation thus created, in pursuance and execution of this trust, to perform the obligations cast upon it.

By act approved February 12, 1857 (Record, p. 72.) this corporation was authorized to consolidate with the Chicago, St. Paul and Fond du Lac Railroad Company, if a majority of the stockholders of both corporations should so agree. They did thus agree, and thereupon the two corporations were consolidated into one, under the name of the latter; and were by said act declared thereupon to have conferred upon and merged in said consolidated company all

rights, franchises, privileges, grants, conveyances, powers, immunities, property and causes of action theretofore possessed by either; and to be subject to all debts and claims existing against either; and such act also expressly declared that the corporation, as thus consolidated, should be entitled to all the lands of the United States granted as aforesaid, and be subject to all the conditions and obligations connected with and forming the consideration of the grants thereof.

The Chicago, St. Paul and Fond du Lac Railroad Company thus consolidated had been previously formed by the consolidation of two corporations—the Rock River Valley Union Railroad Company, originally chartered by Wisconsin, under the name of the Madison and Beloit Railroad Company (Record, p. 33), which name was, in 1850, changed (Record, p. 37), and of the Illinois and Wisconsin Railroad Company, chartered by Illinois in 1851 (Record, p. 42). The power thus to consolidate, if the companies should so agree, was given by Illinois by the act last aforesaid, and by Wisconsin in two several acts—one passed in 1851 (Record, p. 39), the other in 1855 (p. 40).

The Chicago, St. Paul and Fond du Lac Railroad Company having borrowed money, and mortgaged its property and franchises as security therefor, an act was passed by Wisconsin, in 1859 (Record, p. 43) authorizing purchasers, in case of a sale under such mortgages, to form a corporation under the laws of that State, and of Illinois, and Michigan, or either, and by a vote of its stockholders to assume and secure all debts of the Chicago, St. Paul and Fond du Lac Railroad Company; and the corporation so to be formed was to possess all the privileges, powers, authorities and capacities possessed by that corporation, by virtue of any law of Wisconsin or of Illinois; and by the statute of Illinois (Record, p. 44) a like authority was given to such purchasers, and like powers and franchises conferred upon the corporation which they might form. The railroad property and franchises of the Chicago, St. Paul and Fond du Lac Railroad Company were sold at one sale and as an entire road, under the trust deeds by it executed as aforesaid, on the second of June, 1859, at Janesville, in Wisconsin; and on the sixth of that month, the purchasers became incorporated as one company under the aforesaid two acts of Wisconsin and Illinois, under the name of the Chicago and Northwestern Railway Company (Record, p. 6); and thereafter, in 1862 (Record, p. 46), the legislature of Wisconsin expressly conferred upon said company all rights, privileges, powers and authority contained in its charter, or in the charters of the Chicago, St. Paul and Fond du Lac, and Wisconsin and Superior Railroad Companies, to which the said defendant, the Chicago and Northwestern Railway Company was declared to be the successor.

On the second of June, 1864, the Galena & Chicago Railroad, chartered by Illinois in 1836, (Record, page 46,) was, in pursuance of the laws of that State and of Wisconsin, expressly authorizing it, if the stockholders should so agree, consolidated with the Chicago & Northwestern Railway Company, the stockholders of each sur-

rendering their stock therein, and in return receiving stock in the company so consolidated; (Record, p. 7.) and thereafter the legislature of Wisconsin, in February, 1865, conferred upon said consolidated company all the privileges and franchises theretofore conferred by the laws of that or any other State upon the Chicago & Northwestern Railway Company and the Galena & Chicago Union Railroad Company, or any other Company consolidated with it. (Record, p. 51.) In 1871 the Chicago & Northwestern Railway Company was by Statute of Wisconsin, (Record, p. 60) authorized to consolidate with the Baraboo Air Line Railroad Company and several other railroad companies of Wisconsin, and such consolidation was effected, and the organization of the Chicago & Northwestern Railway Company, substantially as the same now exists, was completed.

It thus appears that this company is composed of two corporations created by the laws of Illinois, and of three and more organized by virtue of the laws of Wisconsin; and it also appears from the statutes authorizing the consolidation of the Illinois companies with those of Wisconsin, that the stockholders in each agreed so to consolidate upon the faith of these laws which pledged to them the legislative promises of these States that if they would thus agree, and surrender the stock by them owned in the several companies, and take in return that of the consolidated company, and agree that the corporation as consolidated should assume and secure to pay by mortgage upon its entire road, property and franchises, all the debts of the several companies so consolidating, that in consideration thereof the consolidated corporation should possess and exercise all the rights, privileges and franchises which by either State had been conferred upon the companies composing it.

The Chicago and Northwestern Railway Company, as consolidated, executed various mortgages to secure bonds by them sold, some of which are owned severally by the appellants Piek, Pierson and Taylor. These mortgages executed severally to the Farmers' Loan and Trust Company, and to the Union Trust Company, severally conveyed to such trustees, and mortgagees the property and franchises, as the company was by its charter expressly authorized to do; and on the faith of such security the bonds aforesaid were sold without the States of Wisconsin and Illinois, and largely to foreigners abroad. There was no notice to such purchasers, either in the charter of said company, nor in the bonds or mortgages, of any reservation of the right to alter or repeal such charter; but so far as purchasers out of the State of Wisconsin were concerned (they not having even constructive notice of the constitution or laws of that State) they could but assume that the charter of the consolidated company was in perpetuity, and that there could be no repeal or alteration of the same, which could in any manner affect the rights of those who should purchase the bonds issued and secured in precise conformity with its provisions.

Before proceeding to consider the very remarkable statute,—the execution of which is the purpose of this action to restrain,—the attention of the court will be called to a few facts averred in the

bill, and admitted by the demurrer, to show how unjust and oppressive are the provisions of the act of which we complain. It appears (Record, p. 15) that the railroads owned by the Northwestern Railway Company in Wisconsin cost \$28,074,317.35, and that their earnings for the year ending December 31, 1873, was \$3,190,523.64, and that the operating expenses were \$2,099,850.66; leaving as net earnings the sum of \$1,091,672. This would pay less than four per cent. per annum on the actual cost of the roads, which have done so much to develop and increase the wealth, and add to the prosperity of the State of Wisconsin. It appears also that the debt of the said company, applicable to the cost of the roads in that State is \$17,247,770, and, therefore, that the entire net earnings of the roads thereon would pay less than seven per cent. upon this debt, whilst the legal rate of interest in Wisconsin is ten per cent. It also appears that the company, between May, 1867 and May, 1873, had reduced rates of passenger fare twenty per cent., and of freight thirty per cent., and that in consequence of the very inadequate rates received, it had been unable to pay any dividend to its common stockholders since December, 1872; and since that date but three and a half per cent. on its preferred stock. (Record, p. 15.)

The bill also avers that rates for fare and freight were fixed after as careful an examination of the facts and circumstances bearing upon the question as it was in the power of the officers of said corporation to bestow, and that such rates are reasonable and just; and it furthermore alleges that the sole security for the payments of said bonds holden by the appellants, is the said road, its equipments, appurtenances and revenue. (Record, p. 21.)

On the 11th of March, 1874, the legislature of Wisconsin passed the act complained of, (Record, p. 16,) which by its terms reduced the rates for the carriage of freight and passengers more than twenty-five per cent. below those then fixed and charged as aforesaid, by the Chicago and Northwestern Railway Company; and the bill avers, and the demurrer admits, that the effect of such reduction if submitted to will be, that instead of returning any compensation whatever to the owners of said roads, the same will be run at a loss, and consequently the value of said roads will be entirely destroyed, and the security which is held for the payment of the bonds owned by said appellants, rendered worthless. (Record, p. 21.)

A brief synopsis of this unprecedented and unjust statute is here deemed appropriate. Its framers, while destroying the value of the stock and bonds issued by this company, also designed to give to the citizens of Wisconsin a certain advantage over all others in the transportation of the products of that State. By section 3 of the act, freights are divided into four general classes, Nos. 1, 2, 3, 4, and into seven special classes, to be designated as D, E, F, G, H, I, J.

D comprises grain in car-loads.

E—Flour, 50 barrels or more; lime, 24 or more.

G—Lumber, lath, and shingles, in car-loads.

H—Live-stock in car-loads.

These are productions of Wisconsin, sold in great quantities out of that State, and hence its citizens desire to transport them

throughout its borders at the lowest rates possible. By section 4 the rates of freight are fixed for the carriage of the articles in quantities specified in classes D, E, G, and H, and also in the three other special classes, F, I, J. By section 5 of the act the roads classed as A and B were not to charge higher rates of freight for carrying freight classed under the four general classes mentioned in the third section, than was received by said companies on the first of June, 1873; but these rates were much higher than those prescribed for the carriage of the freight classed as D, E, H, and G, and the three Railroad Commissioners to be appointed under the act were empowered by section 13 to so classify all articles transported on any railroad, except articles mentioned in D, E, H, and G, as to place them in either of the said four general classes, or in the special classes except D, E, H, and G, thus expressly declaring that the Commissioners should in no manner interfere with either of those four general classes by removing from them either of the articles comprised therein, and placing them in classes where a higher rate of freight might be chargeable thereupon. And whilst these Commissioners were empowered to reduce rates of freight on articles comprised in either of the general or special classes, they had no authority to increase the same, except as such increase might result from a change in the classification as aforesaid—by removing articles comprised in F, I, and J to one or more of the four general classes numbered first, second, third and fourth—thus it will be perceived, carefully excluding from this possible increase articles constituting the staple products of Wisconsin. In the nature of things, and upon solid principle, there was no reason for this discrimination. It must be found in the desire of the representatives of the people of Wisconsin to secure for them a benefit, by an arbitrary and unjust exercise of supposed legislative power.

Without entering fully into the details of this act, it is enough to present here its general features, and these are certainly extraordinary. The railroads of the State are divided into three classes, A, B and C, instead of being designated by their corporate names; and as the roads descend in the alphabet, they rise in the scale of the rates they are severally authorized to charge for the carriage of freight and passengers—these rates being arbitrarily fixed by the legislature, without investigation, and with no opportunity given to the several companies to be heard on a subject so vital to their interests, and even existence. Three Commissioners were to be appointed, to be in no manner interested in railways, with authority to examine witnesses, &c., and, among other things, to ascertain the cost of each railroad within the State, the gross receipts and total net earnings thereof, and various other facts, as one would naturally suppose, for the purpose of increasing rates, freight, and fare, if those fixed by the act were too low. This, however was not confided to their discretion; for they were only authorized further to reduce the rates prescribed, if, in their judgment, or in the judgment of a majority of them, it can be done without injury to said railroads; and the bill avers that they will proceed to re-classify and reduce rates,

unless restrained by injunction. The act also declares that the said railroads shall be bound by the decision of said Commissioners, or a majority of them, with reference to said rates, and that every violation thereof shall be a misdemeanor, subjecting the offending company or individual to fine, and to an action by the party aggrieved. Penalties are inflicted for any refusal to transport freight at the rates prescribed by the act, or by the Commissioners, or for charging more than such rates; and whilst the companies are thus required to perform these services, and to continue to operate their roads for that purpose, they are commanded, under heavy penalties, to do so for a compensation, confessed by the demurrer to be so inadequate as not to pay running expenses. And the bill also avers that even these rates it is the purpose of the Railroad Commissioners to reduce, and that they and the Attorney-General, who are appellees, are preparing to enforce the provisions of said act by prosecutions for penalties, and otherwise, to the injury and destruction of the rights and interests of the appellants.

On this state of facts the appellants will insist that the court below had jurisdiction to grant the relief asked for; that the act in question was repealed by that of March 12, 1874; that such portions of the act complained of as prescribe rates of fare or freight for the carriage within Wisconsin of persons or property coming from or going to other States, is in conflict with the provision of the Constitution of the United States empowering Congress to regulate commerce between the States, and to that extent is void; that the legislature had no authority to alter said charter; that the act in question does not alter or purport to alter the charter of said company, but is in substance a confiscation of its property, a taking of it for public use without compensation and without due process of law; that the power to determine what is a reasonable compensation for the services of common carriers, is a judicial, not a legislative power, which the courts alone can exercise; that if this were otherwise, there is a limit to the authority of the legislature to alter charters by virtue of the power to that effect reserved therein, or in the constitution of Wisconsin, and that this limit is to be prescribed, not by the will of the legislature, but by that of the law as administered by courts of justice; that the legislature has no authority to impair the obligation of contracts entered into, as aforesaid, between the several stockholders of the Illinois and Wisconsin railroad companies in precise conformity with the statutes of those States: that such statutes operated as a compact between those States, which neither could alter without the assent of the other; and that the legislature of the State of Wisconsin could not lawfully impair the contracts made between the bondholders and their trustees, and the said company, as attempted by the act of March 12, 1874; for all and each of which causes above stated, the appellants will insist that the said act is unconstitutional and void.

Before proceeding to argue these several propositions, a few general observations are deemed appropriate. If the act be valid, the legislature of Wisconsin, or such of its officers or agents as it sees fit to designate, may arbitrarily fix the compensation to be received

by the railway companies for their services and risk as common carriers, without appeal, without reference to the cost of operating their roads—permitting some companies to charge more than others for similar services; and acceptance of these rates may be enforced by the State by penalties and criminal prosecutions. If one conveys the profits of land, the land passes, for what, says Lord Coke, in language adopted by this court as expressing the law, is land, but the profits thereof? If these rates are binding upon the corporation, it is because the legislature and its agents have absolute power to fix them independent of, and against the will of stockholders and directors. If this power to determine what compensation common carriers may receive can be thus arbitrarily assumed and exercised by the State having no interest whatever in the property, may it not with equal propriety fix the sums the corporation shall pay for the hire of men and purchase of materials necessary for the conduct of its business? The exercise of one of these powers necessarily involves the right to employ the other, for what propriety or justice is there in fixing the carrier's compensation, without regard to the cost or risk of conducting his business, and if the right here claimed may be exercised, does it not follow that the price of the products of the manufacturer may be thus fixed without regard to its cost? By the terms of this act the corporation is in substance prohibited, under heavy penalties, from making contracts for the price of the carriage of freight or passengers, or for the performance of any service or risk as a common carrier. This authority the State claims the exclusive right to exercise, although as was said in 4th Hill's Reports, page 143, the power of making bargains for individuals has never been delegated to any branch of the government. Whilst this authority is thus claimed, and the corporation is expressly forbidden to bargain for, ask, or receive any greater compensation than that prescribed, it must of course be conceded that the persons for whom services are rendered by the company, are not bound by the rates fixed, for as against them these must be reasonable, and that question they may at any time submit to the determination of a court and jury; and of this right they cannot be deprived. If the legislature may lawfully exercise this power, it is obvious it can at pleasure render the entire property of the company worthless; for it is quite immaterial with what prudence, skill, and economy its affairs are conducted, if its receipts may be regulated by the arbitrary will of the legislature or its agents. If this may be lawfully done it needs no argument to show that the property of every corporation held subject to this extraordinary power, may in substance be taken from it, and its benefits transferred to the public who travel and send freight over its roads. The case is not altered by saying that the title to its road-bed, cars, and equipments still remain in the company; for the only purpose of investing in these is to obtain a fair profit from their use in connection with the services of the officers and agents to be employed by the corporation. When, therefore, its income is taken, or so controlled by the State that none, or less than a just compensation is derivable from its

property, the latter is in the most substantial sense taken without due process of law, and without compensation. The utmost subtlety cannot wriggle out of this conclusion. To say that the right to take a reasonable compensation for the services of a common carrier is a franchise, proceeding from the State, which it may at pleasure recall, is simply to assert that when it creates a corporation for the construction and operation of railways or for the manufacture of cloths, it invites the investment of capital, subject to the right of the legislature immediately utterly to destroy its value to the owner by prescribing what may be received for services or products. Is the right to obtain this just compensation a franchise derived from the State, or a part, and the only valuable portion of the capital invested? By what process is this extraordinary transformation effected, whereby the State may at will so dispose of the property of the stockholders, that whilst they may continue to hold its barren title, the State may control its use, and distribute its income and profits to strangers? To say that this is but altering the franchise, which the State conferred, is but christening a wicked fraud under another name. The property of the stockholder is, nevertheless, taken from him, without due process of law; and without compensation; and to call this the withdrawal of a franchise, which the State gave, and may at pleasure take away, is but a wretched falsehood poorly clad. This, however, seems to have imposed upon the supreme court of Wisconsin, if we may judge from a late opinion of its chief justice, in which it is declared that the act does not at all meddle with the material property distinct from the franchise, but acts only on the franchise, and not at all on the material property. Does that court really believe the income of a railroad company is not material property, and that only its road-bed and cars when incapable of yielding a profit, are? What would the judge who delivered the opinion on that subject judicially say if a like proposition were urged on behalf of men who by fraudulent management as directors should deprive the stockholders of all income from their investments? He certainly would not call this, or the right to receive it, a franchise and say the directors had not meddled with the material property. He would probably tell the fraud-doers in very plain language that the right of stockholders to a fair return for their investment was as sacred as that of any other owner of private property to its proceeds, and that such investment was of no material value whatever except as a source of income.

In the same opinion, the justice who delivered it said the statute in question had been denounced as an act of communism, but that he thanked God communism was a foreign abomination, without recognition in Wisconsin, where the people were too intelligent, too staid, too just, too busy, too prosperous, for any such horror of doctrine. It is quite true that the theory of the statute is distinct from the doctrine of the communists. The latter divides property ratably between the plundered and the plunderers, while the former takes all for the grangers.

It is clear, therefore, that the State has assumed to exercise such

absolute control over the property of the corporation, by whatever name it may be called, as renders it quite valueless, at the pleasure of the legislature; and it is equally clear, that unless corporate property is wholly unprotected by those invincible common law and constitutional provisions which protect all other private property, the act in question is utterly void. It has sometimes been said that railways are public highways which, in substance, belong to the State, and may, therefore, be dealt with as public property. At others, that inasmuch as the State exercised the right of eminent domain to enable railway corporations to secure the needful land for their roadways, this rightly subjected them and their property to State control. These are but feeble pretexts on which to build the right to take millions of property forcibly and without compensation. In so far as railways are subject to public use, they are public highways, open to all persons who see fit to travel in, or send freight by, the cars of the corporations owning them, at reasonable rates of compensation; but it is well settled that these are private corporations, and their property private property. The State has never paid a dollar towards the construction or equipment of our railway, and by its constitution is expressly prohibited from so doing, or from operating public works except as hereinafter stated. How, then, or by what title does the State own the railway constructed by the Chicago and Northwestern Railway Company? Is it because it has seen fit to declare it a public highway? And how much is gained by invoking the aid of the right of eminent domain exercised to enable the company to obtain a small portion of its land, which it acquired only upon paying to the owners full compensation therefor? The State lost nothing by this, nor did those whose lands were thus taken. These pretenses of franchise altered, of public highway, of eminent domain, are but flimsy muniments of title to the millions which the State seeks to grasp and hold by force of the act in question. Those who attempt to accomplish and to justify this appropriation of the property of corporations can find no precedent for the outrage in the legislation of any State or country. A reference to 1st Shelford, on the law of railways, containing the act of parliament of 1844, will illustrate with what justice the legislature of Great Britain, having imperial power, deals with this kind of property. There, in a general act, provision is made for regulating the rates of fare chargeable by railway companies *thereafter* to be created in that company, and these are subject to such revision, that when the companies are able to pay ten per cent. dividends upon the cost of the roads, the rates may be reduced, *provided the Government shall guarantee a continuance of profits equal to that sum*; and a somewhat similar provision, without the guarantee, will be found in the 18th section of the act of Congress incorporating the Union Pacific and other connecting railways. It has been reserved to the Western States, where the money lender is permitted by law to exact for loans a high rate of interest—in Wisconsin, ten per cent.—and where the manufacturer and the farmer may charge at pleasure for their products, to attempt arbitrarily, without legis-

lative or other inquiry, and without notice to the corporation to be affected, to seize upon the management of their railways, fix the rates beyond which they shall not charge for services, at a time when those are so low that no dividends can be paid upon their common stock, and but three and a half per cent. upon the preferred, and thus to utterly prostrate the credit of these companies at home and abroad, reducing the value of their bonds held by foreign and other capitalists to the extent of many millions of dollars, and causing these obligations to the amount of hundreds of millions to be dishonored for non-payment of interest. It is not surprising that in view of the national disgrace thus inflicted upon our country by this State legislation, our consul at Rotterdam, in an official communication addressed to the State Department at Washington, should have said: "Concerning the transactions in United States railroad shares which, before the catastrophe in the United States, had been so important an element in the Dutch money-market, I have but to repeat the statement of my preceding annual report. Far from showing any sign of returning confidence in United States railroad shares, the Dutch public rather manifests increasing aversion. The sale of United States railroad securities, even at the lowest rates, is limited to the smallest minimum. The laws recently enacted in Wisconsin concerning railroads have just affected those securities, in which the Dutch capitalists had invested enormous sums, namely, the Chicago & Northwestern, and the Milwaukee & St. Paul Railroads. As yet the holders of these bonds still believe that the hopes created and entertained by the directors of these railroads will be realized, and that those laws will be annulled by the supreme court. Should this not be the case, a new depreciation of these securities, as well as all other American railroad bonds, may be expected. For years to come, no investment of Dutch capital in United States railroad enterprises will be made. Financiers who, in this country, have been dealing in United States railroad securities, agree in declaring that a revival of confidence in American railroad enterprises can only be expected when a radical change of the present legislation on railroad companies takes place in the different States."

To what action of foreign government for the protection of their citizens, who have invested millions in these securities, this legislation, if enforced, may lead, cannot be foretold; but it is quite certain that, if by a similar national act of confiscation, our government should thus seize the property of foreign capitalists on either of the pretexts here put forth on behalf of Wisconsin, they would be condemned as frivolous excuses for national robbery by the judgment and moral sense of the civilized world; and would afford but a poor shield against the international weapon of reprisal which may rightfully follow the refusal of our nation to satisfy the just claims of citizens of another, who have been refused protection of liberty or property by our laws. A State of our Union may plead that, as it can hold no intercourse with a foreign government, it cannot be subjected to the consequences of this doctrine; but this immunity will hardly justify a disregard of duties which every political com-

munity is bound to perform toward those who place themselves or their property within its jurisdiction. Nor is it wise, or respectable for any State of our Union to bring discredit upon itself and sisters by outraging the rights of foreigners, merely because it cannot be punished for so doing? A decent pride, if not a native honesty, should rather induce it to seek the respect of foreign nations, even if denied the privileges of international recognition and association. It should be borne in mind, however, that it will be difficult to make foreign nations comprehend, how it is, that a great people like ours, should have so organized their internal civil administration that each and all of our great State divisions should be controlled by legislatures possessing unlimited power to plunder foreign citizens without responsibility to their governments, or to any department of our own, and whilst, if this be so, it cannot fail to degrade us in the esteem of all honest men, it would afford but a poor excuse against a claim upon our general Government for restitution, should the Western legislation already existing be enforced to the substantial confiscation of hundreds of millions of railway bonds, whose foreign owners now anxiously await the decision of this court. Should this hope fail them, but one source remains; for after what has occurred it would be but mockery to ask them to rely upon the justice of States, which, although enriched by contributions of foreign capital, are nevertheless capable of seizing and appropriating it, upon the pretences here put forth. In using the words seizure, appropriation, and confiscation of this property, to indicate the acts authorized, I employ no exaggerated phrases, for if the provisions in question shall be enforced, they result in nothing less. A statute which should prohibit a person, under heavy penalties, from renting his property beyond certain rates—barely sufficient to pay cost of management and taxes—which should authorize certain persons to reduce even these at pleasure—would as effectually seize, appropriate, and confiscate it, as if the entire title were taken away. Indeed the acts here authorized are the worst possible form of confiscation, for whilst the power asserted is, to declare what may be received as income—which is the sole purpose of investment—it is made the duty of the corporation to employ the money of its stockholders in operating, at vast expense and risk, these roads; and no matter with what economy, skill and labor this may be done, there still stand ready the legislature, or its appointed agents, to reduce the prescribed rates, if by this successful management they shall accumulate beyond running expenses and taxes. No legislative outrage can exceed this; and whilst one Wisconsin Company—the West Wisconsin Railway Company—has already been crushed by it, those here represented must, as admitted upon this record, share a similar fate, if not saved therefrom be the decision of this court.

Respectfully submitting this preliminary statement, I now proceed to argue the question here involved—as grave, and in their consequences as important, as any ever presented for judicial consideration.

I.—The court below had jurisdiction of the parties; and if, as averred in the bill, the defendants were about to enforce execution of an unconstitutional act of the legislature of Wisconsin, to the injury of the complainants' rights of property, it was the duty of the court to restrain this by injunction.

1. Where jurisdiction depends upon the parties, the court looks only to those named in the record, and though a State may be solely interested in the enforcement by its agents of an unconstitutional law, those charged with its enforcement are the proper parties defendants, and may be restrained. *Osborn vs. Bank of the U. S.*, 9 338; *Davis vs. Gray*, 16 Wallace, 203.

2. The facts stated in the bill clearly show, that if the act in question shall be executed, the property of the complainants will be sacrificed and the contracts under which the same is held impaired; and if these are protected by the provisions of the Constitution of the United States and of the State of Wisconsin, as we insist they are, the relief prayed for should be granted.

II.—The statute in question was repealed by the act of March 12, 1874.

1. The provisions of the two are utterly inconsistent with each other, and both cannot stand.

2. Although by joint resolution of March 12, 1874, the Secretary of State was directed not to publish said act until April 28 of that year, this resolution has not the force of a law of the State, and could not detract from the rigor, as such, of the act, the publication of which was postponed.

It might not be operative for the purpose of enforcement until the 28th of April, but existed as a law from the time of its passage on the 11th of March; and the act of March 12 being passed expressive of the legislative will, that the law of the previous day should be repealed, the effect of that could not be averted by the passage of a joint resolution.

III.—That portion of the act of Wisconsin, passed March 11, 1874, which prescribes what rates may be charged and collected by the Chicago and Northwestern Railway Company, for the transportation of freight upon and over its roads within that State, is, in the respects hereinafter mentioned, unconstitutional and void, upon the ground that it is a regulation of inter-State commerce, of which the Congress of the United States has exclusive jurisdiction, by force of that provision of the Constitution empowering it to regulate commerce among the several States.

1st. Wherever the subjects over which power to regulate commerce is asserted, are in their nature national, they may justly be said to be such as to require the exclusive legislation of Congress; and the transportation of passengers or merchandise through a State or from one State to another, is of this nature. (Case of the State Freight-Tax, (15 Wallace, 279-80.)

And it is of national importance that over such subjects there should be but one regulating power.

2d. The third section of the act in question declares that all freights thereafter transported upon any railroad or part of a

railroad in said State, shall be divided into four general and seven special classes, which classification, when carefully examined, will show that the purpose of the framers of the act was to secure advantages to those who desired to transport the principal products of that State over all others; and section 4 declares that no individual company or corporation, owning, operating, managing or leasing any railroad or part of a railroad, shall charge for or receive a greater or higher rate for carrying the articles in said section enumerated than is therein specified. No discrimination is made by said section between freights to be carried for citizens of the State or for persons not citizens; nor is any made between articles to be transported wholly within the State and those taken up without the State and brought into it, or those taken up within the State to be carried out of it. The transportation of all freight, of all persons, whether citizens of that State or of other States, or aliens, from whatever part of the country, or of the world it may have been brought, or whithersoever it may be going, come alike under the regulation attempted to be imposed upon the carriage of merchandise by the provisions of this act. The only exception made is contained in the 18th section, framed undoubtedly upon the theory that the provisions of the act, unless somewhat restrained, would be unconstitutional; and this only exempts from the operations of the statute, freight coming from beyond the boundaries of the State, and to be carried entirely across or through it. The person who drew this section evidently supposed that Congress had no power to regulate that commerce which consists in sending merchandise from other States *into* Wisconsin, nor that which consists in sending products *from* that State *into* a sister State; but that this power of Congress was limited to the regulation of such commerce *only* as consists in sending merchandise, for instance, from the city of New York entirely across or through the State of Wisconsin into another State. This legal conception of the meaning and operation of a great constitutional provision, designed to preserve uniform and uninterrupted commercial intercourse between all the States of the Union, reduced to plain English, may be stated as follows :

(1.) The State of Wisconsin may impose any restriction it pleases upon the transportation of merchandise from any point within that State to another State; and hence the State of New York or any other may restrict at will the conveyance of merchandise from it to the State of Wisconsin or any other.

(2.) So, too, the State of Wisconsin, whilst it cannot impose regulation or restriction upon the conveyance of merchandise from any other State, entirely *through* and *across* its territory, may, if such merchandise has been sent, for instance, from the city of New York to a point within Wisconsin, cripple its progress from the moment it touches that State until it reaches its destination therein, by any restriction it may see fit to impose; and so, by a like interpretation, may the progress of merchandise which Wisconsin allows to pass unrestricted from another State through its territory

towards its destination in a State next beyond, be crippled in the same manner by the legislation of the latter State.

(3.) The practical result of this remarkable interpretation of the Constitution would be, that as to merchandise sent from one State of the Union to an adjoining State, the legislatures of both may unite in crippling its progress by any legislative restrictions they see fit to impose; whilst if the same merchandise be sent entirely across such adjoining State, the crippling ability of its legislature is suspended only to bring into full play the energies for that purpose of the State beyond, within whose borders the merchandise is to be finally deposited; if indeed the legislation of the State from which it started, shall not have so paralyzed its movement as to compel a halt before reaching the adjoining State, whose powers for mischief being temporarily suspended, permits it to pass on without interruption.

(4.) If it shall be urged, in opposition to the opinion of the contriver of this 18th section, that the provisions of the act prescribing what rates may be charged for the carriage of freight, do not in substance regulate commerce between the States, because they purpose to reduce and not to increase charges and burdens upon the transportation of merchandise from one State to another, and therefore do not restrict but rather encourage such commerce, the answer is

(a.) As the State is powerless to regulate commerce because of the exclusive right of Congress so to do, and as the purpose of all regulation is to encourage, not repress it, any regulation of it whatever, whether for good or evil, is a usurpation of power by the State. Of the manner of its regulation, Congress is the exclusive judge, and that body might possibly suppose that to encourage the construction of railways and other means of transportation of merchandise by permitting common carriers thereof to receive reasonable rates of compensation for their service and risk, as such, subject to their common law obligations, would be much more likely to promote commerce between the States than to permit the latter to prescribe rates so inadequate as to discourage the building of railways altogether. Congress might indeed take a broader and wiser view of the subject than is propounded by the act in question, and arrive at the conclusion that inasmuch as the railways of Wisconsin, and of the great, growing and prosperous West, would never have been built but for the aid of capital from other States and from abroad, which would not have been afforded if the legislation in question could have been foreseen, that such portion of it as attempts to regulate commerce by seeming at first blush to reduce rates for the carriage of merchandise, really tends but to cripple and destroy it.

(b) It cannot be justly said, however, that the power thus asserted by the State of Wisconsin, which pretends only to prescribe rates beyond which the company may not charge, is not in substance the exercise of a power to regulate the entire subject of charges for the transportation of merchandise from one State to another, by declaring what sum may or may not be demanded for

the carriage of each one hundred pounds in weight. If the legislature may define a sum beyond which the company shall not charge for such a service, it may of course declare what it *may* charge and receive, and consequently the extent of lien to be discharged before the merchandise is permitted to enter the borders of another State. If this is not a regulation of inter-state commerce, it is difficult to find an illustration of what is.

(5) The exception contained in the 18th section but makes the unconstitutionality of this act the more obvious and striking by clearly presenting one of the very mischiefs which it was the purpose of the framers of the constitution to prevent. Thus this section professes to allow the railroad companies to charge such rates as they please for all merchandise by them carried entirely across Wisconsin, for instance from Illinois to Minnesota or to Michigan, but absolutely prohibits them from charging beyond certain specified rates, for carrying the same merchandise into any part of Wisconsin from either of those States, or from any part of Wisconsin to the borders of either. The effect of this would be to encourage the companies to charge exorbitant rates for the transportation of merchandise, from New York, for instance, or any other State, across the territory of Wisconsin, that they might be able thus to sustain themselves, under the ruinous rates of compensation imposed by the act for the carriage of the products of that State to the borders of an adjoining one, or such merchandise as the citizens of Wisconsin might need coming into it from another State.

Let us suppose, for illustration, these railways to be navigable rivers, and in the broad and general sense public highways, and that the State of Wisconsin should prescribe rates of compensation for the carriage of all merchandise thereupon coming from the State of Illinois to some place within Wisconsin, and of all products going from the latter State to Illinois, and should also provide that as to all merchandise transported from the latter State along those rivers through the State of Wisconsin, the carriers thereof might charge such rates as they saw fit. Would not such an act be deemed not only a regulation of commerce, but one most hostile to the State into whose territory such merchandise was to be transported after passing through that of Wisconsin?

(6.) The provisions of the act which attempt to prescribe the compensation to be charged for the transportation of passengers upon the railways of the company within the State, are also unconstitutional and void by force of decision of the Supreme Court of the United States, in *Crandall vs. State of Nevada*, 6 Wallace, p. 35. The doctrine of that case is based upon the theory that there can be no interruption whatever, by means of State legislation, of the free passage of persons from one State to another, and throughout each and all of the States of the Union. If the power to declare what shall *not* be charged involves, as it necessarily does, the power to say what *may* be exacted for the carriage of passengers, it follows that the State of Wisconsin may require each to pay, to use in substance the illustration of the court in the case cited, instead of three cents a mile, three dollars, or three thousand dollars, and thus, in a great national emergency, prevent persons

from leaving the State by means of railways, to go to other portions of the Union in aid of their government. In support of the proposition that no such right to cripple commerce or travel exists in the States, the supreme court in the case of the State freight-tax before cited, propounds with much force, in addition to other considerations, the utter absence of right on the part of a State to fix rates of compensation for the carriage of freight or passengers, inasmuch as it neither owns nor has an interest in the property, the use of which it thus attempts to control; but in both these cases that court puts its decision upon high constitutional and national grounds, and these, it seems to me, are as applicable to this case as to either of those.

IV.—The provisions of the act in question do not purport to be, and are not an alteration or amendment of the charter of the Chicago & Northwestern Railway Company; but if executed constitute a legislative confiscation of its property—a taking thereof for public use without compensation therefor, in violation of the constitution of Wisconsin—and a taking thereof without due process of law, in violation of the constitution of the United States.

FIRST.—Let us suppose that there existed no provision in the constitution or laws of Wisconsin authorizing the alteration or amendment of charters; and that this act had nevertheless been passed. Would it not be judicially defined as a law attempting to take property for public use without compensation; as one seeking to appropriate it without due process of law? Clearly such would be the effect of its provisions, and by these it would be defined and condemned. Looking at its language we vainly search for an expression showing an intent to alter the charter of any corporation; but instead is found a peremptory prohibition, under heavy penalties, against demanding or receiving greater rates than those prescribed, with the command to submit to that measure of compensation, until the commissioners appointed prescribe less, and then, under similar penalties, to submit to that. This act is in the usual form of penal legislation. It submits nothing for the approval or acceptance of the corporation. It is unequal and partial in its operation, and therefore should be condemned as void. It permits no participation by its directors or stockholders in fixing compensation for services and risks as common carriers, but in form and effect takes from them not only the control and management of the property in this vital respect, but actually prescribes rates of fare and freight so low—so utterly inadequate—that what has cost its owners more than \$28,000,000, is rendered practically worthless; whilst the people of the State, and others who use the road, enjoy the proceeds of this legislative plunder. If the law, instead of fixing rates of compensation and appointing agents of the State to reduce these at pleasure, had simply provided that the charter of the corporation should be so amended as to permit the appointment by the legislature of a majority of directors not stockholders, who should sit as such, and possess all the powers of those chosen by the stockholders, such change would have been, in form at least, an alteration of the charter—whether valid or invalid—and such legislation would have been eminently just and respectable when com-

pared with that we are considering; for directors thus injected might have possessed ordinary intelligence and honesty, and if so, would have acted in subjection to these qualifications, and so acting would have informed themselves of the cost of operating the road, and if not unduly ambitious of political advancement in Wisconsin, would, doubtless, have fixed upon rates less ruinous than those adopted by the statute in question.

SECOND.—In this connection it should be borne in mind that the power to alter charters contained in the constitution of Wisconsin, was adopted in connection with the provisions therein contained, that “the property of no person shall be taken for public use without just compensation,” and in subjection to that provision in the Constitution of the United States, which declares that “no person shall be deprived of property without due process of law. It cannot be supposed that the framers of the constitution of Wisconsin intended that the right reserved to the legislature to alter the charters of corporations could be so exercised as to violate either of the two fundamental constitutional provisions to which I have referred—adopted for the protection of property, in affirmance of the natural rights of men. Compared with these sacred guarantees, that of altering or amending charters was of trifling importance; and whenever it can be discerned that a legislative enactment, if enforced, will take property for public use without just compensation, or deprive any person of it without due process of law, such provision is in no just sense an alteration of a charter, and is never, by any construction, to be deemed such; and whenever either of these wrongs may be perpetrated under a statute, whatever may be its form, it is the duty of courts judicially to declare it void, and they should struggle to do this whenever its enforcement will lead to the taking or depreciation of property. In other words, such a statute should be construed strictly, and brought within the condemnation denounced by the two constitutional provisions I have invoked. In the language of Mr. Justice Story, in *Wilkinson vs. Leland* 2 Peters, 65, “The fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred. At least no court in this country would be warranted in assuming that the power to violate and disregard them—a power so repugnant to the common principles of justice and civil liberty—lurked under any general grant of legislative authority, or ought to be implied from any general expressions of the will of the people. The people ought not to be presumed to part with rights so vital to their security and well being, without very strong expressions of such an intention.” “We know of no case in which a legislative act to transfer the property of A to B without his assent, has ever been held a constitutional exercise of legislative power, in any State in the Union. On the contrary, it has been constantly resisted as inconsistent with just principles, by every judicial tribunal in which it has been attempted to be enforced.” And to the same effect is the language of the supreme court of the State of New York, in *Taylor vs. Porter*, 4 Hill, 145, where it is said, “The security of life, liberty and property lies at the foundation of the social compact, and to say that this grant of legislative power

includes the right to attack private property, is equivalent to saying that the people have delegated to their servants the power of defeating one of the great ends for which the government was established."

It should be here added that the prohibition in the Constitution of the United States, and in most all of the States, taking private property for public use without just compensation, and against depriving any person of property without due process of law, is but declaratory of the law as it existed and was declared by courts of justice, antecedent to any constitutional provision on the subject. *Pumpelly vs. Green Bay Co.*, 13 Wall., 166, all cases there cited.

And in view of this, and of the declaration of this court in *State Bank of Ohio vs. Koop*, 16 Howard, 385, adopting the language of Chief-Justice Marshall in 6 Cranch, 135, "that the Constitution of the United States contains what may be deemed a bill of rights for the people of each State," it is clearly the duty of courts of justice so to apply the constitutional provisions I have mentioned as to include all cases in which a State legislature attempts to deprive a person of property without due process of law, irrespective of the form or pretext under which such deprivation is attempted.

THIRD—Is this attempted by the statute in question? It is well settled that where the property of a corporation is private—that is contributed by private persons, the corporation itself is private; and it is also firmly established that incorporated companies for the construction and operation of railways, by means of capital contributed by private persons, are private corporations, and their property, private property. *State Bank of Ohio vs. Koop*, 16 Howard, 381; *Olcott vs. The Supervisors*, 16, Wall., 678; *People vs. Batchellor*, 53 N.Y. R., 140.

Of this property the corporation can be deprived only when it is taken for public use on payment of just compensation—and this cannot be fixed by the legislature taking it—or when the deprivation is by due process of law. If the property of the Chicago and Northwestern Railway Company will be taken, if the act of March 11, 1874, shall be enforced, such taking certainly cannot be justified under the pretext of altering its charter; for we have already seen that authority to do this is reserved in subjection to the other two much more important constitutional provisions, and hence the reservation must read thus: that the legislature shall have power to alter the charters of corporations, provided that in so doing they shall not be deprived of their property. The question, therefore, recurs: Will the act in question, if executed, work this deprivation? for if so, it is not the alteration of a charter, the right to do which is reserved.

It was held in *Taylor vs. Porter*, 4 Hill, 142, before cited, in determining whether property had been taken without due process of law, that it was not material to inquire what *quantum* of interest had been taken. It is enough, said the court, that some interest—some portion of his estate—no matter how small—has been taken from the owner without his consent. In that case a right of way over land had been taken by legislative enactment, leaving the fee in possession of the owner; and this was held a violation of

that provision which forbids depriving any person of property without due process of law. So it was held in the case of *Pumpelly vs. Green Bay Co.*, before cited, 13 Wall, 174, that where real estate is actually invaded by superinduced additions of water, earth, sand, or other material, or by having artificial structures placed on it, so as to effectually destroy or impair its usefulness, it is a taking within the meaning of the constitution. Can it be doubted that the enforcement of the act in question, which it is admitted would deprive the company of all income or profit from the use of its property, would also be a taking within the meaning of the constitutional prohibition? Such a consequence is utterly distinct from alteration of its charter, and until courts are ready to disregard all solid distinctions, they will, it is respectfully submitted, determine, that whenever legislative interference with private corporations deprives them of property, to any, even the least degree, without due process of law, it is a violation of the Constitution of the United States not to be permitted, and not the alteration of a charter. It is not difficult to bear this distinction in mind, or judicially to enforce it. For what purpose did the legislature of Wisconsin frame and pass the act in question? The answer is quite obvious—it was to take from the company its income, and bestow it upon the public—upon those who should use the road. If it be said, the income was not taken because never received, the answer is, such might be the case if a person should be forbidden by the legislature to rent his house beyond a sum sufficient to pay taxes instead of as heretofore obtaining a rent sufficient to pay these, and a fair interest on the investment. In that event the act would not take his income literally, but it would effectually deprive him of it by giving the use of his property to another. So here the corporation is denied the privilege of demanding or receiving any income whatever from its railway, or for services as a common carrier, and is, therefore, as effectually deprived of its property without due process of law, as if the road and cars were forcibly taken.

I submit therefore, that neither in form or substance is the act of March 11, 1874, an alteration of the charter of the Chicago and Northwestern Railway Company.

V.—Under the reservation contained in the Constitution of Wisconsin to alter charters of incorporation, its legislature had no authority to prescribe rates of fare and freight chargeable by the corporation for services, as a common carrier; for the right to receive a reasonable compensation for such service, whether performed by an individual or corporation, is sacred and indefeasible, reposing upon foundations more solid and ancient than any corporate privileges, and not to be disturbed, or denied, except upon express assent of the party performing them, or by force of judicial decisions. The act we are now considering is, it is believed, the first legislative attempt ever made to fix this compensation without express authority in the charter so to do; and if it shall succeed upon the theory that it is in judgment of law an alteration of the charter of the Chicago & Northwestern Railway Company, it must be on the

ground that the right of a railway corporation to receive a reasonable compensation for its services and risk of a common carrier, is purely and exclusively a franchise, derived solely from the State, and not from the ownership of the road, or the labor of its officers and servants, and therefore that such right to compensation may be withdrawn, or its measure fixed at the pleasure of the legislature. and if this right be simply a franchise conferred by the bounty of the State, to be continued, or changed at its will, it necessarily follows that proceeding from the State it may be appropriated, or wholly taken away at will, and hence, that the State may adopt other modes of absorbing the income of the corporation than that here attempted; for, assuming the correctness of this monstrous doctrine, it would be highly unreasonable to insist that the State is limited to but a single method of despoiling the stockholders of corporate property. If it may prescribe the limit of compensation to be charged, and that limit, be as here, so low that no income can be derived from the investment, stockholders are as effectually deprived of their property as they would be if permitted to receive a reasonable compensation subject to be immediately taken from them and appropriated by the State. The injustice of the proceeding consists of depriving the stockholders of the entire value of their property, and not in the mode of its bestowment; and when this is done, it is to them immaterial how the income thus taken is employed. Perhaps the State of Wisconsin, if it shall be allowed to indulge in this species of confiscation, may upon reflection conclude that it can make a better use of its "franchise" than is here attempted. As now employed, the income—or as it may on this theory be called the franchise, is absorbed in some small degree in the carriage at insufficient rates, of persons not citizens of Wisconsin, and of property not belonging to them. It would be equally agreeable to the stockholders and bondholders of the company, if the legislature should permit reasonable rates to be charged, and as they accumulated, take and divide them fairly among the traveling and freight-sending portion of its citizens, and thus appropriate the entire spoils in harmony with that provision of the act which discriminates in favor of the carriage of such freights as constitute the staple products of Wisconsin; or, if thought by its legislature more just, the proceeds of its altered franchise and of our property might be paid into the treasury of the State.

It is eminently desirable, before adopting this theory of granger legislation, to discern, if possible, some plausible ground on which to place the proposition, that the right to receive compensation for the use of corporate property, or the performance of corporate service, is a franchise to be withdrawn or changed by the State at will, and to discover, if within the compass of human intelligence, some reason of at least apparent solidity why, the moment private individuals invest their money in railways, their natural right to receive income therefor is surrendered, and replaced by this franchise, which the State may so mould and employ as to divert into its own treasury, or at least from the owners of the property thus created, all profit or hope thereof.

Will it be said, in support of this doctrine, that railways are public highways, and therefore the property of the State, as has been urged by an eminent senator of Wisconsin? If this be so, doubtless the State may control such property without resort to the pretext of so doing under the reservation contained in the constitution. But on what foundation can such a proposition stand in a court of justice? By the constitution of that State it is absolutely prohibited from contracting any debt for works of internal improvement, and from being a party in carrying the same on, except as herein-after stated. If it be said that the first clause of this prohibition would not be violated by its assuming ownership without payment or liability to pay for the railways within its borders, it would nevertheless violate the second clause of the prohibition by engaging in their management. If this difficulty could be obviated, by force of what consideration known to the law or morals has any such ownership vested in the State? It is true that, to enable the corporation to secure a small portion of its road-bed, the State authorized the exercise of its right of eminent domain; but in delegating this the State lost nothing, and paid nothing, nor has it ever paid or advanced a farthing towards the construction of the road. To the same extent to which the company exercised this right of eminent domain it is, and commonly has been, employed by manufacturing companies to take land for the purpose of flowing it with water; but it has never, I believe, been pretended that this vested their property in the State granting the right or authorizing its legislature to fix the price at which they should sell their manufactured products. If the granting of charters be suggested as the consideration moving from the State, by force of which it may claim the property, or use or control of the property of the corporations it creates, the answer is that railway charters afford no different or better pretext for this claim than those of companies formed for banking or manufacturing purposes; and it is believed that never in the history of legislation has an attempt been made to fix a rate of interest below that prescribed by the general law as the limit of charge by a banking institution, nor to fix the price at which manufacturing companies should sell to the public their wares. The right to sell these at such prices as would yield a fair return for capital invested, and the right of incorporated banks to charge the usual lawful rate of interest, have never been regarded as franchises bestowed by the State and subject to be recalled or varied at its pleasure; nor have they ever been considered, so far as I am informed, proper subjects of State plunder or confiscation. Why, therefore, this odious and wicked discrimination between these several species of private corporations, and against railway companies.

It is difficult to point out any reason why the same protection should not be afforded to the stockholders of each and all alike. On what then is the discrimination based? Is it exercised to the injury of railway companies because their property is capable of use for vast numbers, and is in many ways serviceable to every individual in the community? Whatever may be the pretext for this as-

sault upon and appropriation of their property, I am persuaded the law as declared here will denounce and condemn it; and I, therefore, proceed to state such reasons as occur to me, why, under the power reserved to alter charters, the State has no power to fix the compensation of incorporated common carriers, unless expressly authorized to do so by the charter, and then not by virtue of its capacity as sovereign, but solely as a party to the contract between it and the corporation.

1st. There are many subjects to which legislative power does not extend, and among these may be mentioned its inability to transfer the property of A to B, or to take the property of A for public use without just compensation, which compensation it is powerless to fix, and especially it has no authority to do a judicial act. Hence it could not on petition adjudge that A should pay to B even the smallest sum, or that the latter should perform the most trivial act. So, too, it cannot make or alter contracts between individuals. Its functions are the enactment, not the construction or execution of laws.

2d. The ascertainment of what is a just and reasonable compensation to be paid to common carriers for services as such, is a judicial and not a legislative act, and the determination of this question must always be adjudicated and settled in a proceeding in which the person for whom the service was rendered is a party. Hence if the State and the corporation should by charter fix rates of compensation for such service, they would not bind the public, for it is the duty of common carriers—and this may be judicially enforced—to perform all services as such, for every person demanding them, for a reasonable compensation, to be fixed in case of dispute by courts of justice. The reason of this is obvious. A legislative body does not proceed to deliberate inquiry, upon proofs and a hearing of the parties; which is indispensable for the ascertainment of that just measure of compensation to which the carrier is entitled, and which the party availing of the service ought to pay. Thus, if the question should be presented to a court of justice whether the rates charged by the Chicago and Northwestern Railway Company before the act in question, were reasonable, the judicial mind would inquire as to the amount of capital invested in the road and its equipment, the reasonable cost and risk of operating the same, the value of wear and tear of road, machinery, &c., the gross annual receipts, and the probability of their diminution or increase in view of established facts; and if upon a fair estimate of all these elements of calculation it should appear that, deducting all expenses and risk, the rates charged would yield but little if any more than lawful interest to the stockholders upon their investment, such compensation would not by any respectable court be considered unreasonable or unjust. Such, in general terms, would be the mode of judicial inquiry, and from this it is evident that as a legislative body does not so proceed in its investigations, there is sound reason for holding that what is a reasonable and just compensation to the common carrier for services is a judicial and not a legislative question.

3d. It is well settled that the charter of a private, as distinguished from a public, corporation—created for government purposes—constitutes a contract between it and the State creating it, which could not be repealed, nor in any substantial respect altered or amended without consent of both contracting parties.

The corporation might, by misuse or non-use of its franchises, forfeit them, but this forfeiture the courts only, and not the State could adjudge. A charter, with a right reserved to the State to alter, amend or repeal it, is not the less a contract between the State and corporation because of this reservation. When this is inserted in the charter, or declared in the public acts or constitution of the States granting it, the reservation becomes a part of the agreement between the corporation and the State. It is not a right to be exercised as a part of the absolute power of the State, like the exercise of its right of eminent domain, or its power to impose police regulations. These powers are exercised for the general welfare, and cannot by the State be surrendered, and never could have been, to private persons for any consideration, however great. Over these subjects the State exercises, and ever must, absolute authority. They are sacred trusts for the benefit of the entire people which it is powerless to barter away. Hence all property, all franchises, may be appropriated by the State, in the exercise of this right of eminent domain, on making just compensation therefor; and without compensation, all property and persons must submit to the exercise by the State of its power to impose regulations of police.

These observations illustrate how entirely different are these two powers and their purposes from a legislative authority to create private corporations. These may be so organized as to have perpetual succession without alteration of their charters, for the franchises to them granted rarely impair, and generally promote the public welfare. And the law which empowers courts of justice to annul charters when corporations abuse their franchises, has generally been supposed to guard sufficiently against the evils which might otherwise flow from irrevocable and unalterable contracts. This reservation of the right of one of the contracting parties to alter or amend the contract between them, is created by force of the contract, and could not exist but for the assent of both State and corporation thereto; for it is at the option of the latter whether it will or will not accept a charter containing such a provision. A State might, if it saw fit, authorize the incorporators, by vote of a majority, to alter, amend or put an end to their charter, and in such case their right so to do would rest solely on this provision of the contract.

The power of the State to do this rests upon precisely the same foundation, and cannot be exercised at its discretion without judicial control—as it may impose police regulations, or exercise the right of eminent domain. Justly and rightly viewed, therefore, a charter of incorporation which contains the reservation we are considering, is, in its entirety a contract, every provision of which, including this reservation, is subject to judicial control, and must

be construed in subjection to constitutional provisions for the protection of contracts and property, and to the meaning and purpose of the parties, like any other agreement. When, therefore, courts have considered what force shall be given to contracts, which in conformity to charters have been made between corporations and third parties, they have invariably said: this agreement by which the State may alter or amend its contract with the corporation, so as to vary its corporate rights and franchises, is made exclusively between the two, and cannot affect persons who before the charter was altered, and the power of the corporation varied, have contracted with it upon the faith of its ability to make agreements in the manner prescribed by that instrument.

4th. It is therefore to be considered and judicially ascertained what is the true legal effect of that provision: by which the parties agreed, when the charter was accepted, that the State might at any time alter it, for the consequences of its repeal need not be considered, inasmuch as that has not been attempted, and is not likely to be by any legislature of any State; for such an act would at once remit to the stockholders' absolute right to their property, subject to its just administration and control by courts of equity, and would by discontinuing the operations of its railway, subject the people of the State to great inconvenience and loss. Hence the clause authorizing the legislature to repeal charters is one of very little consequence to the stockholders or creditors of railway corporations; for it is a power which if exercised would be quite sure to inflict more injury upon the State than upon the corporators. This, and the enormity of such proceeding, unless a case of flagrant misconduct by the corporation, will always protect it from extermination; but even this, which would enable stockholders and creditors to avail of their property, would be to them much less hurtful than such legislation, under the guise of alteration, as we are here considering.

The extent, therefore, to which this power of alteration by the legislature may be exercised is to be judicially determined, for that body cannot on pretext of so doing, violate other constitutional provisions, or the most sacred rights of property. A few illustrations may not be inappropriate.

Thus if a bank were incorporated with such a reservation in its charter, would an act of the legislature which required it to loan half its capital to the State without interest, or at such a rate as the State Commissioners to be appointed by it might prescribe, constitute an alteration of its charter? And if a corporation were created subject to such reservation, having authority to flow lands for the purpose of securing water-power, and having authority also to operate its machinery by steam, would a statute forbidding it to use the power of water for that purpose be regarded as an alteration or amendment of its charter within the true meaning of the reservation?

Again, let us suppose that the State of Wisconsin were to prohibit the Chicago and Northwestern R. R. Co. from using the power of steam to operate its road, but with a view to encourage the raising of horses, were to require that the road-bed should be so

changed that these animals could be employed thereon, would this in any sense be regarded as an alteration of its charter? Or suppose the legislature should enact that its members might vote for directors at the annual meetings of the stockholders of the company, and that their vote should elect a majority of the board for the management of its affairs, would this be regarded as a lawful amendment of the charter, enforceable at the suit of the State, or by legislators thus made corporators? Suppose again, that the legislature should appoint three Commissioners to sit with the board of directors at all their meetings, exclusively to determine the kind of cars which should be operated, the kind of rails which should be used, who should also have authority to appoint master mechanics, superintendents and conductors of the road, with exclusive power also to say what compensation should be charged for the carriage of freight and passengers, leaving other duties such as providing moneys to operate the road, to pay interest on bonds, &c., to be performed by directors appointed by the stockholders; would such an injection of Commissioners for such purposes be alteration or amendment within the meaning of this reservation? Suppose again, that by express statute these three Commissioners were to be charged with the exclusive duty of so fixing rates of compensation that they should produce a sum, the exact equivalent of what should be expended in operating the road, and keeping it and its cars in repair, would such an act constitute an amendment or alteration of the act of incorporation? But suppose instead of this, the three persons thus appointed were charged with the power of fixing at their discretion, from which there should be no appeal, the rates of compensation to be charged, would this constitute an alteration or amendment of the charter? If so, these persons could without proof by, or hearing of, directors or stockholders, utterly destroy at will the power of the corporation to operate the road, or pay bondholders or stockholders—indeed could totally destroy their entire property and interests.

Can this court believe—can it judicially declare—that the State in making this reservation believed it would acquire authority to do either of the acts supposed, or in any manner to take from corporations the control or beneficial use of their property, and without doing this or any such grave injustice, may not the reservation in question be so construed as to confer upon the State authority to make all needful and just alterations the charter?

It is certain in view of many other illustrations which might be supposed there is a limit to this power to alter and amend, as was said by the Supreme Court of the United States in the case of *Miller vs. the State*, 15 Wallace, p. 498 and by Chief Justice Shaw in the case of the *Commonwealth vs. Essex Co.*, 13 Gray, 252.

In the latter case the chief justice, after saying it was difficult to define this limit, suggested that the rule to be extracted might be that where under power in a charter, rights have been acquired and become vested, no amendment or alteration of the charter can take away the property or rights which have become vested under a legitimate exercise of the powers granted. And the Supreme Court of

the United States in the case cited, after suggesting the same limitation in similar language, adds "but it may be safely affirmed that the reserved power may be exercised, and to almost any extent, to carry into effect the original purposes of the grant, or to secure the due administration of its affairs, so as to protect the rights of stockholders and creditors."

These general observations are nevertheless sufficiently precise to furnish a rule for the disposition of this case. There is a limit to this reserved right of one party to the contract to alter it, and that limit is to be judicially ascertained and defined. Rights and property which have become vested in the corporation in pursuance of the terms of its charter, cannot be taken away, nor can it be deprived of the use thereof, for that would be practically taking the property itself. Alterations to almost any extent may be made to carry into effect the original purposes of the grant, or to secure the due administration of the affairs of the corporation for the security of creditors and stockholders. These limitations are in exact harmony with the intent of the parties to the contract. The original purpose of the grant is to be effectuated by such amendments as tend to that result. No disturbance of vested rights, no taking of the property of the corporation acquired in pursuance of its charter is to be permitted, under pretence of alterations; whilst changes to preserve the rights of stockholders are to be liberally allowed. This is a fair, a just mode of construing the contract which the State offered and which the corporation accepted. By the aid of these rules, and bearing in mind that the State can only make alterations and amendments by force of the contract authorizing them, and not in the exercise of an arbitrary sovereign power, we shall be able to draw lines of limitation for the government of this case, which clearly exclude the act in question.

When this charter was granted, there existed certain fundamental rules for the protection of property, founded in the principles of eternal justice and imbedded in the constitution of most States, including Wisconsin, and of the United States, which the parties to the charter had in mind, and in view of which they contracted, and by which their contract is to be construed and controlled. Private property could only be taken for public use, and then only upon making just compensation to the owner thereof. Nor could the property of any person be taken without due process of law. In view of these provisions, if the State of Wisconsin had, by act of its legislature, provided that the steam-power of an incorporated company might be used by mechanics or others at certain rates of compensation, such use would have been an appropriation of property without due process of law, and the authorizing of it would have been utterly void. Such too would have been the fate of a statute requiring the owners of any kind of property to lease or permit others to use it without compensation, or at rates prescribed by the legislature or its agents.

To possess the title to property without the power to manage it, control its use and the profits thereof, subject only to the general law of the land, is a worthless privilege—a sham of no value, and

hence the fundamental law guarantees not only title in the owner, but his right, absolutely, to control and use his own property. When the charter of this company was granted, this right to the management and use of property was well understood by both parties, and expressly recognized in that instrument. The stockholders who were to furnish the money to build and equip the road, were by themselves and by directors to be by them chosen, expressly authorized to manage and control all the property and affairs of the corporation, and to fix the rates of compensation to be received for its use, and for the services of its hired servants. When this property was acquired it became, to all intents and purposes, private property, subject to a limited public use, vested in the corporation for the benefit of the stockholders, and with this ownership, and as an inseparable attendant upon it, was the absolute right to manage, control and use it, subject to the purposes for which the company was organized; and to fix and receive compensation for its use. Such were the rights at that time of all owners of property; and these rights became inseparably attached to the property of this corporation the moment it was acquired, in pursuance of the terms of its charter; and these rights thus acquired and vested, in the language of the Supreme Court of the United States, and of Chief Justice Shaw, could not be taken away or destroyed under the reservation in question.

Having thus presented some general considerations, for the purpose of illustrating the nature of and title to corporate property, I shall attempt to state with precision the exact conditions under which the incorporators, when it has been acquired in strict conformity with their charter, are exclusively entitled to its enjoyment and control, subject to no interference by State legislation.

First.—The State of Wisconsin has contributed nothing towards constructing, equipping, maintaining, or operating the roads of the Chicago and Northwestern Railway Company. It has, it is true, conferred upon the company the authority to take for its road-bed land belonging to private persons, on paying them full compensation therefor; but this has cost the State nothing whatever. It has also conferred upon the corporation certain franchises—commonly bestowed—one of which is expressly, or by implication, exemption of the stockholders from personal liability for certain debts to be contracted.

Under this charter and in precise conformity with its provisions, the corporation has proceeded to purchase and acquire real estate in fee simple—to build thereon numerous and costly structures, to equip its road at vast expense, and all this with money furnished by its stockholders and bondholders. This property thus acquired, has become absolutely vested in the corporation for the benefit of the incorporators, and should the legislature of Wisconsin pass an act in terms forfeiting to the State one dollar of it, such act would be utterly void. If it should by statute declare that the corporation should convey to the State a single passenger or freight car, or one of its most insignificant depot-buildings, that provision of the constitution which prohibits the taking of private property, except by

due process of law—that which prohibits the taking of private property for public use except upon making just compensation, would be violated; and so they would be, should the State attempt by legislative enactments to acquire the transfer for its use, or for the use of any person or corporation, of such car or depot-building.

And why this inviolability? Not because it is conferred by the charter of incorporation, but because the company being authorized to purchase, hold and use property for its purposes, acquires an absolute right thereto as owner, and thereupon is protected as such by the constitutional provisions referred to.

In illustration of the marked distinction existing between the ownership by a corporation of its property thus acquired and of its franchises, it is only necessary to say that the latter being derived from the State by contract, may by the courts, for sufficient cause be forfeited, and may under certain conditions be by legislative enactment altered or withdrawn; but neither this forfeiture, alteration or withdrawal entitles the State to acquire title to or control over any portion of the property of the corporation. This to the extent of its full value, for the purposes of all its uses, is to be faithfully applied for the benefit of stockholders and creditors. The broad distinction here noticed between title to and enjoyment of the property of a corporation, and of its franchises, is maintained throughout its entire career. The latter being derived from the State, may under certain conditions be resumed by the State. The former is derived from stockholders who contribute it on the faith that it is to be held and controlled by them through agents of their selection, substantially as it would be if the title thereto were in them.

Thus under a power reserved in the charter, that the State might alter or amend it, the franchise by which stockholders are exempted from liability for debts contracted by the corporation might, perhaps, as to subsequent contracts, be changed, so as to impose such liability; but this would simply be a change in the contract between it and the State, and the withdrawal of a privilege conferred by the latter. So also when the charter exempts the property of a corporation from taxation by the State, this franchise, which it has been gravely doubted if the State may grant, might perhaps be withdrawn or modified under the reserved authority: but in these supposed cases the State is modifying the contract by a resumption of what it gave to, or stipulated to confer upon the corporation, and is not attempting to take without compensation property in which it never had an interest. The right to alter, amend or repeal thus reserved, is, at the most, but a right to change or terminate the contract between the State and corporation, not a right to take property vested in the latter in precise conformity with its powers; nor a right to confer its use upon the State, or upon any private person; and of course does not authorize the State to take possession or control of it, or to fix the rate of compensation payable to its owner for its use; for this would, at the pleasure of the State, result in confiscation.

Second.—If I have been successful in the argument and illustrations employed, they lead to the conclusion that the construction and operation of an agreement by a corporation when it accepts its charter, that the State may alter, amend, or repeal it, is to be by the courts of justice judicially defined, ascertained and determined; and is not to be adjudged and enforced at the arbitrary will of the legislature. The State is a party to the agreement, and cannot sit upon it in judgment. It is to be defined and judicially enforced in accordance with the intent of parties, so far as this can be ascertained from the language employed by them in making it. Its operation is also to be controlled, if this intent and meaning, or the language employed, be doubtful, by those great principles which in most, if not all, civilized countries, have by constitutional, legislative or judicial authority, been established for the protection of private property. The franchise granted by the State is the privilege conferred upon certain persons of being a corporation, and as such, of accomplishing the purpose of its creation, in which the public generally have an interest. If the purpose be to construct and operate a railway, stockholders are usually expressly authorized to manage by themselves or by their directors its business and affairs; and to fix the rates of compensation they are to receive for the carriage of passengers and freights. Such a provision is, however, quite unnecessary, for the franchise to be a corporation for such a purpose would necessarily imply it was to be so governed by its stockholders as to accomplish that purpose. They would need no authority by any provision of the charter to enable them to control the property and means they might contribute to construct, equip and maintain the railway, for their title to such property being derived from sources other than the State, they would be protected in its use and control by the constitutional provisions I have mentioned. It is clear, therefore, that as the property of such a company is not acquired from or by force of its contract with the State, any alteration or amendment of its charter could in no substantial respect affect its right of ownership and absolute control over such property as had become vested in it. It will hardly be denied, therefore, that as the control and beneficial use of property is incidental to ownership, without which the latter would be worthless, that provision of the charter of the Chicago and Northwestern Railway Company, by which it was expressly authorized to fix rates of compensation for the carriage of freight and passengers was unnecessary; for without it this right would have been vested in the corporation. It was indeed but a right to contract with those who should desire its services as a common carrier for compensation as such and as it would be inconvenient to make contracts with each person who should need such services, the corporation would have been entitled to establish its rates of charge, subject only to the legal duty applicable to all common carriers, that its rates should be reasonable.

When, therefore, this corporation was created such, it came under subjection to this obligation imposed by the common law, and if its charges should be unreasonable, the party affected thereby has his

judicial remedy before tribunals where both parties can be heard and the question decided upon proofs.

Third.—The insertion in the charter of this provision, authorizing the company to fix rates of compensation, was, therefore, in substance inoperative and useless except to show the intent and meaning of the parties; for it conferred no power which the company would not have enjoyed without it, and afforded no exemption whatever from the common law liability I have mentioned; for the corporation, notwithstanding this, was bound to carry persons and freight at reasonable rates, to be judicially determined at the will of those affected. It has been suggested that this would be a tardy, expensive and unsatisfactory remedy. It is quite true that the exercise of Lynch law by a mob is quick and cheap as compared with the somewhat tedious and expensive modes of judicial proceeding. But the latter has usually been preferred by just and thoughtful men, as it gives the accused an opportunity to introduce evidence and to be heard in his defence—the embarrassment of which a mob rarely permits. So in case at bar, it is certainly a more summary, and doubtless to some persons a more satisfactory mode to fix the rates of compensation a Company may charge for its risk and service as a common carrier by legislative action or by State agents, where only the popular cry is heard—than in a court of justice, where the rights of the company and stockholders can be presented and considered.

Fourth.—It is, however, as before suggested, decisive against the power of the State to fix or enforce these rates, that at the time the charter was granted, the compensation which common carriers were entitled to charge was a judicial and not a legislative question—to be decided by courts of justice. It is true that if the contract between the State and the corporation the former had been expressly authorized to fix these rates, that power might have been exercised. But no such authority was given, and indeed by the very terms of the charter it was agreed that these rates should be fixed by the company—an agreement, however, which was but declaratory of a right which, in its absence, would have existed in full force. Without such right, the property of the company would be substantially worthless; for whilst men are willing to invest in railways, subject to the common law rule, to be judicially enforced, that their charges must be reasonable—a rule which would, of course, recognize the justice of allowing the stockholders to receive in dividends a fair interest upon the moneys by them advanced—they would decline so to invest at the peril of having a legislature or its creatures, without appeal, without responsibility—possibly to conscience, certainly to law—prescribe rates to be varied, perhaps, by every popular breath, certainly by every outbreak of popular prejudice and clamor against railways.

In view of the judicial nature of this question of compensation—settled so to be by the law of the land, by the courts, probably, of every State in the Union; by the English courts—in view, also, of the fact that when this corporation was created, the right to control property and to fix the compensation for its use was unre-

stricted in the owner thereof, by force of constitutional provisions, and also upon general principles of justice and right; and in view, also, of the fact that the parties to this contract expressly stipulated that this right should forever remain in the company, can it be doubted that both parties intended that this power to alter or amend should never be so employed by the State as to fix these rates of compensation? That the parties intended to exclude such an authority seems entirely clear; and that, independent of such intent, it could not be exercised, is apparent from the considerations before suggested, and from the further illustration that agreements between the company and persons employing it as a common carrier, it was not competent for the legislature to make; for, as was said by Bronson, J., in delivering the opinion of the supreme court of the State of New York, in *Taylor vs. Porter*, reported in 4th Hill, page 140, "the power of making bargains for individuals (and a private corporation, such as a railway company, acts as such—53 N. Y. Rep. 141) has not been delegated to any branch of the Government, and if the title of a man, without his fault, can be transferred to another, it may as well be done without as with compensation." In further illustration, it may be added, that if the State could, as between it and the company; fix rates of compensation, these, if unreasonable, would not be binding upon third persons employing it, who might still insist upon having the question tried and decided by the courts; and it is submitted that few lawyers can be found who would advise that to such an action; the statute of the State fixing rates of compensation, or rates fixed by its commissioners, could be pleaded in bar. (See in this connection, opinion of the Supreme Court of the U. S., in case of *State Freight Tax*, 15 Wallace.)

To prohibit a person or corporation from making bargains for the compensation to be received for property owned by either—to prescribe what sum may be received therefor, and prohibit the receipt of more under heavy penalties, is certainly depriving such person or corporation of property without due process of law, for to deprive one of any part of the value of the use of an estate owned by him, is to deprive him of property therein.

If, therefore, a State is powerless, as it clearly is, to fix the prices a manufacturing company may receive for the cloths it makes; powerless to fix the rent a land-owner may receive for its property, is it not equally powerless to fix rates of compensation payable to common carriers? And if in the two cases first supposed, such acts would be in violation of the constitutional provision, which declares that no State shall deprive any person of property without due process of law, which phrase means without due and orderly proceedings in a court of justice, (4th Hill, 146-7.) is it not apparent that by no reasonable construction can the reservation we are considering permit a State to commit so grave an offense as to deprive a corporation of its property under a pretext of altering or amending its charter? Will not courts charged with the construction of contracts, empowered to administer justice, struggle if need be, against a construction which leads to consequences so oppressive,

unjust and destructive to the interests of the Northwestern Railway Company, its creditors and stockholders?

Finally, the court perceives that the purpose of this branch of the argument is to establish, that for various reasons, as between a corporation, its stockholders and the State of Wisconsin, the latter cannot so alter or amend a charter under this clause of reservation as to deprive the corporation of any of its property acquired in pursuance of its charter and absolutely owned by it, or of the unrestricted use and enjoyment thereof. It cannot take such property or the possession thereof—it cannot bestow it or its use upon others; it cannot direct its application to a purpose other than that to accomplish which the charter was granted, and it cannot destroy or cripple the ability of the company to effect this, by taking through its legislature or other agents, such control of the property of the company as deprives it of such reasonable compensation for the use thereof as the law of the land, administered by courts of justice, permits common carriers to receive. And I think it will be found, that no respectable court has ever so construed this right to alter or amend charters, as to permit the State to overstep the limitations I have here attempted to prescribe.

There are several cases where alterations and amendments have been adjudged valid; and several where the contrary has been held; but in neither of the former have the courts decided that a State could seize, take control of, or prescribe the compensation for the use of property of the corporation, by it acquired in pursuance of its charter, whilst in every instance where the question has arisen, whether the State might do either of these acts, the decision has been, as I believe, adverse to its right.

(1.) I will briefly call attention to a few cases which may be relied upon by the defendants:

In that of *Scott vs. The Supervisors*, 16 Wallace, Mr. Justice Strong, in delivering the opinion of a majority of the court, used this language: "The railroad can therefore be controlled and regulated by the State. Its use can be defined—its tolls and rates for transportation may be limited."

It is believed that in no other decided case has such language or its equivalent been employed by a court or by any judge thereof; nor was the question as to the authority of the legislature to alter, amend or repeal a charter in any aspect of that case before the court, or necessary to its decision. The expression was employed merely to illustrate the public character of railway corporations—the only question in the case being whether a Statute of Wisconsin, authorizing the use of county obligations in aid of the construction of a railway, which in consideration of such aid, was to carry wheat at certain specified rates—the issue of such obligations having been assented to by a vote of the county—was constitutional; and a majority of the court held it was upon the ground that State or municipal aid might be granted for such a purpose.

If the court will examine the cases of *Miller vs. The State*, 15 Wallace, 478; *Holyoke Co. vs Lyman*, 15 Wallace, 560; *Tomlinson vs. Jessup*, 15 Wallace, 454; *Penn. College Cases*, 13 Wallace, 209;

Sherman *vs.* Smith, 1 Black, 587; Reciprocity Bank, 22 N. Y., 9; Dodge *vs.* Wolsey, 18 Howard, 336; 14 Bourbon, 449; 10 Bourbon, 260; 8 Bourbon, 363, they will be found to decide nothing against the limitation of legislative power, as I have endeavored to state it.

(2) But if the court will also look at the cases of Sage *vs.* Dillard, 15 B. Monroe, 340; Commonwealth *vs.* Essex Co., 13 Gray, 239; Miller *vs.* Erie R. R. Co., 21 Barbour, 513, (cited and approved in 15 Wallace, 498.) they will be found fully to establish the proposition stated—that under this reservation the power to destroy or impair vested rights of property cannot be exercised by the State; and indeed the doctrine of all these cases is in substantial harmony with the opinion of Chief Justice Shaw, in 13 Gray, and the principles therein laid down fully support the view I have ventured to insist upon as to inviolability of the right of the Chicago & Northwestern Railroad Company to control the property in it vested, and to fix, subject to the rule aforesaid, the compensation for its risk and services as a common carrier.

Fifth.—Whether the power to prescribe rates of compensation for the services of common carriers be a legislative or judicial question; whether it is to be exercised by the State as sovereign, or as a party to the contract; and whether, in view of what has been urged, the legislature of Wisconsin may or may not interpose and fix such rates of compensation, it is nevertheless submitted, that this power cannot be delegated to persons appointed by the State, and hence that the admitted purpose of the Railway Commissioners, defendants herein, to exercise it, is unlawful, and should be prevented.

VI.—For the purpose of presenting to the court the remaining, and not the least important, questions involved in this case, which are that the act in question is utterly void, because it impairs the obligations of contracts entered into between the corporation, the State of Wisconsin, and the United States—the corporation and certain of its stockholders, who are appellants here, and also between the corporation, its bondholders and mortgagees,—I must refer to the history of the organization of the Chicago and Northwestern Railway Company, which, as before stated, is composed of at least two corporations created by the laws of Illinois, and of three or more created by the State of Wisconsin, such organization being the result not only of the Statutes of those two States, but of agreements entered into in pursuance of and upon the faith thereof between the several companies thus consolidated and their stockholders; and when we have traced this organization, it will be found that we have to consider not merely the relations of a single State to a corporation of its creation, but those of this consolidated company to its stockholders, bondholders and mortgagees, their several relations to each other, and also the relations, rights, obligations and duties of the States of Wisconsin and Illinois to each and all of these, and in view of their joint legislation to each other also.

On the 3d June, 1856, as before stated, by an act of Congress, entitled "An act granting public lands to the State of Wisconsin, to

aid in the construction of railroads in said State," and printed in volume 11, of the United States Statutes at Large, page 20, there was granted to the State of Wisconsin certain alternate sections or parts of sections of land, for the purpose of aiding in the construction of a railroad therein mentioned; and by the third section of the act, it was expressly declared that the land thereby granted to the State, should be subject to the disposal of the legislature thereof, *for the purposes of the said act mentioned, but no other; and that the railroads to be constructed should remain public highways for the use of the Government of the United States, free from toll, or other charge upon the transportation of property or troops of the United States.*

The State of Wisconsin accepted these lands upon the aforesaid trust, and could execute it only by constructing and maintaining the railroad as required, or conveying the lands to a corporation having capacity so to do, and thus to render the required consideration; and such capacity could only exist in a corporation having perpetual succession and power so to manage its roads as forever to keep them open and in working order.

The State, by virtue of section 10, article 8, of its constitution, had ample authority to execute the trust in either mode. That section declares that "the State shall never contract any debt for works of internal improvement, or be a party to carrying on such works. But when grants of land or other property shall have been made to the State, especially dedicated by the grant to particular works of internal improvement, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from said works in aid of their completion."

The legislature of Wisconsin attempted faithfully to perform this trust and duty by an act passed under authority of this clause, and approved October 11, 1856, entitled "An act to execute the trust created by the act of Congress, entitled 'an act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State,' approved June 3, 1856," by incorporating the Wisconsin and Superior Railroad Co., and granting a portion of said lands thereto.

By the very title of this act the State professed to be acting in the discharge of the trust thus devolved upon it; and a careful examination of the act will show that the legislature created an artificial being, and endowed it with ample power to perform its duties in exact harmony with the requirements of the act of Congress and of the aforesaid constitutional provision. The corporation thus created was to have perpetual succession, and was to enjoy all the rights, powers and authorities, privileges, franchises and immunities necessary and proper to the full and complete possession, exercise and enjoyment of those expressly conferred. Without perpetual succession it could not have executed the trust which it was the duty of the State of Wisconsin to effectuate.

It was to be capable of contracting and being contracted with, for, and as to all the purposes in the act contained, and was per-

petually to have, use and enjoy, maintain and operate a railroad, beginning and terminating as in the charter is declared. It was expressly declared also that the company should have perpetual right, power and authority to transport, take and carry property and persons upon the said roads by the force and power of steam, or otherwise; and also to have the power and authority to operate its said roads, or either of them, in connection with any and all other railroads which might cross, come up to, or connect with such roads or either of them *upon such terms as should be mutually agreed upon by and between said companies*. On the completion of said road, or any part of it, it was declared that the company should be authorized and empowered *to demand and receive such sum or sums of money for the transportation of persons and property, and for the storage of property, as it should from time to time deem reasonable*. Such lands as the company should obtain for the purpose of building and operating its roads, it had authority to acquire in fee simple, absolute and forever; and it was expressly invested with the title to the land and all and singular the rights, privileges and immunities granted or conferred, or intended to be granted or conferred by the act of Congress; and was to be subject also to all the restrictions, impositions, duties and obligations contained in such act; *it being expressly declared in said charter that the said lands so granted by Congress were conveyed by the State, to the company, in consideration that the latter should comply with the terms of the grant thus made, and of the act of Congress*. And it was also expressly provided that all the affairs and business of the company should be conducted, managed and carried on by a board of fifteen directors, who should be stockholders thereof, and that such stockholders should be entitled to one vote for each and every share of stock held by them. The corporation was also authorized to borrow any sum or sums of money from any person or persons, to make notes, bills, bonds, mortgages, and all other papers or securities of any amount or kind, as might be deemed expedient by the corporation, in consideration of any loan or any discharge of any liabilities it might incur in the construction, repair, equipment or operating of the road. And was also empowered to prescribe the sums for which each of the bonds should be issued, and the time or place, or places, when and where the principal and interest on the same should be payable, and, in its corporate capacity, to make, execute and deliver mortgage or mortgages, deed or deeds of trust upon the whole or any part of its railroad constructed, or authorized to be constructed, and upon the lands of the United States granted to said corporation, and upon any other or all of its estate, real, personal or mixed, in possession or expectancy, *and to confer upon the trustee or mortgagee full and ample power to enter in and upon, and take possession of, have, use, enjoy, sell and dispose of the whole or any part of said railroad, estate, real, personal or mixed, together with the functions appertaining to said railroad, and all corporate or other franchises, rights and privileges of said railroad company*.

The duration, powers, franchises and obligations of this com-

pany have been thus particularly stated, because they have been, by the legislatures of Wisconsin and Illinois, expressly conferred upon the Chicago and Northwestern Railway Company, as now organized. It is to be noted that the duty was devolved upon the Wisconsin and Superior Railroad Company by act of Congress, and the State of Wisconsin, forever to keep open the roads to be constructed, and to maintain them as a fit and proper highway for the purposes mentioned; and as a full consideration for the performance of this duty, there was vested in the corporation the title to the land thus granted in fee simple, with authority to sell the same at pleasure. From the performance of this duty and obligation, thus contracted by the corporation, it could never relieve itself. Nor, could the State of Wisconsin, having accepted this grave trust, and made the grant in conformity therewith, to a corporation of its own creation, ever so interfere with it in any manner as to deprive it of the power to perform the contract made upon sufficient consideration with the State, and which the State had authorized and required it to make with the government of the United States. To deprive it of the necessary means of performing this undertaking, would be a plain violation of the Constitution of the United States. If it shall be urged that by the constitution and laws of Wisconsin its legislature may alter or repeal this act of incorporation, the answer is: first, this corporation is not subject to such reservation; and second, it cannot do this in violation of the trust it undertook to perform for the benefit of the United States, and in violation of a contract entered into by the State with a corporation expressly created by it for the purpose of performing that duty to the United States.

I have stated that an examination of the charter of this corporation will show that the powers and duties conferred upon it were in precise harmony with the duty of the State of Wisconsin, faithfully to execute this trust. For, to enable the company to perform its obligation by keeping the railways it was to construct, perpetually open as highways, for the benefit of the government of the United States, it was indispensable that it should have the power perpetually to manage and operate them; and we find that the company was to be absolutely governed by its board of directors, to be elected by its stockholders, and might demand and receive such sum or sums of money for the transportation of persons and property, and for the storage of property as it should, from time to time, deem reasonable. It was, moreover, empowered to mortgage not only all its property and all its franchises and privileges, but by the very terms of the act the mortgagees or trustees, who might stand in that relation, were to be permitted to enter into and upon the railway and all the property of the company, — to enjoy all its privileges and franchises which, of course, would include the right of charging and receiving such sums for the transportation of passengers and freight as they should see fit. And they were also authorized to sell and dispose of the whole or any part of the railroad estate, real, personal or mixed, together with the functions ap-

pertaining to such railroad and all corporate or other franchises, rights and privileges thereof.

In presenting to the court the proposition that the act in question is void because it impairs the obligations of contracts in violation of the Constitution of the United States, I insist:

That the State of Wisconsin has, upon abundant consideration, so contracted with the Chicago and Northwestern Railway Company and its stockholders, that its obligations will be impaired, and the property of the company thereby rendered worthless if the act in question shall be enforced.

1st. Although a right is reserved to the State to alter certain charters of incorporation, it is under no obligation ever to do either, and hence it may perpetually refrain therefrom. It is quite clear also that this privilege of alteration is entirely consistent with the power of the State to make contracts upon a valuable consideration, as well with corporations as with natural persons; for as was said by this Court in *State Bank of Ohio vs. Reop*, 16 Howard, 389, "There is no constitutional objection to the exercise of the power to make a binding contract by a State. It necessarily exists in its sovereignty, and it has been so held by all the courts in this country. A denial of this is a denial of State sovereignty. It takes from the State a power essential to the discharge of its functions as sovereign. If it do not possess this attribute, it could not communicate it to others. There is no power possessed by it more essential than this." And in the same case the court said, "A contract between the State and individuals is as obligatory as any other contract. Until a State is lost to all sense of justice and propriety, she will scrupulously abide by her contracts, more scrupulously than she will exact their fulfilment by the opposite contracting party." And in *Fletcher vs. Peck*, 6 Cranch 135, Chief Justice Marshall said: "The principle asserted is that one legislature is competent to repeal any act which a former legislature was competent to pass, and that one legislature cannot abridge the powers of a succeeding legislature. The correctness of this principle so far as respects general legislation can never be controverted. But if an act be done under a law a succeeding legislature cannot undo it. When then a law is in its nature a contract, a repeal of the law cannot divest those rights, and the act of annulling them, if legitimate, is rendered so by a power applicable to every individual in the community."

And in the same opinion he says: "Whatever respect might have been felt for the State sovereignties, it is not to be disguised that the framers of the constitution viewed with some apprehension the violent acts which might grow out of the feelings of the moment, and that the people of the United States in adopting that instrument have manifested a determination to shield themselves and their property from the effects of the sudden and strong passions to which men are exposed. The restrictions on the legislative powers of the States are obviously founded on this sentiment, and the Constitution of the United States contains what may be deemed a bill of rights for the people of each State."

It needs no argument to establish that a State may make a binding contract with a corporation, and it is submitted it may do so in any form either within or outside of the charter. Thus if by that instrument it should be stipulated that in consideration of the payment of a certain sum of money actually received by the State, it would levy no taxes upon the corporate property for the period of ten years, or that in consideration of a like exemption a Railway Company would during that period transport over its road all property of the State, free of charge, would not these stipulations constitute a binding contract, operative alike upon State and corporation; and would the fact of their incorporation in charters impair their force? We should not forget the purpose of the reservation in question. It was not designed to relieve the State from its obligation faithfully to perform contracts founded upon considerations paid or which might be exacted from corporations. By a fair and indeed necessary construction of the reservation, all such contracts must be excepted, and only those provisions of charters be included which come within the supposed mischief intended to be remedied; and I am sure it cannot be successfully contended that any respectable State ever deemed it a wrong to be compelled to discharge its honest obligations, whether to corporations or natural persons. The design was to be relieved from the doctrine of the Dartmouth College case, and not to be incapacitated from making contracts with corporations. Such corporate franchises as were ordinarily conferred upon the general consideration of advantage to the public, were to be subject to alteration and withdrawal; but no one can justly insist that a State which had for an adequate sum stipulated in the charter of a corporation that it should be exempt from taxation for the period of ten years, could in violation of this enforce payment of taxes within that period. Other illustrations of binding contracts embodied in charters might be put, but it is deemed unnecessary, for whenever a State for a sufficient consideration makes a contract in any form with a corporation, which if made with an individual would be binding, such contract the State must perform; and where the State has by contract with a corporation of its creation exacted from it an agreement to do certain acts for third parties who have a right to exact performance as against the corporation, the State cannot so cripple or impair the capacity of the former as to prevent it from discharging the obligations thus imposed.

2d. In view of these general observations I now proceed to call the attention of the court to facts which established such contract between the State and the Chicago and Northwestern Railway Company and its stockholders, as is protected by the Constitution of the United States, and will be impaired or rendered worthless if the act in question shall be enforced.

By the act of Congress of June 3, 1856, before mentioned, there was granted to the State of Wisconsin, to aid in the construction of railways, certain sections of land upon the express condition that it should be subject to the disposal of the legislature thereof for the purposes in the said act mentioned, but no other; and the

railroads to be constructed should remain public highways for the use of the government of the United States, free from toll or other charge upon the transportation of property or troops of the United States. On the 11th of October, 1858, in execution of said trust the legislature of Wisconsin passed "An act to execute the trust created by the act of Congress, entitled 'An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State,' approved June 3, 1856, by incorporating the Superior and Wisconsin Railroad Company, and granting a portion of said lands thereto." In receiving these lands the State became bound to employ them for the purposes mentioned and no other; and this was to aid in the construction of railroads which should remain (of course forever) public highways for the use of the government of the United States, free from toll or other charge for the transportation of property or troops to them belonging; and it was expressly declared in the charter of the corporation created to execute this trust, that the lands so granted by Congress were conveyed by the State to the company in consideration that the latter should comply with the terms so made, and of the act of Congress. The corporation was by the terms of its charter endowed with power to perform the obligations thus devolved upon it by the State, on condition of doing which it was to own and possess the lands thus conveyed in fee simple. To enable the incorporation to discharge this duty, it was declared to have perpetual succession; for without this it could not maintain the railroad as a perpetual highway for the use of the government, and it was moreover expressly declared that all the affairs and business of the company should be managed by a board of directors who should be stockholders thereof; and among other powers, that it might demand and receive such sums for the transportation of persons and property, and for the storage of property, as it should from time to time deem reasonable. Other provisions its charter contained not necessary to be here particularly stated; but from what has been set forth it is quite apparent.

FIRST.—That in exacting from the corporation its pledge perpetually to maintain its railroad for the free use of the United States as stipulated, as a consideration for the conveyance of said lands, the State came under the most solemn obligation to the company to permit it to enjoy such of its stipulated privileges as would enable it to perform its contract with the United States, and with the State itself. The latter was bound and had constitutional power to use the lands it received for the construction of such a railroad for such purpose as was indicated; and until conveyed to the company, they were held in trust for that purpose. When so conveyed, the trust and duty devolved on the corporation, which undertook in consideration of the grant, and of course in reliance upon the stipulations in the charter, which should enable it so to do, faithfully to execute this trust, and to perform the obligation cast upon it to the United States, failing to do which it would be responsible for its default to the Government. And yet in the face of this agreement with the State, and with the United States, it is here asserted that the State of Wisconsin might at any time after granting the

charter, and after the company should have disposed of the lands granted by the Government, repeal its charter, or so violate its provisions as utterly to disable it from executing the trust, or performing the contract it had assumed. May the State, by force of the reservation relied upon in violation of its contract with the company, interpose and fix the compensation by it to be received, so low as to render it impossible for it to maintain its railroad in conformity with its obligations? For if they may by the State be fixed at all, they can be so reduced at its pleasure as to effect this result.

Does not the unalterable contract between the State and corporation forbid such interference? For it is quite clear the latter cannot by any lawful means relieve itself from payment of the consideration due to the Government for the lands thus conveyed; and this being so, it is difficult to understand why there should not be a corresponding obligation on the part of the State equally binding, not to take from the company its stipulated and necessary means by which alone it will be enabled to perform its contract. If the act in question shall be enforced, this power of performance will be taken away.

There are two aspects in which the case on the facts just presented, may be viewed. One suggests most forcibly that by a valid contract between the State and corporation, the former agreed that the latter should enjoy the means stipulated by the charter in consideration of its performing the trust which the State had assumed towards the United States; and the other supports with sufficient force the proposition that it could not have been the intention of either party to the charter, that, under authority to alter corporate franchises, there lurked the power to fix rates of compensation by the State or its agents.

Second.—Beyond this, however, there is an objection to the law in question, which, it is submitted, cannot be overcome. The corporation was organized to execute the trust created by said act of Congress, and this was to be executed by such instruments as the State saw fit to select under and by virtue of the constitutional provision above set forth, which conferred the necessary authority for that particular purpose upon the State. Thus acting, it was the duty of the State, and it had the power, to create an instrument having capacity to execute the entire trust and duty assumed by the State by the acceptance of said lands; and this could only be by a corporation having perpetual succession and the continuing means of performance, and all this the charter stipulated. It was not granted under section 1, article 11, of the constitution, which declares that all general laws, or special acts of incorporation, enacted under its provisions, may be altered or repealed by the legislature *at any time* after their passage. Could it have been the purpose of the State so to do as to this charter? Was it not indispensable to the execution of the trust that, as the corporation had incurred a permanent and very onerous duty to the United States, it should be empowered to execute it? It is therefore submitted

that the State could neither alter or repeal either of the substantial provisions of the charter in question.

Third.—Thus far I have proceeded as if the question in controversy was one simply between the State and the Wisconsin and Superior Railroad Company, *to all the rights, duties, obligations, privileges and property of which the Chicago and Northwestern Railway Company has succeeded.* I now enter on a somewhat broader field, which presents new rights acquired by itself and its stockholders, and duties incurred by the State towards them, clearly resulting, it is submitted, in such obligations as establish, independent of the ground last stated, a contract between it and them which cannot be lawfully impaired.

It will be remembered that the Chicago, St. Paul and Fond du Lac Railroad Company was composed of two corporations, one created by the laws of Wisconsin, the other by the laws of Illinois, consolidated by agreement among the several stockholders, who were authorized so to do by the laws of those States, the policy and purpose of both being, by this joint legislation, to make a continuous and connected line of railroad between and within them. In completing this consolidation, stock was issued in the new company in exchange for that of the old,—the liabilities of the old companies were assumed by the new, and such a meager and admixture of interest and property took place, represented by the new stock thus issued, that it thereafter became impossible to discriminate between what had belonged to the Illinois company and what to the corporation chartered by Wisconsin; and under these circumstances the company, as consolidated, was authorized to, and doubtless proceeded to, make bonds and to execute mortgages upon its property.

In 1857, it was authorized by the States of Wisconsin and Illinois, actuated by the policy aforesaid, to consolidate with the Wisconsin and Superior Railroad Company, if the stockholders of both should so agree; and they were invited so to do upon the pledge by both States, that upon so doing all the rights, privileges and advantages specified in the charter of the latter company, should belong to and be enjoyed by the company thus to be consolidated, *subject to the obligations contained in the charter of the Wisconsin and Superior Railroad Company, and in the aforesaid act of Congress;* and such company, when consolidated, was declared liable to pay all claims and demands existing against either company, and was subject to prosecution for non-payment thereof. Upon these terms and conditions the stockholders of both corporations entered into the proposed agreement of consolidation, and perfected the same under the name of the Chicago, St. Paul and Fond du Lac Railroad Company, in accordance with the offers, requirements and pledges of this joint legislation; and having so done, the stockholders of both surrendered their stock and accepted in lieu thereof stock in the new company, which thereupon proceeded to issue its bonds and to execute its mortgages upon the property of the consolidated company; and thereafter, being unable to pay its obligations, by further joint legislation of said States, the property of said

company was authorized to be sold as one road, and the purchasers were authorized to form a new corporation, with all the rights, advantages and obligations of either and all of the corporations which had been consolidated into the Chicago, St. Paul and Fond du Lac Company.

This was done, and a new corporation organized under the name of the Chicago and Northwestern Railway Company. Subsequently, and by the joint legislation of said two States of Wisconsin and Illinois, the Galena and Chicago Union Railroad Company, chartered by the latter State for the period of sixty years (with no authority of alteration or repeal reserved,) was authorized to consolidate by agreement with the Chicago and Northwestern Railway Company; and this was done, and the stockholders in the former amended their stock, and took stock in the company as consolidated; and various debts due by the Galena and Chicago Union Railroad Company prior thereto, were assumed by the consolidated company.

FOURTH.—On this state of facts, it is insisted that the contracts thus expressly authorized by this joint legislation, to be entered into between the stockholders of the several corporations for the consolidation thereof, cannot by either State be impaired. It is submitted that when the stockholders of the Illinois company agreed, upon the invitation and pledged faith of the State of Wisconsin, to surrender their stock and property in the Illinois corporation, and take stock therefor in the company to be consolidated, they did so upon the agreement by the State of Wisconsin, that the franchises and privileges it had stipulated the consolidated company should enjoy, should not be withdrawn from it. The obligation in favor of the United States was devolved upon and assumed by it; but this was agreed to be performed by the Illinois stockholders and corporations only upon the faith that the State of Wisconsin would not, by an act in violation of its pledges, disable the consolidated company from performing it. So too the stockholders of both agreed that the debts of each should be secured by mortgages upon the entire property of the consolidated company; and consequently if by the legislature of Wisconsin its property in that State should be impaired in value or rendered worthless, as by the act in question if enforced it will be, the burden of maintaining the road and of paying creditors and performing said obligations to the United States, will be cast upon the Illinois portion of the railway to the manifest injury of its former stockholders—one of whom is before the court—who surrendered their stock upon the legislative pledge of Wisconsin that its stipulated franchises should be perpetual and remain substantially unaltered.

It is, therefore, submitted that the several corporators of Illinois who were invited to consolidate with the Wisconsin companies, and who did so in consideration of the promises of that State, are entitled to hold the stipulated privileges and franchises, and especially that the State cannot be allowed to fix rates of compensation in precise violation of its pledge, and thus disable the consolidated company from performing its obligation to the United States. In

the language of this court in 8 Wheaton, page 89, "can the Government of Wisconsin fly from this agreement because it involves a principle which might be inconvenient to the State?" If it shall be suggested that possibly the Government may never require this, the answer is, so may the creditors of the company never demand payment of their debts, or the employees of the company payment for their services. But this in no sense meets the difficulty, for the corporation has a right to insist as against the State and all others, upon the performance of such stipulations and agreements as were made in consideration of the obligations by it assumed; and it certainly could not have been supposed by the Illinois corporations or stockholders when they merged all their property in the consolidated company, and undertook as an integral part thereof, among other things, to construct and forever maintain a railway for the carriage, without charge, of the troops and property of the United States, that the State of Wisconsin could in violation of its pledge, render the railway and property thereof utterly worthless, and thus cast the burden of performing this and other much more serious obligations, wholly upon property which had been surrendered as aforesaid by the Illinois corporations and their stockholders.

FIFTH.—It may also, I submit, be maintained that the Chicago & Northwestern Railway Company having derived its corporate existence by virtue of the joint legislation of two States, its charter became a compact between them, which neither could alter without the consent of the other. This proposition was laid down by this court in *Perrine vs. Chesapeake & Delaware Canal Company*, 9th Howard, 183, and is as applicable to this case as to that, and indeed more so. The State of Illinois has no reserved authority to alter or repeal charters of corporations by it authorized to be consolidated, and when by this joint legislation it was declared that the consolidated corporation should enjoy all the privileges and franchises previously possessed by either company, a great wrong would be done to the Illinois corporations and stockholders by permitting the State of Wisconsin to repeal, or so alter chartered privileges of the corporation within that State, as seriously to impair the value of its property therein. If it be said the State reserved power to alter its charter, the answer is that even if it *may* do this, it is not compelled to, and ought not so to do in violation of its promise, on the faith of which valuable rights were surrendered. And if under these circumstances a court of justice has power to restrain so great a wrong, so palpable a departure from that uprightness which should distinguish States as well as individuals, it will not hesitate so to do.

SIXTH.—The agreement by which the Illinois stockholders consented to the consolidation of their companies, as before stated, constituted a contract between them and the Wisconsin corporations entered into in exact conformity with the laws of that State, which cannot be lawfully impaired.

1st.—The power of the State under the reservation in question, is in all cases limited to the alteration of the contract of charter as between the State and the corporation. This, and only this can

the State reach. All contracts previously made by the corporation with third persons in pursuance of the charter are binding. This is well settled. *Bronson vs. Kinzie*, 1st Howard, 311; *McCracken vs. Hayward*, 2d Howard, 608; *Curran vs. Arkansas*, 15 Howard, 305; *Hawthorn vs. Calef*, 2 Wallace, 10; *Tomlinson vs. Jessup*, 15 Wallace, 454.

Thus, if by its charter the corporation be authorized to issue bonds, and to mortgage its property and franchises to secure them, after this is done and the bonds sold, the State cannot under this reservation impair the validity of the mortgages by enacting that the charter should be so altered as to forbid the execution by the company of such securities. It might deprive it of power to do so thereafter, but as was well said in this court by Chief Justice Marshall in the case of *Fletcher vs. Peck*: "If an act be done under a law, a succeeding legislature cannot undo it." So also if a corporation be expressly authorized to mortgage and convey to trustees as security its railway property and franchises, and all right to compensation for the use thereof, and a mortgage is made in precise conformity with such authority, a statute which should attempt on pretext of altering the charter, to impair the validity or value of this security in the slightest degree, would be void as impairing the obligation of a contract.

2d.—It is very clear that the act in question, if enforced, will impair the contracts entered into between the Illinois stockholders and the Wisconsin corporations, whereby the Chicago and Northwestern Railway Company was consolidated. These stockholders were invited and authorized by the State of Wisconsin to surrender their stock and the property it represented, and deliver them to the company to be consolidated, upon the express agreement, which the corporations of Wisconsin were authorized to make, that the new corporation to be formed should forever thereafter possess all the rights, privileges and franchises then enjoyed by either corporation. At that time, by the express terms of each of the charters granted by both States, and by force of natural right the stockholders and directors had power to fix reasonable rates of compensation for service of their companies as common carriers. Without ability so to do, the property of neither corporation could have had permanent value; and it is not pretended that the State of Illinois could alter or repeal either of the charters by it granted. The contract was made between stockholders of the Illinois company and a corporation of Wisconsin, the charter of which expressly empowered it to fix such compensation; and that State expressly promised the Illinois stockholders that if they would agree to consolidate their stock and the property of their corporations with that of the corporation of Wisconsin, the company thus formed should possess among others such right. The contract was made. It is not between the State and the corporation, but between the latter and stockholders of an Illinois corporation, in consideration of which valuable rights of property were surrendered. Can the State violate this, even on the assumption that under the reservation it might, as between the corporation, fix rates of compensa-

tion for its services as a common carrier? It is submitted it cannot.

It cannot of course be doubted that if the railways of the consolidated company in Wisconsin be rendered unproductive, and, therefore, substantially valueless by the enforcement of the legislation in question, the stock by the Illinois stockholders, received in return for that surrendered, is impaired in value, and this because the consolidated corporation has not been permitted to enjoy in Wisconsin the same rights and privileges originally enjoyed by both or either of the corporations which were united to form it. Such impairment of value would be the direct consequence of the violation of the contract authorized by Wisconsin, by which the entire consolidated corporation was to possess all the rights, privileges, and franchises possessed by either of its parts.

SEVENTH.—I now call attention to the contract entered into by express authority of the State of Wisconsin, between this corporation and its bondholders and trustees. These bonds were purchased upon the pledges of the States of Wisconsin and Illinois, that the corporation should have perpetual power, not only to operate the roads but to fix the rates of compensation at its discretion, subject, of course, to the common law rule to be judiciously applied; that its charges as common carriers should be reasonable. They were negotiated and purchased upon the faith of the express provisions in the charters granted by these States, that the mortgage or deed of trust to secure their payment, authorized, according to its terms, the trustees or mortgagees to enter into the possession of the property of the railway company, and of all franchises and privileges conferred upon it, and to remain in such possession and operate the road, or to sell the railway property and all its franchises and privileges for the purpose of paying the bonds. The statutes, the charters containing the stipulations of both these sovereign States, the purchasers had a right to rely upon for the performance of those conditions.

The bonds were sold largely to capitalists living abroad, at a time when railway securities were in favor, and with knowledge that, up to that period, no incident had occurred in the history of civilized nations where faith, thus pledged, had been violated; for so tender of corporate privileges and property has the British parliament ever been, that it is believed there are but two cases in which such privileges and property have ever been taken away or confiscated by legislative action. One was when the order of templars was suppressed in the time of Edward II., and the other when the religious houses were suppressed in the time of Henry VIII.

If purchasers had been told whilst negotiations were pending, that the State of Wisconsin could interpose at pleasure, and declare what compensation the company should thereafter receive for carriage of freight and passengers, no sale of the bonds could have been effected. Neither stockholders or bondholders would have advanced a dollar, in view of such a contingency. Nor will capitalists in this country or abroad ever again advance to our citizens moneys in aid of the construction of railways, until the questions here raised have been settled in favor of the complainants; so that

unless the amount to be seized and confiscated by those who incite the legislative action in question, is so great that the State is willing for the prize to surrender all hopes of attracting more capital within its limits, it hardly seems expedient to make the effort, to say nothing of its injustice. Should it be successful, it will be fraught with misfortune to the State achieving it, and in its consequences tarnish the reputation—not of that State only, but of others.

It cannot, I think, be questioned, that the contracts under which the trustees and bondholders claim, were made by express authority of the State between the corporation and third persons, and belong to the class of contracts which cannot lawfully be impaired by State legislation.

In view of the proposition I am presenting, it might be conceded that the legislature of Wisconsin could lawfully repeal, or in any respect alter the charter of the Chicago and Northwestern Railway Company, and thus utterly annihilate or materially change its provisions and the rights of the corporation thereunder. It might be admitted that the corporation could be prohibited from hereafter so mortgaging its property as to vest in trustees any right, except to sell its real and personal estate. Such an instrument would be of comparatively little value as a security to bondholders; for a sale of railway property, no matter how extensive or valuable for railway purposes, would bring but a trifling sum, unless the purchaser could take with it and enjoy the franchise of operating the road.—So, too, it may be conceded that the State might so alter a charter as to permit a mortgage upon the entire property and franchises of the corporation, excepting only that authorizing it to fix its rates of compensation for the carriage of freight and passengers; but who can doubt that if this right were in express terms reserved to the State, the mortgage would be regarded as substantially worthless as a security? Nevertheless there would in such case be no fraud or deception practiced upon those who should purchase bonds thus secured. Let us assume, then, that this crippling process of State legislation, may as between it and corporations, be applied to existing charters, and the inquiry presents itself, can the obligation of prior contracts entered into between such corporations with third persons, in precise conformity with the terms of their charter, be impaired by such subsequent legislation? To illustrate, suppose the State of Wisconsin had, by the statute of 1874, enacted that no part of the road-bed or real estate of the Chicago & Northwestern Railroad Company should be conveyed or sold by the trustees under the trust deeds in the bill mentioned, would not such a statute be utterly void as to the complainants? Suppose also, the State to have prohibited the use or sale by the trustees of any of the franchises or privileges to them mortgaged, but that these should revert to the State whenever such default should be made in the payment of the bonds or interest, as by the terms of the deeds entitle the trustees to enter into possession of and use or sell the railway and property mortgaged. Would not such an act clearly and fatally impair the obligation of the contract? But suppose, again, that

the State should prohibit to the corporation the exercise of the right expressly granted to it, of fixing its rates of compensation for the carrying of freight and passengers, and should also prohibit the use by the trustees or purchasers of the property and franchises thus mortgaged, except upon condition that the State should thereafter fix such rates, would not such a prohibition and condition, so clog and encumber the property mortgaged as to render it substantially worthless, and thus seriously impair the obligation of the contract—not between the State and the corporation, but between the latter and third parties?

It is no answer to this to suggest that the legislature having reserved power to alter the charter at pleasure, all persons dealing with the company are bound to take notice of this, and to contract at the risk of having their contracts with the corporation impaired and rendered utterly worthless. If such a rule were adopted, corporations subject to such reserved authority would be entirely unable to induce persons to contract with them, for if the latter were bound to imagine, before so doing, that all remedy against them upon contracts might at any moment be cut off by State legislation, no credit whatever would be extended to them. To illustrate, suppose the bondholders who bought upon the faith of the provisions of the charter in question, had, before purchasing, been advised that the State of Wisconsin could at any time thereafter, deprive not only the Company but the mortgagees and purchasers, of the power of fixing rates of compensation for the carriage of freight and passengers, can it be supposed that a dollar would have been invested in the bonds which have been, here and abroad, so freely taken by purchasers?

The law of the land—based upon the eternal principles of justice, has, however, adopted a rule of protection which stamps such legislation as utterly void. It proceeds upon the theory that whatever contracts a State has in terms or by fair construction of charters authorized corporations to make with third persons, shall, when so made, be protected from any impairment whatever by State legislation. It does not give force to the suggestion that persons contracting with corporations, must at their peril, take notice that the State having reserved power to repeal, alter or amend their charters, may do so even to the destruction of the rights of persons previously dealing with them. It does not permit the State, where a corporation has in pursuance of its charter mortgaged its property and franchises to secure bonds payable at the expiration of a year, to say to the mortgagees, "you may take, use and sell this property and these franchises in execution of your trust," and to another mortgagee of the same property and franchises under a mortgage to secure bonds payable at the expiration of two years, "you shall not avail of the property for this purpose, because under a reserved power, authority to mortgage such franchise and property, or either, has been since the first mortgage became due, withdrawn from the corporation by an alteration of its charter." The law, the Constitution of the United States, forbids this, and declares that all contracts made with a corporation in accordance with the provi-

sions of its charter shall be held inviolate, and enforced without the least impairment by means of State legislation; and this just and benign principle has been often applied and enforced by the Supreme Court of the United States. *Bronson vs. Kinsie*, 1 Howard, 311; *McCracken vs. Hayward*, 2d Howard, 608; *Curran vs. Arkansas*, 15 Howard, 305; *Hawthorne vs. Calef*, 2 Wallace, 10; *Tomlinson vs. Jessup*, 15 Wallace, 454; *Woodruff vs. Trapnal*, 10 Howard, 190; *Curran vs. the State of Arkansas*, 15 do, 304.

It has been urged that parties dealing with corporations are bound to take notice of this reserved authority to alter charters, and to contract with a view to its possible exercise by the State. To this it might be answered that no such reservation was contained in the charter of the Chicago and Northwestern Railway Company; but on the contrary, by its express terms, every franchise granted was declared to be perpetual; and one of its stipulations was, that rates of compensation should be fixed by the corporation. This charter was exhibited to foreigners, and others not citizens of the State of Wisconsin, who, on the faith of its provisions, were invited to, and did, purchase bonds to the extent of many millions, entirely ignorant, in fact as well as in law, of this reservation; for it is well settled that only citizens of, or persons resident within, a State, are presumed to know its laws, or bound to take notice of them.

But suppose this were otherwise, of what were persons about to purchase these bonds, to take notice? The charter was plain and complete, and all they could know was, that the legislature of Wisconsin might possibly alter it, but in what respect they could neither know nor guess. Still more ample franchises might be granted, or those given—one or more, curtailed; but whether so as to impair the value of the security offered, it was impossible for purchasers to imagine. Were they to assume that the State, in violation of right and of all precedent, would prohibit the corporation from receiving more than sufficient compensation to pay operating expenses and taxes? Were they to imagine that possibly the State might, on the theory that the right to take compensation for services is a franchise, to be at pleasure withdrawn, take absolute control of, and confiscate the use it poses of the State or its people? Assumptions such as these would have prevented the sale of a single bond in any market; and to hold, on this theory of notice, that these should have been indulged in, would be a disgrace to any court of justice. In nearly, if not quite every case where this court has held that contracts, entered into in pursuance of existing laws, cannot be impaired by subsequent State legislation, the parties contracting have had notice of its power to alter them, whether in the form of corporate charters or otherwise,—the well established rule being, that laws subsisting at the time and place of making the contract enter into and form part of it, as if they were expressly referred to, or incorporated into its terms. *Von Hoffman vs. City of Quincy*, 4 Wall, 550.

Thus, in that case, the law of Illinois authorized the city to levy taxes sufficient to pay the interest on bonds issued and sold at the

time such law was in force; doubtless on the faith entertained by the purchasers that it would so continue as security. They had notice, however, that the State was under no obligation of contract with the city not to alter or repeal such law, but that this might be done at pleasure. The law was afterwards so altered or repealed as to prohibit the city from levying taxes sufficient to pay the interest on the bonds sold; but this court held, notwithstanding, that as the law entered into and formed part of the contract between the city of Quincy and purchasers of bonds, it could not be altered by the State to their prejudice, but must be enforced for their benefit as if unrepealed.

So too in the case of *Bronson vs. Kinsie*, 1 Howard, 297, this court held that where a mortgage executed upon real estate in Illinois contained a power of sale, that the right of the mortgagee to sell the property for the most it would bring, was wholly unaffected by a statute of that State passed after the mortgage was executed, which prohibited mortgaged premises from being sold at less than two-thirds of their appraised value; although it was of course well known to the mortgagee that the State had power to enact such a law, and might at any time do so.

And in the case of *Hawthorne vs. Calef*, this court decided the exact question now presented. By the revised statutes of Maine, charters of corporations might be at any time altered, amended or repealed. Subject to this provision, that State incorporated a railway company, the charter of which provided that "the shares of the individual stockholders should be liable for the debts of the corporation." The corporation became debtor to Hawthorne; and a few months thereafter the legislature of Maine repealed the "individual liability" clause of the charter, as he had notice might be done. This court nevertheless held the stockholder liable, upon the ground that by implication he had made a contract with Hawthorne which the State could not impair.

Apply the law as thus declared here. The bondholders purchased upon the faith of the charter, which expressly authorized a mortgage as their security upon the property and franchises of the company: and the law as contained in the charter became thereupon embodied into, and formed part of the mortgage and contract between the corporation and purchaser. Thereafter the State could pass no law impairing the validity or value of the contract of security thus taken. It could alter the charter as between it and the company, but this could not affect or impair contracts by it previously made. The act of March 11, 1874, if enforced will seriously impair the value of this security, for it will deprive the bondholders of the very means of payment on which alone they could have relied when purchasing the bonds—the income and profits of the company, and the right to fix and receive the same, specifically conveyed to their trustees.

E. W. STOUGHTON,
Of Counsel for Appellant.





DOCUMENT 17.

ANNUAL REPORT

OF THE

SUPERINTENDENT

OF

PUBLIC INSTRUCTION

OF THE

STATE OF WISCONSIN,

FOR THE SCHOOL YEAR ENDING AUGUST 31, 1875.

EDWARD SEARING,
SUPERINTENDENT OF PUBLIC INSTRUCTION.

MADISON, WIS.:
E. B. BOLENS, STATE PRINTER.

1875.

OFFICE SUPERINTENDENT OF PUBLIC INSTRUCTION,
MADISON, December 10, 1875.

TO HIS EXCELLENCY, WM. R. TAYLOR,
Governor of Wisconsin:

SIR:—I have the honor to submit, through you, to the Legislature, the Annual Report of the Department of Public Instruction, for the year ending August 31, 1875.

I am, sir, very respectfully, your obedient servant,
EDWARD SEARING,
Supt. Public Instruction.

CONTENTS.

REPORTS.

REPORT OF STATE SUPERINTENDENT.....	1-96
Introduction.....	5
Statistics and Comments.....	8
State Certificates.....	16
The State System.....	20
Township High Schools.....	33
Text-Books.....	54
A State Library System.....	61
A Geological Text-book.....	70
A State School-tax.....	73
The State University and the Normals Schools.....	76
Compulsory Attendance.....	79
Abstract of the Educational History of Wisconsin.....	83
The Journal of Education.....	94
Conclusion.....	95
REPORTS OF COUNTY SUPERINTENDENTS.....	97-128
REPORTS OF CITY SUPERINTENDENTS.....	129-140
STATE UNIVERSITY—	
Reorganization.....	141
Board of Regents.....	142
Report of Board of Regents.....	143-149
Report of Secretary ..	149-154
Report of Board of Visitors.....	155-156
Report of President.....	157-162
Faculty, Instructors, &c.....	163-165
NORMAL SCHOOLS—	
Report of President of Board of Regents.....	166-187
Report of President of Platteville Normal School.....	188-192
Report of President of Whitewater Normal School.....	192-198
Report of President of Oshkosh Normal School.....	198-212
Reports of Examining Committees of Normal Schools.....	213-219
Report of Institute Committee.....	219-222

REPORTS—Continued.

REPORTS OF UNIVERSITIES AND COLLEGES	223-229
REPORTS OF ACADEMIES AND SEMINARIES.....	230-233
STATE TEACHERS' ASSOCIATION—	
Semi-annual session.....	234-242
Annual Session	242-253
REPORTS OF CHARITABLE INSTITUTIONS—	
Industrial School for Boys.....	254
Institution for Blind	256
Institution for Deaf and Dumb.....	258

STATISTICS—

STATISTICS BY COUNTIES.....	259-290
STATISTICS OF INSTITUTES	290-293
STATISTICS BY CITIES.....	294-308
SUMMARY OF STATISTICS.	309-310
DISTRIBUTION OF DICTIONARIES	311
LIST OF COUNTY AND CITY SUPERINTENDENTS.....	316

ANNUAL REPORT
OF THE
SUPERINTENDENT
OF
PUBLIC INSTRUCTION
OF THE
STATE OF WISCONSIN.

OFFICE SUPERINTENDENT OF PUBLIC INSTRUCTION,
MADISON, December 10, 1875.

To the Legislature of Wisconsin:

GENTLEMEN:—In accordance with law, I have the honor to present to you, and through you to the people of the State, my second annual report, bearing date as above, but being strictly for the school-year ending August 31, 1875.

The experience of another year has further assured me of the correctness of the general remarks respecting “defects and desirable improvements,” and “encouraging facts and omens,” with which my report of last year was prefaced. I am gratified, however, in being able to acknowledge the removal, by the intelligent action of the last legislature, of some of the defects in our educational system to which I then called attention.

The encouragement given by your honorable predecessors of 1875, to secondary or academic instruction, through the high-school law, and to superior instruction through the liberal appropriation of \$80,000 to the university, for the erection of a college of science; the happy approach to a satisfactory solution of the question of text-books through the law providing for district, town, village, or city purchase and ownership of the books, and their free use by the pupils of the schools; and, finally, the removal of the legal barrier that has prevented women from sharing in the official management of the schools, in which they constitute a large majority of the teachers, and in whose external control they, as a class, are peculiarly qualified to take an intelligent and profitable interest—these important and valuable measures of the last legislature are adapted to remove some of the evils referred to in the previous report.

A brief enumeration of those which still remain, may not be here out of place:

1. The injurious extent to which the schools of the State are supported by local taxation. This results in a great lack of uniformity both in character and cost. The most practical remedy is to be found in a uniform State tax—the plan adopted by the majority of the more enlightened and progressive States of the Union. The advantages of a State tax to supplement the income of the school-fund, and to take the place of a portion of the burden of local taxation, were fully set forth in my last report. I urge the favorable consideration of this change, with a strengthened conviction of its wisdom.

2. The independent-district system, which, in the judgment of nearly all educational men, is a source of great and unnecessary weakness to the common schools. The superior township system of government, I am more and more fully persuaded, would materially contribute to the efficiency of the country schools in many ways. I reiterate [the belief, expressed in my former report, that “the general abolition throughout the State of the feeble district system would work more good] to the cause of popular education with us than any other one change we could inaugurate.”

3. The unnecessary and easily-remedied defects in the present system of county supervision. The system as a whole has done great service to the interests of education in this State, as is in so

many others. It is far more valuable than the old town system, but it needs modification to suit the advanced intelligence and the more complex conditions of the present day. To the consideration of this subject, elsewhere presented, attention is earnestly invited.

4. The school-month still remains variable, with the sanction of law as well as of practice. I regret that the last legislature did not see fit to remove this cause of much misunderstanding and annoyance, by providing that the number of days now very generally constituting a teacher's month in cities and villages, as well as the number constituting the month used as the basis of the apportionment of school money, should be everywhere recognized as the legal month in "settlements for wages," unless otherwise specified in the contract.

5. The other defects mentioned in my former report—the poor character of a large number of school-houses, the youthfulness and inexperience of many of the teachers, irregular attendance, and the impatience of older pupils, even in the best high schools, to leave just at the period when they are prepared to enter upon those higher disciplinary studies for which the more elementary courses have prepared them,—none of these, perhaps, are to be remedied by legislation, but rather by time, which brings greater wealth and increased leisure, with corresponding higher tastes and aspirations, and by the influence of those who clearly see these defects, exerted through the pen and tongue.

After a more intimate acquaintance with the teachers, the schools, and the people of the State, I am led to express again my belief in the existence of those sources of encouragement and hope referred to in my former report. A slowly improving public opinion; a gradually increasing number of qualified teachers, held in higher esteem and receiving better compensation; the numerous teachers' associations in vigorous being in nearly all parts of the State; the harmonious co-operation of the various educational forces in the State, both public and private; the effective aid lent to education by the press, which constantly and liberally opens its columns to superintendents, teachers, and others, for the discussion of school topics,—these are unmistakable signs of a healthy educational activity and growth.

But probably no better evidence of the promising condition of our school interests can be presented than is exhibited in the flour-

ishing condition of the State University and the four Normal Schools. The present character of these, and their relation to the lower schools of the State, I have elsewhere considered. I invite thoughtful attention to that consideration, simply anticipating here the quotation of a single sentence from one of the ablest educational writers of England, the secretary of the National Educational League, who says: "Experience has proved that elementary education flourishes most where the provision for higher education is most ample. If the elementary schools of Germany are the best in the world, it is owing in a great measure to the fact that the higher schools are accessible to all classes."

STATISTICS.

As was done last year, the statistical tables are given by counties and cities. The items for towns formerly given are omitted, as saving considerable expense.

As the superintendent of Chippewa county made no report, the totals, as given in the tables for counties, are less than they should be. In the following comments the difference that would be made by including that county is indicated where it seems important. Some of the counties embrace small cities, not under independent jurisdiction.

I—SCHOOL-DISTRICTS.

The number of ordinary districts reported is 4,468, and if 63 be added for Chippewa county, (which makes no report,) the number is 4,531, an apparent increase of 255. The parts of districts reported are 2,148, estimated to make 955 joint districts, or 19 less than last year. The whole number of districts reported is 5,423, and adding 66 districts of both kinds for Chippewa county, the number is 5,489, an increase of 234 over last year.

II—CHILDREN OVER FOUR AND UNDER TWENTY YEARS OF AGE.

The number reported for the counties and cities is 461,829, a gain of 8,668 over last year, and over 3,000 more than this, if Chippewa county were included.

III—NUMBER OF CHILDREN OF SCHOOL-AGE IN THOSE DISTRICTS WHICH MAINTAINED SCHOOL FIVE OR MORE MONTHS.

The number reported is 459,492, an increase of 10,458; a larger proportionate increase than in the number of school children. Taking in Chippewa county, the gain is not less than 12,000.

IV—TOTAL NUMBER OF PERSONS ATTENDING THE PUBLIC SCHOOLS.

The number between four and twenty who have attended the public schools, is reported at 277,884; under four years of age, 475; over twenty, 1,495; total, 279,854.

Tabulating all classes of pupils, the following is the result for 1874 and 1875:

DESCRIPTION.	1874.	1875.
The number reported as attending public schools.....	278,768	279,854
The number reported as attending private schools.....	8,551	10,733
The number reported as attending colleges and academies..	1,628	2,151
The number estimated for benevolent institutions	1,125	1,150
Totals.....	290,072	293,888

V—TEACHERS AND TEACHERS' WAGES.

The number of teachers reported necessary for all the schools, is 6,224, and the number as actually employed, some part of the year, 9,451, or 119 more than last year.

The average wages of male teachers (in the country) is \$43.50, against \$47.44 for 1874. The average wages of female teachers is \$27.13, or \$5.00 less than in 1874.

In the independent cities, the average for male teachers has fallen from \$1,148 per annum, to \$1,094, and for female teachers it has increased from \$371 to \$394, per annum.

VI—TEACHERS' CERTIFICATES.

The whole number issued of all grades, for the counties and cities, not including State certificates, was 8,892. Of these 8,051 were of the third grade. The following table gives a synopsis by sexes:

TEACHERS.	1st grade.	2d grade.	3d grade.	Total.
To male teachers	143	295	2,210	2,648
To female teachers.....	74	329	5,841	6,244
Totals	217	624	8,051	8,892

VII—GRADED SCHOOLS.

The whole number of schools of two departments only, is 184, a decrease of 26; the number with three or more departments, is 210, an increase of 38. The whole number of graded schools is 394, a gain of 12.

VIII—INDEPENDENT CITIES.

The number last year was twenty-four. Neenah and Prairie du Chien have been added to the list. Oconomowoc is also under a partially independent organization. Some of our cities, as Manitowoc and Eau Claire, prefer to remain under the county and district organization in school matters. This unquestionably redounds to the advantage of the whole county.

IX—SCHOOL-HOUSES.

The whole number reported is 5,197, an increase of 84; but 63, the number in Chippewa county last year, should be added, making an increase of 147. The sum expended in building and repairing, was \$298,657—\$13,977 more than last year. The whole accommodation is sufficient for 330,189 children, or 50,345 more than the actual attendance.

X—SUMMARY OF GENERAL STATISTICS.

The usual summary of statistics is given below. In the first ta-

ble the increase or decrease as compared with the previous year is given, decrease being indicated by an asterisk, (*):

DESCRIPTION.	1874.	1875.	Increase.
Number of school-districts, not including independent cities.....	5,250	5,423	255
Number which reported	5,197	5,365	168
Number of children over 4 and under 20 years of age in the State ..	453,161	461,829	9,668
Number of children over 4 and under 20 years of age in districts maintaining school five or more months.....	449,034	459,492	10,458
Number of children over 4 and under 20 years of age who have attended school.....	276,878	277,884	1,006
Total number of different pupils who have attended the public schools during the year	278,768	279,854	1,086
Average number of days a school was maintained in the counties.....	152	149	*3
Average number of days a school was maintained in the independent cities	196	195	*1
Number of days' attendance of pupils over 4 and under 20 years of age	20,900,864	21,222,335	321,471
Total number of days' attendance of different pupils during the year	21,090,612	21,438,356	347,744
Number of days schools have been taught by qualified teachers	804,499	816,097	11,598
Number of pupils who have attended private schools only.....	8,551	10,733	1,182
Number of schools with two departments....	210	184	*26
Number of schools with three or more departments	172	210	38
Number of teachers required to teach the schools	6,126	6,224	98
Number of different persons employed as teachers during the year	9,332	9,451	119
Average monthly wages of male teachers in the counties	\$47 44	\$43 50	*\$3 94
Average monthly wages of female teachers in the counties.....	32 13	27 13	*5 00

Summary of general statistics—Continued.

DESCRIPTION.	1874.	1875.	Increase.
Average monthly wages of male teachers in the cities.....	114 80	109 40	*5 40
Average monthly wages of female teachers in the cities.....	37 10	39 40	2 30
Number of schools visited by the county superintendents	4,194	4,493	299
Number of public school-houses in the State.	5,113	5,260	147
Number of pupils the school-houses will accommodate.....	319,406	330,189	10,783
Number of sites containing less than one acre	3,742	3,672	*70
Number of sites well enclosed	1,494	1,550	56
Number of school-houses built of brick or stone	686	663	*23
Number of school-houses with out-houses in good condition.....	3,156	3,180	24
Highest valuation of school-house and site in the cities.....	\$75,000	\$50,000	*\$25,000
Highest valuation of school-house and site out of the cities	45,000	45,000	

AGGREGATES OF VALUES AND EXPENDITURES.

DESCRIPTION.	1874.	1875.
VALUES.		
Total valuation of school-houses.....	\$3,713,875	\$4,260,775
Total valuation of sites.....	490,118	598,959
Total valuation of apparatus	117,140	119,435
Totals.....	4,321,133	4,979,169
EXPENDITURES.		
Amount expended for building and repairing.....	\$284,680	\$298,656
Amount expended for apparatus and libraries.....	16,762	27,222
Amount expended for teachers' wages	1,302,694	1,350,784
Amount expended for old indebtedness.....	99,705	101,417
Amount expended for furniture, registers, and records.	39,302	45,575
Amount expended for all other purposes	227,642	241,776
Totals.....	1,970,885	2,065,370

XI—RECEIPTS AND EXPENDITURES.

The total receipts and expenditures for the past year are as follows:

RECEIPTS.	
Money on hand August 31, 1874	\$469 870
From taxes levied for building and repairing	234 297
From taxes levied for teachers' wages	992 674
From taxes levied for apparatus and libraries.....	15 556
From taxes levied at annual meeting	395 052
From taxes levied by county supervisors.....	241 920
From income of State school fund	178 072
From all other sources	200 616
Total amount received.....	<u>2,728 157</u>
EXPENDITURES.	
For building and repairing	\$298 657
For apparatus and libraries	27 223
For services of male teachers.....	551 039
For services of female teachers	799 745
For old indebtedness	102 418
For furniture, registers, and records.....	45 516
For all other purposes.....	241 777
Total amount expended.....	<u>2,066 375</u>
Money on hand August 31, 1875	661 782

XII—EDUCATIONAL FUNDS AND INCOMES.

The amounts of the educational productive funds for 1874 and 1875, are stated in the last report of the Secretary of State as follows:

FUNDS.	1874.	1875.
School-fund.....	\$2,565,822 76	\$2,624,239 55
University-fund	220,433 06	222,255 89
Agricultural college-fund.....	236,134 07	236,133 90
Normal school-fund.....	973,806 34	976,364 34

The income from each of the funds for two years past is given below:

FUNDS.	1874.	1875.
School-fund income.....	\$188,763 97	\$186,409 05
University-fund income.....	43,131 31	42,671 13
Agricultural college-fund income.....	18,754 67	16,206 97
Normal school-fund income.....	80,184 90	61,128 70

XIII—APPORTIONMENT OF SCHOOL-FUND INCOME.

The amount apportioned last June, on the returns for the preceding school-year, was \$184,624.64. It was distributed on 450,304 children of school age, at the rate of forty-one cents per scholar, a little less, as was expected, than the preceding year. The ratio is more likely to decrease than otherwise in time to come.

In addition to the annual apportionment, several small amounts were apportioned under the provisions of chapter 164, general laws of 1872, and chapter 300, general laws of 1873, amounting in all to \$689.62, and making the whole amount apportioned \$185,314.26.

XIV—TEXT-BOOKS.

The whole number of districts reported as having adopted a list of text-books, is 1,402, an increase of thirty-five over the previous year. The books chiefly used are given in table No. IX, and a separate table, No. XX, for the cities.

XV—WEBSTER'S DICTIONARY.

At the close of the yearly account, December 10, 1874, the number of copies on hand was 198; the number purchased last winter was 250; the number distributed as first supplies for schools, 184; the number sold to replace first supplies worn out or lost, 110; the total number distributed, to December 10, 1875, 294; leaving 154 on hand. It is recommended that 300 be purchased for the current year.

XVI—CONVENTION OF COUNTY SUPERINTENDENTS.

A convention was held in this city near the close of December,

1874. The proceedings were not published, and are therefore not included in this report.

XVII—STATE TEACHERS' ASSOCIATION.

The semi-annual session was held December 28 to 30, 1874, at the capitol, and the annual session at Eau Claire, July 28 to 30, 1875. The proceedings are given among the documents appended to this report, and will be read with interest.

The next annual meeting will be held in Milwaukee, commencing July 4, and measures will be taken to make a portion of the exercises appropriate to the national anniversary.

XVIII—COLLEGES AND UNIVERSITIES.

Reports have been received from the following institutions, besides the State University: Beloit College, Carroll College, (which maintains at present only a preparatory department,) Lawrence University, Milton College, Racine College, and Ripon College. The statistics are as follows for the past two years:

DESCRIPTION.	1874.	1875.
Number of colleges reported, (not including State University)	8	6
Number of members of faculties.....	66	63
Number graduated at last commencement.....	61	42
Total number who have graduated.....	610	565
Number of students in senior classes.....	58	44
Number of students in junior classes.....	52	41
Number of students in sophomore classes.....	85	100
Number of students in freshman classes.....	243	123
Number of students not in regular classes.....	65	31
Number of students in preparatory department.....	996	995
Total number in the institutions.....	1,499	1,234
Number of acres owned by the institutions.....	3,605	3,165
Estimated cash value of lands.....	\$98,200	\$66,740
Estimated cash value of buildings.....	294,250	296,050
Amount of endowment fund, except real estates.....	303,008	303,281
Amount of income from tuition.....	86,072	78,707
Amount of income from all other sources but tuition.....	32,944	26,134

NOTE.—For Racine College, board is included with tuition.

XIX—ACADEMIES AND SEMINARIES.

Four institutions only have reported—Elroy Seminary, Kemper Hall, Rochester Seminary, and St. Clara Academy. The statistics are given elsewhere.

XX—CHARITABLE AND REFORMATORY INSTITUTIONS.

Interesting reports will be found from the Industrial School for Boys, (which has become a most important and useful institution, and should be supplemented by one for girls,) the Institution for the Education for the Blind, and the Institute for the Deaf and Dumb. Mr. Thos. H. Little, the late lamented Superintendent of the Institution for the Blind, having been removed by death, his wife was fitly appointed in his place, and ably carries forward the work in which she had so long assisted. Mr. George H. Weed has been succeeded as principal of the Institute for the Deaf and Dumb, by Mr. W.H. DeMotte, who has a creditable reputation in his peculiar work.

XXI—TEACHERS' INSTITUTES.

Fifty-seven institutes have been held in 43 different counties, and were attended by 3,668 teachers and persons designing to teach. The extent of this work has much enlarged. Prof. J. B. Thayer, of the River Falls Normal School, has been added to the professional corps of institute conductors. But, besides the four conductors sent out from the normal schools, viz: Professors Graham, McGregor, Salisbury, and Thayer, valuable work has been done during the past year, as heretofore, by various other gentlemen, among whom may be mentioned particularly, Dr. J. H. French, former secretary of the board of education, in Vermont.

The statistics of the institutes will be found elsewhere, and the names of the various conductors.

STATE CERTIFICATES.

An examination of candidates for State teachers' certificates, was held at Madison, commencing Wednesday, August 11, 1875,

the time designated by law. The board of examiners, appointed by the State Superintendent, consisting of Prof. S. S. Rockwood, of Whitewater, Prof. George Beck, of Platteville, and Prof. C. F. Viebahn, of Manitowoc, conducted the examination with strictness, impartiality, and courtesy. This was continued through four days, and at its close the following report of results reached was submitted by the board:

MADISON, Wis., August 14, 1875.

HON. EDWARD SEARING,

Superintendent of Public Instruction:

DEAR SIR:—Your board of examiners for State certificates for the year 1875, desire to submit the following report, viz.:

The examination commenced August 11, 1875, at 9 a. m., according to your instructions, and closed at date.

Three sessions were held daily, commencing respectively at 8 o'clock a. m., 2 o'clock, and 7½ o'clock, p. m.

The examination was both oral and written, and was conducted by means of both oral and printed questions.

A standing of at least 70 per cent. was required to entitle the candidate to the recommendation of the board.

The accompanying abstract shows the name, post-office address, and standing of the candidates, together with the number on the envelopes, containing their written answers, and the printed questions submitted to them.

The candidates were allowed, on an average, one hour and a half to each subject.

The board recommend the granting of unlimited certificates to the following persons, viz: Mr. Kirk Spoor, Brandon; Mr. Charles F. Ninman, Watertown; Mr. Thomas F. Frawley, Madison; Mr. Albert E. Chase, Hartford.

And also the granting of five years' certificates to the following persons, viz: Mr. Warren J. Brier, Baraboo; Mr. Albert Wood, Prairie du Sac.

(1.) The board respectfully recommend a change in the law so as to have the examinations hereafter commence on Tuesday instead of Wednesday, of the week in which they occur, in order to avoid the necessity for evening sessions.

(2.) That hereafter the board be appointed in such a manner as

to have one member serve one year, a second two years, and the third three years, and afterwards each member serve a like term of three years, in order that greater *uniformity, fairness, and satisfaction* may be secured to the examinations.

(3.) That hereafter candidates be required to attain an average standing of 75 per cent. in order to be entitled to either certificate, and in attaining such average their standing be required not to fall below 70 per cent. in each branch now required by law for a second-grade county certificate, and not to fall below 50 per cent. in all other branches.

Thanking you for your unvarying courtesy and ever ready assistance in facilitating our work,

We are, respectfully,

S. S. ROCKWOOD,
GEO. BECK,
C. F. VIEBAHN,
Board of Examiners.

In accordance with the recommendation of the report, I issued to Messrs. Kirk Spoor, Charles F. Ninman, Thomas F. Frawley, and Albert E. Chase, permanent State certificates; and to Messrs. Warren J. Brier and Albert Wood, State certificates to remain in force five years from their date.

The following is a complete list of persons who have received State certificates since the passage of the present law:

1868.

Charles F. Viebahn,
Herman Studer.

1870.

Rudolph Schmidt,
Mark H. Cottinger.

1871.

FIRST GRADE—PERMANENT:

Miss Martha A. Terry,
Thos. B. Brorgham,

D. E. Holmes,
 Samuel Shaw,
 J. A. Gaynor,
 W. A. De La Matyr,
 Miss Etta S. Carle.

SECOND GRADE—FIVE YEARS.

I. N. Stewart,
 Charles Law,
 Hosea Barns,
 Miss Martha E. Hazard,
 Miss L. J. Torrey,
 Miss Maria S. Hill,
 Mrs. Mary E. Holmes,
 Mrs. Francis B. McIntyre.

1872.

FIRST GRADE—PERMANENT.

Albert Salisbury,
 Volney Underhill,
 Miss DeEtte Howard,
 Miss Martha E. Hazard.

SECOND GRADE—FIVE YEARS.

C. L. Powers,
 Chas. Zimmerman,
 James T. Lunn,
 John Nagle,
 Isaac A. Sabin.

1873.

FIRST GRADE—PERMANENT.

Chas. Zimmerman,
 Jas. T. Lunn,
 John Nagle,
 M. Kirwan.

SECOND GRADE—FIVE YEARS.

T. L. Cole,
 R. B. Crandall.

ANNUAL REPORT OF THE

1874.

FIRST GRADE—PERMANENT.

B. F. Anderson.

SECOND GRADE—FIVE YEARS.

J. C. Smith.

1875.

FIRST GRADE—PERMANENT.

Kirk Spoor,
 Chas. F. Ninman,
 T. F. Frawley,
 A. E. Chase.

SECOND GRADE—FIVE YEARS.

W. J. Brier,
 Albert Wood.

 THE STATE SYSTEM.

In my annual report of last year I discussed certain defects in our State system of education, and suggested remedies therefor. The subjects of "Intermediate Schools," "Text-books," "Compulsory Education," "The Township System," "A State School Tax," "County Superintendents," "The School Month," "The State University," "Women as School Officers," &c., were all considered more or less fully, and were made the subjects of distinct recommendations, some of which, I am happy to say, found favor with the last legislature and were enacted into laws.

I avail myself of the present opportunity to reaffirm the wisdom of certain measures of reform then suggested, but not yet realized, and also to report progress in those which met legislative approval. If, in doing the former, I should seem to be merely repeating myself, I trust that the deepened sense I entertain of the importance of some of these measures will be my sufficient excuse.

DEFECTS OF THE SYSTEM.

It is my conviction—a conviction that has been constantly strengthened by the experience and reflection of the past two years—that our present State system of public instruction, in common with that of many of our sister States, is, as a *business system*, far from being the best that can be devised for the important ends sought. It does not secure results proportioned to the money expended, to say nothing of results demanded by our political institutions, and by our increasingly complex social and industrial life. The greater general density of our population, the multiplication and growth of cities and villages, the rise of new industries, the more marked development of the extremes of wealth and poverty—these give to the problem of popular culture new conditions, which render its solution much more difficult than formerly.

I believe there is good evidence to show that popular education has not kept pace with the material development of the country. The latter has been wonderfully rapid and is everywhere apparent. Educational progress, on the other hand, has been chiefly confined to cities and towns, and even there is much less marked than is often supposed. The material triumphs of science are to be found in many labor-saving appliances upon the remotest farms, as well as in the iron rails and copper wires that span the country in all directions, rendering time and space almost obsolete. But it is doubtful whether the average country school of to-day imparts more and better instruction than did the same school twenty-five years ago. It is, to me, *not* doubtful whether this modern school better qualifies the average pupil for the struggle of life as he now finds it, than did the same school a generation ago qualify this pupil's father for the simpler and less exacting demands of that period. I believe that, relatively at least, the modern school is inferior to the older.

I am also fully persuaded that this lack of due progress is not confined merely to country schools. In many villages and cities there has not been an advancement at all corresponding to the changed circumstances of our political, industrial, and social life.

By this want of progress and adaptation to the present condition of society, I account in great measure for the hostility to the State system that has more recently developed itself anew in many

intelligent quarters. Not a few thoughtful and candid men pronounce the system a failure. Indeed, the State school system probably never had so many able, persistent, and sincere enemies as at the present time. Witness the following extracts:

Says the Hon. Newton Bateman, in the last Biennial Illinois School Report:

It is not to be denied that the confidence of our people in that great American institution, the public school, is in danger of being disturbed; nor is this state of things peculiar to Illinois, but is substantially common to all the States and to the whole country. Doubts, questionings, murmurs of discontent, mingled with voices of direct opposition or appeals for reconstruction and improvement, are coming up from every quarter of the Union.

Said the New York *Tribune*, recently:

Much dissatisfaction is expressed in Massachusetts with the working of the common-school system in that State. This dissatisfaction finds vent in newspaper articles and public addresses. The results of the system now in use are said to be in no sense commensurate with the amount of money expended, and a reorganization is called for. The Rev. Dr. Peabody, Prof. Everett, and Frank W. Bird, are among the opponents of the present system.

A protestant minister, in a very able letter to the *Tribune*, says:

If there spring up thoroughness in such a system, it must be like a pearl in the mud of the East. And at the best there is a deadness in the level of learning, which only those who have shared in it can describe; a lessening of zeal; a slow fading of the old voluntary lights; a sinking of tone; a rising of cunning hope and a survival of position and even of influence under the system, when all thought of soul-sacrificing devotion and work has been chilled down and forgotten out of mind. This is not imaginary. Notice the echo already from one of our educational centers. The West Point Academy complains, through its board of visitors, (see report, 1875): "In the six New England States, where educational facilities are open to all, the rejections have been 35 per cent. of the number examined from that section."

It is clearly evident that in the schools of the country there is need of more thorough methods of instruction in the elementary branches. At the request of a member of the Board, Prof. Church, who is one of the most experienced teachers of the country, made the following memorandum: "From my experience in the examination of candidates for admission to the Military Academy, I am satisfied that there is somewhere a serious defect in the system of instruction, or in its application in the schools of our country for education in the elementary branches, particularly in arithmetic, reading, and spelling. I think our candidates are not as thoroughly prepared as they were twenty years ago."

I could cover many pages with like expressions of opinion which have recently fallen under my observation.

While it is thus evident that the school system is defective, it is

equally evident that, as a whole, it is too firmly entrenched in popular confidence and popular need to cause its friends any apprehension of its immediate or prospective overthrow. The system is founded on a conviction of its necessity. It is generally believed that the universal intelligence which is the axiomatic basis of a popular government like ours, can only be secured by a system of thickly and broadly scattered free schools. Experience and reflection both prove that private liberality and enterprise are inadequate to secure the great and necessary end. The State only is equal to it, as the State only is equal to the necessities of war, of executive and judicial administration, and of gigantic systems of public improvement.

The true friends of public education will be concerned only in devising means to remedy the defects that confessedly exist in the school system. I am disposed to consider here some of these defects, and to suggest what appear to me to be likely to prove adequate remedies. The defect that, in this State, as in most others, seems to comprehend nearly all minor ones, is the absence of any permanent, uniform, and competent guiding or supervising force at the head of, and permeating the State system. There is a lamentable want of an adequate

SYSTEM OF SUPERVISION.

It is self-evident that every important work, public or private, requiring a large expenditure of money and the continued labor of many men, directed to a common purpose, must be, if the largest and best results are to be secured, under wise, constant, and strict supervision. We see this truth frequently illustrated in the building and management of railways, the construction and working of canals, and the conducting of great manufacturing enterprises. Our postal system is an illustration, and the war and navy departments of the General Government are illustrations. Indeed, the general and State governments themselves, are still further proofs. In each of them are needed a chief intelligence and authority, and subordinate intelligences, and rules, and whatever goes to make up organization—the prerequisite to successful working and to desired results.

A post-office department, or an army, or a railway, or a cotton-factory, or a mining enterprise, without a chief authority and strict

subordination and responsibility, and enforced regulations, would prove a conspicuous and sudden failure.

Among the greatest and most important works undertaken by the State, is the education of its citizens. This work is great, whether we consider it in its results or in its cost.

In respect to its results, it is quite generally conceded that self-government is possible only with an intelligent people, and that an approximation to a safe degree of universal intelligence can only be secured by a system of public schools.

In respect to its cost, Wisconsin has already educational buildings and appliances worth between four and five millions of dollars, and she now expends annually for the support of her public schools over \$2,000,000. Here, then, are united a vast political and a vast pecuniary interest.

Looking at the matter from a practical, business point of view, I ask, "Do experience and common sense indicate that the system by which these vast interests are administered is as nearly wise and successful as human forethought can render it?"* I am satisfied they do not.

Let us briefly consider, first, some of the defects of the system, and, next, what reason would plainly appear to suggest as remedies for these defects.

DEFECTS IN SUPERVISION.

It requires no very extended observation and reflection to discover in the system three very serious faults, which I will denominate respectively: (1.) Lack of intelligence in supervision; (2.) Lack of permanence in supervision; and (3.) Lack of authority in supervision.

1. The folly of placing in command of a steamship a man destitute of the requisite intelligence, knowledge of the principles of navigation, acquaintance with such a ship, with ocean currents, dangerous shoals and shores, etc., is too plain to require comment. Hence it is very seldom that such a man is found in such a position. So the plainest economical considerations require and generally secure in the chief superintendent of a railroad, the qualifications plainly demanded by the post—thorough knowledge of the road, its grades, its bridges, its stations, the number, character, and location of its engines and cars, the nature and extent of its freight

and passenger traffic, an intimate acquaintance with systems of keeping accounts and records, and besides these things, many other peculiar acquirements of which time here forbids mention.

The man who can successfully command a steamship, superintend a railway, or a great mercantile or manufacturing establishment, or any important, extensive and intricate *private* interest like these, is a man eagerly and carefully sought for, liberally paid, largely endowed with authority, and retained in the position as long as he may desire to stay, and continues to give satisfaction. The owners of the steamship, or railway, or other private interest know that this is a wise—nay, generally an *indispensable* policy.

How, I wish here to ask, has the man whom they select for the supervision of this interest acquired his knowledge and skill? Almost invariably by slow, laborious, and successful experience in subordinate posts. His knowledge has been a growth, his skill the result of practice.

What I here assert and describe is true the world over, in all the departments of private business.

Going beyond private interests and into the domain of *public* service, in nearly all civilized countries outside of our own, and we find the same policy prevailing. The rules that there govern civil service are the rules that everywhere govern private service. There we find, in both alike, as prerequisites and steps to important positions, experience in subordinate ones, promotion earned, the higher place deserved by the qualifications possessed. There, the business manager of a mercantile house has been a clerk; but there, too, the minister who is sent abroad to represent the interests of his country has probably been an under secretary, and the city or district superintendent of education has almost certainly been a teacher in all grades.

We need not go to England, under a queen, nor to Germany, or Russia, or to France (a little time ago), under an emperor, for our illustrations. We find near at hand one as excellent as can be desired. Said the deputy superintendent of a Canadian province, in my own hearing, in reference to the educational system of which he was an officer:

The head of the executive department is a non-political and permanent officer. The Rev. Dr. Ryerson, who now fills that post so acceptably, has held it for thirty years. The legislature has thus far wisely held, that, after certain great principles

of the educational system had once been settled, it was sound national policy to entrust to some enlightened and responsible person, within certain restrictions, the important duty of perfecting and keeping in continuous and active operation the system of public instruction; but the success and efficiency of our system has never been subjected to periodical and incessant change; nor is its executive control systematically risked at the polls or ballot-box, where sound judgment and wise counsels do not *always* prevail, although the greatest care is taken to administer the system in accordance with the well-understood wishes of the people.

Again he said:

These officers (county superintendents) must have attained the foremost rank in the profession of teaching, and must hold certificates of the first class, and of the highest grade. None others can be appointed. They hold their office virtually during good behavior.

While thus in monarchies (forms of government we consider essentially less desirable and advanced than ours) common rules wisely govern alike both private and civil service; in our own republic the rules that so wisely govern one scarcely apply at all to the other. Here in civil service, experience, skill, competence, are subordinate to the interests of political parties. Here a man is seldom *promoted* after official experience, or *appointed* for peculiar fitness. He is "nominated" and "elected" through political influence or for party considerations, or for like reasons receives an appointment for which he is unqualified.

I hold that if there should be a wise and efficient civil service any where, it should be in the educational department of the government. Nowhere else are attainments, experience, skill, competence, so imperatively necessary. And yet our system does not as certainly and uniformly secure these qualities in teachers and superintendents as in town and county clerks, in supervisors, and justices of the peace, to say nothing of local judges. This system puts into office, frequently, men of no educational experience, entirely contrary to the common rules and usages of private business. It puts into office men morally and intellectually incapable of performing the very duties which the law requires at their hands. It puts into the office of county superintendent, men scarcely qualified to obtain a good third-grade certificate, and yet the law requires them to examine candidates for a first-grade. It puts in men of little experience as teachers, of no reputation as such, men of no conception of teaching as a science, and yet the law requires them to hold institutes for the instructing and inspiring of the

teachers who are to give knowledge and culture to the people's children. It puts in, as overseers and guides of a work that is paramount to all others, men who do not command the respect of either teachers or people by the possession of attainments, or culture, or refinement, or general ability, or sincere devotion to their work. It puts in men who seek the office for its pay and its honor, or as a stepping-stone to something else, and not men who are themselves sought for their fitness. It puts many such men into this sacredly important office every two years in various parts of the State, sometimes to succeed similar men, and sometimes to succeed better men. Is it a source of wonder that in some parts of the State a system like this should be in disrepute—that it should be said it is not worth the money it costs?

II. But I charge the system with another fault. While it puts in office incompetent men—men so hopelessly incompetent and unfit that nothing can be expected of them,—it to a large extent limits and dwarfs the work and influence of good men, of whom much might be expected. This brings me to my second point—lack of *permanence in supervision*.

A system by which superintendents are elected biennially, in general State elections, gives to the office so uncertain a tenure that it largely paralyzes the energies and frustrates the work of the most competent among them. A man who is not reasonably certain to remain in office more than two years, cannot feel the profound interest in his work which greater permanence would engender. He carries about with him ever the consciousness that he is performing temporary and accidental duties,—that he shall scarcely (if it be his first term,) become fully acquainted with the field of operations before a successor may relieve him of his casual task.

Moreover, as I stated in the annual report of last year:

The present elective system puts a premium upon the unfaithful performance of duty. When continuance in office is altogether dependent upon the popular will, or upon political influence, the strict and impartial performance of duty lies in a path beset with temptations. The influence of a political friend, the request of a district board, the solicitation from any source whose refusal will bring hostility and endanger the political interests that hang often on slender threads—if these things are always resisted, if they do not, consciously or unconsciously, influence action, superintendents must be indeed exempt from the common infirmities of human nature.

But if there were the most conscientious and faithful performance of duty during the longest period one incumbent ever remained

in the office, the work must necessarily be fragmentary. No steady progress is certain. The good work of one may be undone by the poor work of another.

The particular evil under consideration is aggravated by the scanty salary paid. This is, in scarcely any instance, sufficient to warrant a competent man in seeking or holding the office as a sole pursuit, and makes it, with the better class of superintendents, simply a temporary aid, a stepping-stone to something better, or an adjunct to some already established business or profession.

What I have said of local superintendents is equally applicable to the chief superintendent. He may or may not be the man best fitted for his position. He may or may not have had antecedent experience qualifying him for his peculiar work. He is selected by a convention which is largely governed by considerations of political expediency. His "geographical" position in the State is often quite as much considered, as his "educational" position in his profession. Moreover, neither does faithful service insure retention in, nor inefficient service dismissal from the work, well or ill done. He shares the fate of the "party" to which he belongs. The transcendently important interests temporarily intrusted to his care demand long and anxious study, demand the slow working-out of far-reaching plans, demand acquaintance with men upon whom he can rely for faithful aid, demand a knowledge of educational systems and measures of other States and countries; but all this goes for naught in the biennial scramble of parties for place.

Is it any wonder that public education lags behind the material progress of the country, and that enemies are rising up who say that the school-system should be destroyed?

III. I charge the system with a third fault—lack of *authority* in supervision. Authority is the very essence of all supervision, all government, yet the authority of both the State and county superintendents is confined almost entirely to mere inspecting, inquiring, and advising, with no power to correct flagrant wrongs, no power to remove or to correct the incorrigibly stupid, careless, or vicious subordinates beneath them. As a single illustration of this lack of responsibility on the one hand, and of authority on the other, I cite the almost worthless character of the statistics prepared by many school officers of all classes, from district clerks to superin-

tendents of counties, statistics I would be justified in saying are scarcely worth the paper upon which the State prints them.

One of the most competent and faithful of the county superintendents wrote me last fall, respecting the statistical reports annually sent to this department:

So far as my acquaintance goes, the reports get a fearful doctoring before they get to you. The town clerks begin, and the county superintendents put in their hand. Before they are done the figures are pretty well set up. Footings are arbitrarily increased or diminished, until a balance is forced *without the least regard to the facts*.

Abundant other testimony confirms the truth of this, while in the case of no small number of the reports of county superintendents themselves, a continuance of the process of "doctoring" by the clerks in my office, is essential to such harmony and completeness in results as the printed report demands.

I say here nothing of the constant violations of law by school officers in the manner of hiring teachers; nothing of the loss of money by illegal payments and carelessly-kept accounts; nothing of licenses improperly granted to applicants through the ignorance, carelessness, or favoritism of superintendents; nothing of inadequate and unhealthful school-rooms, nor of out-buildings almost as disgraceful and degrading in their presence as in their absence, —I say nothing of these and other perennial evidences of that lack of authority in supervision with which I regretfully but necessarily charge our present school-system.

RESULTS OF IMPROVED SUPERVISION.

The results of our unbusiness-like system of supervision, or, rather, lack of supervision, are, first and chiefly, poor teachers. With more intelligent, permanent, and authoritative supervision many who now receive certificates, would not be permitted to disgrace the teachers' profession. More thorough, uniform, and rational examinations would exclude the utterly incompetent; or, if occasionally not excluded in the beginning, prompt dismissal from the work would follow the discovery of unfitness.

Thoroughly independent and honest supervision would cut off with nepotism and favoritism, a potent cause of weakness in the common-schools. My experience leads me to think there must be few districts in which at times some member of the board has not

a relative or friend willing or anxious to serve as the instructor of the peoples' children. This sister-in-law, niece, cousin, or other relative, or friend, readily obtains the promise of the school. The superintendent may find her unqualified, or less qualified than others are who are available, but the united "request" of the district board, often secures the license, which it is not unfrequently both difficult and "impolitic" to refuse.

The extent to which teachers are thus employed and licensed has been a source of some surprise to me. That much injury is thereby wrought to the schools and to the State I have no doubt. Facts that have come to my knowledge directly from wronged districts, and indirectly through superintendents, abundantly prove this. Nor, on the whole, are these officers to be particularly censured for the part they have in the injustice. Some may be censurably careless or indulgent, but it is the system creating and governing them, rather than the agents themselves, which is at fault.

With proper supervision would come, surely and uniformly, wise and effective methods of instruction, rational courses of study, and reasonably adequate and proper school accommodations. With it would come uniformity of text-books, and less waste of energy in the hurried instruction of too many classes. With it would come more regular attendance, secured not by compulsion, but by greater attractiveness in the schools, and by systematic appeals to parents.

Again, with proper supervision—supervision intelligent, prompt, authoritative, business-like—would come a saving of money. Our present system is an extravagant and wasteful system. Results do not correspond with the money expended. The wages of many hundreds of uneducated, untrained, and incompetent teachers are too large. I know a district where a girl of sixteen, whose limited education cost next to nothing, receives \$35 per month for presiding over a disorganized, fruitless school. Such a teacher would be dear at half the price. I know a school where a young man received \$55 per month for giving such daily exhibitions of lack of judgment and self-control as wrought an injury to the pupils far outweighing any benefit they received from his imperfect instruction in text-book knowledge. Nor are these isolated instances. They are to be found, more or less aggravated, in almost every township of the State. Thus money is virtually lost. The bur-

den of heavy taxation is borne in vain. Results are obtained no way commensurate with the vast outlay throughout the State.

I need not speak of the lesser, but yet great waste of money resulting from imperfect care of school property. The annual cost for repairs to school-houses, out-buildings, and fences; the cost of unnecessary injury to maps, globes, dictionaries, &c., are large items of expense which would be materially diminished by the closer and more authoritative supervision for which I plead.

The heavy taxes for school purposes have generally been cheerfully paid by property-owners, under the impression that the money was wisely expended. It was argued that public schools are the safeguard of the State, that they diminish crime, and insure the honest and intelligent administration of government. Thoughtful men, as I have intimated, are beginning to question this result. Facts show that crime is *not* relatively diminished, that the administration of public affairs is *not* becoming more honest and intelligent. The reverse, rather, is found to be the case; and where has been the fullest confidence, doubts and questions are beginning to arise.

These doubts are legitimate. They will multiply and prove a source of serious opposition to the free-school system, unless the defects in that system are soon removed. This is my conviction after a careful study of facts as they exist here and in other States. There must be a re-organization of the whole scheme of State management, if results commensurate with the outlay are to be realized, and if continued harmony in the support of public education is desired.

I outline the following scheme of such a State school system as will, in my judgment, meet the necessities of our condition, insuring that proper division of labor and that requisite supervision, which a great business enterprise, such as the State has undertaken in the management of education, demands :

(1.) A State Board of Education, to comprise the elements of permanence and high character possessed by our present university and normal school boards.

(2.) A State Superintendent to be elected by this board of education, to hold office during the pleasure of the board, and to serve as secretary of the same.

(3.) County superintendents to be appointed by the State board,

to hold office during the pleasure of the same, for a term not exceeding four years, to be paid by the State such a reasonable salary as would secure the services of good men, and to be eligible to appointment without regard to geographical residence. The larger counties should be divided into two superintendent districts each.

(4.) Townships to be the smallest unit of territory in school government, the schools of the same to be under the general management of a township board, and under the immediate supervision of a township superintendent, who shall be appointed by the township board, and shall act under the general direction of the county superintendent.

(5.) In each township, so far as practicable, there shall be a central high or grammar school, made obligatory by law. In this school, and in the primary schools of the township, there shall be well-defined courses of study, absolute uniformity of text-books, and uniformity in methods of instruction and discipline.

(6.) For all important work done by town officers reasonable compensation, to be fixed by law, should be paid, and strict accountability required for the faithful performance of every duty.

(7.) To make the schools as nearly uniform in character as possible, and to carry out to a judicious extent the principle that "the property of the State shall educate the children of the State," there shall be a uniform State tax for the support of schools, aggregating annually with the income of the school-fund, enough to meet about one-half the cost of the schools.

(8.) Money distributed by the State shall be distributed to a certain extent, on the principle of "payment by results." Thus local effort would be stimulated, irregular attendance checked, scholarship promoted, &c.

(9.) Uniform examinations throughout the State for teachers of the same grade should be *the rule*, with such exceptions only as local or temporary circumstances might render necessary. Thus a certificate granted in one county would be as valid in any other.

(10.) A system of township-libraries, the joint creation, like the schools, of State and local action, the books to be selected from lists approved by the State, and to be purchased by the State on low terms, by contracts with publishers.

The above are the outlines of what I believe to be a comprehen-

sive, practical, and efficient State system of common schools. Such a system would be wholly removed from politics. It would attract and keep in its service good, competent men and women as teachers and superintendents. It would, to a much greater extent than now, keep out the incompetent. There would be uniformity and stability in such a system.

Moreover, it would be actually a cheaper system than the present one. I doubt if it would cost more money, while in the enlarged results from the money judiciously expended there would be great saving and gain to the State.

This system is not an ideal one—made up of “fine-spun theories”—but a practical, business-like, sensible system, in successful operation in some other States and countries. A like system has accomplished noble results in Prussia and Holland. A like system has made the Province of Ontario, Canada, a model for the study of educational men. A like system has, within ten years, brought the State of New Jersey from the rear to the front educational rank.

Something thus systematic, strong, permanent, non-political, effective, Wisconsin and other American States must have before our system of free schools shall have passed wholly from the domain of experiment, and become the approved and unquestioned guaranty of virtuous citizenship we have fondly supposed it.

TOWNSHIP HIGH SCHOOLS.

Having long been persuaded of the superior advantages inherent in the township system of school organization, I recommended in my first report, as steps towards the ultimate adoption of that system generally throughout the State, two distinct measures of legislation: (1.) A law to encourage the voluntary creation of town high-schools; and, (2.) A law to provide for uniformity of textbooks in towns, and to authorize the purchase and ownership of books by the same. It appeared to me that if a number of towns could be induced to take voluntary action in these directions, not only would great gain result to these towns, but the question of the adoption of the complete system of organization by these and others would be only a question of time. The last legislature gave

full endorsement to the former recommendation by the passage of the high-school law. To its partial endorsement of the latter I have elsewhere referred.

As soon as other duties, and a full previous consideration of the task would allow, I prepared a circular setting forth the purpose and character of the high-school law, with such comments upon its provisions as would render them easily intelligible, and with what appeared to be judicious courses of instruction for the schools contemplated.

As this circular was not ready for distribution until August, and as the law was not generally known and understood throughout the State previously, no schools could be in operation under its provisions until September, or later. Hence it is impossible to embrace in the present report any statistics of the number, character, work, and cost of these schools. Full information respecting them will be given in my next report.

I am enabled to say, however, that the law has met with very general favor, and that there is reason to believe it will, in due time, accomplish all that its projectors and friends have anticipated. I herewith present the circular, above referred to, and follow it with brief reports from the county superintendents respecting its popularity, and its applicability to the needs of their respective localities.

HIGH-SCHOOL CIRCULAR.

OFFICE OF SUPT. OF PUBLIC INSTRUCTION,

MADISON, August 8, 1875.

To school officers and the friends of education in Wisconsin:

Dr. Ryerson, for thirty years past the distinguished and successful chief superintendent of public instruction of the province of Ontario, Canada, recently said, in substance, of the American public school-system, that in the cities and larger villages it gives admirable results, the schools there being among the best in the world; but that in giving nothing better to rural neighborhoods than the present ungraded district schools it is there deserving of no praise. The results there accomplished, he asserts, are "far below and short of the State appropriations made and the machinery employed for the sound education of the people." Yet he maintains that the rural parts of the State are "the peculiar field of a national school-law and system."

Hon. Newton Bateman, of Illinois, says in his last biennial report: "Leaving out of view the many exceptional cases, it may be broadly affirmed that the educational facilities afforded in the cities and towns, as a whole, are so superior to those afforded in the country districts, as a whole, as to make it easier to contrast than to compare them."

An intelligent writer, in a recent number of the *Illinois Schoolmaster*, says: "It is a sad comment on the intelligence of the age that the status of the district schools of to-day is but little better than that of twenty years ago."

When some eighteen months ago the writer of this had just been elected to the office he holds, a legal friend incidentally, but with some earnestness, said to him: "I hope you will turn your chief attention to the school-house at the cross-roads."

The poor character and the scanty amount of the instruction in "the school-house at the cross-roads," have long been known and deplored by intelligent American educators. The short-comings of that school, scarcely less forcibly indicated by the suggestive advice of the lawyer, who was in no sense an educational man, than by the direct testimony of some of the most experienced and wisest of educational men, are a source of constant concern to those entrusted with school supervision.

Nay, the State itself acknowledges the failure, and seeks by various means a remedy. It provides costly Normal Schools, and numerous institutes for the better qualification of teachers. It establishes a system of examinations and licenses by which it is supposed the incompetent will be debarred from a work they are unqualified to perform. These things it does chiefly in the interest of country schools. Cities and towns will generally afford good educational facilities without the aid of the supervising machinery of the State.

The chief defects of the country schools are the following:

1. The teachers are unqualified. They are generally youthful, of very slender intellectual attainments, inexperienced, and untrained.
2. The schools are ungraded. There are consequently so many studies and classes that even the most accomplished teachers would labor under serious disadvantages from want of time.
3. The course of instruction is so limited that it is not sufficient for the desires and needs of very many of the brighter and more advanced pupils.

It is not a reproach to the teachers of country schools that they

are young and unqualified. The schools do not offer them inducements to more than temporary, casual, and inefficient work.

It is not wholly a reproach to the country districts that inducements to higher qualifications are not offered by the schools. Country districts generally have a scanty population and limited means for providing good educational facilities.

It is chiefly a reproach to the *State system* that it has taken no means to remove the surprising inequality of educational privileges enjoyed by those in different localities, and especially by the many in the country, and the few in cities and towns.

Not merely in strictly rural districts, but in many villages—even those which may number their inhabitants by the thousand—the schools fall below a reasonable standard in both the character and extent of the instruction they afford. Even here the teachers are poorly paid, are often inefficient, and are perpetually changing. The course of instruction is so limited that it does not meet the demands of all the pupils. Many of these must go from home to obtain not only the preparation that shall fit them for college, but even that which shall fairly qualify them for certain business avocations.

The causes of these deficiencies are to be found partly in a public sentiment that fails to appreciate and demand higher educational facilities, and deems the cost of them too burdensome, and partly in the inexperience of school-boards which are perpetually changing their membership and have no just conception of either their duty or their responsibility. The chief cause here, however, is also in the want of any well organized *system* by which the activities of these schools can be in common directed and sustained. Local independence is carried to an unwise extreme. The State affords but a very small fractional part of their support, and has almost nothing to say in regard to their courses of study, the qualifications of their teachers, their relations to other schools, and their general management.

Nominally we have a State system of public instruction, but practically this system is a great aggregation of nearly independent local schools, bound together by the gossamer threads of an annual "report" and an annual distribution of a pittance of a few cents to each school child. In the matter of an efficient system, securing the best results from the money expended, several other countries

are in advance of us, not only in respect to the schools of rural neighborhoods, but also the uniformly good character of those in towns and villages.

Again, the defective character of our State system is seen in the absence of a sufficient number of schools preparatory to the State University. The latter has been established at the head of our system for the benefit of the entire State; but the creation and maintenance of local means of preparation for the university have been left to chance. The State has prescribed no preparatory courses of study, and has offered no material aid for the support of such courses. The consequence is that in but very few of the public schools can full preparation for the Freshman classes of the university be had, and the latter is still obliged to do a large amount of preparatory work which is below its legitimate sphere of performance. The graded or high schools of most cities and larger villages have courses which if slightly increased would give the desired preparation; but to accomplish this increase, it is asserted, would add to the already heavy burden of cost for the benefit of only a very small number of pupils. Hence, these schools are usually graded without reference to anything above them, and the few bright and ambitious youth who desire university culture must seek elsewhere, at an age when they most need home influences, the full preparation which should be more safely and inexpensively afforded them at home.

To recapitulate, the defects in the educational system are: *first*, and *chiefly*, in the country district schools, where we find the teachers young and inefficient, the subjects of instruction and the classes instructed too numerous, and the absence of the incentives that local schools of higher grade afford; *second*, in the schools of many villages and cities, where we too frequently find poor instruction in the higher studies, and generally find the course of these studies too limited; and *third*, in the consequent isolation of the State University from the system of schools beneath it.

The most experienced and thoughtful educational men of the State hold that a remedy for these defects is to be found in a systematic encouragement and guidance of secondary (academic or high-school) instruction.

Let the State make a special appropriation, as is wisely done in some others, for the benefit of high schools, and let these be mul-

tiplied and rendered more efficient throughout the whole commonwealth. Let their relations to the existing country district schools be such as to relieve, encourage, and strengthen them; and let their relations to the university, on the other hand, be such as to enable it to properly perform its own legitimate, large, and beneficent work in the field of higher culture.

These were the ideas of the framers and supporters of the free high-school law of last winter, a law which, it is hoped, will materially tend to unify and strengthen all the educational forces of the State. To explain the origin, purpose, and character of this law, and to commend it to the intelligent interest of the people of Wisconsin, for whose benefit it was enacted by their chosen representatives, is the chief purpose of this circular.

A perusal of the law herewith given, with such comments as will be likely to render its provisions easily intelligible, will show that its leading purpose is to encourage the establishment of *township high schools*, and thus to afford to rural neighborhoods the benefit of the higher educational facilities usually found only in cities and some large villages. It is the hope of the friends of this law that very many of the rural townships of the State will avail themselves of the advantages it offers. Some have already intelligently taken steps to do so, and many others are considering and discussing the propriety of similar action. In order to make clear the wisdom of the township school, its relation to the existing district schools and its influence upon the latter, no more excellent illustration can be found than is embodied in the graphic words of Hon. Newton Bateman, in the last Illinois school-report, to which earnest attention is invited:

AN ILLUSTRATION.

To place in a clear light the indirect influence referred to, in at least one of its manifestations, we will take a familiar case. Here is a rural township divided into six districts, (the average number,) and in each district there is and for years has been one ordinary common school. No one of these six schools is particularly different from or better than the others. In each there is the usual diversity of ages, attainments, and conditions; the usual books and studies, and the multiplication of classes incident to the necessities of the case. For the law admits all the youth in each district between the ages of six and twenty-one years, and during part of the year, at least, nearly all are in attendance. Little fellows who have just touched the line of eligibility, are there, for the first time, with their primers and spelling-books, intent upon mastering the mysteries of the alphabet. There, too, are young men and

misses, for the last time, having traversed again and again the most advanced ground of the scanty curriculum, yet hoping to gather up some additional crumbs of knowledge before saying good-bye to school. Between those extremes are all the gradations of age, aptitude, and attainment—the dull and the bright, the fast and the slow, the gentle and the rough, the strong and the weak—all to be instructed and cared for in innumerable ways, by the one teacher. He does the best he can. If he can find four or five near enough together in knowledge and capacity to be formed into a class in any one of the branches taught, he is glad to do it. And so of still smaller numbers, down to even two. But after exhausting all possibilities in this direction, he finds that the remaining number of individual *ones*, exceeds the whole number of his classes. To each of these individual pupils he must give such occasional and hurried assistance as he can. He works hard, but at a fearful disadvantage. Systematic teaching is out of the question—concentration of effort is impossible. He has but single minutes where he should have five, ten, or fifteen—but seconds often, where he should have minutes. Instead of that smooth, quiet, and sequential movement of school-life and work which, reacting, produces mental tranquility and steadiness in the pupils, there is confusion, hurry, disorder, friction. No fixed time-table or schedule of school exercises is possible—no pupil knows just when he will be called upon to recite, or when he can have needful assistance. The order of work is never the same for two consecutive days unless by chance—cannot be. Individual pupils often go, in emergencies, a whole day or more without being able to secure a moment's attention from the teacher, and in the mean time they may be at a standstill for lack of light upon some obscure point in the lesson, or a hint of the way out of some tangle, or over some obstacle. And when the favorable moment for explanation comes, the teacher may be called away just at the critical point where a few words more would make everything clear. Discontent, listlessness, loss of interest, indifference, inevitably ensue. The tone of the school is lowered; a sort of weary spiritlessness settles down upon it; duties are performed in a careless, mechanical way, and the hours drag heavily on. There is *nothing beyond*, no other school to go to, no outside incentive to effort, no fresh breeze from any quarter to stir the surface of the sluggish waters. In each of the six schools the state of affairs is substantially the same.

Now let a good township high school, with fresh and advanced studies, superior teachers, improved methods, regular classes, progressive steps, and thorough systematic instruction, be opened in that township, and what a transformation would be wrought in those sluggish schools. What an awaking and quickening breath would reanimate those tired and torpid boys and girls. There is something to work for now; an objective point to be gained; a prize to be reached. The high school becomes a topic of absorbing interest to all who expect to continue their studies, and their enthusiasm is communicated to all the rest. The new school, its teachers, classes, discipline, and internal arrangements are eagerly discussed, morning, noon, and evening, and especially the conditions of admission and the chances of success. Those who are to go to the high school begin at once, with zest and spirit, the work of preparation for the examinations that will crown or disappoint their hopes. Early and late they are at their books, which are suddenly invested with a new interest and importance. As the decisive day approaches, knots of boys and beavies of girls gath-

er in all sorts of out-of-the-way places, to review the subjects on which they are to be examined—each in turn questioning the others thereon. Those six district schools, lately so dull, glow with healthful excitement, and become very bee-hives of industry. Those who pass to the high school add to the interest already awakened, by their stirring accounts of their new duties and experiences. Meeting daily with the pupils of the lower schools, they answer innumerable questions, and seek to satisfy the tireless curiosity of their less fortunate companions. Strong bonds of friendship are thus established between the schools, and good feeling prevails on every hand. Such as failed at the first examination try again, and many who had expected their days of pupillage to end with the common school, are induced by the contagion of example to reconsider their purpose, and press on towards the high school. Thus is the whole aspect of school affairs in the township changed for the better. The children are wide awake, the parents become interested, everybody catches more or less of the new inspiration,—and yet this is but the indirect influence of one township high-school.

Such are the advantages of a high school supplementing the district schools of a township. The establishment of such a school under the present law is neither difficult nor expensive. With one-half the cost of instruction paid by the State, the expense to many towns where the school is most needed will be slight, and in some cases probably nothing. It is not necessary to immediately erect a building. In nearly every town a building, or at least a room, already exists which can be temporarily utilized for the school—a vacant hall, the basement of a church, an unused room in a school-building, or the like. Nearly every dollar expended can be and should be devoted to competent instruction.

If the cost of maintaining the school throughout the year is too great for a poor township, let it be continued one or two terms in the year. A single yearly term held in the winter will in many localities meet a pressing need and furnish great benefit to the older pupils whose circumstances permit attendance at no other time, and for whom the district schools afford neither attraction nor profit.

The location of the school will in most cases naturally be at the chief place of business resort in the town. If there is a village with anything like a central location, it will be there. If there are two villages, the terms of the high school might be held alternately in each. If a village is located near the boundary-line between two towns, both the latter might profitably unite in establishing and supporting the school.

It would be decidedly for the common advantage to have the high schools maintained by townships rather than by districts, and

a vigorous effort should always first be made to secure the desired action of the people through the town organization. The object, character, and scope of the law should be clearly and fairly explained to them. The benefit to the common schools in the better qualified teachers, fewer classes, and the incentive to the ambition of pupils; the general value of higher intelligence; the enhanced price of real estate as the result of good educational facilities—all these things should be and can be made intelligible to the voters of the town by personal explanations to individuals, by a public address to a meeting called for the purpose, by appeals through the press, and by other means at the disposal of the intelligent friends of education and progress.

Perhaps the most effective argument with some would be the simple arithmetical proof that a town might enjoy the benefits of a high school under the law, actually without cost, or even with a pecuniary gain. Without injuring the district schools of the town, but, on the contrary, to their decided profit, female teachers might be employed in them the year through, instead of for the summer only. The slight tax for the support of the high school might thus be saved, or possibly more than saved to particular districts, by the diminished cost of winter schools.

Or, again, in some towns the district schools might profitably confine their sessions to two short spring and fall terms for the benefit of the younger pupils, leaving the educational energies of the town to center entirely in the high school during the winter months. This course is suggested by one of the most experienced and successful normal-school men of the State.

But when a town is opposed to and refuses to vote the establishment of a high school, then it may be for the interest of a village district therein to organize the same unaided. The law allows the single district to do so, and to the school established by it properly qualified pupils from other parts of the town may be admitted on payment of tuition.

In cities and incorporated villages existing "graded" or "high schools" may be reorganized, under the law, into free high schools and share in the bounty of the State, by complying with the proper conditions.

It should be understood in all cases that the design of the law is not to grant gratuitous aid to any school, whether in a town, vil-

lage, or city. Something must be returned as an equivalent. There must either be a new creation of a school not before in existence, or a reorganization and improvement after a common plan. There may be a few exceptions to this in the case of schools already performing well the work designated and called for by the new law, but State bounty to these is simply giving them what they have already earned and deserved. The great majority of the schools must be new creations, or reorganizations with improvements. It is expected that the local authorities will in all cases employ the State bounty either to create anew or to improve what already exists, if not already up to the proper standard. The State bounty is not designed to take the place of the district, village, town, or city appropriation, but simply to supplement the latter for the purposes of improvement. If a district, village, or town obtains three or five hundred dollars from the State, it is expected that every dollar thereof will be devoted to more efficient or more extended instruction.

In respect to the authority delegated to him by section 9, the State Superintendent would say that the selection of the *text-books* to be used can safely be left to the discretion of the boards. In general, however, he advises that the books adopted should be such as would most readily supplement and be in harmony with those used in the majority of the schools from which the pupils of the free high school come.

THE STANDARD OF ADMISSION

to the high school is a matter of much importance. As the schools to be organized or reorganized under this law will vary greatly in character, according to the circumstances of location, the standard of admission must, in general, be determined by the local authorities; but in order to clearly mark the line of division between the free high schools and those of lower grade, the State Superintendent has, after conferring with several experienced educators, decided upon the following *minimum* standard of admission. Any local board can establish a higher standard, but no certificate will be issued in favor of any school to which pupils have been admitted without passing a thorough and satisfactory examination in these branches, viz.:

Reading.—Through the Fourth Reader, so called.

Spelling.—The ordinary words of the same.

Writing.—A fair, legible hand.

Arithmetic.—Fundamental rules, common and decimal fractions.

Geography.—Through United States.

English Grammar.—To syntax; Greene's Introduction or its equivalent.

Not less than ten test-questions in each branch should be given, and correct answers to at least seventy-five per cent. of these should be required. The examinations with these should be in writing, and the papers should be preserved at least one year, and be subject to the order of the State Superintendent.

THE COURSES OF INSTRUCTION.

As the law also gives to him authority of "advice and consent" respecting the courses of study in the high schools, and as the harmonious and efficient working of these schools as an important part of the State system will depend largely upon judicious and uniform courses of study, the State Superintendent has decided to present to the high-school boards three full courses which will meet the approval of the authority confided to him by the law. Two of these courses, designed for the high schools of towns, &c., having a population of six thousand and more, are four years in length; the third, comprising three years, is designed for the schools of districts with a population less than six thousand.

These courses will be found, it is believed, sufficiently comprehensive and flexible to meet the needs of all pupils, as well those whose school-life ends with or in them, as those who seek in the school preparation for the higher disciplinary or technical studies of the university. It will be observed that the facilities for full classical preparation are obligatory only in districts with a population of six thousand and upwards; but it is hoped the schools of smaller districts will, so far as possible, give like advantages to all who seek them.

It is indispensably necessary that the schools organized and seeking State aid under this law *shall be prepared to offer*, to all legally qualified pupils, the courses substantially as here given. This necessarily involves certain qualifications on the part of the teachers. These must be qualified to give instruction in all the branches of the prescribed course; and an inspection of the courses will

show that every high-school teacher should be the holder of at least a first-grade county certificate, and in cities, not under a county superintendent, they should of course hold a certificate of a grade equivalent to this. The possession of this, or of a State certificate, or a countersigned diploma from one of the State Normal Schools will qualify the high-school teachers, and so far warrant the State Superintendent in granting certificates entitling schools to State aid. As the success of any school is so largely dependent upon the character and attainments of the teacher, too great care cannot be taken by the boards to secure thoroughly competent instruction, and too great care cannot be exercised by the State to see that the aid it bestows is fairly and fully earned.

A course of three years for towns with less than six thousand inhabitants.

FIRST YEAR.

FIRST TERM.	SECOND TERM.	THIRD TERM.
Arithmetic.	Higher Arithmetic.	Higher Arithmetic.
Grammar.	English Grammar and Sentential Analysis.	{Sentential Analysis.
Geography.	Physical Geography.	Physical Geography.

SECOND YEAR.

FIRST TERM.	SECOND TERM.	THIRD TERM.
Elementary Algebra.	Elementary Algebra.	Elementary Algebra.
Physiology.	Physiology.	Natural Philosophy.
History of the United States.	History of the United States.	German, or Book-keeping.

THIRD YEAR.

FIRST TERM.	SECOND TERM.	THIRD TERM.
Plane Geometry.	Plane Geometry.	Solid Geometry.
Natural Philosophy.	Botany.	Botany.
German, or Science of Civil Government.	German, or Rhetoric.	German, or Mental Science.

Exercises in spelling and reading and composition throughout the course.

A course of four years for towns with more than six thousand inhabitants.

FIRST YEAR.

FIRST TERM.		SECOND TERM.		THIRD TERM.	
ENGLISH COURSE.	CLASSICAL COURSE.	ENGLISH COURSE.	CLASSICAL COURSE.	ENGLISH COURSE.	CLASSICAL COURSE.
Arithmetic.	Arithmetic.	Arithmetic.	Arithmetic.	Arithmetic.	Arithmetic.
English Grammar.	English Grammar.	English Grammar and Sentential Analysis.	Latin.	Sentential Analysis.	Latin.
Descriptive Geography.	Descriptive Geography.	Physical Geography.	Physical Geography.	Physical Geography.	Physical Geography.

SECOND YEAR.

Elementary Algebra.	Elementary Algebra.	Elementary Algebra.	Elementary Algebra.	Elementary Algebra.	Elementary Algebra.
Physiology.	Latin.	Physiology.	Latin.	Natural Philosophy.	Latin.
History of the United States.	History of the United States.	History of the United States.	History of the United States.	History of England, or German.	Greek.

THIRD YEAR.

Plane Geometry.	Plane Geometry.	Plane Geometry.	Plane Geometry.	Solid Geometry.	Latin.
Natural Philosophy.	Latin.	Science of Government.	Latin.	Botany.	Botany.
History of England, or German.	Greek.	Book-keeping or German.	Greek.	German, or Rhetoric.	Greek.

FOURTH YEAR.

Higher Algebra.	Latin.	Higher Algebra.	Latin.	Moral Science.	Latin.
Botany.	Botany.	Ancient History, or Zoology.	Ancient History.	Ancient History, or Geology.	Ancient History.
Rhetoric and English Literature.	Greek.	Mental Science.	Greek.	Political Economy.	Greek.

NOTE.—The student could leave the English course at the end of the third year, and enter the University College of Arts, taking German; or he could omit German, take English studies exclusively, and graduate at the high school with a four years' course; or take the classical course, and enter the university at the close of the fourth year. Exercises in spelling, reading, and composition throughout the course.

The favor with which the high-school law has been generally received throughout the State fully meets the expectations of its friends, and is an augury of its enduring popularity and usefulness. The following letters are given as samples of many which have come to the department, and which fairly prove the wide interest with which the enactment has been received. The letter from Senator Read is especially valuable as showing how easily the township can realize the chief intent of the law, and as illustrating the fact that good facilities for education are sought by none more eagerly than by the intelligent foreign element of our population, and especially by the Germans. The superintendent takes pleasure in saying that not only in the legislature which enacted the law, but throughout the State, in the audiences he had previously addressed, the Germans were among the most appreciative and ardent supporters of the high-school plan. This appears but natural when we consider that Germany is universally acknowledged to be the world's educational center.

OSHKOSH, WIS., May 9, 1875.

DEAR SIR:—I learn of proposed high schools in several villages in this region, stimulated by the law of last winter. I believe it will dot the State thickly with *nuclei* of culture, which will give "common-school" study a zest and aim which does not to-day exist. It has seemed to me that this dearth of higher educational facilities in the rural districts of the entire west is leading to a distaste for life upon a farm. We everywhere see men renting or selling their homes to move into cities where they can "educate their children." Something is wrong in our "system" when such an alternative is forced upon a parent—ignorance or a breaking of home ties or influences. For these reasons I look with hope for a widely beneficent influence to come from this encouragement of the State to every locality.

Sincerely, yours,

EDWARD SEARING,
Supt. Public Instruction.

G. S. ALBEE.

KEWAUNEE, WIS., June 5.

MY DEAR SIR:—It gives me pleasure to be able to inform you that at a special town meeting held in the town of Kewaunee on Friday last for the purpose of considering and determining the question of organizing the town into a free high-school district and establishing a free high school therein, under the provisions of the law of last winter, the proposition was carried without a dissenting vote. The attendance was quite large, and the feeling developed was entirely favorable to the measure. At a special district meeting held in this village, for the purpose, the evening previous, the use of one of the rooms in the village school building was unanimously ten-

dered to the town, furnished and rent-free, for high-school purposes, for a period of three years. We have an excellent school building for a village of this size, which was completed last year at a cost of \$5,000. It contains four commodious rooms, three of which are in use by the district. It is proposed to furnish and equip the fourth room, at the expense of the district, for town high-school purposes. We hope to have the high school in operation by September.

Very truly, yours,

JNO. M. READ.

HON. EDWARD SEARING,

Supt. Public Instruction.

SUPERINTENDENTS' REPORTS ON THE HIGH-SCHOOL LAW.

In November I sent, in a circular to each county and city superintendent, the following interrogation and requests. The answers elicited are given below:

"Have any free high schools been established in your county, under the law of last winter? If so, please give their number and location. If not, mention localities in which, in your judgment, such schools might be profitably established. Also, give the estimation in which the law in general is held by intelligent persons in your county, including, also, your own opinion."

SUPT. FLANAGAN, *Outagamie Co.*—None have been established in this county as yet. These schools could be organized with profit in nearly every town in the county. The law supplies a want that has been long felt, but is not generally understood by the public.

SUPT. MORGAN, *Green Co.*—None established yet. Brodhead, Juda, and Monticello are places where such schools may be profitably established. Some for and some against it. Those against it think it is taxing one location to benefit another.

SUPT. HIGBEE, *Adams Co.*—None yet established. I think that one ought to be established on or near the line between New Haven and Dell Prairie, one near Easton, and one at or near Strong's Prairie. The law has been well received by intelligent men.

SUPT. MORRISON, *Portage Co.*—We have not established any free high schools yet. We could, by proper management, establish them in the towns of Almond, Amherst, Belmont, or Lanark, Buena Vista, Stockton, New Hope, and Plover. So far as I have talked with the people the law is well received. My opinion is that it is one of the best of moves in the right direction. We have long felt the need of a higher grade of education than could be obtained in our district schools, and properly managed, I see a bright prospect for the free high school.

SUPT. WATKINS, *Iowa Co.*—One in Mineral Point. Such schools might be established with advantage at Dodgeville and Highland. The people of the county have not yet sufficient knowledge of the law to hold any opinion in regard to it.

SUPT. GUERNSEY, *Grant Co.*—Two free high schools have been established in this

county, one at Lancaster and one at Boscobel. The law seems to be held in general favor. We hope to organize under it at Platteville; and Mount Hope, Patch Grove, Hazel Green, and Muscoda are talking about it.

SUPT. PRIESTLY, *City of Mineral Point*.—Our high school was re-organized under the law of last winter, at the commencement of the school year in September, 1875. The citizens regard this law as a step towards the completion of our public school system throughout the State. We need in our higher education assistance from the State, and in my opinion nothing could help us more in our high-school work than the influence and aid this law has given us.

SUPT. FRAWLEY, *Dane Co.*—No schools yet established. I am of the opinion that such schools might be profitably established at Mazomanie, Black Earth, Middleton, Oregon, and Paoli. I have made careful inquiries concerning the law. Intelligent persons have expressed their entire approval of it, and consider it a great boon to our public schools. I deem the law an "essential" in our school system.

SUPT. BIRD, *Barron Co.*—No schools yet established. Such might be profitably established at Shetek, or Rice Lake. I think the establishment of such schools would be highly conducive to the best educational interests of the county. I have never heard any objections offered against the law.

SUPT. KELLY, *Fond du Lac Co.*—None established in my district of this county. I know of but one place where such a school might be established advantageously at present, the village of New Castle, town of Auburn. Those persons most interested in the cause of education deem it a wise and useful law. My opinion is that time only is required to make it a measure which all parts of the State will deem beneficial.

SUPT. MORGAN, *Winnebago Co.*—No schools yet established, but the subject is being agitated in Omro, and a vote will soon be taken. In my judgment Omro and Winneconne, are more favorably located for the establishment of such schools, than any other point in the county.

SUPT. FOLEY, *Milwaukee Co.*—No high schools yet established in this district. A good place for one is in the village of Wauwatosa. The law meets with favor from intelligent classes, and has my hearty support.

SUPT. TRIPP, *City of Racine*.—So far as I know, intelligent men heartily approve the law of last winter. My own impression is that the law will give an impetus to popular education that could have been attained in no other way; that the measure is one that will at once make the public school system more perfect, and place higher education within reach of many who are now unable to leave home to attend high schools in our larger towns and cities. I think, however, it will need pushing or the advantage will not be improved.

SUPT. MOULTON, *City of Neenah*.—None yet established. I think no better points could be selected than Neenah and Menasha. The law has not been brought to the attention of the people, and is not generally understood; but will, in my judgment, ultimately prove to be a success.

SUPT. GREENE, *Marathon Co.*—None established in this county. I have not heard any opinion given on the subject. My own opinion is that the free high school is a valuable institution.

SUPT. FINN, *Lincoln Co.*—Cannot mention localities, as this county is not yet divided into towns. They all approve it, and I do also.

SUPT. OLDER, *Marquette Co.*—No free high schools have yet been established, although Oxford, Briggsville, Packwaukee, Westfield, Montello, and Neshkoro are well prepared to establish such schools, being all villages, and having buildings which might be made available; while I doubt not many of the towns which have no villages, might, with proper effort, establish these schools. The law is held in high estimation by most of our citizens, and much talk has been indulged in, but as yet nothing has been done. In my opinion nothing would accomplish more good in this county, and my best efforts will be used to introduce these schools.

SUPT. MCCLOUD, (Bayfield) *Douglas Co.*—The time has not yet come to establish a high school here. I think the law a good one, and would make a move for a school as soon as it is needed.

SUPT. FLAVIN, *Dodge Co., First District.*—A few attempts to establish the schools have failed, except in Beaver Dam. Opposition has usually come from persons living at a distance from the place of the contemplated school. The people need, perhaps, further enlightenment upon the subject. Shall agitate the matter extensively this winter. It seems to me the law is intended to provide for a want keenly felt in some localities.

SUPT. WAGGONER, *Richland Co.*—One has been established in District No. 3, Buena Vista, Lone Rock village. The schools can be established to advantage in Richland Center, Sextonville, Woodstock, and Excelsior. Intelligent persons regard the law as of most advantage to the old-settled and wealthy portions of the State, but are in favor of adopting it to get whatever advantage there is in it. In my opinion the law is good as far as it goes.

SUPT. WYMAN, *Vernon Co.*—No high school yet established. The question has been quite fully discussed by the people of this village (Viroqua,) and we think measures will be taken to organize under that act next year. Those who are acquainted with the law express themselves very favorably towards it. I am satisfied it will meet the needs of this county when they are established. Hillsboro, Ontario, and DeSoto would be good points for the schools.

SUPT. LEETE, *La Crosse Co.*—One free high-school has been established in this county at West Salem.

SUPT. JANSSEN, *Ozaukee Co.*—Places where they might profitably be established are Thienville, Cedarburg, Port Washington, and Waubeka.

SUPT. LUNN, *Sauk Co.*—None have been established in this county. The law is but imperfectly understood. I regard such schools with favor, as tending to place the opportunities of a fair higher education within the reach of thousands hitherto debarred from the same.

SUPT. SCOTT, *Columbia Co.*—None yet organized. At Lodi, Poynette, Cambria, Kilbourn City, and Rio, they could be profitably established. The better posted class think it a good thing. My opinion is, that it is a grand thing, only at first the standard of admission should not be too high.

SUPT. DELANEY, *Dodge Co., Second District.*—No town high schools have been established under the law of last winter. Schools might be established with undoubted profit and success in Mayville, Theresa, Hustisford, Neosho, and probably Iron Ridge, and will be established in most if not all these points very soon. Mayville has already taken steps in that direction. The opinion of all persons who

have anything like a fair understanding of this law, is favorable. I entertain no doubt that this law is one of the wisest and best ever put upon our school-code, and I believe that all that is needed to make this apparent to all, is a little *time*. Our people are slow and cautious learners.

SUPT. CHAPPELL, *City of Fort Howard*.—The estimation in which the plan is held by the public may be considered doubtful, though most of those with whom I have talked about it are opposed to it. It is claimed that a measure of this kind is not among the true functions of government; that it is not the business of government to furnish a higher education for the people. It's much my way of thinking. It seems to me that the State should not undertake to do for communities or individuals that which they can do for themselves better and more cheaply. I consider government aid very expensive in the long run, notwithstanding the common notion that what we get from that source costs nothing.

SUPT. CHAPMAN, *St. Croix Co.*—None organized. Might be profitably at Starr Prairie, Richmond, Hammond, and Baldwin. It meets with approbation, as far as I have ascertained. My opinion is they would be exceedingly beneficial in nearly every town in this county.

SUPT. MEARS, *Polk Co.*—One established at Osceola Mills. Others might be profitably established in the towns of Farmington and St. Croix Falls, and I think they will be another year. The law is held in high estimation by all leading friends of education in the county, and in my opinion is one of THE BEST school laws ever placed upon the statute books of the State.

SUPT. CLARKE, *Douglas Co.*—None under the law of last winter. For the last five years there have been two free high schools maintained in Douglas county. In district No. 1, town of Superior, under chapter 463, private and local laws of 1869, are two houses, three third grade schools, and one first grade, in all essential respects conducted and maintained as contemplated by chapter 323, laws of 1875. District No. 2, has a graded school with first and third grade departments. These are all the schools in this county.

SUPT. DANIELS, *Door Co.*—None yet established. Sturgeon Bay would be a good place for one. The law is well liked by myself and all intelligent persons with whom I have conversed.

SUPT. CRAIG, *Jefferson Co.*—None yet established. Might be profitably established in several towns, to-wit: Oakland, Farmington, Concord, and Hebron. Intelligent persons in this county look upon the law as beneficial for certain localities.

SUPT. TRACY, *Rock Co., Second District*.—None established. There might be one at Clinton, Emerald Grove, and Johnstown Center. I find a large number opposed to the law, mostly on account of increase of taxes. The opposition is mostly from those who have no children to educate, or are large property-holders. Selfishness is at the bottom of it all. I am decidedly in favor of the law, for I think it would supply a want very much felt by every superintendent—a sufficient number of competent teachers for our district schools.

SUPT. BURDICK, *Rock Co., First District*.—None established. I doubt whether we have an eligible location. By some of our most intelligent men the law is considered a good one, in which opinion I concur.

SUPT. FLETT, *Kenosha Co.*—None yet established. Might, perhaps, be profitably

established in the following places: Salem Station, Bristol Station, and Pike Grove. I do not think that the law is regarded with any special favor by the leading men of the county. There is a general feeling, I think, that it would largely increase the amount of taxes, while comparatively few would be benefited thereby.

SUPT. SHAFER, *Dunn Co.*—None as yet, but steps have been taken to establish one at Downsville; also at Waneka. The buildings will be erected early next season. The law is received with much favor in all parts of the county.

SUPT. O'HERRIN, *Milwaukee Co., First District.*—None yet. One might be profitably established at Bay View, and one at Oak Creek. Law is held favorably by intelligent persons. In my opinion, it is a good one.

SUPT. THOMPSON, *Trempealeau Co.*—None. Might be profitably at Osseo, Arcadia, and Whitehall. I believe that a majority of our *thinkers* favor the law, and that the demands of a real want will be met when such schools are in successful operation.

SUPT. O'CONNOR, *Fond du Lac Co.*—None. Do not know of any localities where such schools might be established. Have not heard any persons state their opinion of the law.

SUPT. SAWYER, *Clark Co.*—None. Think they might be established with advantage at Neillsville and Greenwood.

SUPT. WESTON, *City of La Crosse.*—Intelligent public sentiment is strongly in favor of the law.

SUPT. DICK, *Beaver Dam.*—Only at Beaver Dam. So far well liked.

SUPT. BIEBER, *Watertown.*—We are now making the necessary preparations for those measures and reforms which will bring us under the scope of the high-school law, all intelligent persons in our city favoring and supporting our endeavors. I think intelligent people of this county esteem the law highly. My own opinion is that it provides for a want long felt in many localities.

SUPT. REED, *Pierce Co.*—None established. River Falls, Prescott, Maiden Rock, Diamond Bluff, and Ellsworth, would seem to be favorable localities for such schools. I do not think the law is popular among the people.

SUPT. AXTELL, *Pepin Co.*—The only high school in this county is now being established at Pepin. By vote the town of Pepin refused to establish such a school. District No. 1 held a special meeting and unanimously voted to sustain one. I have advocated the establishment of other high schools at Arkansaw and Durand. The law is favorably received by intelligent citizens.

SUPT. VAN MATRE, *La Fayette Co.*—None yet established. At Fayette, Belmont, Gratiot, Wiota, Argyle, Calamine, and Benton, schools might be profitably established. Intelligent persons with whom I have conversed seem carried away with the plan; they think it the one thing needful.

I have given above all the responses received respecting the high-school law, condensing them for the printer, in a few instances, but faithfully preserving the essential ideas. This full representation of its prospects, coming directly from all parts of the State, I have thought at once in itself the most appropriate report I could

at this time present upon the subject, and the one most likely to prove a useful aid to superintendents and other friends of the law in seeking the establishment hereafter of such schools under its provisions as the interests of the people may demand.

The delay in the printing of this report enables me to add the following pertinent words from the educational department of the *Atlantic Monthly*, for February, 1876:

The only conclusion, then, is that the State *must* supply training agencies for its teachers, and there is no agency that can meet the case but the township high-school system. In the immense majority of cases the teachers of a district are and must be from the inhabitants of that district. The fact that they teach at all shows that their means are limited, and therefore their training must be brought home to them. They cannot afford to go to it.

TEXT-BOOKS.

There have been, on the part of teachers and superintendents, long-continued complaints of a lack of uniformity in the text-books used in the schools, and, on the part of the people generally, similar complaints of the high price, and the too frequent changes of the school books. The annoyance and injury to schools from the multiplicity of text-books brought by pupils, have been aggravated by the facts that many pupils are destitute of proper books for some days after the beginning of school terms, and that not a few pupils are, from the poverty of parents, permanently destitute of the same, unless provided by charity.

The serious evils attending the present system, or rather want of system, of furnishing school books, led to the devotion of a large portion of my first report to a careful consideration of the text-book question. Twenty-one pages of that report were exclusively given to the subject, embodying the results of much inquiry and reflection, and constituting, perhaps, the fullest presentation of the matter ever given in a similar report.

The result of the inquiry was the recommendation of a law providing for township uniformity of text-books, and their purchase by school authorities and distribution by them to the pupils, as a loan, or at cost price. The advantages of the *free* text-book system were particularly illustrated and recommended.

The last legislature did not see fit to provide for enforced township uniformity, although this met the approval of the Assembly, and failed in the Senate by only a small majority in opposition; yet the wisdom of the plan of district purchase met approval in the unanimous passage of the following act:

AN ACT to provide for uniformity and the free use of text-books in towns and cities.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The qualified electors of any school-district, or of any town in which the township system of school-government has been adopted, may, by legal vote, and the board of aldermen or board of trustees of any city or incorporated village, may, by ordinance or resolution, authorize the school board or board of school-directors of such district, town, or incorporated city or village, to purchase text-books, for use in the public schools, said text-books to be the property of the district, town, village, or city so purchasing, and to be loaned to pupils or otherwise furnished to them under such conditions and regulations as the aforesaid school authorities may prescribe.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

This law has met with much favor from the people wherever their attention has been fairly called to it, and already many districts, towns, villages, and cities are taking advantage of its provisions and purchasing the books and stationery used in the schools. In some instances the books are furnished to the pupils free, in others at cost price, and in all cases, so far as I know, with general satisfaction to the parties interested.

That this method of furnishing books to the schools will soon become general, I have the fullest assurance in the success of the plan in other States, in the successful experiments now being tried in our own, in the favor it has already met in nearly all intelligent quarters here, and in the obvious merits of the plan itself.

In November last I issued to county and city superintendents a circular containing the following paragraph:

“Have any districts, towns, villages, or cities, in your county, availed themselves of the law of last winter, relating to the purchase of text-books? If so, what and how many? Does this text-book law find favor with intelligent men, and what are its future prospects in your county? Have you called the attention of the people to its advantages?”

The answers received indicated that, to a great extent, the atten-

tion of the people had not yet been called to the law. In a very few instances, the plan had encountered some opposition; but in the great majority of cases, when it had been fully comprehended, it met cordial endorsement.

The following brief extracts from replies received show only partially, I believe, the extent to which the permission of the law has been used. I have personal knowledge of the successful working of the plan in places in the State not included in those here reported.

The reports lead to the belief that within another year, with proper presentation of its advantages, hundreds of districts in Wisconsin will have adopted this method, and thus quietly and satisfactorily settled for themselves the hitherto vexed question of text-books:

SUPT. REED, *Pierce Co.*—I think it will find favor in the country districts.

SUPT. AXTELL, *Pepin Co.*—I often hear it well spoken of.

SUPT. MCCLOUD, *Bayfield Co.*—One district (Bayfield) furnishes free text-books. The text-book law is a move in the right direction.

SUPT. OLDER, *Marquette Co.*—The subject of text-books is receiving considerable attention in certain localities, and I think the prospect of the method is good. A resolution endorsing it was unanimously adopted at our fall institute.

SUPT. FINN, *Lincoln Co.*—Two districts have adopted the plan; it finds favor and its future prospects are good.

SUPT. GREENE, *Marathon Co.*—The people will avail themselves of its advantages.

SUPT. MOULTON, *City of Neenah.*—I think in time it is sure to become popular.

SUPT. MORGAN, *Winnebago Co.*—Finds favor with the most intelligent men, and I believe its future prospects in the county are good.

SUPT. KELLY, *Fond du Lac Co.*—I have called the attention of the people generally to this matter, and it seems to meet with general favor. I anticipate that most of the districts in our county will avail themselves of the opportunity offered by this law.

SUPT. BIRD, *Barron Co.*—Two of the towns are likely to apply the provision in some form.

SUPT. FRAWLEY, *Dane Co., Second District.*—A few districts in the towns of Berry, Roxbury, Blue Mounds, and Cross Plains have purchased text-books and loaned or otherwise furnished them to pupils. The importance of such a law has been long conceded by the best and ablest men.

SUPT. PRIESTLY, *City of Mineral Point.*—I think the text-book law will find favor in this city and county, if agitated.

SUPT. WATKINS, *Iowa Co.*—A few districts have.

SUPT. (Elect) BAKER, *Pierce Co.*—Just what is needed in this part of the State. People are thinking of it.

SUPT. SLACK, *City of Hudson.*—I should be glad to see the plan adopted, in part, for our schools.

SUPT. CLARKE, *Douglas Co.*—District No. 2 had adopted a free-book system before the law of last winter. It will be continued, and its adoption will be favorably considered by No. 1.

SUPT. WESTON, *City of La Crosse.*—I regard the text-book law an excellent one—a move in the right direction.

SUPT. FELKER, *City of Oshkosh.*—Think it is a good law.

SUPT. SAWYER, *Clark Co.*—Think three districts have. I have called the attention of district boards to the matter, and think many will take advantage of it soon.

SUPT. FLETT, *Kenosha Co.*—The law *does* find favor with very many intelligent men, and there is a growing sentiment in favor of some such plan.

SUPT. BURDICK, *Rock Co., 1st Dist.*—The law is considered a good one, and I think will be acted upon soon by many district boards.

SUPT. TRACY, *Rock Co., 2d Dist.*—All that I have conversed with on the subject acknowledge the advantages of free text-books.

SUPT. CRAIG, *Jefferson Co.*—The law does find favor with intelligent men.

SUPT. DANIELS, *Door Co.*—Some eight or ten districts have availed themselves of the benefits of the law in regard to purchasing text-books. The law is well liked.

SUPT. MEARS, *Polk Co.*—District No. 2, in Alden, and No. 2, in Osceola, purchase all text-books used by them. Others will follow another year. The law is considered favorably by all, and I think in a little time will be universally followed.

SUPT. CHAPPELL, *City of Fort Howard.*—I am inclined to think it would be popular.

SUPT. LUNN, *Sauk Co.*—Previous to the enactment of the text-book law of last winter, the village district of Lyons and district No. 6, of Fairfield, had the system in practical operation, and at the last annual meeting of the village district of Iron-ton, the plan was considered and adopted. The law is well appreciated wherever fairly considered. I called attention to this matter as is indicated in the marked portion of the annexed circular.

I give below, in full, the paragraph referred to by this intelligent superintendent. It contains facts of interest and value respecting the *cost* of books and stationery furnished by one of the districts in his county. These figures alone are an unanswerable argument in favor of the plan of district purchase, if not of continued ownership:

This last feature deserves special attention, as it seems to provide a very acceptable method of securing cheaper text-books, and through that a uniformity of books in a school. Districts ordering a quantity, or making proper arrangements with publishers or their agents, can easily and safely get books at but little more than one-half the retail rates now paid. For some time past district No. 6, of Fairfield, has purchased and loaned books to pupils, and the Lyons district, near Baraboo, has purchased and retailed books at cost to pupils. Reports from each of these districts speak well for these methods, so far as tried. Mr. Canfield, clerk of the Lyons district, has kindly furnished me with the prices at which that district furnishes books, &c., to pupils: Ordinary text-books, 43 per cent. below ordinary retail rates; foolscap paper, 37½ per cent. below; pencils, pens, and holders, 75 per cent. be-

low; ink, 90 per cent. below. I would recommend that districts not wishing to take immediate action on this matter, appoint a committee to gather information concerning it and report at some future time.

To the testimony given in my last report as to the remarkable pecuniary saving involved in the plan of *free-text books*, the advantages the plan offers in other respects, and the absence of the practical difficulties in execution, which mainly exist only in imagination, I might add many pages of fresh evidence. I select, however, from only two or three sources.

It gives me pleasure to find, since the publication of the former report, that other western States, as well as eastern, have already anticipated Wisconsin in this reform. Over three hundred school districts in Kansas already furnish free books to the pupils, as do also some in Illinois. The action of those districts, as that of a few in our own State, seems to have been in advance of legislation on the subject, and to have been stimulated by spontaneous considerations of self-interest. I invite careful attention to the following extract from the annual report, for the present year (1875), of Hon. John Fraser, Superintendent of Public Instruction of Kansas:

"In performing this duty I invite attention to the following measures, which, with the remarks accompanying each, I recommend to the favorable consideration of the legislature, viz:

"*First.* That section 2, of an act entitled, 'An act to enable school districts to purchase school-district libraries,' approved February 28, 1870, be so amended as to read:

"SEC. 2. The money so collected shall be used under the direction of the board of directors for the purchasing of a school-district library, and for no other purpose; and the district board, in the purchase of books, shall be confined to works of history, biography, science, and travels, and such text-books as are needed for the use of pupils attending the school or schools of the district: PROVIDED, That said text-books shall not be changed oftener than once in five years, except on the petition of a majority of the voters of the district.

"REMARKS IN BEHALF OF THE MEASURE.—*a.* There are now nearly 5,000 school districts in the State. Persons who deal largely in the sale of text-books tell me that the average cost, at retail prices, of text-books to a district, is about \$50 a year. According to these data, it will cost the people of the State, at retail prices, about \$250,000 to supply the pupils of all our district schools with text-books during the ensuing year. By purchasing the books at

wholesale prices from publishers, a saving of about \$75,000 may be effected for the year. By purchasing at what are called exchange rates, the needed supply of books may be obtained at a saving of about \$125,000 for the year.

“*b.* If text-books are owned by a school district, uniformity of text-books can be secured, in that district, without any trouble; and classes can be formed at the opening of the school, and pupils, on entering, can be classified without any waste of time arising from the negligence or unwillingness of parents or guardians to furnish text-books.

“*c.* If all the school districts in the State owned their text-books, it would be a great relief to the numerous families that migrate from one part of the State to another.

“*d.* According to the report of the past year, 338 school districts own their text-books. I know it to be a fact, that many districts have abstained from purchasing their text-books, simply because persons residing in the districts object that the transaction is not strictly in accordance with the intent of the library-act as it now stands on the statute book.

“*e.* Having conversed with many persons belonging to districts that own their text-books, I have learned from them that the plan works acceptably where it has been fairly tried. I have also learned that the plan has failed only where the clerks were not willing, or able, to attend to the business properly, or where the teachers did not look after the books properly during school term.

“*f.* As the library-act is not compulsory, but permissive, the proposed amendment, being in the interests of economy, should, in my judgment, become law, so that school districts where the majority of the voters wish to avail themselves of its provisions, may be enabled to do so, without any apprehension as to the legality of the transaction. I fully believe that the passage of the act will be hailed with pleasure by a majority of the school districts in the State.”

Having ascertained that free text-books have been for many years furnished in the public schools of Batavia, Ill., I recently addressed a letter to one of the school directors of that city, requesting information as to the results of the free plan there, and elicited a reply, of which the essential portion is as follows:

“SIR:—It has now been something over eight years since we

adopted this plan, and I will say that the patrons of the schools, the teachers, and directors are all well pleased with the experiment. After the first supply, it costs from thirty to forty cents per pupil a year to keep the supply good.

"We would not go back to the old system on any consideration. In addition to the cheapness of the system, much time is saved at the commencement of each term by getting the school in working order two or three days, or a week, perhaps, sooner than under the other plan.

"The teachers have control of the books. An account is kept with each pupil. If the books are not injured, except the natural wear and tear, no charge is made; otherwise a fine is collected, enough to cover damages.

"Yours, &c.,

"F. H. BUCK."

Hon. H. N. Bolander, State Superintendent of California, in a lengthy discussion of the "text-book question," in his biennial report for 1874-75, quotes approvingly a large portion of the article on that subject in my own report of last year. He says in reference to the "free" plan: "I feel confident that its adoption, if practicable, will materially reduce the cost of text-books."

I re-quote from my former report the words of the educational editor of the *Atlantic Monthly*, in the issue for November, 1874: "Maine has had a long discussion on the question of uniform text-books, but never a law on the subject; and now the towns are sagely settling the matter for themselves by conferring the use of text-books free upon all scholars."

And again, in the number for February, 1875, he says, while speaking of the school-reports of the different States: "Graded schools and a compulsory-attendance law are almost universally advocated, and uniformity of text-books is much dwelt upon; but, as New England has found out, the shortest way to arrive at this latter is for each town to confer the use of text-books free. Then each locality will possess its own, and teachers will not be, as now, tormented with the heterogeneous text-books brought by the poorer children, while the volumes themselves can be preserved, it is found, from the pollution too often scribbled over them by thoughtless or vicious owners."

Thus, from Maine to California, this vexatious "Text-book question" seems to be in process of simple and satisfactory solution:

I reprint, in conclusion, some words of an editorial in a recent issue of the *Wisconsin Journal of Education*:

"Free text-books are already to be found in some districts and towns of the State, and are giving great satisfaction. They will yet prevail. The saving of nearly one-half the original cost, the removal of the last exception to the absolute freedom of the schools, the economical use of books by successive classes, the less frequent changes when school boards have the responsibility of purchasing and caring for public property, instead of merely dictating what others shall purchase and care for, the absolute uniformity secured to the extent that is really essential, in districts and townships, and the full and prompt equipment of the schools with books at the beginning of the term,—these (and other) great and manifest advantages will yet make free text-books everywhere the adjunct of free schools. In this belief we were supported by the formal approval of the State convention of local superintendents last winter, we are supported by the most intelligent teachers of the State, by some of the ablest and most experienced superintendents of public instruction in the eastern States, by educational writers there, including the editor of the educational department of the *Atlantic Monthly*, by successful trial there, and, most of all, by the plain teachings of political economy."

A STATE LIBRARY SYSTEM.

The following articles appeared as editorials in the issues of the *Wisconsin Journal of Education* for June and July, 1875. I cannot better present here the important subject of free libraries for the people than by reprinting what I last summer said through the more impersonal medium of the *Journal*. I invite earnest attention to the subject:

"The free library ought everywhere to be an adjunct and supplement to the free school. The knowledge and culture obtained in the latter are at best only a beginning. The time spent there is too brief, and the development of faculty too limited to justify us

in calling it more. A large part of that time is devoted to the acquisition of the mere art of reading the printed page. This art is often but imperfectly acquired. Some knowledge of arithmetical processes and of geography is added. When the pupil has left school he is simply possessed of some of the keys of knowledge and culture, but not of much knowledge and culture themselves. His chief key is the knowledge of reading. With this properly used by him all things are possible. He may leave school when a mere boy, he may be poor and without influence, and his days may be filled with labor, but if he has a thirst for reading he can get unto himself through books a kingdom of knowledge, of thought, and of happiness. He may rise from obscurity to fame, from a humble forge to a great pulpit, from a stone mason to one of the first geologists and authors of the age, from a barefoot mill-boy to a senator of peerless eloquence; or he may, with keen intellectual vision and a rare fund of acquired knowledge, be known no further than the boundaries of his own town. However this may be, he secures his kingdom. He becomes no common man. He sees what others do not see. He thinks as others do not think. He owns the world. The centuries are his. He is rich in his own knowledge, in his thoughts, in his emotions, in his means of recreation, in his means of solace. This is what a man may get and may become through books.

“Wise men everywhere know this. The founders of our own State were wise men, and hence knew this. They accordingly made provision, as they supposed, not only for common schools, academies, and normal schools, but for *suitable libraries* for the same.

“The wisdom of this provision has been widely recognized in other States. Yet it is both a singular and melancholy fact that while State systems of instruction have been very effective in the organization and management of the school, they have generally failed in the organization and development of the equally useful and important library. If our own school system has imperfections, it is nevertheless vigorous and promising. It is likely to fairly accomplish the ends for which it was designed. Our library system, on the other hand, has been from the beginning nearly a piece of incompetence and uselessness. While the schools are to-day exerting a powerful influence in the State, the libraries are ex-

erting little or no influence. They are not to be found at all in the great majority of the districts. The number of both libraries and books is steadily diminishing. From over 40,000 volumes in 1850 there was a decrease to only little more than 16,000 in 1874. In the latter year there were reported in the *twenty-four cities of Wisconsin only 1,840 volumes*, worth less than \$3,000—a paltry and disgraceful showing. This condition of things would be peculiarly disgraceful were it not that it is also found in other States. Notably in the State of New York the school library system is an increasing failure, as here; and that, too, with an annual distribution by the State of pecuniary aid for its support.

“The cause of this failure is familiar to all who have investigated the subject, and can be told in few words. *The school district is too small a unit of territory in which to establish and maintain a library of sufficient size and vigor to command respect and care, and hence to secure its continuance.* This is the chief difficulty. The district system that is injurious to the schools is nearly fatal to the libraries. The township system which would be useful to the former is indispensable to the success of the latter.

“In 1859, the legislature of Wisconsin actually passed by a large majority (51 to 10 in the Assembly, and 19 to 3 in the Senate) one of the most admirable library laws that ever found a place on the statute-book of a State. This law would probably be conferring its incalculable benefits upon the State to-day if it had not met a violent and untimely death by the opening of the civil war two years later. It is the earnest hope of the present State Superintendent that he may aid in securing the re-enactment in substance of this wise law which was so creditable to the legislature of 1859, and to the enlightened zeal of his distinguished predecessor, the Hon. Lyman C. Draper. The history and character of this law will be set forth in the next number of the *Journal*.”—*June Number.*

“The two annual reports of Hon. Lyman C. Draper, fourth Superintendent of Public Instruction of Wisconsin, were volumes of high educational value. Reports exhibiting greater industry and a clearer insight into the defects and needs of the educational system of the State have been prepared by no other incumbent of the office he held. His chief recommendations have stood the test of time, and either have already been or now ought to be incorporated into the school-laws of the State. Among these recommendations

were the county superintendency, the township system of school government, township school libraries, and a State board of education.

“The chief need of the State Mr. Draper conceived to be a system of town school libraries, and it is his elaborate and admirable paper on this subject that constitutes the leading feature of his first report, that of 1858. So clearly and with such a wealth of authority and illustration did he set forth the value of libraries, and in particular the superior excellence of the town over the district library system, that the legislature of 1859 passed with singular unanimity a law embodying his views and recommendations.

“This law had the following four prominent and wise provisions:

“‘1. It provided a permanent town school library fund, by setting apart for the purpose ten per cent. of the school-fund income, subject to apportionment in 1860, and annually thereafter, together with the proceeds of a special State tax, to be levied each year, of one-tenth of one mill on the dollar valuation of taxable property.

“‘2. It provided that this fund should be set apart specifically for establishing and replenishing *town* school libraries.

“‘3. It provided that the books for these libraries should be purchased by public State authority, and not by the local school boards.

“‘4. It provided that bound copies of the State laws, journal and documents, should be supplied to the town and city libraries created by the law.’

“It was estimated that the library fund would amount immediately to at least \$35,000 annually, while it would of course increase with the increase of the school fund and of the taxable property of the State.

“Two causes conspired to defeat the ends sought in the passage of this law:

“*First.* The law itself failed to make specific provision for the distribution of the fund and for the purchase and care of the books. Such details were unwisely left to the action of the succeeding legislature. They were embodied in a bill prepared with great care by a commission consisting of Hon. Henry Barnard, Hon. Lyman C. Draper, Superintendent of Public Instruction, and Prof. J. L. Pickard, appointed by the legislature of 1859 to make a revision of the school-laws and to report the same to the succeeding legisla-

ture. This bill, however, failed to pass the Senate of 1860, and the library fund of that year remained in the treasury unused.

"No action appears to have been taken respecting the law by the succeeding legislature, except to repeal the clause providing for the libraries a supply of bound copies of State laws, &c.

"*Second.* The time was inauspicious. The accumulation of the fund went on until the spring of 1862, when the legislature unconditionally repealed the law and ordered the transfer to the general fund of the library money that had accrued from the tax, and to the school fund of the money that had been taken therefrom. As we are informed, through the courtesy of Hon. Ferdinand Kuehn, the present State Treasurer, the total amount so transferred March 31, 1862, was \$88,784.78. The immediate cause of the repeal was the fact that the nation was already unsteady from the first upheavings of the earthquake of civil war. The instinct of self-preservation swallowed up all other considerations, and the money that one law had dedicated to books, a later one rededicated to bullets. The beneficent library law went down, as so many other precious things went down, in that fiery struggle.

"It is now thirteen years since the repeal of this law and the appropriation of the library money for other purposes. During all this time the district library system has been growing weaker. The books have steadily decreased in number, and throughout the State, as a whole, the libraries now exert next to no influence. The friends of education deplore this, and are again looking about for some more popular, more efficient, and permanent plan, which shall afford to the masses of the people the rational enjoyment and the culture to be found in abundant and well-selected reading.

"This plan, with a single modification, will be found in the old library-law of 1859. That modification is one of the vital features of the present high-school law, namely, State aid not taking the place of, but merely *stimulating local action*. Let the new library-law, then, create a system of strictly *town* and *city* libraries; let it provide a permanent fund; let it offer to every town and city to pay one-half the cost of an annual purchase of books within certain wise limits; let it infallibly *secure good books and enforce proper care of the same*, and Wisconsin will have an added means of future greatness in the increased intelligence of her citizens, scarcely inferior in results to her present school system.

“ ‘Books,’ said Superintendent Pickard, in his first annual report, ‘are direct educational agencies. They are teachers, often more potent than the living teacher. They are ever present, not confined to three or six months’ work in each year, but constant companions of the child, silently but surely molding the thoughts and fashioning the lives of their pupils. No agency aside from that of the living teacher, has done more than the school-library toward making good citizens. A taste for reading acquired in youth has done much toward furnishing the world with its best men.’ ”—*July Number*

At the public opening of the free library in the city of Madison, on the evening of June 2, 1875, the following speech by the State Superintendent was among those presented on the interesting occasion:

MR. PRESIDENT:—I hold that the founding of a public library is one of the most admirable enterprises that can engage the attention of a community. Before costly public buildings, before parks, before plans for laying out and adorning streets, before all other efforts at mere physical convenience or grace in city or village, should be wisely provided means for the culture of the people who dwell in it, or are to dwell in it. The school and the library should be the first creation and care. The school usually is the first. For this the founders of an American State or city usually make immediate provision. Certain sections of land in the State or certain lots in the city are sacredly dedicated in the very beginning to the purpose of public instruction. Few public buildings in either antedate those of the school.

I have coupled the school and the library. Indeed, these were so coupled—were recognized as twin necessities—by the founders of our own State, who, in the organic constitution made joint provision for “common schools” *and libraries*, for “academies and normal schools” *and libraries*,—as if the library was an indispensable adjunct to the school of whatever grade. I think these founders were right. Libraries are indispensable adjuncts or supplements to schools, if the latter are to be, in anything like the highest sense, fruitful in good results.

Merely to kindle a love for knowledge, and to show how knowledge can be obtained, without providing a source *whence* it may be obtained, is like lighting a lamp that is nearly destitute of oil; or

it is to emulate the unwisdom of those who too frequently plant trees and think that in the planting alone they have fulfilled the whole law; whereas, neglecting all but its first requirement, securing no permanent condition of growth, the fierce suns and moisture-robbing winds of later summer parch the earth, and the buds and leaves of the earlier season droop and perish untimely. O foolish planting of trees, losing the reward of one labor because neglecting another consequent but easier one! O foolish founding of schools, seeking to make good and wise and happy men by a little formal instruction in a few arts or sciences in childhood, and then dooming the instructed to perpetual isolation from the great fountain of knowledge, and light, and wisdom, and joy flowing from books!

The best that the common school can do, beyond imparting the mystery of two or three practically useful arts, is to qualify its pupils for an intelligent and joyful use of good books. A nobler, happier result I cannot conceive. It is well to be thoroughly conversant with the various branches of school lore, but it is decidedly better to be thoroughly in love with reading. Could the schools merely arouse this love in every youthful breast, their mission would be beneficent far beyond the present fact.

Not in the least extravagant were the words of Sir John Herschel: "If I were to pray for a taste," said he, "which should stand me in stead, under every variety of circumstances, and be a source of happiness and cheerfulness to me through life, and a shield against its ills, however things might go amiss, and the world frown upon me, it would be a taste for reading. Give a man this taste and you place him in contact with the best society in every period of history—with the wisest and the wittiest, the tenderest, the bravest, and the finest characters which have adorned humanity. You make him a denizen of all nations, a contemporary of all ages. The world has been created for him. It is hardly possible but that his character should take a higher and better tone from the constant habit of associating with a class of thinkers, to say the least of it, above the average of human nature." Nor in the least extravagant was the speech of Fenelon, when he said that, "If all the riches of both the Indies; if the kingdoms of Europe were laid at his feet, in exchange for his love of reading, he would spurn them all." Rufus Choate said: "Happy is he who has laid up in youth, and held fast

in all fortune, a genuine and passionate love of reading. True balm of hurt minds; of surer and more healthful charm than 'poppy and mandragora,' or all the drowsy syrups of the world,—by that single taste, by that single capacity, he may bound in a moment into the still region of delightful studies and be at rest."

With such sentiments book-lovers everywhere are in hearty sympathy. A humbler but no less devoted and enthusiastic lover of reading myself, I can add personal testimony that to this taste I owe the most substantial and enduring happiness I have known. And I will go further, and say that looking back from my present stand-point over the past years of my life, I owe to the quiet reading and study of books out of school life, much more than to the formal work of my technical education. The latter was probably as good as the average, but the best part of it was the acquirement of the ability to make good use of books after school and college life was left. No man here is a more faithful, a more grateful devotee of reading. No one can rejoice more heartily in the enterprise that is here formally inaugurated to-night. No one believes more profoundly in its great and increasing value to the people of this city. Madison is not behind other cities in useful and honorable enterprise, but Madison, in thus founding a large public library—free to all her citizens alike, rich and poor—performs the noblest act in her history. A new source of just pride is opened to her people—may I say it is a source of more personal pride? Nature made her charming lakes and almost unrivaled landscapes. The State built her graceful capitol and adorned her delightful park. But to the city itself is due all the honor of establishing this free library, which, like Minerva from the brain of Jove, appears to spring into being with full stature and panoply.

For the city I rejoice at it. With the city I shall be proud of it. But with just pride and rejoicing come some other considerations of anxiety and regret. If I love books, I love rural life as much. The city has some peculiar charms for me, but the country has more. I love its quiet, its freedom, its healthful scenes and associations, its people. It appears to me that the country is a far better place in which to rear children than the city. Feeling and believing thus, I am jealous of the attractions of cities, and I look with sorrow and apprehension upon the change from rural to urban life, which is in all sections of the Union depleting the country of its best citizens.

From farms to cities and villages are constantly going the more intelligent families, the more enterprising and useful. They go for the superior means of education, for better society, for a score of advantages which cities possess and the country does not, but might and ought to possess. It is my conviction that when in this country, as of old in the Roman Empire, all the intelligence and wealth shall be in cities, and the country shall be given over to mere laborers — unintelligent, unprogressive, serf-like — then the perils which beset republicanism will be much greater and more numerous than they are to-day. And the drift appears to be in this direction. New England shows melancholy evidences of it. Even here in the newer west we see the manifest beginnings of the change.

To seek to give more advantages and attractions to country life appears to me one of the first and plainest duties of patriotism in this country. Under this view the educational facilities of the country ought to be trebled. Facilities for better and higher instruction ought to be devised. To this end it occurred to me that a system of town high schools and a system of town libraries might be inaugurated which should be a means of giving greater value, dignity, and permanence to country life. The high-school plan received the approval of the last legislature and promises to become a success. The library scheme is one of the chief educational efforts of the present year and will be a leading feature of the next annual report of the department of instruction.

In this matter, however, I find I was so fully anticipated by a distinguished predecessor, and now honored resident of this city, that I hope to find comparatively easy the revival of a law that once, through his efforts, had place upon the statute-book. It would have wrought for Wisconsin the great blessings this free library will bring to its capital, but for the accident of a civil war, and I trust it will yet be in substance restored.

I hope the report of the proceedings here to-night will fly on the wings of the wind, to every section of the State, will stir up emulation in many another city more destitute of books and book-lovers than this, and will aid somewhat in the speedy establishment of a State library system that shall at no distant day bless every village and township within its fair borders.—*Journal of Education, July, 1875.*

A GEOLOGICAL TEXT-BOOK.

As the Geological Survey of Wisconsin nears completion it seems proper for me here to express the desire of many of the more intelligent and progressive teachers of the State, that the results of this survey should, to a certain extent, be rendered available for educational purposes. The general and increasing interest in those branches of knowledge and those processes of investigation known as "scientific," has already influenced the educational courses and methods of our schools. The meagre curriculum of a generation ago satisfies neither the pupils nor the parents of the present day. A dry and tiresome memorizing of rules and disconnected facts has largely given place to an attractive and fruitful knowledge of laws, uses, relations, and causes. It is not the name and location of a city alone, but the reason of its location; not the mere existence and extent of a desert, but the cause and possible cure of its infertility; not the mere productions of a region, but the physical causes that conspire to create and govern those productions, and that render possible the growth of others yet untried; it is these latter and other similar things that add vitality and interest, and hence the greatest profit to the study of geography, a branch that has long been, and must always remain, one of the most important in the common-school curriculum. But geography at the present time is so intimately connected with, so largely based upon, geology, that without some knowledge of the latter a teacher is destitute of the key to much that is most interesting, instructive, and valuable in the former.

This is especially true in the study of local geography, or that of the pupil's own township, county, and State, where investigation ought to descend far more minutely than elsewhere, into the details of physical geography—the topography, drainage-system, soils, rocks, minerals, native vegetation, &c., of the region, a knowledge of which, as being that of things close at hand, real, and practical, would be fraught with vivid interest and permanent usefulness.

A fair knowledge on the part of the teacher of the general facts developed and arranged by the geological survey of the State, would greatly aid him in instructing even his primary classes in geography. Without this knowledge, a sealed book to him is the

story of the prairies, bluffs, "openings," springs, rivers, lakes, rocks, and mines, that make up our diversified and beautiful State. All these may be within sight of the school-house, fertile in interest and instruction, ready to surprise, delight, and inspire the pupils by their history; but if the teacher cannot interpret them; he is to an unfortunate extent a mere "blind leader of the blind." He is most deficient when he should be most capable. He fails in that foundation-work which ought to be the best of all in the educational structure. He violates, in a word, one of the most fundamental and important of pedagogical laws.

While that knowledge of the physical history of our State, which experts have been accumulating by systematic investigation, would be valuable to teachers in securing more fruitful methods and better results in even the lower grades of our schools; in the higher grades this knowledge might, with great profit, become a formal subject of study with the pupils themselves. Geology now ranks as one of the most interesting and useful of the modern sciences. It has a large and rapidly increasing literature. Every college and university affords special facilities for its study. Not only great mining and manufacturing corporations, but States and nations are patrons of its chief masters. It has won its way to a recognized place in the curriculum of study in many secondary schools, both public and private; and publishers vie with one another in issuing the best and most popular text-books upon the subject.

The innate attractiveness of the science has led many, whose elementary knowledge of it was obtained in schools, to continue the interest there first awakened, and to become afterwards amateur students and collectors. One or more such can now be found in almost every town and village in the State. No argument is, therefore, needed to show that geology properly forms a part of a good high-school or academic course of study.

The question now arises, at the near completion of our own State survey, whether the best text-book on geology, for our own schools, would not be one largely devoted to the facts and illustrations afforded by the very soils, rocks, minerals, &c., upon which our school-houses are placed. This is a question of great interest, as I have already intimated, to many of the able and experienced teachers of the State. It has received the consideration of the Wisconsin Teachers' Association, and it is the opinion of that body that the

State survey might be made of great educational value in our schools, if its results were rendered available to teachers and pupils in suitable form.

The plan by which this might be accomplished has received careful consideration, and is briefly as follows:

In the publication of geological reports it is customary to introduce chapters on general geology, physical geography, mineralogy, soils, native vegetation, natural waters, mining, smelting, and other subjects relating to the development of natural resources, that are of general interest or that are necessary to a proper understanding of the report. It is also necessary to provide some means by which those who are not familiar with the technicalities of the science may read the report intelligently. This may be accomplished either by a special chapter setting forth the elementary facts of the science, or by introducing throughout the volume explanatory phrases, foot-notes, frequent repetitions, and the circumlocution and vagueness incident to the use of common language instead of the more precise terms of science. The third alternative, that of clothing the subject in scientific language, without explanation, is inadmissible, as it places the report beyond the reach of the larger mass of even our more intelligent citizens, who, while deeply interested in the subject, are unfamiliar with its technicalities.

Now it is suggested that all this preliminary and explanatory matter, together with the general geology, be gathered into one volume, suited to the wants of our schools, and of ordinary readers, as indicated above.

The material thus collected, if arranged in a systematic manner, and clothed in clear and simple language, might constitute at once the first volume of the report and a text-book for our schools.

The volume should consist of chapters relating to the leading geographical features of the State, its topography, its drainage-systems, its soils, its native vegetation, its surface geology, its rocks and minerals, with clear descriptions of all the leading species, and instructions for distinguishing them, the industries relating to its material resources, as mining, smelting, &c., together with a clear and simple delineation of the geographical history of the State, involving general descriptions of each of the formations, their nature, method of formation, and leading mineral and organic contents. To this should be added a very brief sketch of the forma-

tions wanting in Wisconsin, so as to make the volume an epitome of geological history.

Such a volume would be at once an introduction, key, and glossary to the whole report, the remaining portion of which could be presented with much greater clearness, exactness, and, at the same time, brevity.

In the preparation of the above I acknowledge my indebtedness to Prof. T. C. Chamberlin, of Beloit College, who furnished at my request the outline features of the volume suggested, and whose language I have chiefly used in the description of the work.

A STATE SCHOOL-TAX.

BY J. B. PRADT, ASSISTANT STATE SUPT.

[A portion of the following excellent presentation of the importance of a State tax for common schools was originally prepared by Mr. Pradt, as an editorial in the *Journal of Education*. At my request he enlarged and revised it for the present purpose. I speak for it careful consideration.—E. S.]

No school measure yet untried in this State seems so likely to result in great good as a State school-tax. It would certainly prove most beneficent, if accompanied with other wise measures. It would constitute the Archimedean lever by which our whole school system would be elevated.

A chief obstacle in the way of school improvement and efficiency, is the single-district system which has come to us from New England, through New York and Michigan. It is a poor system at the best, but especially so for our newer States, and is rendered doubly inefficient where, as in this State, the schools are supported mainly by local tax. For one district where enlightened and liberal measures prevail, there are five of an opposite character. Not only is little money raised and expended, but the chances are that it is not expended wisely, whether in the erection of school-houses, in the purchase of appliances needed, or in the employment of teachers.

It is but fair to say, however, that in the poorer and more sparsely settled parts of the State, the people, however enlightened, and

however desirous to do so, cannot, as a rule, maintain good schools. They have not the means either to provide for a sufficient amount of schooling, or to obtain good teachers. The distribution of the income of the school fund has but little effect in bettering this state of things. It does not in all cases—though the exceptions are rare—operate as a sufficient stimulus to keep the schools open for the required five months; and though nearly all districts now have this amount of schooling (and many would gladly have more,) the small sum of money received from the State is not enough to make any appreciable difference in the quality of the school. This will be evident when it is remembered that the amount is now but little more than \$26, on an average, for each district, and is likely to grow less as districts multiply and population increases. It is enough to eke out the summer school an additional month, and that is about all that can be said, except that it forms a slight bond of sympathy, a feeble pulse of life, between the heart and the extremities of the school system.

Now, if the schools were supported to an important extent by a State tax, say to the amount of one-half the expense, the State might with reason claim the right to exercise a close supervision and a large measure of control over them. She could insist on a minimum at least, of six months school; she could require that the school-houses be at least decent, and fairly furnished with all they need. With a moderate building fund at her disposal—and who will show us how this can best be created?—she could secure in the future a much better grade of school-houses than we now have. And if in connection with all this we could have the needed improvement in organization, the abolition of the single-district incubus, there would be but one thing more wanting to make our schools what they ought to be. That one thing is indeed the vital and all-important thing, but it is not unattainable; we mean a supply of suitable teachers for all the schools. This can be brought about in time, if our normal-school system is held true to its legitimate purpose, and if the large and increasing income of its fund is not frittered away upon visionary projects and unwise expenditures.

Upon these collateral points much more might be said, but not now. All are essential parts of a complete whole, for the several parts or factors of a complete school system are: A sufficient and efficient money basis; a compact and efficient organization, such as

admits of proper gradation and courses of study; effective supervision; suitable and well appointed school-houses, including apparatus and text-books, competent and more permanent teachers, and provision for the promotion of teachers, and for their support when past labor. And last, but not least, wisdom and steadiness in the development and building up of the system are essential, and this implies the avoidance of hasty and ill-considered changes or experiments.

The improvements suggested cannot all of them, or any one of them, be realized at a single bound; on the contrary, long and persistent labor is needed to bring them about. The earnest friends of education will do well to look into this matter of a State tax carefully, discuss it, and make it familiar to the people, and thus help forward the desire of the State Superintendent that it may receive an intelligent consideration at the hands of the next legislature.

To this end it is well to be familiar with the objections that may probably be urged against it. And first it will be said: People appreciate what they pay for. If they raise the money themselves which they expend for schools, they will take more interest in them. If the State furnishes the means wholly, or in any large degree, the interest will be diminished in proportion.

To this it may be replied, that if a school-tax is raised as a State tax, it does not cease to be a tax falling upon every tax-payer alike, in proportion to his taxable property. It would be levied, collected, and paid into the State treasury as a separate tax, and its object would be distinctly known and understood. It would not displace but diminish the local school-tax, and one of its beneficial effects would be to render more equal the burden of public education. At present this burden falls heavily upon the poorer and more sparsely settled portions of the State; but as public education is for the general and not merely for local benefit—is indeed a public necessity—something indispensable to the prosperity and perpetuity of the State—it is but just that the State as a whole should largely provide for this necessity, as is done in regard to other important public interests; and the unwisdom of so long neglecting to recognize this principle in the matter of the public schools, cannot but strike forcibly every reflecting mind.

At this point rises the second objection. Some will urge that a State school-tax imposes a burden upon certain localities and indi-

viduals from which they do not reap a corresponding benefit; that money collected in one quarter would go to benefit another. To a certain extent this would be true; and in the fact lies the wisdom, the beneficence, and we may add the justice of the measure. Society cannot, exist a State cannot be founded and flourish in prosperity, on principles of selfishness. The most strenuous objectors (to a State school-tax would be those tax-payers who habitually urge small local taxes, advocate the minimum of school terms and the hiring of the cheapest teachers. Such persons stand in their own light. Men of more expanded views, who vote and pay liberal taxes at home, will be the first to welcome the idea of a State school-tax, as tending to diffuse the blessings of education more equally and efficiently.

Moreover, those individuals and communities which are noted for intelligence as well as wealth, understand perfectly well that liberal taxation for whatever promotes the general good is no impoverishment to the tax-payer; and that this is especially true of taxes for the support of such institutions as tend to enhance public intelligence and morality; they know that Milwaukee and Chicago, and all other centers of wealth, would soon be among the things that were, if the country around them and tributary to them were to relapse into barbarism. Let us, then, earnestly defend a State school-tax.

THE STATE UNIVERSITY AND THE NORMAL SCHOOLS.

I have already referred to the flourishing condition of the university and the normal schools. Wisconsin has no surer ground of hope for the future of education within her borders than these now firmly established, wisely conducted, and increasingly popular schools at the head of her educational system. The history of education in all countries incontestably shows that development and progress in this field work from above downward. It is the university or college that stimulates the academy, the high school, and the common school. The first school to be founded for the elevation of an ignorant people, or for the preservation of the virtue and intelligence of an enlightened one, is the college and not

the common school. The common school grows out of the college as a bud from the parent stem.

The pilgrim fathers understood this truth, and founded a college as the first school in New England. Frederick William knew this, and began the regeneration of Prussia by founding the University of Berlin. The first legislators of Michigan and Wisconsin knew it, and among their very earliest acts was the establishment of universities as the central lights of their respective school systems. Yet Michigan and Wisconsin were but intelligently following the examples set them, in some form or another, by the older States at the east. Massachusetts had its Harvard, Connecticut its Yale, Rhode Island its Brown, New Jersey its Princeton, and every eastern or southern State one or more colleges nearly co-eval with the history of the State or colony itself.

Moreover, these higher institutions early justified their being. Their graduates shared largely and wisely in making the early history of the colonies and of the nation. It is well in the coming Centennial year to know that the old Continental Congress was more largely composed of highly educated men, in its various sessions, than the Federal Congress afterwards, during any similar number of years. More than one-third, or 118 out of 350, were college graduates. Massachusetts was represented by seventeen graduates; Connecticut, by eighteen; New Jersey, by eleven; Pennsylvania, by thirteen; Maryland, by seven; Virginia, by nineteen, &c. Just one-half the delegates who signed the Declaration of Independence were college graduates. A large proportion of the members who were not graduates were, nevertheless, highly educated in good classical schools.

Native genius gave to a few, like Franklin, position and influence, but they were comparatively insignificant in number beside the "host of illustrious men who had the advantage of a college training." The *New York Evening Post*, the excellent authority to which I owe these figures, is inclined to the belief "that the great weight of influence was with these men, and that the efficient conduct of the war was eminently the result of their wisdom and patriotism."

It is probably not less wise for a State in the hundredth year of our national independence to promote the interests of higher culture, than in the first year. It is probably even wiser.

I hold, therefore, that the policy which founded, and has so well

fostered thus far the university and the normal schools of Wisconsin, is a wise and enlightened policy, having in view the welfare of all the schools, and the interests of all the people. A liberal policy toward them should be continued, whether in the way of that material aid which the further development of the university may require, or in the way of general measures of enlightened legislation that may be demanded alike by the future growth of all these schools.

Having been a member, *ex-officio*, of both the university and normal boards for the past two years, I speak confidently, from knowledge, of the uniformly judicious and enlightened management that controls these institutions. I have seen little to criticise, much to commend and admire. It is partly my experience with these boards that convinces me of the wisdom of putting the interests of the *common schools* of the State under the like permanent, uniform, and systematic control of a State board. Of this I have already spoken.

I would call especial attention to the various university reports elsewhere given in this volume, and to the detailed report, with its accompanying documents, of the faithful and efficient president of the normal board, Hon. Wm. Starr.

THE STATE NORMAL SCHOOLS,

now four in number, are enjoying great prosperity, and are performing, in their sphere, a work of incalculable value to the commonwealth. Results have abundantly shown the wisdom of establishing several of these schools in various parts of the State, instead of a single one at a central point. Their influence is now widely extended, reaching nearly every county. Their popularity fills their halls with eager students, even beyond the capacity of buildings and faculties. Hence frequent enlargements have from time to time been rendered necessary. An addition to the building at Whitewater, now in process of erection, will nearly double the capacity and facilities of the school.

The question of the proper functions of normal schools is one much discussed by educational men. I had hoped to give this subject consideration in the present report, but deem it wiser to defer it until a succeeding one, and until I have had an opportunity to personally inspect schools of this class in the eastern States and in

Canada. Such inspection I hope to make some time during the coming year.

I am, however, well grounded in the conviction that, for some years to come, the normal schools of the west, at least, must continue to do, not merely professional or technical work, but a large amount of that academic work in which they are now engaged. Upon the basis of superior instruction in the common and academic branches must be placed the professional attainments, which *theory* may perhaps assert are alone legitimate from these schools, but which facts show cannot be separated from the necessary antecedent preparation.

Our own schools, therefore, in the light of such evidence as I now have, are doing not only a service to the State fully worth the money they cost, but are performing a *legitimate* service in their present happy union of academic and normal instruction.

COMPULSORY ATTENDANCE.

In my former report I presented, at considerable length, my reasons for opposing a general legislative enactment to secure the attendance of children at school. Those reasons still appear to me sound. Indeed, the experience of another year with compulsory laws in those States where they have been enacted, only confirms, in the fullest manner, the conclusions to which I then arrived.

Already there are signs that this drift toward compulsion is rapidly abating. A year ago the papers of this and other States were constantly advertising, either by allusion or by express recommendation, this "universal panacea" for the ills that ignorance is heir to. The State of New York, in particular, was the favored ground on which the friends of compulsion were about to win their greatest triumph. That great State, coming in the wake of New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, Michigan, Texas, Nevada, and California, seemed to be almost putting the seal of national approval upon this simple method of banishing illiteracy and its attendant brood of evils.

That a compulsory law was to take effect January 1, 1875, in that State, was heralded by the press of the entire country. Pre-

pared in the light of the experience of other States, it was supposed the law of New York was the most practicable yet enacted for the end sought, and that its enforcement would mark an era in educational legislation and history in this country.

Partly as the result of this action of the Empire State, and partly from the general popular impulse which had enacted compulsory laws in the other States above mentioned, the press of Wisconsin one year ago quite largely called for a similar enactment from the the legislature about to convene.

A marked change appears to have come over the minds of those who so recently were here the enthusiastic advocates of compulsory education. I am not aware that any paper in Wisconsin has called upon the legislature of 1876, for such an enactment. Indeed, the only paragraph respecting the subject, current in the press of the State, as far as my observation has extended, is the following:

The compulsory-education law does not seem to work as well in New York as was anticipated. The nine officers appointed to execute the law in the city draw salaries amounting to \$14,000. Out of 15,000 children known in January to be truants, only 356 have been thus far compelled to attend school, &c.

It can hardly be questioned that compulsory legislation is now substantially a proved and admitted failure in every State in which it has been tried. It will doubtless be one or two years yet before its friends will everywhere admit this as frankly as it is admitted in Michigan, where, as I last year showed, compulsion has been tried under the most favorable circumstances. The evidence, however, is so rapidly accumulating that none but the blind will be much longer disposed to deny it. As the freshest specimens of this evidence that have fallen under my observation I give the following, from California and New York, respectively. An editorial in a late number of the *Los Angeles Schoolmaster*, (Nov. 10, 1875,) shows that in California, as in Michigan, the failure is complete:

The next legislature will undoubtedly repeal this law, which now stands as a dead letter on the statute books. The fact that it is a dead letter, and that it cannot be enforced in any part of the State, is a sufficient reason for its repeal.

A few trustees posted the printed circulars sent to them by the State Superintendent, but we have not heard or read of a single instance in which the law has been carried out. * * *

California with its large area and sparse population, is not ready for a compulsory law, even if it comes to us with the recommendation of the States in which it has been tried, under circumstances seemingly favorable for its enforcement. The law

has disappointed the hopes of its friends wherever it has been adopted. Experience shows that parents will not comply with its requirements, and officers cannot be found who will enforce its penalties.

The legislature will reflect the sentiments of the people by repealing a law so unsuited to the present condition of the State, and in such plain violation of the spirit of our free institutions.

The annual report of Hon. Henry Kiddle, city superintendent of schools, of the city of New York, for the year ending December 31, 1875, says:

The law includes the double character of a *truant law* and a *compulsory-education law* proper. The provisions with regard to truancy and vagrancy have been to some extent enforced, but those which have in view the compelling of parents and guardians to send their children to school, or to have them instructed at home, do not appear to have been enforced at all. The truant agents, under the direction of the superintendent of truancy, have been exceedingly active and zealous in the work of investigating the causes of the absence of all pupils, between the ages of eight and fourteen, belonging to the primary or grammar schools, who have been reported by the principals as truants, or whose absence was protracted and not accounted for. In this manner, many children absent from school without the knowledge of their parents, have been returned to the schools; and by this means not only has the attendance of pupils been somewhat increased, but the amount of truancy in the schools diminished, since other children have been deterred from playing truant by the greater certainty of detection, as well as, in some cases, by the fear of being sent to the Randall's Island school, as incorrigible.

No other effect than this, has, in my opinion, been produced by the enforcement of the law, necessarily incomplete as it has been this year, except, perhaps, an indirect influence exerted upon the minds of parents and guardians, to induce them to send their children to the schools with greater frequency and regularity.

It is but fair, perhaps, to attribute a part of the increase of attendance and the diminution of absenteeism reported above to the operation, direct or indirect, of this law. The real value and efficacy of this law, however, have still to be tested.

It will be observed that a distinction is here made between a *truant law* and a *general compulsory law*; and very properly, too. A good truant law is a law that should be upon the statute books of every well regulated State, and I respectfully suggest and recommend the passage of such a law. In summing up the proposed "remedies for ignorance and crime," in my former report, I said:

"After the schools have been made thus attractive, efficient, and free, and after wise supervision has done its proper work, there will still remain a very small fractional portion of the children of the State upon whom the strong hand of compulsion must be laid. These will be chiefly in cities, and will be almost exclusively the

children, not merely of poor, but of dissolute and vicious parents. Special truant laws, applicable to such children and to such places, will compel attendance in the ordinary public schools, or in cases of peculiar parental or juvenile incorrigibility, will separate children from parents, consigning the former to special reformatory schools, away from the home influences that perpetually degrade and harden the character already peculiarly prone to evil through the laws of heredity."

I am also constrained to repeat, as another "remedy for ignorance," and a safeguard for the State, the two closing paragraphs of the article on "compulsory education" in my former report. I do this because I am very deeply convinced of the wisdom of the embodied recommendation, and because the recommendation itself has recently chanced to meet signal and unlooked-for endorsement by the chief executive of the nation.

"There is an indirect means by which absolute illiteracy might be diminished, education honored, politics somewhat purified, and the State in general benefited. I refer to the limitation of the privilege of suffrage by an educational qualification. It is admitted that universal intelligence is the only foundation-rock upon which to base a democratic republic. In such a government an unintelligent voter—an integral sovereign of the commonwealth without the first and simplest qualification of sovereignty—is an anomaly that should not be permitted. There is no greater, no more dangerous political absurdity than the ballot in the hands of men who cannot even read it,—much less read the laws they blindly and blunderingly aid in enacting and modifying, and the constitution that directs and limits their powers. To convince us of this we need not the examples of Spain, Mexico, the South American republics, and the nearer and even more pitiable illustrations in some of our own southern States.

"To secure to the franchise that simplest degree of intelligence which is compatible with wise and honest government, I would not ask that the elective privilege should be taken from any man now possessing it; but I boldly, and unequivocally, and emphatically, and with a deep conviction of its eminent justice and wisdom, declare my belief that the State ought to fix a time in the near future after which no more illiterate recruits shall be received into the ranks of its sovereign rulers—that after such time no man shall

deposit a ballot who cannot read the ballot. This I believe to be due to the cause of good government, due to the interests of education, due as an example to unfortunate sister States, due finally to the example of that mother of republics, educated and thrifty New England.

ABSTRACT OF THE EDUCATIONAL HISTORY OF WISCONSIN.

Wisconsin, from 1818 to 1836, formed part of Michigan Territory. In the act of Congress, approved April 20, of the latter year, establishing a separate territorial government, it was ordained that the existing laws of the Territory of Michigan should be extended over the new territory, so far as compatible with the provisions of the act, subject to alteration or repeal by the new government created. The school-code of Michigan thus naturally became the original code of Wisconsin.

Although modified in some of its provisions almost every year, this imperfect code continued in force until the adoption of the State constitution in 1848. In that constitution was laid the broad foundation of our present system. Therein the school fund was created. Therein it was declared that common schools should be free to all children between 4 and 20 years of age. Therein the general supervision of public instruction was vested in a State Superintendent.

The school-fund then created has five distinct sources, the first of which is, however, the principal one:

(1.) Income from the proceeds of lands granted by the United States to the State for educational purposes.

(2.) All moneys accruing from forfeiture or escheat.

(3.) All fines collected in the several counties for breach of the penal laws.

(4.) All moneys paid for exemption from military duty.

(5.) Five per cent on the sale of government lands.

At the first session of the the State legislature, in 1848, acts were passed which carried out to a degree the educational provisions of the constitution. A law was then enacted to provide for the elec-

tion and define the duties of a State Superintendent of Public Instruction. The laws of that session created also a district board, consisting of a moderator, director, and treasurer; created the office of town superintendent; provided for the creation of town libraries, and for the distribution of the school fund. The present school law of Wisconsin is substantially that passed by the legislature of 1848, and which went into operation May 1, 1849. The most important change that has since been made was the abolition of the office of town superintendent and the substitution therefor of the county superintendency. This change took effect January 1, 1862.

INCREASE OF THE SCHOOL-FUND INCOME.

The first annual report of the State Superintendent, for the year 1849, gives the income of the school fund for that year as \$588, or eight and three-tenth mills per child. Milwaukee county received the largest amount, \$69.63, and St. Croix county the smallest, twenty-four cents. The average in the State was forty-seven cents per district.

The following table will show at a glance the quinquennial increase in the income of the fund, the corresponding increase in the number of school children, and the apportionment per child, from 1849 to the present year, 1875, inclusive:

YEAR.	No. children of school-age.	Income of school-fund.	Rate per child.
1849.....	70,457	\$588 00	\$0.0083
1850.	92,105	47,716 00	.518
1855.	186,085	125,906 02	.67
1860.	288,984	184,949 76	.64
1865.	335,582	151,816 34	.46
1870.	412,481	159,271 38	.40
1875.	450,304	184,624 64	.41

THE STATE UNIVERSITY.

In his message to the first territorial legislature, in 1836, Gov. Dodge recommended asking from Congress aid for the establishment of a State educational institution to be governed by the legislature. This was the first official action looking to the establishment of a State university. That same legislature passed an act to establish and locate the Wisconsin university at Belmont, in the county of Iowa.

The legislature at its second session, the following year, passed

an act which was approved January 19, 1838, establishing "at or near Madison, the seat of government, a university for the purpose of educating youth, the name whereof shall be 'The University of the Territory of Wisconsin.'"

A resolution was also passed at the same session, directing the territorial delegate in Congress to ask of that body an appropriation of \$20,000 for the erection of the buildings of said university, and also to appropriate two townships of vacant land for its endowment. Congress accordingly appropriated, in 1838, seventy-two sections, or two townships, for the support of a "Seminary of learning in the territory of Wisconsin," and this was afterwards confirmed to the State for the use of the university.

No provision, however, was made for the final establishment of the university until ten years later, when the State was organized. Congress, as has been said, had made a donation of lands to the Territory for the support of such an institution, but these lands could not be made available for that purpose until the Territory should become a State. The State constitution, adopted in 1848, declared that provision should be made for the establishment of a State university, that the proceeds of all lands donated by the United States to the State for the support of a university should remain a perpetual fund, the interest of which should be appropriated to its support.

The State legislature, at its first session, passed an act, approved July 26, 1848, establishing the University of Wisconsin, defining its location, its government, its various departments, and authorizing the regents to purchase a suitable site for the buildings, and to proceed to the erection of the same after having obtained from the legislature the approval of plans. This act repealed the previous act of 1838.

The regents were soon after appointed, and their first annual report was presented to the legislature January 30, 1849. This report announced the selection of a site, subject to the approval of the legislature, announced the organization of a preparatory department, and the election of a chancellor or president. The university was thus organized, with John H. Lathrop, president of the university of Missouri, as its first chancellor, and John W. Sterling as principal of the preparatory department, which was opened

February 5, 1849. Chancellor Lathrop was not formally inaugurated until January 16, 1850.

Owing to the short-sighted policy of the State in locating without due care, and in appraising and selling so low the lands of the original grant, the fund produced was entirely inadequate to the support of the institution. Congress therefore made, in 1854, an additional grant of 72 sections of land for its use. These, however, were located and sold in the same inconsiderate and unfortunate manner, for so low a price as to be a means of inducing immigration, indeed, but not of producing a fund adequate for the support of a successful State University. Of the 92,160 acres comprised in the two grants, there had been sold prior to September 30, 1866, 74,178 acres for the sum of \$264,570.13, or at an average price of but little more than \$3.50 per acre.*

Besides this, the State had allowed the university to anticipate its income to the extent of over \$100,000 for the erection of buildings. By a law of 1862 the sum of \$104,339.43 was taken from its fund (already too small) to pay for these buildings. The resulting embarrassment made necessary the re-organization of 1866, which added to the slender resources of the institution the agricultural-college fund, arising from the sale of lands donated to the State by the congressional act of 1862.

ITS BUILDINGS.

The first university building erected was the north dormitory, which was completed in 1851. This is 110 feet in length by 40 in breadth, and four stories in height. The south dormitory, of the same size, was completed in 1855. The main central edifice, known as university hall, was finished in 1859. The ladies' college, the last erected, was completed in 1872. This latter was built with an appropriation of \$50,000, made by the legislature in 1870—the first actual donation the university had ever received from the State. The legislature of 1875 appropriated \$80,000 for the erection of Science Hall, a building to be devoted to instruction in the physical sciences. The foundations and basement story of this are already completed, and the entire building is to be ready for occupancy in the fall of 1876.

*Compare the price obtained for the lands of the university of Michigan. The first sale of those lands averaged \$22.85 per acre, and brought in a single year (1837.) \$150,447.90. Sales were made in succeeding years at, \$15, \$17, and \$19 per acre.

The growth of this institution during the past twelve years, and especially since its reorganization in 1866, has been rapid and substantial. Its productive fund on the 30th day of September, 1875, aside from the agricultural-college fund, was \$222,255.89. The combined university and agricultural funds amounted, at the same date, to \$458,389.79. An act of the legislature in 1867 appropriated to the university income for that year, and annually for the next ten years, the sum of \$7,303.76, being the interest upon the sum taken from the university fund by the law of 1862 for the erection of buildings, as before mentioned. Chapter 100, of the general laws of 1872, also provides for an annual State tax of \$10,000 to increase the income of the university. Its entire income from the combined funds, and from the two legislative appropriations mentioned, and from tuition and room-rent, was for the year ending September 30, 1875, \$56,590.65.

The university has a faculty of over thirty professors and instructors, and during the past year—1874-5—it had in its various departments 411 students. The law department, organized in 1863, has since been in successful operation. Ladies are admitted into all the departments and classes of the university.

AGRICULTURAL COLLEGE.

The Agricultural College fund, granted to the State by the congressional act of 1862, was by a subsequent legislative enactment (1866) applied to the support, not of a separate agricultural college, but of a department of agriculture in the existing university, thus rendering it unnecessary for the State to erect separate buildings elsewhere.

Under the provisions of chapter 114, laws of 1866, the county of Dane issued to the State, for the purpose of purchasing an experimental farm, bonds to the amount of \$40,000. A farm of about 200 acres, adjoining the university grounds, was purchased, and a four years' course of study provided, designed to be thorough and extensive in the branches that relate to agriculture in connection with its practical application upon the experimental farm.

The productive agricultural-college fund has increased from \$8,061.85, in 1866, to \$236,133.90, in 1875,—the latter sum showing a decrease during the preceding year of seventeen cents, but an increase during the two years anterior to 1874, of about \$30,000.

NORMAL SCHOOLS.

The propriety of making some special provisions for the instruction of teachers was acknowledged in the very organization of the State, a provision for normal schools having been embodied in the constitution itself, which ordains that after the support and maintenance of the common schools is insured the residue of the school fund shall be appropriated to academies and normal schools.

The State legislature in its first session in 1848, in the act establishing the University of Wisconsin, declared that one of the four departments thereof should be a department of the theory and practice of elementary instruction.

The first normal school, so called, ever chartered in the State, was incorporated by the legislature at its second session, the following year, under the title of the "Jefferson County Normal School." This, however, was never organized.

The regents when organizing the university, at their meeting in 1849, ordained the establishment of a normal professorship, and declared that in organizing the normal department it was their fixed intention "to make the University of Wisconsin subsidiary to the great cause of popular education by making it, through its normal department, the nursery of the educators of the popular mind, and the central point of union and harmony to the educational interests of the commonwealth." They declared that instruction in the normal department should be free to all suitable candidates. Little was accomplished, however, in this direction during the next ten years.

In 1857 an act was passed by the legislature appropriating twenty-five per cent. of the income of the swamp-land fund "to normal institutes and academies under the supervision and direction of a board of regents of normal schools," who were to be appointed in accordance with the provisions of the act. Distribution of this income was made to such colleges, academies, and high schools as maintained a normal class, in proportion to the number of pupils passing a successful examination conducted by an agent of the board.

In 1859, Dr. Henry Barnard, who had become chancellor of the university, was made agent of the normal regents. He inaugurated a system of teachers' institutes and gave fresh vigor to the normal work throughout the State. Resigning, however, on ac-

count of ill health, within less than two years, Prof. Chas. H. Allen succeeded him as agent of the normal regents, and was elected principal of the normal department of the university, entering upon his work as the latter in March, 1864. He managed the department with signal ability and success, but at the end of one or two years resigned.

Meantime the educational sentiment of the State had manifested itself for the establishment of separate normal schools.

In 1865, the legislature passed an act repealing that of two years before, and providing instead that one-half of the swamp-land fund should be set apart as a normal-school fund, the income of which should be applied to establishing and supporting normal schools under the direction and management of the board of normal regents, with a proviso, however, that one-fourth of such income should be annually transferred to the common-school fund income, until the latter should amount annually to \$200,000. This proviso was repealed by the legislature of 1870, and the entire income of one-half the swamp-land fund has since been devoted to normal school purposes.

During the same year proposals were invited for aid in the establishment of a normal school, in money, land, or buildings, and propositions from various places were received and considered.

In 1866, the board of regents was incorporated by the legislature. In the same year Platteville was conditionally selected as the site of a school, and as there was already a productive fund of about \$600,000, with an income of over \$30,000, and a prospect of a steady crease as the lands were sold, the board decided upon the policy of establishing several schools, located in different parts of the State.

In pursuance of this policy there have already been completed and are now in very successful operation the following :

Platteville Normal School, opened October 9, 1866.

Whitewater Normal School, opened April 21, 1868.

Oshkosh Normal School, opened September 19, 1871.

River Falls Normal School, opened September 2, 1875.

It is believed that the normal-school system of Wisconsin rests upon a broader and more secure basis than the corresponding system of any other State. That basis is an independent and permanent fund which has already reached nearly a million dollars. The precise amount of this securely invested and productive fund was,

September 30, 1875, \$976,364.34, showing an increase during the previous year of \$2,558.00, and the second year previous of over \$55,000.

Each Assembly district in the State is entitled to six representatives in the normal schools. These are nominated by county and city superintendents. Tuition is free to all normal students.

There are in the normal schools two courses of study—an *elementary course* of two years and an *advanced course* of four years. The student completing the former, receives a certificate; the one completing the latter, a diploma. The certificate, when the holder has successfully taught one year after graduation, may be countersigned by the Superintendent of Public Instruction, when it becomes equivalent to a five-years State certificate. The diploma, when thus countersigned, after a like interval, is equivalent to a permanent State certificate.

TEACHERS' INSTITUTES.

In addition to the work of the normal schools, the board of regents is authorized to expend \$5000 annually to defray the expenses of teachers' institutes.

A law of 1871 also provides for normal institutes, which shall be held for not less than four consecutive weeks, and appropriates from the State Treasury a sum not exceeding \$2000 per annum for their support.

There were held in the State in 1874, ten normal institutes, and over forty others varying in length from one to three weeks.

GRADED SCHOOLS.

Including those in the cities, the graded schools of the State number about four hundred. Excluding those in the independent cities, the annual report of the State Superintendent for 1875 gives the number with two departments as one hundred and eighty-four and the number with three or more as two hundred and ten.

A law of March, 1872, provides that "all graduates of any graded school of the State, who shall have passed an examination at such graded school satisfactory to the faculty of the university for admission into the sub-freshman class and college classes of the university, shall be at once and at all times entitled to free tuition in all the colleges of the university."

Under this law 11 graduates of graded schools entered the university in 1872, 36 the following year, and 43 in 1874. Of these latter 36 entered the freshman class of the scientific department, and 7 the sub-freshman class of the classical department. Few graded schools of the State are able as yet to fully prepare students for entrance into the regular classes of the classical department of the university.

SCHOOL DISTRICTS.

The number of regular districts, as given in the present report for 1875, is 4,531. The estimated number of joint districts reported is 955. The whole number of districts, not including those cities out of the jurisdiction of county superintendents, is 5,486. The number of cities reporting independently is 26. The number of wards or other divisions of independent cities, each supporting a school, is about 100.

Number attending schools.

Number reported as attending public schools, in 1875.....	279,854
Number reported as attending private schools, exclusively, in 1875.....	10,733
Number reported as attending academies and colleges, in 1875.....	2,151
Number estimated for benevolent institutions, in 1875.....	1,150
Total.....	<u>293,888</u>

Teachers and teachers' wages.

The number of teachers required in all the schools in 1875.....	6,224
Number actually employed some parts of year in 1875.....	<u>9,451</u>

Average wages of male teachers in country districts in 1875, \$43.50 per month.

Average wages of female teachers in country districts in 1875, \$27.13 per month.

Average wages of male teachers in cities in 1875, \$1,094.00 per annum.

Average wages of female teachers in cities in 1875, \$394.00 per annum.

Teachers' certificates.

The whole number of certificates granted in 1875, was 8,822, as follows:

SEX.	First grade.	Second grade.	Third grade.	Total.
To males.....	143	295	2,210	2,648
To females.....	74	329	5,841	6,244
Total.....	217	624	8,051	8,892

ANNUAL REPORT OF THE
STATE TEACHERS' CERTIFICATES.

The State Superintendent is authorized by law "to issue State certificates of high grade to teachers of eminent qualifications." Two grades of these are given, one unlimited, and the other good for five years. The examination is conducted by a board of three examiners, appointed annually by the State Superintendent, and acting under rules and regulations prescribed by him.

Of fourteen applicants for State certificates, in 1875, four received a life certificate and two a five-years certificate.

SCHOOL-HOUSES.

The whole number of these returned in 1875, was 5,260. Thirty-four different counties had one or more school-houses valued from \$5,000 to \$30,000, aside from those embraced in the cities. The school-houses of the State could that year accommodate 330,189 pupils, or 50,345 more than the entire actual attendance.

TEACHERS' ASSOCIATIONS.

Besides the Wisconsin State Teachers' Association, holding its annual session in the summer and a semi-annual or "executive" session in the winter, both well attended by representatives from all grades of schools, public and private, there are in several parts of the State county or district associations, holding stated meetings. The number of such associations is annually increasing.

COLLEGES AND UNIVERSITIES.

In addition to the State University there are in Wisconsin the following incorporated colleges:

Beloit College, Beloit.
Racine College, Racine.
Ripon College, Ripon.
Milton College, Milton.
Lawrence University, Appleton.
Galesville University, Galesville.
Carroll College, Waukesha.

The last two are as yet doing only preparatory or academic work.

ACADEMIES AND SEMINARIES.

Albion Academy, Albion.
German and English Academy, Milwaukee,
Fox Lake Seminary, Fox Lake.
Wayland Institute, Beaver Dam.
Elroy Seminary, Elroy.
Rochester Seminary, Rochester.

SCHOOL OFFICERS.

The school officers of Wisconsin are, a State Superintendent of Public Instruction, sixty-four county superintendents, twenty-seven city superintendents, and a school board in each district, consisting of a director, treasurer, and clerk. The State and county superintendents hold office two years, the district officers three years. In each independent city there is a board of education, and the larger cities have each a city superintendent, who in some cases is also principal of the high school.

The county board of supervisors determine within certain limits the amount of money to be raised annually in each town and ward of their county for school purposes, levy an additional amount for the salary of the county superintendents, may authorize a special school-tax, and may under certain circumstances determine that there shall be two superintendents for their county.

The town board of supervisors have authority to form and alter school districts, to issue notice for first meeting, to form union districts for high-school purposes, and appoint first board for the same, to locate and establish school-house sites under certain circumstances, to extinguish districts that have neglected to maintain school for two years and to dispose of the property of the same.

REPORTS.

The district clerks report annually to the town clerks, the town clerks to the county superintendents, and the county and city superintendents to the state superintendent, who in turn makes an annual report to the Governor.

THE TOWNSHIP SYSTEM.

In 1869, the legislature passed a law authorizing towns to adopt

by vote, the "township system of school government." Under this system each town becomes one school district, and the several school districts and parts of joint districts, become sub-districts.

The clerks of the several sub-districts constitute a body corporate under the name of the "board of school directors," and are invested with the title and custody of all school-houses, school-house sites, and other property belonging to the sub-districts, with power to control them for the best interests of the schools of the town.

The law provides for an executive committee to execute the orders of the board, employ teachers, &c.; and for a secretary to record proceedings of the board, have immediate charge and supervision of the schools, and perform other specified duties.

But few towns have as yet made trial of this system, although it is in successful operation in Massachusetts and some other States, and where fully and fairly tried in our own, has proved entirely satisfactory. It is the general belief of our enlightened educational men that the plan has such merits as ought to secure its voluntary adoption by the people of the State.

THE WISCONSIN JOURNAL OF EDUCATION.

When I came into office two years ago the *Journal of Education*, by the "right of inheritance," fell to my possession. A resolution of the State Teachers' Association had a few years before requested the State Superintendent and his Assistant to revive the publication of this periodical, and three volumes of the new series had been issued under their management. Believing that the interests of education in the State had been, and would continue to be, promoted by the existence of this official organ of the department, as a means of constant communication with teachers and school officers, I consented to share in the responsibility and labor of its continued publication, and the *Journal* has been regularly issued up to the present time.

Formerly in our State, as in others, this enterprise, that could not find adequate support through private subscription, was fostered by legislative subsidy, the State Superintendent being authorized by law to subscribe for a certain number of copies for gratuitous distribution to school officers, at the expense of the State. This guaranty of support, independent of the character of the

publication and of the desire of those to whom it is sent, can only be justified in the beginning of such an enterprise, if at all; and its continuance is almost sure to defeat the best interests of that for which it was originally given. The direct aid formerly granted to the *Journal* was therefore wisely withdrawn some years ago, and its existence left to individual enterprise and need. The State, however, still recognizes it in the following legislative enactment of 1871:

AN ACT to supply school officers with the "Journal of Education."

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

SECTION 1. Each school district clerk is hereby authorized to subscribe annually for one copy of the "Wisconsin Journal of Education," the subscription price and postage to be paid by the district, and to be included in any of the taxes levied by the district at an annual or special meeting, as may be convenient. Each town clerk, or if the town shall have adopted the town system of school government, then the secretary of the town board of directors, is authorized to subscribe for one copy, the expense of which and the postage shall be paid by the town, and included in the town taxes for school purposes.

The *Journal* regularly contains a large number of official opinions of the department, besides educational intelligence from various parts of our own State, and from other States and countries, and practical discussions of educational topics. That it is not a hasty compilation from other periodicals, but to a great extent a repository of original and carefully prepared articles from our own teachers and school officers, inspection will fully prove. The papers reprinted from it in this report will perhaps tend to justify this statement.

CONCLUSION.

I have thought it appropriate for the Centennial year—the year in which this report will be chiefly read—to present an abstract of the educational history of the State, from its origin down to and including the present year, 1875. This may not be without interest to many of our own citizens, while to those of other States and countries, into whose hands this report may chance to fall, the facts given will constitute a valuable fragment of that great mass of evidence which the American people are now preparing to present in illustration not only of their present condition, but of their wonderful growth during this first century of national life.

This record of our own past is one of which I believe we need not be ashamed. Wisconsin has been a State but twenty-eight years—less than a single generation,—yet she has in this time securely laid the foundations, and largely completed the superstructure, of a great, virtuous, intelligent, and prosperous commonwealth. In the general morality of her people, in the excellence of her schools, in the number and appointments of her charitable institutions, in the intelligence of her press, in the enterprise of her business men, in her facilities of communication by rail and water, in the diversified beauty of her natural scenery, in her vast and as yet undeveloped agricultural, timber, and mineral resources, and, finally, in the unsurpassed healthfulness of her climate, Wisconsin justly ranks as second to no other State in the Mississippi valley.

Nowhere in the Union is there a State or territory better adapted by nature for the development of a superior type of manhood and citizenship. The propitious conditions are all here. The elements of a varied and healthful industrial and social life are about us in rich profusion. Our fertile soil, our boundless forests, our inexhaustible mines and quarries, our abundant water-power, and our superior facilities for navigation, forbid the predominance of any one industry over others. Nature has not, by giving us the unending prairies of other western States, doomed us forever to their exclusive pursuit of agriculture, and to that sameness of life which is hostile to the creation of the best and brightest type of national character.

When our waterfalls shall be utilized for manufacturing purposes, when our mines shall teem with busy workers, and the inland seas upon which we border shall be thickly furrowed with the commerce of our ports,—results that are sure to come at no distant day; then, if also the promise of our school-system shall have been fulfilled, and the right culture of the people shall have kept pace with their material progress, Wisconsin will, in the history that shall be written at the second Centennial of the nation, be shown worthy of the advantages that fell to her possession, and worthy of the motto that was chosen by her founders.

EDWARD SEARING,
Supt. Public Instruction.

DOCUMENTS

ACCOMPANYING REPORT.

Reports of County Superintendents.

BUFFALO COUNTY.

L. KESSINGER, SUPERINTENDENT.

The reports I found just a little worse than ever, owing to a number of newly elected town clerks. When I had made the most of these reports I could not say that the result satisfied me, and I am afraid it will not satisfy you, even after all my pains and patience.

There was some trouble about blanks for district and town clerks, originating, I think, mostly in the carelessness of the latter. This, however, brings me back to my former proposition, of having said blanks distributed by county superintendents. Some people really seemed to think that I had to supply the deficiencies, and it would have been convenient, had I been enabled to do so.

I have always endeavored to do what, from my intimate acquaintance with localities in this county, I judged to be most proper, and most beneficial to the greatest number. Thus I have protested against unnecessary divisions of districts, and exerted my influence, (authority I had none in the matter,) for the establishment of new districts, whenever desirable.

I have also during this year succeeded in getting a new school-house built in district No. 3, of the town of Gilmanton, a point for which even my predecessor had begun to work. District No. 3, of the town of Alma has enlarged its school-house, and will for that very reason keep together instead of separating.

In general, school-matters are on a favorable footing, although now and then, often quite unexpectedly, something turns up which makes a disturbance in a particular district, at least for a time.

Teachers keep on improving, and if it were not for mistaken or misapplied economy, every district would have a good teacher. A large majority of them have attended the institute, and in spite of the terrible roads and the disagreeable weather, the institute was a real, and, considering local causes which seemed to militate against it, an unexpected success.

There is a new term before me and I shall make past experiences bear on the work, certainly for the improvement of teachers and schools, which can not in fact be separated.

The common free school is the foundation and bulwark of our liberties. It will stand as long as it deserves to do so. To make the free school all it should be, to perfect it as much as possible, is not only the duty of every citizen in general, but in particular that of the officers elected to administer its affairs. Thus knowing and feeling my duty I shall always try to do it.

CALUMET COUNTY.

WM. B. MINAGHAN, SUPERINTENDENT.

I am aware that I am behind time; but I hope you will be willing to make allowance for the fact that I had to wait for town clerks to make their reports, and was compelled in some cases to return them for correction. Although late, you will find my report as nearly correct as the most thorough diligence on my part can make it.

I am happy to report a steady growth of the school interests in this county. Two districts, Chilton and Stockbridge, have organized under the high school law. The school at Chilton has D. E. Morgan as its principal and the school at Stockbridge J. M. Rait; both are graduates of the Platteville school. These schools are certain to be well sustained, and by their influence the whole teaching force of the county will be rapidly strengthened.

Our institute this fall was attended with the best results. Nearly every teacher in the county attended. Most took an active part, and all went away with energies aroused and interest thoroughly awakened, and with a more enlightened conception of their important duties.

COLUMBIA COUNTY.

KENNEDY SCOTT, SUPERINTENDENT.

GENERAL STATISTICS.

The census of August 31, 1875, shows 8,932 children of school age in the county under my jurisdiction, against 8,874 in 1874, a gain of 58. The total number who have attended school during the year is 7,118, against 6,472, a gain of 646. Allowing this report to be correct can it be possible that we have over 1800 children of school-age who are not receiving the benefits of our schools, or are we to infer that the reports of our district clerks are so imperfect that we can place no dependence on them whatever? There are 146 school-houses in the county. There are two schools of five departments, and six with two departments. The average wages per month of male teachers is \$40.17, \$1.06 less than last year. The average wages of female teachers is \$23.43, \$0.02 more than last year.

TEACHERS.

The total number of teachers required to teach the schools is 161. During the year 283 different teachers have been employed. This is nearly two teachers to a school, and shows that the same teacher is rarely retained two terms in succession, especially in the country schools, a fact much to be regretted, as it interferes with the progress of the schools materially. The best interests of our schools demand that there be a less frequent change of teachers, and that a good teacher should not be allowed to change for a few dollars per month. I would also recommend that the district boards be more particular in examining the standing on certificates presented by applicants desirous of teaching their school. One holding a good certificate well marked should, by all means, have the preference over one who has hardly earned the per cent. required, which for third grade is six on a scale of ten, seven for second and eight for first grade.

Allow me to speak a word regarding our primary teachers. For our primary schools we need persons of natural tact, ability and experience as well. Some of our district officers seem to think that any one will answer who can be hired cheaply in dollars and cents; but this is a grand mistake, for the impression and training

received will be in a great measure retained, as the pupils pass through the higher departments. Hence a good teacher, well paid, would be the greatest economy on our part.

CERTIFICATES.

The number of certificates granted during the year was 400, as follows: 4 first grade, 25 second grade, and 371 third grade; of the latter quite a number were limited, or for six months only.

INSTITUTES.

Two institutes have been held during the year, one in the fall at Portage, and one in the spring at Lodi. At the former over one hundred were in attendance, at the latter fifty. Both were conducted by Prof. A. Salisbury as principal, and gave good satisfaction. The influence of these was every where apparent in the school work of the past year. The teachers as a general thing are anxious to avail themselves of every opportunity to improve.

SCHOOL-HOUSES.

A large per cent. of the school-houses are in good condition, but stil we have too many poor ones. The supply of black-board is very deficient and in a great many schools is almost worthless. Some of the old buildings have been thoroughly repaired and furnished, and are now in good condition.

TEACHERS' ASSOCIATIONS.

The teachers' associations have been of very great benefit to the teachers and all who have taken part. I find teachers who attend these meetings, as a general thing, teach the best schools and give the best satisfaction where they are employed. We hope to continue these meetings the coming winter, and make them worthy of patronage.

DANE COUNTY—FIRST DISTRICT.

W. H. CHANDLER, SUPERINTENDENT.

In connection with my fifth annual report, I take occasion to submit a brief special report covering a few points which my expe-

rience and observation have led me to consider worthy of general comprehension and attention.

The facilities for common school instruction in this district have not materially changed during four years, and the necessities for these facilities remain for the most part as they were. There are now 104 school-houses, instead of 101, with an aggregate valuation of \$58,440 against \$57,775, with apparatus amounting to \$1,890 instead of \$1,597. The days of attendance this year were 280,876, against 259,742 four years ago; the days taught 16,429, against 14,180; the number attending 4,306, against 4,211; the number of school-age 6,800, against 6,722; the average wages of male teachers \$38.71, against \$39.07; and that of female teachers \$26.31, against \$22.77. The whole number of teachers needed to teach the schools is 110. Forty-two teachers in commission four years since are still in service, and have taught quite constantly during this term; but 29 of these, however, now teach in this district, 31 are known as teaching elsewhere. Of these, 8 are males, and 34 females.

The number of teachers continuing in the work four or more years quite fairly indicates, I think, the proportion of the whole number that enter upon this work who develop sufficient tact, skill, and teaching power to make *successful* teachers. This is about 25 per cent., according to statistics, which agrees closely with results of observation. The remaining 75 per cent. drift from district to district in quest of more promising conditions for success, and not having "much depth of earth" in themselves, soon drop out of the ranks. This suggests great waste of time, money, and opportunity, as well as great wrong towards the subjects of these experiments—evils which, in my judgment, are inevitable while facilities for secondary instruction are so meagre and exceptional. This is the great need in our State system now, and it is to be hoped that advantage will be taken of the State aid now proffered in this direction, in the provision made for free high schools, for in these, it seems to me, there is much promise for a better qualified and more permanent corps of teachers for our public schools. Teachers fail, not because of lack of desire to succeed, but for lack of schoolastic attainments and mental discipline which would qualify them to be helpful to their pupils, and give them power in original thought and devices to that end.

The institute-work has been prosecuted regularly and systematically, the character of the work done, the interest in, and attendance upon them has steadily improved, the one held last spring being the largest, 103 being registered, and the most satisfactory one ever held. Indeed, I am glad to be able to say, that as a rule, the teachers have manifested a most commendable interest in fitting themselves for their work, have welcomed the visits, counsels, and efforts of the superintendent to assist them, and if many have failed, it is to be attributed to causes hereinbefore suggested. Several, after having quite successfully taught for years, becoming conscious of lack of fitness, to which they were before oblivious, have gone to normal schools for longer or shorter terms, greatly to their advantage, and the advantage of the schools. Comparatively few, however, are able to do that; hence, the necessity of some facility for secondary instruction and training, more accessible to the majority.

In some parts of the district, a most commendable spirit has been manifested in superceding old school-houses with new ones of excellent character, and barbarous seating and furnishing appurtenances, with modern and creditable arrangements, so that it is difficult to find in the State better school-houses and fixtures than many of our districts now have. Two school-houses were burned last year, one in the town of Deerfield and one in the town of York; and in consequence each of these districts failed to have five months school this year. I would recommend, however, that apportionment of public money be made to them. Both have rebuilt.

One further matter only will be noted. In many of our districts the children of the original settlers have largely outgrown school-age, or the facilities afforded in the schools for their instruction, while the succeeding generation have not as yet, in any great numbers, children of school-age. This leaves many districts with meagre school population, resulting in exceedingly small attendance, especially in summer terms, and strong temptation to neglect and indifference, or positive inclination to abandon efforts to keep up a school. The expense per capita of schooling the children thus located, even with the cheap arrangements usually made in such cases, and the unsatisfactory results of the expenditure of money and effort that are almost universally conceded, it seems to me

ought to be strong arguments with every intelligent person in favor of a revision of the whole matter of a district system, and in favor of the township system.

My conclusion is, then, that a township system, facilities for secondary instruction through free town high schools, which will at the same time inaugurate the graded plan, in a measure, in connection with our district schools, a State tax, to supplement the school-fund income, are the points to be labored for in the immediate future by all interested in the welfare of our public schools, and through them our great commonwealth.

DOUGLAS COUNTY.

THOMAS CLARK, SUPERINTENDENT.

For a population of about seven hundred, in the town of Superior, co-terminous with Douglas county, there are three good school-houses, each containing two rooms, and capacity for fifty pupils in each room; ample for the present number of children—two hundred and ninety-nine. One of the houses has four additional unfinished rooms, ready to be fitted when needed for additional pupils.

These rooms opened under good teachers should be a stronger inducement for general attendance, than any mere compulsory law. But the inconstant attendance—being in 1873-4 fifty-five, and in 1874-5 forty persons only, gives reason for serious objections, on the part of tax-payers, to the expenditures.

Parents and guardians are blameworthy, but district officers and teachers should either stimulate a greater constancy or reduce the demand for taxation.

The amount paid teachers and for incidentals in 1873-4 was \$4,725.57, and for 1874-5, \$3,990.07, being per capita of attendance for the former, \$18.00, and nearly \$19.00 the latter year, and \$13.00 for each enumerated child.

The district treasuries have for years past carried over from year to year unnecessarily large balances of cash on hand; the balance August 31, 1873, was \$2,156.26, August 31, 1874, \$3,399.55, and August 31, 1875, \$2,583.29.

In addition to the last item there is in the county or town treasury designed for the school-fund the amount of \$448.38; in the

county funds the county school-taxes levied pursuant to section 5, chapter 24, revised statutes, \$781.74, and balance of the district levies of 1873 and 1874, \$904.15; available funds, in all, \$4,717.56, exclusive of the districts' levies for 1875-6; the result of taxation entirely in advance of the wants of the schools.

Except a technical following of chapter 323, laws of 1875, the districts in this county have for years maintained in separate departments "free high schools," taught by experienced and unquestionably qualified teachers. Moreover the expenditures for these high schools have in each district exceeded the amount annually required to entitle them to the State aid of five hundred dollars.

District No. 2, in the town of Superior, has adopted a free-book plan for the pupils. The first cost was about one dollar a pupil, the annual addition, about twenty-five cents; this includes stationery.

I regret to call your attention to the "*Financial Statistics*."—First, the county taxes required by section 5, chapter 24, revised statutes, amounting, for the last six years, to \$781.74, have not been paid into the school funds. Second, a deficit of \$398.94.

After persistent urgency for the last three weeks, the town clerk fails to investigate and report the reason, if any, for the apparent fraud. The town treasurer has kindly aided me; and his accounts verify the report of my predecessor, and also that \$2,583.29 is the correct balance for cash on hand August 31, 1875, instead of \$2,184.35, as stated by the town clerk.

JUNEAU COUNTY.

G. P. KENYON, SUPERINTENDENT.

I herewith submit the following special report of the condition and prospects of the schools of the county.

SCHOOL-DISTRICTS.

For educational purposes the county is divided into eighty-six districts, with an average area of ten square miles to each district. A very respectable majority of these districts are of suitable size to accommodate all the children within their boundaries, especially where the school-house occupies a central position, which is gen-

erally the case. There are some, however, so very large that the children living in the remote portions of the district are at an inconvenient distance from the school-house, and a few others so very small that the burden of taxation is disproportionate to the number of children to be educated. But, all things considered, there seem to be no real grounds for fault-finding in this direction, and with very few exceptions little or no benefit would result from a change in district lines. All should understand that it is impossible for the school-house to be in juxtaposition to every dwelling in the district, and that it is far better for children to travel two miles to reach a good school than to travel half that distance and attend a poor one. It should be the constant aim of those having the authority to form districts and change district boundaries, to include within their limits sufficient wealth to enable the inhabitants to support good schools without an undue burden of taxation, But I am happy to state that as a general thing the districts are able to maintain good schools and for a reasonable length of time; and what is still more gratifying I find the inclination to do so commensurate with the ability.

Few changes have been made in district lines during the year. One new district has been formed in the town of Lyndon, and a joint district of Wonewoc, and a town in Sauk county has become disorganized and that part of the district lying in the town of Wonewoc attached to district number one of said town. Other changes may have been made which have not come to my knowledge.

SCHOOL-HOUSES.

Juneau county boasts of ninety school-buildings, all told, and although a few of them furnish a sad commentary upon the educational apathy that allows the school work to suffer for want of better provisions, yet there are many others which speak in unmistakable terms of the spirit of progress that is rife in the land. Several new school-buildings have been completed during the year, and the liberal plan upon which they have been constructed clearly proves that the intelligence of the children is not weighed in the balance with dollars and cents, but that money is counted as dross in comparison with the healthy, intellectual and moral growth of the children of the county, save as it affords the means through

which these happy results are obtained. Truly there has been a commendable improvement in this direction in the last few years. Those old log-houses which were hastily thrown together in an early day, when lumber was high and hard of access, are gradually disappearing year by year, and in their stead are erected neat, substantial school-buildings. Several districts are seriously talking of new school-houses, and it is safe to predict that in a few years no inferior school-buildings will remain to cripple the educational interests of the county. The present estimated aggregate value of all the school buildings in the county is \$32,554, and the average value \$360. The highest valuation of any one building is the school-house in the village of Necedah, valued at \$8,000, or nearly one-fourth of the aggregate value of all the school-buildings in the county.

SCHOOL-FURNITURE.

My report upon this subject must of necessity be quite meager, as the school-apparatus of the county is by no means extensive or expensive. I am pleased however to be able to report thirty-two schools furnished with outline maps, which is not so very bad after all; but the balance of the school appliances can be summed up in about one dozen globes, one-half that number of writing charts, reading charts ditto, and two or three numeral frames. In regard to black-board surface I am happy to report more favorably, as about one-half of the schools are supplied with a liberal area of this very important school-room appendage.

But a few schools are almost if not entirely destitute of black-board surface, while in others it is so meager as to be unprofitable. The total amount expended during the year for school-apparatus and library, as shown by the town clerks' reports, is \$330.

SCHOOLS.

With two exceptions a school has been maintained in each district not less than five months, and the average number of months a school has been taught in each district, as near as can be calculated from the imperfect condition of school reports, is about seven and three-fourths. Although our schools have by no means reached the acme of excellence, yet I consider it no exaggeration of the truth to say that they are in a "flourishing condition."

The very few cases of insubordination and corporal punishment which have occurred, the gradual but steady lessening of that bane of the school-room, tardiness, and its twin evil, irregular attendance, as shown by teachers' reports, together with the earnest and systematic work which is observable in a majority of the schools, furnish incontrovertible testimony of their prosperity.

No district quarrels of a serious nature have arisen to distract the school work, no schools have failed for want of support or lack of proper management, but, on the contrary, the schools have been well sustained, and an unusual degree of harmony has attended the educational work. On the whole, the result of the school-work for the past year is highly encouraging.

GRADED SCHOOLS.

There are five graded schools in the county, viz.: at New Lisbon, Mauston, and Necedah, with five departments each; and at Elroy and Wonevok with two departments each. For a complete system of grading, good management, and thorough work, I am satisfied, from the information that I have been able to gather from other counties, that these schools as a class compare favorably with the graded schools of any county in the State, and it is a matter of fact that we have acquired considerable notoriety in educational circles, for our very excellent graded schools.

TEACHERS.

To teach the schools of the county requires one hundred and two teachers. One hundred and sixty-one different persons have been employed in the schools of the county during the year; fifty-one males and one hundred and ten females. The average age of those persons is 23 years. The total amount expended for teachers' wages is \$20,444.95. Of this amount \$8,120.77 has been paid for the services of male teachers, with an average of \$45.92 per month, and \$12,324.18 for the services of female teachers, with an average of \$23.80 per month. I do but simple justice to the teachers of the county when I say that, as a class, they have been earnest and faithful workers, and that nearly all are making honest efforts to improve.

PUPILS.

There are 5,941 legal school-children in the county, as shown by the town clerks' reports; of this number 5,893 reside in districts maintaining a school five or more months; consequently the apportionment of the school money will be made on this number and divided among the districts in proportion to the number of children residing in each district, while the two districts, maintaining school less than five months will be deprived of the benefit of the public money on forty-eight children.

According to the town clerks' reports, about twenty-seven and one half per cent. of all the children in the county have not attended school at all during the school year. This part of the report, however, I consider quite unreliable, as in several instances the column indicating the number of children who have attended school during the year was not carried out, and it has been next to impossible for me to make the proper corrections. I am of the opinion that twenty per cent. is nearer the truth.

EXAMINATIONS.

Twelve meetings for the examination of teachers have been held during the year, viz.: two at New Lisbon, two at Mauston, two at Necedah, two at Lyndon Station, two at Elroy, one at Wonewoc and one at Werner. The examinations usually occupied two days at each place, and were conducted by written and oral questions and answers as the law provides. In selecting questions for this part of the work, I have aimed, not only to test the applicants' knowledge, but to suggest a study of something beyond mere rules and definitions—not only to find out what they know, but to suggest what they ought to know.

During the year, two hundred and seventy-five different persons presented themselves at the several meetings for examination. One hundred and seventy certificates of all grades were granted, two of the first, four of the second, and one hundred and sixty-four of the third grade; fifty-seven were granted to male and one hundred and thirty to female teachers. In deciding upon the merits of candidates in these examinations, I have endeavored at all times to be just to myself, just to the applicant, and true to the educational interests of the county.

TEACHERS' INSTITUTES.

During the year two normal institutes have been held; one at Mauston, commencing October 19, 1874, and continuing two weeks, with an attendance of sixty teachers, and the other at New Lisbon, commencing August 9, 1875, and continuing four weeks, with an enrollment of forty-five teachers. Both these institutes were conducted by Prof. Salisbury, of Whitewater Normal School, assisted in the former by W. G. Spence, then principal of Mauston graded school, and in the latter by W. S. Johnson, principal of New Lisbon graded school. The institutes were ably conducted and much good accomplished. Evening lectures were delivered by Prof. Salisbury, Prof. Butler, of Madison, W. S. Johnson and Dr. French, late State superintendent of Vermont.

ASSOCIATIONS.

At the close of the institute at Mauston the county was divided into four association districts, and officers elected for each district.

During the winter some ten meetings were held in the eastern division, under the supervision of John E. Galligan as president, and considerable interest awakened. Several meetings were also held in the western division under the immediate supervision of James Wightman as president, while the northern and southern divisions united in the work and held six meetings during the school term. These meetings were held upon Saturdays in different parts of the county and generally well attended. The work was from a programme previously prepared and published, and consisted in a general discussion of school-work, class exercises, reports of the conditions of schools, essays, query-box, and such other subjects as were fraught with interest to the meetings. Much interest was manifested in these meetings, and I am confident that substantial benefit was received by those in attendance.

SCHOOL-VISITS.

During the year I have made one hundred and forty-five school-visits. In these visits I have aimed to ascertain the true condition and real wants of each school, to advise with teachers, encourage pupils, and arouse parents and school-officers to a lively interest in the numerous and important duties devolving upon them and to gather matter for timely comments.

These visits have been unannounced, that I might be the better enabled to judge of the true condition of the schools, and it is but just to say that I have almost without an exception found the teachers striving to do their work well, and in most cases possessing the ability to carry out their good intentions.

CONCLUSION.

In regard to my own labors I will simply say that I have endeavored to discharge my duties faithfully and impartially. I have aimed to promote the educational interests of the county by and through the instrumentality of normal institutes, teachers' associations, circulars to teachers, communications through the county paper, and in various other ways, and I cherish the hope that my efforts have not been altogether unfruitful.

LA CROSSE COUNTY.

S. M. LEETE, SUPERINTENDENT.

The schools of the county are gradually improving. Young teachers, just entering the field, are better prepared for their work than many of the old teachers were when they assumed the role of teacher.

Yet many of these old teachers, having learned much by experience and having been students while teaching, may now be classed among the real earnest teachers of the State.

There are still many who have taught for several terms that are far from being real teachers. And I find it difficult to persuade them that they are far behind the times and that they do not perform the work they ought. While teaching is looked upon as a profession in which any one may engage who can *brush up* and obtain a certificate, this class of teachers will find employment.

Yet there is encouragement in the fact that the number of this class of teachers grows less each year. The institutes that have been held in the county the last three years, have done much to drive the non-progressive teachers from the ranks, as well as to encourage, drill and stimulate those who are really striving to improve themselves in their profession.

The institute held in Bangor last spring, conducted by Professor

W. D. Parker, was decidedly an interesting one, and productive of great good. I do not think too much stress can be put upon the importance of these institutes. I have still the same opinion that I expressed in my last year's report, that the funds appropriated for the support of institutes are most wisely and profitably spent.

There has been some improvement in reference to school-buildings, made in the county during the year. Two new school-houses have taken the place of old dilapidated buildings. One of these houses is built of brick and located in district No. 5, town of Greenfield. District No. 6, town of Hamilton, has just completed a fine large brick school-house to take the place of the one lost by fire last winter. This district, which comprises the village of West Salem, has organized into a high-school district, and opens the school on November 1st. Several other districts have enlarged and improved their school-buildings, thus showing interest in the cause of education.

Much hard work still needs to be done to bring our schools up to any true standard. I believe most of the teachers are ready and willing to work, which is an encouraging fact.

LINCOLN COUNTY.

DAVID FINN, SUPERINTENDENT.

I have the honor to submit the following special report with the annual report:

The county, although in the first year of its individuality, is not far in the year of the educational march. It has seven school-houses, five of which are frame, and two log; two are furnished with patent seats and desks, and all are large enough to accommodate the children with sufficient room for their recitations and comfort. The most prominent school-house is the one in the village of Jenny; it has three apartments, two lower and one upper, each well furnished and finished. The whole building would be an ornament to any district.

The teachers gave general satisfaction in every district but one. Inquiring into the cause of a general satisfaction not being given in this district, I found it to be a peculiar pecuniary interest on the part of the patrons, (sic,) and a lack of home government

of the children. It is a remarkable fact that the teachers of this district fail to give satisfaction to the most of those with whom they do not board; but, the teachers ought to some extent to bear blame, as they might, with good judgment, effect a remedy to obviate such feelings.

In reference to the home government, I will only remark, that parents should not be too ready to sympathize with their children when they bring home those tales that have a tendency to lessen the dignity of the school; if such tales are worthy of notice by the parents, certainly they should inquire into their nature properly, and not harbor ill feeling for teachers and others without well-founded reasons.

Parents can do a great deal towards the welfare of a school by visiting it. When children are accustomed to having such visits, they know that what will be for their interest is anxiously sought for by those whom they love best; consequently it acts as a powerful incentive and makes them feel the importance of their duty in a degree that teachers must fail, without these visits, to excite. Besides, it gives their parents a chance to ascertain, personally, the faults their children complain of and to advise for the interest of the school.

There are only two of the districts that have had sufficient schooling during the year. These have had from nine to eleven months, while the others, in consequence of a lack of means and a desire to keeep their children at home during warm weather to help on the farm, seem to be satisfied with five or six months. But in this respect they will all be equal in a few years, as the soil, climate, and productions of this county are favorable for an increase of the population, and if those who follow have a genius for progress equal to that of the people in the county at present, the number of common schools must increase, and other institutions also.

MONROE COUNTY.

A. E. HOWARD, SUPERINTENDENT.

I have the honor to inclose herewith my annual statistical report which has been delayed by the tardiness of reports from town clerks. As usual it is not absolutely correct in its statements, be-

cause of the inability of district clerks to do business; but the town clerks in every case, with perhaps one or two exceptions, are efficient men who have labored to get correct returns.

The examinations of teachers are very unsatisfactory owing to the class of persons who are in the field as professed teachers, and the many inefficient members of school boards who desire to hire the cheapest possible, without any knowledge of what is needed for work in their schools. I think if a State system of examination were adopted much good might grow out of it, from the fact that now persons who get a standing in the several branches of not over thirty per cent. in one county can go to an adjoining one and get a certificate marked about eighty per cent. in the same branches. This occurs and causes much trouble in cases, as well as the other fact that those holding certificates of good standing in one county go into another and engage schools on the strength of them, but on examination there with a different set of questions are found below the standard.

During the year 182 certificates have been granted; 4 first-grade, 5 second, 62 third, and 74 limited third-grade certificates were given, while there were upwards of four hundred applicants. One hundred and thirty-seven teachers are required to teach the schools; hence there were no spare teachers in the country and about twenty-five of those teaching were from other places—a few of them from New York State.

There were registered in the schools 176 more pupils than last year, and an average attendance of seven and a half per cent. more, or upwards of seven per cent. better average of the total number registered. From my reports I find that owing to the severity of the season last winter there was no increase for that part of the year, but that during January, February, and March the attendance in many of the districts was less than thirty per cent., or one-half the average of the corresponding months of the previous year. This is due to two causes: The people are getting alive to the benefits derived from the schools, and the teachers being better have interested the children more in the school-room.

Five new school-houses have been erected, and one for a school of two departments is being built at Norwalk, while still another for two departments at Wilton is planned and the money voted,

and the house will be built next summer. Many others have been repaired and the out-houses, especially, vastly improved.

The towns are agitating the subject of town high-schools, and, whether they succeed in establishing them or not, good will result, as it always does when men can be induced to think of and discuss improvement.

There is a gradual improvement in the buildings, the teachers, the interest manifested by the parents, and the average attendance, such as argues that Monroe county may yet be among those having the best schools in the State. We already have at Sparta and Tomah schools that rival any graded schools in villages of equal size.

There were two institutes held in the county, each of which, though not largely attended, was well conducted and of great benefit to those taking part and the schools taught by the teachers who attended them.

OUTAGAMIE COUNTY.

PATRICK FLANAGAN, SUPERINTENDENT.

Progress in the cause of education, like the changes in the world around us, is necessarily slow, yet it affords me pleasure to state that I find marked improvement in the schools of our county generally for the past year. Our new school-house in the village of Kaukauna, with two departments, cost \$2,000.00, and is an honor to the enterprising citizens of Kaukauna, and an ornament to the village. The school officers of this district displayed great financial ability, in putting up this neat building for two thousand dollars, the duplicate of which cost over \$3,000.00. The citizens of the village of Black Creek also put up a neat two story frame building. Some new districts were organized in the northern part of the county, and a few were consolidated, leaving the whole number reported but three mere than last year.

Our educational advantages for preparing the teacher for his work will compare favorably with almost any county in the State; for besides our proximity to the Oshkosh Normal School, we have a university and several graded schools in the county. The demand, therefore, for better qualified teachers is earnest and gene-

ral, and though we may occasionally find in our public schools those who are poorly qualified, acting as teachers, yet they remain in any one school but a short time, while those who possess knowledge and character, and can at all times get certificates are sought to take their places. The time has passed when conceit, superficial attainments and indolence armed with a permit, from some source, could fortify themselves with the deference that was paid to the position of a teacher. There has never been a time when real attainments, and real ability in the teacher would meet with a readier and heartier recognition than now. While the compensation of teachers is still inadequate in most instances, yet industry, culture, energy and perseverance, in this, as in other professions, are sure of obtaining a reward.

I have endeavored to visit all the schools of the county once during each school term. This plan has kept me thirty-one weeks visiting schools during the past year. At these visits I have endeavored to make myself acquainted, as far as possible, with the condition of the schools. Have generally conducted some of the exercises myself, and, at nearly every visit, made suggestions in reference to methods of teaching, remarking the items most worthy of criticism, commending and condemning, as far as thought advisable, and have, I believe, without exception, found teachers glad to hear and ready to heed hints helpful to their success. In many instances I found the school-rooms neat and clean, sometimes tastefully adorned with flowers, mottoes, wreaths of leaves, curtains—in the absence of better ones—of newspapers neatly notched.

A teachers' institute of a weeks' duration was held in Appleton last March, conducted by Prof. Graham. One hundred and sixty-four teachers were present. Superintendent Searing rendered us very efficient aid, by way of an able lecture; as also did president W. C. Whitford of Milton, who gave us two public addresses, both interesting and instructive.

In conclusion, we have every reason to be encouraged and to begin in the work with renewed energy for the ensuing year, for there is every prospect of making the schools in the county second to none in the State. We have talent, industry, a fertile soil and last, but not least, a high moral sentiment pervading the entire county. Under these circumstances it would be a miracle if the education of our youth were neglected. I have so much faith in the intelligence

of our citizens, that I cannot but believe the time is not far distant when this county will stand first among the counties of the State, in view of her many educational advantages and the intelligence and moral worth of her citizens.

There are many subjects worthy of notice which for lack of time must be omitted. I cannot close this report, however, without acknowledging my obligations to those district boards with whom I have had dealings, for their uniform courtesy and readiness to cooperate in any measure looking to the improvement and welfare of the schools, also to the people in the places I have visited for many acts of courtesy and kindness. I trust that the present friendly relations may be continued, and that the prospective condition of the schools in this county may be fully realized.

POLK COUNTY.

CHARLES E. MEARS, SUPERINTENDENT.

A year of general prosperity to the schools of this county has just closed; and, I might add, that in several special cases, most excellent work has been performed in the school-room, which has not been altogether confined to the older teachers. Many young teachers during the year have shown an interest in the work that argues well for future success and promise. Also a decided increase of interest, and improvement in work, are prominent points in favor of many of the more experienced teachers in the county.

The institute for this school-year was a season of only one week. The length of time that it was held was so unsatisfactory to teachers, as well as superintendent, that it is the earnest wish of all who feel a special interest in school matters, that none so short will ever be held in this county again. A four or six weeks' session is what we all hope to have hereafter. This institute was held at Osceola Mills, from September 7 to 11, 1874, and was conducted by Prof. A. O. Wright, now President of Fox Lake College, and myself. Thirty-four teachers were in attendance.

The Polk County Teachers' Association held a very profitable session last March at Farmington Center. The association now has a membership of fifty, and a library which contains fifty-three volumes of most excellent books. Marcellus Tozer, of Alden, is pres-

ident, and Miss Alice Tewksbury, of Farmington, is secretary. Annual meetings are now held in connection with the spring examination of teachers.

The increase in the number of school-children in the county, since my last report, is 176; 1,562 children of school age have attended school during the year, and 819 children of the proper age have not attended school. This large number of non-attendants brings the average cost of educating those attending school at \$9.85 per each pupil; while, if all children of school age had attended school, the average cost would have been but \$6.47 for each pupil. This ratio of expense in this county is slightly less this year than for previous years, but yet shows such a difference, that in the State it is worthy the especial attention of our legislators.

Six new school-houses have been built in the county during the year—four of logs, one frame, and one very fine brick-house, in district number two, Milltown, the first and only brick school-house in the county. School-houses have been supplied with new furniture, maps, globes, charts, black-boards, and other useful helps, at a total expense of \$960.50. This, with what was accomplished last year, in the same direction, puts many of our school-rooms in most excellent condition for good school-work.

Teachers continue to report promptly at the end of each school month. The town clerks' reports, in a few cases, were better this year than before. But only two were complete and correct, in every particular. Let us have the township-system as a State law, with a town superintendent of schools; pay all the officers for their work, and then require correct reports, and strict attention to all school work.

I have examined 109 applicants for certificates during the year. To these I have granted 3 first-grade, 10 second-grade, and 61 third-grade certificates, and 35 applicants were refused.

The strong right arm of the school-system of the State is the county superintendency. I believe that officer should be given a larger control of school-interests; the pay and length of term of service should be increased; and the office, so far as possible, removed from politics. The latter suggestion could be carried out by electing the superintendent in the spring, as county judges are now elected.

ANNUAL REPORT OF THE
RICHLAND COUNTY.

WM. J. WAGGONER, SUPERINTENDENT.

I am able to send you the most accurate report that I have yet made, my intimate acquaintance with the district and copious notes taken in my visits have enabled me to make such revision and additions, as make this report nearly correct. In reviewing a field of labor as broad as Richland county, and a work as comprehensive, as important and enduring as that allotted our district schools we can note, here a better average attendance, there less tardiness; here an improvement in buildings, there apparatus provided; here a more competent class of teachers employed than formerly, there a scrupulous demand for more practical, energetic school-work; and a greater effort for improvement by those who would teach; and in general a better knowledge of the aims of our school-system with a higher appreciation of the means provided for advancement, are, taken as a whole, results that indicate valuable progress.

None of these results appear to me to be of spontaneous growth, but they come from faithful work and judicious pressure.

The district meetings are nearly all held in August, and less than a dozen had school in July and August.

The teachers make term reports which show the enrollment, attendance, subjects pursued, and the amount of work done in each branch.

I have endeavored to make teachers feel responsible for the quality of work done, and in visiting I have endeavored to commend teachers for the good points, and suggest improvements when needed.

A little more than three-fourths of the children of the county have been enrolled during the year, but the total attendance is not equal to more than half the regular attendance of those enrolled, in fact is only equal to 65 days attendance for each pupil enrolled. Of the three classes of pupils, 62 per cent. of those between four and seven years of age are enrolled, 90 per cent. of those between seven and fifteen, and 62 per cent. of those between fifteen and twenty.

Every district has maintained school, at least, five months, the average time for each school is 128 days.

A few changes have been made in the boundaries of the districts, some of which have come to your notice. Would it not be well to have such appeals settled by the county superintendents?

Three new houses have been built and one removed to the center of the district. Arrangements are in progress for building several more. They are needed, as I can enumerate 32 that are not in a proper condition.

It requires 127 teachers to teach our schools; 216 different ones were employed this year. Sixty-one male teachers were employed some part of the year with average wages of \$32.85. The average wages paid females was \$20.96. The total school-expenses for the year were \$27,077.27.

During the year 303 persons were examined and 241 certificates issued, 3 of them first grade, and 9 second grade. I have found the practice of issuing six month certificates to give good satisfaction in this county. It has enabled me to establish a respectable grade of qualifications for full time certificates, and to use the limited ones as a probationary state. It has permitted energetic workers to do as much for the schools as many would who were better qualified, and at the same time do something for themselves. It also operated on the pride of some who were satisfied with present attainments until they found themselves provided with a limited certificate. That our teachers are improving is evident. Though there were 54 less applicants this year than last, 11 more certificates were issued. I think I have abated nothing in my requirements, but by experience and study have been able to frame more comprehensive questions. My plan is to have questions so framed and to embrace such a variety of topics under each branch that I judge by the completeness and readiness of an applicant's answers of his knowledge of that subject, and thus grade his standing on a knowledge of that branch, and not simply that he has answered so many questions on a list.

We enrolled 50 members at our week's institute in Sextonville last spring, and 82 members at our two week's institute in Richland Center this fall. Profs. Terry, Nye, and Twining are good, faithful workers.

I have made 133 visits this year, spending an average time of 2½ hours in each school. On averaging the number of children present those days, it stands 40 per cent. of the males in the district and 42 per cent. of the females.

On methods, my visits to 118 different teachers make the following exhibit: 81 spent 15 or 20 minutes daily in penmanship, print-

ing or drawing; 68 written exercises in spelling; 38 required map drawing; 23 had "general exercise" daily; 32 had a programme conspicuously posted; 52 used signals in class movements; all but 19 of these teachers use no reader higher than the fourth.

I keep agitating the subjects of State school-fund and township-system of school-government.

ROCK COUNTY—SECOND DISTRICT.

J. B. TRACY, SUPERINTENDENT.

I am happy to report progress in the schools of this superintendent district during the past year. A better class of teachers have presented themselves for examination. There has been manifested an earnest desire on the part of many of the teachers to reach a higher standard in qualification for their work, and as a consequence much better work has been done in the school-room. An effort has been made to raise the required standing for certificates as much as possible and still supply the demand, and it has received the cordial support of my best teachers; yet I am obliged to put some into the field as teachers who show a great lack of those qualifications which are essential to make them successful in their work. It is in teaching as in other kinds of business, some seem to possess natural qualifications for their particular employment, while others never will succeed because they do not have and can never acquire those qualifications which are essential to success.

Some of my teachers would do much more and better work if they only possessed the means to do with: such as good school-rooms, properly arranged, and furnished with apparatus, as a globe, outline-maps, reading and phonetic charts, geometrical-blocks, etc.; but especially a uniformity of text-books. I find a great lack in these particulars, especially the latter, yet some districts are waking up to the importance of these things. Some are building new school-houses, others are making quite thorough repairs on their old ones, etc.

The question of text-books has troubled me very much, and I earnestly hope that the bill compelling a township uniformity of text-books, which was introduced into the legislature last winter, would become a law. A great deal of precious time would be saved

thereby. On one of my visits last winter I found a school that was using fragments of *five different series of readers*, *four* of geographies, *three* of arithmetics, and *three* or *four* grammars. There were thirty-four scholars present, and the largest class that recited during the half-day of my attendance consisted of four members. This was an extreme case, yet I found many schools sadly wanting in this respect.

When I came into office, I found that nearly all of the county schools had only two terms a year, the summer term in most cases continuing through the hot months of July and August. On the examination of the teachers' monthly reports, I found that there was a falling off in attendance during July of about 30 per cent., and during August of about 50 per cent. of those in attendance during the previous months of May and June. I am fully convinced that there is a great loss of time, money and energy in attempting to run the schools during the hottest months of the season, and I have recommended that the school year be divided into three terms, fall, winter, and spring—which recommendation quite a number of districts have adopted with favorable results.

It has been my purpose when visiting schools to spend sufficient time, (nearly a half-day at each visit, numbering in all 221 during the year,) to become acquainted with the methods of instruction and discipline adopted by the teacher, and also the wants of the school, and as far as possible to consult with the scholars, teacher and patrons as to their deficiencies and how they can be the best remedied. Have also tried to impress upon the teachers and patrons of the schools too, the advantage which the teacher derives from attendance on the teachers' institutes; that the district boards should encourage and if necessary demand their attendance. But I had rather have one volunteer than two that have to be forced to attend. Those who are regular in their attendance, and prompt in the performance of what is required of them, are my most successful teachers.

We had a very pleasant and profitable institute at Milton last spring. The attendance was large and the interest increased until the close. Regret was expressed by many that the time was so short; and a general feeling prevailed at the close that a great deal of important work had been left undone. Yet I am confident from the improved work done in the schools during the summer, by those

who attended the institute, that it was a powerful aid to them. Much credit is due Prof. Salisbury for the able and skillful manner in which the institute was conducted.

Quite a number of the districts in the county seldom if ever employ a teacher the second term. A desire for a change seems to pervade their minds. The result is that the scholars in those schools are far behind those in districts where they make a point to get a good teacher and then keep him as long as possible. We hope they will get their eyes opened before long and apply a remedy; much time (a month at each change) is lost by a new teacher in the organization of the school, in getting acquainted with the scholars, in ascertaining their ability to learn, in knowing their dispositions and influences under which they are at home, all of which the teacher must know in order to govern and teach them successfully.

ST. CROIX COUNTY.

FRANK P. CHAPMAN, SUPERINTENDENT.

Upon transmitting this my second annual report, I can safely say that I find very marked improvement in the schools of this county.

By raising the standard of qualifications, I have imparted a new incentive to the teachers of this county.

NORMAL SCHOOLS.

I have done all in my power to encourage the attendance of the teachers of this county at the River Falls Normal School. This county is largely represented at that school; and I know that no section in the State is more in need of such a school than this.

INSTITUTE.

The institute, held at Hammond last March, was well attended and exceedingly interesting.

SCHOOL-HOUSES.

A marked improvement has been made in several of the school-houses and there is a strong disposition to be rid of those old tumble-down affairs sometimes called school-houses.

MAPS, ETC.

About all the districts are supplied with maps, constitutions, and the school-code.

COMPULSORY ATTENDANCE.

With a full knowledge of the statistics of non-attendance do I again urge the necessity of a law to remedy this evil. Having conversed with the intelligent parents of this county with regards compulsory attendance, I know that such a law would meet with their fullest approbation.

SAUK COUNTY.

JAS. T. LUNN, SUPERINTENDENT.

I submit the following special report for Sauk county, Wis.:

VISITATION.

During the year, 148 of the 159 schools of the county were visited, and enough were visited twice to make the total of visits 197. At these visits notes were made embracing items *commendable* and *amendable* and these presented to the teachers for comment and explanation. Many expressed their gratification at my noticing so many commendable features and their intention to strive to amend the others. Of one thing I am convinced, that a single visit per term gives but a slight insight into the real character of a school. The visit may be on the blue day of an ordinarily commendable school, or during the gala day of a school ordinarily worthless; or else the presence of the superintendent represses the free action of the better school and tends to control the misdirected tendencies of a poorer one. Again, I find that many do not teach as well as they know how to teach; their *theories* of instruction, recitation and management are much better than their *practice* in actual teaching. Evidently physical ease is more eminently attained by the routine process practiced than would be by a truer method of teaching.

NORMAL ITEMS.

Three Institutes of two weeks each were attended by 223 inter-

ested and progressive teachers. The instructors aimed to make the exercises and instruction practical and progressive—good for school use and opening depths for thought and information.

In this connection the idea for a "new departure" may be intimated. In each county there is a court-room, usually commodious and comfortable. These rooms are now used but a fraction of the time—two or three weeks per year. Why might these not be seated with good comfortable school-furniture and made the location for long term Institutes of two or three months each conducted by a couple of competent peripatetic conductors, and make attendance an item to the attainment of a certificate? The rooms would surely look none the worse for the change, nor need it lessen their seating capacity or professional usefulness. With such institutes—say three months each county per year—an expenditure equal to that at present needed to conduct our normal schools would do more to elevate the mass of our country schools than almost any measure proposed.

During the current year six nominations have been made to our normal schools.

CERTIFICATES.

One-third of all those who taught in this county during the past year did so on limited licenses. This was not done by excluding those holding certificates, of whom there were not enough in the county to fill the schools. The licenses were generally given to afford a fair supply and choice of teachers, and partly to encourage beginners and as a spur to some slothful ones in view of the near recurrence of the next examination. I am compelled by the necessities of the situation to grant many more licenses than I think advisable.

SCHOOL-ATTENDANCE.

A comparison of this year's statistics with those of five years ago discloses the rather disagreeable fact that although the number of schools and children has increased, the number of days taught, the the number of pupils enrolled, and the number of days attendance are actually less at present than in 1871. Part of this result is attributable to the increased ratio of foreign population in our midst who do not take kindly to our common schools, preferring instead

their parochial establishments, and in part to the late renewed growth of hops, which detracts from the attendance at our summer schools. It is somewhat strange, but deserving of notice, that seasons of agricultural prosperity and activity are generally seasons of depression to our schools.

SCHOOL-EFFICIENCY.

Whether it inheres in a large mass of mankind not to be educated, or whether our schools are so poor as to repel attendance and progression, the fact is patent to all observers that a large proportion of those who nominally acquire all the book-knowledge they possess in our common schools are practically illiterate and unfit to understandingly discharge the duties of American citizenship, or transact business on a reliable basis. It is to be hoped that in the near future measures may be devised to largely augment the efficiency of our schools and the education therein attainable and obtained.

WASHINGTON COUNTY.

FRED. REGENFUSS, SUPERINTENDENT.

In connection with my annual report, I have the honor to transmit the following special report :

I have visited during last year only a small number of the schools of this county, on account of the severe winter. I have conducted some of the exercises and recitations myself, and made such suggestions as I deemed necessary for the good of the school and for the encouragement of both teachers and pupils. I think I can discover an increased interest among the people in relation to the cause of education and the success of our common schools. But still I am sorry to say, the results of the increased interest are not so manifest as I could wish. There is much to encourage the friends of education and there are also many discouraging circumstances.

Irregularity of attendance has heretofore been one of the greatest difficulties with which we have had to contend ; and from a careful inspection of the school registers, I fear there has been but little improvement in this direction. I cannot understand why so

many children are permitted to spend half their time playing in the street, within sight of the school-house. And there are a great many others who scarcely attend at all. Upon investigating the subject, there appears to be, generally, no reason but want of inclination, for neglecting to avail themselves of school privileges within the reach of all. When I remember that our almshouses and penitentiaries are to be supplied from this class of children, *I am persuaded that some more legislation is needed upon this subject.*

The subject of building better school-houses; repairing, seating and making comfortable old ones, I have kept continually before the district boards, and I am satisfied my earnestness in the matter has not been without good results. Some new school-houses have been built this season, and quite a number of old ones are being fitted up and put in respectable condition. It is to be regretted that school officers and parents give so little personal attention to the schools by visiting and encouraging both teachers and pupils. I consider this co-operation absolutely necessary to the prosperity of our schools; but I think there is in some parts of this county a decided improvement in this matter, and I doubt not its beneficial influence will be seen and felt.

From a comparison of the lists of questions used in the examination of teachers in several counties, I am satisfied that the qualifications of our teachers will compare favorably with that of others throughout the State. We have a good number of well-experienced and skillful teachers, who are doing excellent work and whose labors appear to be appreciated. Many others are young and inexperienced; but the energy and industry with which they enter upon the work give assurance of success.

Upon the whole I am satisfied there is general advancement in the prosperity of the schools, the qualifications and faithfulness of teachers, the understanding and observance of the law by district officers, and in the tone of public sentiment.

WAUSHARA COUNTY,

THEO. S. CHIPMAN, SUPERINTENDENT.

I herewith transmit the annual report required from this office.

The financial statement does not balance from the fact that several town clerks have failed to make their reports balance, owing to incorrect reports from district clerks. If district treasurers would keep an exact written account of all receipts and expenditures, and furnish the district clerks with an annual statement of the same in writing, before the district clerks are required to report, it would prevent many inaccuracies in these financial statements.

During the year three school-houses have been built, as follows: At Brushville, a large and commodious frame house; in district No. 11, (Maher district,) Warren, a neat frame building, one that meets the long-needed wants of the district; in the Davenport District, Aurora, a substantial brick building. The school-houses at Poy Sippi and in the Walker district, Oasis, were finished in time for the past winter terms of school.

During the latter part of last winter owing to the stormy weather, deep snow, and snow-drifts, several schools were dismissed for a time, and in many others the attendance was very much reduced.

Every school has been visited during the year. Each district was visited during the winter, but five schools were closed at time of visit, and one not visited though in session at time of visit to the district. All the schools but three were visited in the summer.

Of the 155 certificates issued 44 have been limited to six months time, and have been given on a lower standing than full third grade. Of the whole number issued 28 were to residents of other counties, making 127 to residents of this county,

One limited certificate (third grade) has been given to females between fifteen and sixteen years of age.

Ten limited certificates to females sixteen years of age.

Three third grade to females sixteen years of age.

Seven limited third grade to females seventeen years of age.

One limited third grade to males seventeen years of age.

Six third grade to females seventeen years of age, and the rest (127) to persons eighteen years of age or over.

Certificates have been withheld from all applicants, except one, who were less than sixteen years of age, though reaching the required standing in their examination to entitle them to a certificate.

During the year there have been 286 applicants for certificates.

Three teachers' meetings were held at Mount Morris during the winter, and four at Poy Sippi during the summer.

Two county normal institutes have been held, one at Wautoma, in September and October, H. W. Rood as assistant in conducting it, closing with the State institute of a week, by Prof. R. Graham, the whole term continuing 28 days; the other at Poy Sippi, with R. A. Havenor as assistant, closing with the help, for a week, of Mr. W. M. Graham, student from the State normal school, at Oshkosh, making 56 days Institute for the year. Nearly all the teachers of the county have attended at one or the other of these institutes.

A select school for the benefit of those intending to teach, and others, was held at Coloma, in April, by H. W. Rood.

Reports of City Superintendents.

BELOIT.

T. L. WRIGHT, SUPERINTENDENT.

I have, for some years, had the impression that our system of graded schools, in ordinary practice, has proved seriously defective; and necessarily so, unless admitting of a good deal of relaxation from its rigid observance. The difficulty consists in the great diversity of ability and industry among the pupils composing the same grade, notwithstanding the pains taken to grade as nearly as possible according to qualifications. The system carried to perfection, as to equality of standing in the character of recitations, would necessitate almost as many grades as pupils. Of course there must be a limit to multiplying grades and classes; so it happens that in the best possible classification of pupils, there will be some who will suffer a sense of degradation and discouragement, because they cannot successfully compete with the majority of their class for the honors of good report in scholarship; while as many more, perhaps, in the same grade suffer, on the other hand, the evil consequences of acquiring habits of idleness, or lax application to study, merely in consequence of greater ability to prepare for recitation, than the majority of the grade.

Between these two extremes, therefore, the teachers see no better way than to urge on the incompetent even to overtaxing sometimes, and to hold back those of superior ability, endeavoring to make a kind of general average in the amount of work assigned to the class.

To obviate, so far as may be, this serious evil, we have adopted the plan of giving more work to those of more ability, by advancing such pupils to some one class in the next higher grade, while those thus advanced are still retained in the same grade as before,

only having this one extra recitation, or more, if need be, in the higher grade. This operates as a healthful stimulus to application, and keeps the pupil occupied. On this plan a bright, talented pupil may save one or two years' time in completing his school course.

I am aware that objection may be urged against this plan, on the ground, that in operation, it would be disorganizing, and work confusion among the grades; but experience proves that this is not necessarily the result; while it is perfectly feasible with eminent utility to the school, no permanent disorder attending.

In intimate connection with this new plan, and in furtherance of the object, we have brought together, from grammar departments No. 1 and 2, the highest grades, and united them in one class or grade with an additional teacher in one of the rooms of our high-school building, where they receive, in various ways, more or less benefit from this near approach to high-school influence. This we call the "Advanced Grammar Department." This now numbers about 60 pupils. Of course, these are candidates for admission next year to the high school proper.

This arrangement is not only beneficial in theory, but highly efficient in practical working; so that our only regret about it is, that we did not sooner adopt it.

Our schools were never before in better condition than now. The new year with large accessions in the high school and "Advanced Grammar Department," including many from abroad, opens auspiciously.

Our school-board are earnest and harmonious, and the people cordial in support of their measures for sustaining a high character of public instruction and discipline. This was recently made more practically manifest by the unanimous vote of district No. 1 to erect a new school-house at an expenditure of \$18,000.

COLUMBUS.

S. O. BURRINGTON, SUPERINTENDENT.

I have thought best in this report to depart from the ordinary custom of making special comments upon each of our schools. All the requisite statistics of these schools will be found in my accompanying annual report.

It will readily be seen that to go through all the schools with a running commentary upon each, will not communicate much additional information, and it is apt to degenerate into formality. Nor is this report, in my opinion, a fit place for dispensing compliments, however well deserved, to teachers, for if indiscriminately bestowed, they become systematic flattery.

The faithful, conscientious teacher need never fear that his or her services will not be recognized. We have such in our schools, and though not named in this report to be seen and read, yet they are recognized by the involuntary love and obedience of their pupils, the respect and regard of parents, and the continued confidence of the school board. If they seek a higher reward for their services, it will be found in that inward sense of having done their duty well, which is priceless in comparison with the formal praises of men.

The success of our schools for the past year has been various, but on the whole above the average of former years. Female teachers have been employed in all except the high school, and I am more than ever convinced that women have an aptness for training and disciplining the young mind, superior to men. It gives me pleasure to report that some of our ladies are making teaching a profession, and the increasing success that comes with experience and mature age, attests the wisdom of employing the same teachers successively. Tact as well as talent is requisite in teaching, and where these qualities are found combined in a teacher, it is very desirable that such should find constant employment.

The variety of our school-rooms is as great as that of our schools. Some are good, some are poor, and some are unworthy of the name. Every legitimate consideration urgently demands that better ones be immediately provided. Parents take unwearied pains to secure everything around their homes for the comfort and health of their dear children; yet these same parents, many of them with ample means, send their children to school six hours in a day, five days in a week, and nine months in a year, in school-rooms quite too small for their most ordinary convenience, too low for good air, with ill-constructed seats, with little or no furnishing for the convenience of the teacher or the pupils; where some of the most obvious and essential laws of health are constantly violated. In such rooms as these our children spend more of their waking hours than in their

quiet, elegant homes, and that too at an age when their bodies are in a yielding, formative stage, and are most susceptible of receiving the seeds of permanent and mortal disease.

We come now to speak of parents, whose power and influence do so much to secure or prevent success. If parents will command their children at home, hold them in due subjection to parental authority, they will be easily governed at school. If they send them to school seasonably every day from the beginning to the close of the term, and work together with the teacher in all respects, success is sure to follow. Our school registers contain very many marks for absence and tardiness, and it is believed that they would be much less numerous if parents and guardians were not negligent in the performance of their most sacred duty. Irregular attendance is the great bane of our schools.

Any close observer will perceive that on placing a child under daily instruction and discipline in the school-room, to be governed and drilled, and plied with motives, and taught self control, and punished for wrong doing, and rewarded for good behavior, a moral force of unmeasured extent is constantly brought to bear. Thus the school-room becomes a vast insurance office to the State, to guarantee that its inmates shall be found in the coming years, among the sober and industrial ranks of the community, and not in her alms-houses, jails and State prisons.

Regarded merely in the light of political and social economy, our public schools are saving institutions of untold value to the State. Take for instance a single boy from the industrial class and add him to the criminal list; then add the average annual expense of a criminal to the State to the annual loss involved in his withdrawal from the ranks of productive labor, and compare the sum total with the annual cost of each child in our public schools and it will be evident that the severest economist in town expenditures, unless he be deplorably short sighted, will be among the most earnest advocates of liberal appropriations for the support of our educational institutions.

To sustain our public schools therefore, with a liberal hand, and to watch over them with an ever wakeful vigilance, is to subserve most surely the future well-being of the State. Our free institutions are safe, and our country is impregnable only so long as the people shall be characterized by a broad intelligence and a high christian morality.

HUDSON.

H. W. SLACK, SUPERINTENDENT.

During the year just past some important changes have been made in the arrangement and management of our schools. Experience has shown that the new measures are wise ones; and the results already obtained give evidence that the changes introduced have improved our system of education. I can safely assert that the schools, as a whole, were never more prosperous, or more efficient, successful, and harmonious in their work than now.

For years the schools have been crowded; more room was an imperative necessity. It has been furnished. The demand for the opportunity of obtaining more advanced instruction was pressing. The higher classes were but illy accommodated in the existing schools, and numbers of young men and women sought instruction abroad. The means for a more extended course of study at home, have been furnished. I hope that we shall soon be able to give to all who ask it, ample preparation for the University.

A course of study has been adopted, with the purpose of giving to each child the most thorough and practical training possible. The pupils have been classified to correspond with this course, so far as possible.

The new building, giving two additional departments and room for one hundred and twenty-five pupils, has been completed, at a total cost of less than \$4,500.

What has been accomplished, has been done in the face of difficulties; and could not have been done at all except by skillful management. The people, feeling themselves poor, have been jealous of every expenditure from the public treasury.

It is an unwise policy which gives to the public schools such a meager support that they can do but half work. But the people say, wisely or unwisely, how much shall be expended upon them, and the board can only carry out their will.

A very wise and timely measure, carried through the legislature of last winter, allows us to cause to be levied a tax of *seven* mills on the dollar, instead of *five* as heretofore. It would have been impossible to carry on the schools in a tolerable manner, on the old basis.

There have been eight schools in operation for the greater part

of the year. Upon the opening of two new departments, last January, the school in the first ward was discontinued; it will not be necessary to open it again next year. The number of schools then will be the same as last year.

The number of female teachers employed is seven. Their salaries have been as follows, viz:

For primary and lower intermediate grades \$351 per year; for upper intermediate, \$360; and for the grammar department \$451.25.

These salaries are very low, in fact entirely inadequate. If we expect superior schools, we must employ superior teachers; for as the teachers are, so are the schools. But superior teachers, who have had a successful experience, demand and receive, at least an unstinted, compensation for their services. Teachers, like persons of all trades and professions, have their market value. I think that a few years since, teachers were apt to over-rate the value of their services, and some urge the same value now, in a time of reduced prices and general financial depression. They like all others must regulate their demands to suit the exigencies of the times.

But it may safely be said that the salaries of teachers cannot be reduced below a sum, varying of course with the locality, which shall relieve them from the anxiety and care of maintaining a position of independence and respectability. I think \$315 per year a very small amount with which to do this, at the present cost of living. I am confident that when this matter is rightly viewed, it will be seen that a more liberal remuneration for our teachers will be a wise and economical measure. We have, heretofore, been able to secure teachers whose homes are here, for the wages offered. But such may not be always the case. We have, indeed, already found difficulty in supplying the higher departments. Were the salaries increased one half we might have our choice from teachers of recognized ability throughout the State. And it gives me pleasure to say that in some departments there is to be an increase in the salaries, next year.

It would be hardly possible to gather together an equal number of more pains-taking, conscientious, and faithful teachers than ours of the past year. They have been always ready and anxious to try new methods and to inaugurate reforms. Whatever defects our schools have are certainly not due to carelessness or indifference on the part of the teachers.

Let me point out some of the defects which exist in our school system, and the causes which produce them. The greatest error lies, I believe, in an almost entire misapprehension of the nature and objects of education, believing and acting upon the belief, that the process of education is a mere gathering in of facts rather than a gradual growth and developement of all the powers of mind and body. From this sentiment springs the practice of teaching *words* instead of *ideas*, feeding children upon the mere husks of wisdom, cramming them with book knowledge. Thus it comes about that we have scholars, who after years of learning, rules and definitions cannot write a correct promisory note and compute the interest upon it; who can locate all the cities of a continent, and yet not tell why a single one of them is situated where it is; or who can give all the rules of syntax, and yet cannot express their own thoughts in clear and correct language. Such teaching does not make thinkers, nor yet, what is more important, give to children habits of correct and careful observation.

The defect is immediately attributable to two causes:

First. That few of our teachers have enjoyed opportunities for thorough discipline or liberal culture, themselves; and hence fail to comprehend the nature and needs of the human mind, or, comprehending them, are not able to supply them.

Second. And more directly, that public opinion has been satisfied with this kind of teaching, and opposed to all variations from it. The possession of a certain amount of book knowledge has been supposed to constitute an education; and the most successful teacher is the one who has put the scholar through the most arithmetic, geography and grammar.

But the fault is not without remedy. What is needed first is teachers thoroughly alive to their work, and able to break up this monotonous school-room drudging; teachers who shall teach real, vital subjects to real thinking beings that are to enjoy and use them. This can be accomplished in part by oral instruction in branches already taught in our schools. Something has been done in this way during the past year. Teachers have been encouraged to take their classes in numbers, in geography, in language up to a certain point without the text-book. But in the present crowded state of our schools, and with their incomplete classification, our

teachers cannot perform the additional work which the system, fully carried out, requires.

Another and more important means of correct training is to be found in the use of general exercises in subjects that have not had a place in our schools. Most important among these subjects are botany, physiology and drawing. The most easily managed of these is Botany. During the past term it has been taught in most of our schools. The method has been by general oral exercises, taking as a basis Mrs. Youman's "First Book in Botany." A few technical terms and definitions, with the schedules from this book, were placed upon the board by the teacher, and learned by the pupil. Then specimens of leaves were gathered, examined and described. We got no farther than the leaf. But the results, for the time spent, were highly satisfactory. The dullest pupils showed an interest in it; it was a pleasant relief for teachers and pupils from the routine of ordinary duties; and in the few moments thus spent each day, the foundation was laid for much useful information and rational enjoyment.

I hope that the instruction in this branch may be continued during the months when it is practicable; and for the winter months I recommended that physiology be taught in the grammar and intermediate grades, upon a similar plan. At the same time, in the primary grades some instruction in drawing should be given.

Teachers' meetings have been held with some regularity, generally once in two weeks. About all that has been attempted, is the discussion of questions of school management. And we cannot expect much to be done by teachers outside of school hours. It is not right to ask them to come together at the close of a hard day's work, to lay plans and propose methods which require careful thought and study. But such meetings, rightly conducted, may be of great practical benefit. I hope that an hour or two may be set apart, from the regular school hours of each week, for this purpose.

The plan of examining applicants for schools, and making the result of the examination the basis, in part, of the appointments has been inaugurated, and the result, I am confident, will be highly satisfactory.

LA CROSSE.

J. W. WESTON, SUPERINTENDENT.

I hereby transmit my third annual report to the State authorities. Its statistics are in many respects quite satisfactory. The per cent. of attendance upon the number of children enrolled in the city is indicated by 95—an attendance rarely equalled and, so far as I know, never excelled by any city in the State. The result is due to two causes: the rigid enforcement of a rule of our board of education, requiring regular attendance of all members of school, and the attraction of the schools and the school exercises themselves, which in many cases have been such as to make pupils feel that they met with a serious loss by being away from any of the regular school exercises.

The subject of corporal punishment is here made a matter of special attention by the board. Teachers are required to report all cases of discipline in which such punishment is employed; and the effect has been to make the teachers more considerate and judicious in the enforcement of the means of school government.

In regard to the corps of teachers employed in this city last year, I may say that such general satisfaction was given that all the teachers who were with us in June last were re-elected by the board. Several however withdrew from their positions, feeling that they needed a year of rest; while a few were induced by friends to accept positions in other places. It is our plan to avoid, so far as possible, the confusion and loss of time and money that are liable to result from frequent changes of teachers. A year's acquaintance with the peculiarities of pupils and the special demands of a place should render the services of an efficient teacher still more valuable, and demand a more positive recognition of worth on the part of patrons and school authorities.

We are aware that a proportionately larger expenditure of money is made in this city for the services of male teachers than in other cities of the State. We feel assured that in buildings where 300 or 400 pupils are assembled, for the daily work of the schools, the presence of an efficient male teacher imposes a restraint and a regard for authority which we vainly look for when the care and government of a school or system of schools is placed in the hands of a female principal. Still more, we believe that the development of

the intellectual powers of the child will progress more naturally and effectually by contact with men as well as women acting as instructors.

The school-buildings of La Crosse compare very favorably with those of other cities of the State in construction and convenience of arrangement. The fact is admitted and freely acknowledged that the school-rooms and surroundings have an important bearing upon educational development.

We have three large brick school-buildings, situated so as to accommodate the more densely populated parts of the city, of sufficient capacity to enable 1200 pupils to pursue their studies quietly and systematically. And we already have five other frame buildings, of smaller dimensions, suitable to accommodate the more distant and sparsely populated sections.

Every year seems to be bringing with it new demands, but these new demands for school-grounds, school-buildings, school-apparatus and school-teachers are meeting a cheerful and hearty response from the city council and the people at large.

SHEBOYGAN.

JOHN H. PLATH, SUPERINTENDENT.

In accordance with your suggestion, I herewith submit in connection with my annual report the following remarks in regard to the condition of our schools:

Last year I was elected a member of the board of education which was the first time in my life that I had served in such a capacity. I found our public schools, as regards methods of instruction and scholarship, in a very poor condition. The building was so arranged that three or four grades were collected in one room, with a recitation room attached, in which an assistant presided. With such an arrangement the pupils were required to spend one-half of their school-time in study and the other half in recitation; home-work was entirely excluded. I found with one or two exceptions, the teachers, while conducting recitation, adhered slavishly to the text-books. Such a system can give no one satisfaction, especially persons educated in Europe, where a different system prevails, and one, which, manifestly, is better adapted to stimulate independent

and original habits of thinking. Again, who can lay any claims to scholarship that never gave any thoughts to the subject of his study out of school-hours? It is the argument of many that children should leave their studies when leaving the school-house. It is also true that many children are physically disqualified to apply themselves assiduously or during long hours to study. But were it true, happily it is not, would it not be a sad thing for the people of this healthful country to be obliged to admit that the majority of its youth must fall behind in mental acquirements, the youth of other times, which could not boast of such a civilization as ours? A proper amount of home-work can injure no healthful child, but those who are not able to study must suffer the consequences. Then by all means pupils should be required to prepare lessons at home. More attention should be paid to written work. Lord Bacon says: "Writing makes the man." Then pupils in their school-course should be required to write sufficiently to acquire a good clear style, and to be able to express their thoughts forcibly and logically. This, I regret to say, has been sadly neglected.

The State very wisely excludes religious instruction from our public schools, because of the many forms of doctrines taught by the different denominations, and the State should not be partial to any one; yet the moral education of the child should not be neglected. The most noted pedagogues advise that this be done through the medium of natural sciences, by teaching the child nature's laws, and thereby creating a love for their admirable workings and beautiful harmony, and in this way to direct his mind from all that is vulgar and gross. I further suggest that general history should be taught in all our common schools, especially in a republic, as any citizen may be called upon to legislate for his country, and he can not be expected to perform his duty properly unless he is acquainted with those principles which were used by the nations of the past, and thus learn to avoid those which experience has proven to be false. Further, every page of general history gives the teacher opportunity to impress moral ideas; also, no true understanding of United States history can be realized without a good knowledge of general history. Did space permit, much more might be said in its favor, but these remarks seem sufficient for the present. The people might be led to see the benefit of pay-

ing more attention to history, if educators generally would take more pains to bring it prominently before them.

It seems necessary to make some provision for the education of the body as well as the mind, because it is a well established truth that a sound and healthy mind requires a well developed physical system. Statistical tables show us that too often the mind has been educated at the expense of the physical system, especially among the female portion of our population.

UNIVERSITY OF WISCONSIN.

REORGANIZATION.

Chapter 114—General laws of 1866.

SECTION 1. The object of the University of Wisconsin shall be to provide the means of acquiring a thorough knowledge of the various branches of learning connected with scientific, industrial and professional pursuits; and to this end it shall consist of the following colleges, to-wit: 1st. The College of Arts; 2d. The College of Letters; 3d. Such professional and other colleges as from time to time may be added thereto or connected therewith.

SECTION 2. The College of Arts shall embrace courses of instruction in the mathematical, physical and natural sciences, with their application to the industrial arts, such as agriculture, mechanics and engineering, mining and metallurgy, manufactures, architecture and commerce; in such branches included in the College of Letters as shall be necessary to a proper fitness of the pupils in the scientific and practical courses for their chosen pursuits; and in military tactics; and as soon as the income of the university will allow, in such order as the wants of the public shall seem to require, the said courses in the sciences and their application to the particular arts, shall be expanded into distinct colleges of the university, each with its own faculty and appropriate title.

SECTION 3. The College of Letters shall be co-existent with the College of Arts, and shall embrace a liberal course of instruction in languages, literature and philosophy, together with such courses or parts of courses in the College of Arts as the authorities of the university shall prescribe.

Amendment of 1867.

SECTION 4. The University shall be open to female as well as

male students, under such regulations and restrictions as the board of regents may deem proper; and all able-bodied male students of the university, in whatever college, shall receive instruction and discipline in military tactics, the requisite arms for which shall be furnished by the State.

BOARD OF REGENTS.

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

Ex-officio Regent.

Term Expires first Monday in February, 1876.

State at Large	- - -	N. B. VAN SLYKE,	- - -	Madison.
8th Congressional District	-	H. D. BARRON,	- - -	St. Croix Falls.

Term Expires first Monday in February, 1877.

State at Large	- - -	GEO. H. PAUL,	- - -	Milwaukee.
1st Cong. Dist.	- - -	H. G. WINSLOW,	- - -	Racine.
3d do	- - -	P. A. ORTON,	- - -	Darlington.
6th do	- - -	THOS. B. CHYNOWETH	- -	Green Bay.

Term Expires first Monday in February, 1878.

7th Cong. Dist.	- - -	T. D. STEELE,	- - -	Sparta.
5th do	- - -	CONRAD KREZ,	- - -	Sheboygan.
2d do	- - -	J. C. GREGORY,	- - -	Madison.
4th do	- - -	M. KEENAN,	- - -	Milwaukee.

OFFICERS.

GEO. H. PAUL,
PRESIDENT.

JOHN S. DEAN,
SECRETARY.

STATE TREASURER,
EX-OFFICIO TREASURER.

EXECUTIVE COMMITTEE,

N. B. VAN SLYKE, J. C. GREGORY, H. G. WINSLOW.

FARM COMMITTEE,

J. C. GREGORY, M. KEENAN, T. B. CHYNOWETH.

COMMITTEE ON LIBRARY, COURSE OF STUDY AND TEXT BOOKS.

E. SEARING, T. D. STEELE, H. G. WINSLOW.

COMMITTEE ON LAW DEPARTMENT.

H. D. BARRON, P. A. ORTON, C. KREZ.

BUILDING COMMITTEE,

N. B. VAN SLYKE, M. KEENAN, T. B. CHYNOWETH.

ANNUAL REPORT OF THE BOARD OF REGENTS.

To His Excellency, the Governor of Wisconsin:

In pursuance of law, I transmit to you herewith the report of the Board of Regents of the University of Wisconsin, for the fiscal year ending September 30, 1875.

Permit me to congratulate you upon the efficient organization of the instructional force of the university, upon the rapid elevation in the standards of instruction adopted, upon the increasing attendance in the higher departments, upon the awakened public interest in the success of the university, and especially upon the progress made, under the wholesome influence of recent legislation, toward the unity of the several co-ordinate systems of public instruction established in our State by law.

Happily, the legislative, executive, and educational departments of the State government, the board of regents, and the faculty of the university, in their mutual endeavor, the past year, to realize for our people the full measure of advantages contemplated by the enlightened founders of our educational policy, have found no occasion for serious differences of opinion. A similar harmony of purpose and effort hereafter will ensure for this important department of public education that permanent basis of prosperity it was designed to occupy.

Much remains to be done by the legislative department of the State, however, to perfect and sustain the plan of university instruction provided for by our constitution and laws.

There is a manifest deficiency in the number and character of the buildings required for the proper accommodation of the comparatively large number of students now seeking to avail themselves of the advantages of a university education. The last legislature generously provided for the erection of a single building, adapted to the uses of instruction in various branches of natural science. This building is now in the course of construction, at a cost within the limits of the amount appropriated for the purpose. When completed it will afford an important degree of relief to the pressure for the practical conveniences required in this department. But, without further legislative action, this will be the only building, when completed, which can be deemed suitable for exclusively instructional purposes. Of the four other buildings now occupying

the university site proper, one is required as a boarding house for young ladies, and two as dormitories for male students, while the fourth but temporarily supplies the want of offices, library-rooms, society halls and daily recitation rooms. Even for these limited purposes, three of the buildings in question are ill constructed, and by no means adapted to the exigencies of the future. The theory upon which the university is organized is not realized in this architectural squalor and paucity of accommodations. There is scarcely a city in our flourishing State which cannot boast of a more provident and therefore more costly care for the means of education under its immediate control.

In this age, an astronomical observatory is one of the characteristic and essential features of every educational institution of this order. It is scarcely possible to conceive of a university worthy of the title, where professors and attendants are denied this necessary instrumentality in the promotion of the interesting and progressive study of astronomical science. The cost of such an addition to our present facilities of education, including all the requisite equipment, is insignificant in comparison with the advantages that would be conferred upon the State by its possession.

Another fact deeply humiliating to those charged with the interests of this department of public instruction is the absence of any assembly hall in connection with the university; a fact manifestly inconsistent with the healthful progress of the institution, and especially, with the efficient administration of its internal affairs. It is unnecessary to repeat in this communication the arguments so forcibly presented at various times by the president of the faculty in support of this view. The deficiency is so obvious that no appeal to meet it ought to be required beyond a plain statement of the fact of its existence.

The legislature of last winter transferred to the regents of the university the custody of the property known as the Soldiers' Orphans' Home, located at Madison; and, by the same act, authorized said regents "to establish a medical college, or course of lectures, upon all the branches usually taught in such colleges," and to occupy said property for such purpose. The board accordingly assumed the custody of the property in question, and soon after appointed a special committee to consult with the State Medical Society and prominent members of the medical profession, as to

the practicability of organizing a medical college in conformity with the purposes of the act. The investigation thus initiated demonstrates that the organization of such a college, in immediate connection with the asylum property, is impracticable at the present time. It is not the conclusion of the board, however, that the establishment of a medical college under other conditions would be either impracticable, expensive or inexpedient. This branch of professional education is clearly and specifically included among the objects for which the university was established, and no judicious effort should be omitted for its early recognition as a department of university study. Under present circumstances, therefore, it is suggested that the board of regents be authorized by the legislature to make such disposal of the asylum property as will most effectively contribute to supply the present deficiency of buildings on the university grounds, with the understanding that a medical college will be organized in connection with the university, as soon as circumstances, not within the control of the board, will warrant the undertaking.

THE UNIVERSITY INCOME.

Another matter which emphatically demands legislative consideration at the present time, is the question of university income.

The university fund proper consists of the proceeds of sales of land granted by Congress. The whole amount of this fund productive, for the fiscal year ending the 30th day of September, 1875, was but \$222,255.80, and the entire income therefrom for the past year was but \$15,403.48.

In addition to the university fund proper, we have the avails of the agricultural college fund, also consisting of the proceeds of sales of land granted by Congress. The whole productive amount of this fund the past year was \$236,133.90, and the whole income thereupon amounted to \$16,148.41.

From these two funds, constituting the only original and permanent resources of the university for its annual support, the entire income the past year amounted to but \$31,551.91. The total of university lands now remaining unsold is about 4,400 acres only. The total amount of agricultural lands remaining unsold is about 52,400 acres, and the price of these agricultural college lands is limited by law to \$1.25 per acre. The aggregate increase in the

principal of both these productive funds the past year scarcely exceeds \$1,400, and the amount of lands remaining unsold affords no promise of any considerable increase of annual income from this source in the future. Should all the lands now remaining on hand be sold hereafter at the most favorable prices permitted by law, the total average annual income from both funds would not be likely to exceed about the sum of \$36,000.

Meanwhile, the necessary current expenses of the university for the year ending September 30, 1874, were nearly \$60,000. For the past year, these expenses have been reduced a considerable amount, but the average annual expenses of the institution, under existing circumstances, and with the most economical management, cannot fall far short of the sum expended in 1874. The moderate salaries paid the instructional force consumes the total amount derived from the university and agricultural college funds. For the balance of the money necessary to meet current obligations, the board is dependent upon incidental charges to students, upon the limited products of the University Farm, and upon legislative bounty. Thus, while the annual increase of the university and agricultural college funds is practically arrested by the exhaustion of the lands, the expenditure and consequent dependence of the university upon other sources of support are annually increasing, and must continue to increase in a degree proportionate to the patronage of the institution and its capacity for usefulness. While the board, therefore, has been enabled heretofore to provide for current expenses in a stinted and economical way, it now finds itself compelled to give serious consideration to the question of future resources. This question is pressed upon us at the present time, especially, by the erection of Science Hall and the necessity for its future care and equipment; also by various exigencies arising from present and prospective attendance upon the higher departments; but more emphatically, by the expiration the ensuing year of the provisions of law enacted for the support of the university by the legislature of 1867.

The legal relations of the university to the State should not be misunderstood. The framers of our constitution enacted that provision should be made by law for its establishment. Successive legislatures have recognized the binding and imperative character of the obligation to provide for its support; and it has been frankly

and definitely conceded, by at least one legislature of the State, that "the university fund has suffered serious loss and impairment" by reason of "the settled policy of the State of Wisconsin to offer for sale, and dispose of its lands, granted by Congress to the State for educational purposes, at such a low price per acre as would induce immigration and location thereon by actual settlers." The original obligation imposed by the fundamental law is thus fortified and enforced, under existing circumstances, by the additional obligations of equity, and of the trust imposed upon the State by the Federal Government. No room remains for reasonable doubt, therefore, that the university is as much a legitimate object of State protection and care, as the common schools, or the State courts.

The practical wisdom of providing for the organization and maintenance of this department of public education is amply confirmed in the enlightening influences which the university palpably exerts upon the general character of our people; in the exalted standard of education it tends to promote; in the ambition for nobler achievements in scientific research its presence incites; in the more elevated character of the learned professions which it serves to secure, and in the unity and vitality it necessarily imparts to all the subordinate departments of public and private instruction within the range of its influence. In its distinctive province of educational labor, it alone is divested by law of the proscriptive influences of sectarian and political creeds. Its doors alone are open to all our children, with prejudice to none. It alone is capable of furnishing the accomplishments of an advanced education to all who aspire thereto, without superfluous restriction or burdensome cost. In the future, it is most capable of combining, harmonizing and elevating those diverse elements of character which peculiarly distinguish the population of our State. Perfected according to the plan of organization, it necessarily loses its character as a rival of similar institutions of inferior scope and degree, and becomes their natural and permanent patron and ally.

In its purely economic aspect, the question presented is worthy of special consideration. Already hundreds of our young men have been sent abroad to obtain those educational advantages which seemed to be denied them within the limits of the State. A positive and continuous encouragement of the effort to develop the

university plan of education established by our State laws would now remove all deficiencies, real or imaginary, and save for the State a larger sum than the cost imposed. An example of the profitable results of enlightened legislation in this direction, in a pecuniary point of view, is found in the university of Virginia, which is officially stated, in a recent report, to have brought into and retained in that State nearly \$4,500,000 as an offset for about \$1,000,000 expended by the State in its support.

But the practical utility of wholesome investment in this department of education is but feebly exemplified by calculations upon this limited basis. The modern university is something more than a school for instruction in abstruse mathematics and classic languages. In the march of events, Europe, and especially Germany, is furnishing us examples of practical progress in matter and methods of instruction, which the American people have not been slow to imitate and adopt. The theory of our own university, as now organized, contemplates courses of instruction in the mathematical, physical and natural sciences, with their applications to the industrial arts. These courses of instruction, properly developed and applied, are by no means limited in their object to a merely theoretical education, or to the development of a merely mental energy and discipline. They refer as well to the practical and economic pursuits of daily life, and relate to the development of those mineral, agricultural and manufacturing industries which constitute the main sources of our material wealth. Our university is already contributing much to the prosperity of the State in this direction. No frugal government can prudently ignore these vital sources of material progress. It is conceded to be a wise public policy to encourage immigration, and thus enlarge the number of our population. Clearly, it is equally wise to enable that population to multiply its capacities for happiness and usefulness, and to employ its labor and skill to the highest purpose and the largest advantage.

The plan of university instruction has been prescribed by the State itself. The precise manner in which the State shall provide for the expanding wants of the university under the plan prescribed, is wholly a matter of legislative discretion. The circumstances do not seem to require any considerable appropriation, payable from the treasury the present year. Good policy, however, as well as

actual necessity, requires legislative action at the present time with reference to approaching exigencies; and it is hoped that this action will be so definite and positive as to remove all doubt and embarrassment from the future.

For a more detailed exhibition of the progress, condition and wants of the university, you are respectfully referred to the accompanying documents.

Respectfully submitted.

GEO. H. PAUL,
President of the Board of Regents.

SECRETARY'S REPORT.

MADISON, October 10, 1875.

Hon. GEO. H. PAUL,

President of the Regents of the University of Wisconsin :

SIR:—I have the honor to submit the following statement of the financial condition of the State University, exhibiting the amount of productive funds on hand, and also the receipts and disbursements of the income of the several funds, for the year ending September 30, 1875:

UNIVERSITY FUND.

This fund consists of the proceeds of the sales of land granted by Congress for the support of a university.

RECEIPTS.

From sales of land.....	\$1,616 61
From dues on certificates.....	2,752 00
From loans.....	1,918 17
From taxes.....	1 27
From penalties.....	81
Total... ..	<u>6,288 36</u>

DISBURSEMENTS.

Loans made.....	\$5,650 00
Balance September 30, 1874.....	954 48
Balance September 30, 1875.....	1,593 34
Total.....	<u>7,243 34</u> <u>7,243 34</u>

The amount of this fund, which was productive, on the 30th day of September, 1874 and 1875, respectively, was as follows :

	1874.	1875.
Amount due on certificates of sales.....	\$61,248 56	\$59,239 56
Amount due on loans.....	19,584 50	23,016 33
Certificates of indebtedness.....	111,000 00	111,000 00
Dane county bonds.....	19,000 00	19,000 00
Milwaukee water bonds.....	10,000 00	10,000 00
Total	<u>220,833 06</u>	<u>222,255 89</u>

Showing an increase in this fund during the year of \$2,422.83.

AGRICULTURAL COLLEGE FUND.

This fund consists of the proceeds of the sales of 240,000 acres of land granted by Congress to the State for the support of an institution of learning, where shall be taught the principles of agriculture and the arts. The interest on the productive fund forms the income.

RECEIPTS.

From sales of land.....	\$544 57	.....
From dues on certificates.....	3,451 00	.....
From loans.....	3,785 17	.....
From Dane county bonds, redeemed.....	1,500 00	.....
Total.....	<u>9,280 74</u>	.....

DISBURSEMENTS.

Loans to school districts.....		\$7,880 00
Balance September 30, 1874.....	518 23	.....
Balance September 30, 1875.....		<u>1,918 97</u>
Total.....	<u>9,798 97</u>	<u>9,798 97</u>

The amount of this fund which was productive on the 30th day of September, 1874 and 1875 respectively, was as follows :

	1874.	1875.
Amount due on certificates of sale.....	\$146,421 40	\$143,326 40
Amount due on loans.....	18,112 67	22,207 50
Certificates of indebtedness.....	51,600 00	51,600 00
Dane county bonds.....	5,000 00	4,500 00
United States bonds.....	4,000 00	4,000 00
Milwaukee water bonds.....	10,000 00	10,000 00
Total.....	<u>263,134 07</u>	<u>236,133 90</u>

Showing a decrease in this fund during the year of seventeen cents.

SALE OF LANDS.

Sale of university lands for the fiscal year ending September 30, 1875.

Counties.	Number of acres.	Amount sold for.
Chippewa.....	120.00	\$286 09
Clark.....	40.00	100 00
Door.....	240.00	720 00
Eau Claire.....	80.00	162 63
Marathon.....	160.00	335 96
Pierce.....	240.00	727 98
Richland.....	76.84	282 42
Total.....	956.84	2,515 08

Sale of agricultural college lands for the fiscal year ending September 30, 1875.

Counties.	Number of acres.	Amount sold for.
Chippewa.....	200.00	\$281 00
Dunn.....	360.00	450 00
Marathon.....	120.00	141 50
Oconto.....	320.00	400 00
Polk.....	1,118.36	1,118 00
Shawano.....	729.68	888 98
Total.....	2,848.04	3,279 48

UNSOLD LANDS.

The university lands remaining unsold at the close of the fiscal year amount to 4,407 16-100ths acres, and the agricultural college lands amount to 52,403 53-100ths acres.

The university lands are sold from \$2.00 to \$3.08 per acre, and the agricultural college lands at \$1.25 per acre, on ten years' time, twenty-five per cent. of the purchase money being required in cash and the balance due drawing seven per cent. interest, payable annually in advance.

The lands unsold are located as follows:

ANNUAL REPORT OF THE
UNIVERSITY LANDS.

Counties.	No. of Acres.
Burnett.....	27.25
Chippewa.....	671.95
Clark.....	280.45
Crawford.....	157.42
Door.....	640.06
Eau Claire.....	735.16
Marathon.....	470.06
Pepin.....	117.90
Pierce.....	520.55
Portage.....	586.42
St. Croix.....	80.00
Trempealeau.....	120.00
Total.....	4,407.16

AGRICULTURAL COLLEGE LANDS.

Chippewa.....	160.00
Clark.....	198.44
Dunn.....	160.00
Lincoln.....	22,629.15
Oconto.....	15,606.58
Polk.....	613.17
Shawano.....	7,956.19
Taylor.....	5,080.00
Total.....	52,403.53

LEWIS MEDAL FUND.

This fund consists of a donation of \$200.00. made to the university by ex-Governor James T. Lewis, in the year 1866, for the purpose of distributing medals to such meritorious students as should become entitled thereto, in accordance with the standard of merit to be prescribed by the regents and faculty. As the fund was hardly sufficient to accomplish the object of the donor, it remained at interest by direction of the regents, until June 17, 1873, when by resolution the treasurer was instructed to invest the principal and interest, amounting to \$300, in such interest-bearing securities as should seem to him most desirable. In accordance with his instructions the treasurer purchased three United States 5-20 coupon bonds of \$100 each, dated July 1, 1865, bearing six per cent. gold interest, due in January and July, which bonds are now

held by the treasurer as a special fund, the income therefrom to be used for prizes.

At the annual meeting in June, 1874, (with the consent of ex-Governor Lewis,) the regents resolved "to give a prize of \$20 each year, at such time and under such regulations as the faculty shall determine, to the undergraduate student who shall produce the best written essay ; that the name of the prize shall be the "Lewis Prize," and that the name of the successful competitor of each year shall be published in the next issued catalogue of the university."

SCIENCE HALL FUND.

This fund consists of an appropriation made by chapter 61 of the general laws of 1875, amounting to \$80,000, for the purpose of building an additional university edifice for scientific purposes. The act provides, "that not to exceed the sum of twenty-five thousand dollars shall be drawn from the State treasury, or levied and collected as a part of the State tax, during the year 1875."

Plans and specifications for the proposed building were prepared, and advertisements "for proposals" to build it were published in newspapers in the principal cities of the State.

The following proposals for completing the building in accordance with the specifications, (except the heating apparatus,) were received and opened at 10 o'clock a. m. June 15, 1874, in the presence of the regents, who were then in session :

John and Thomas R. Bentley, Milwaukee.....	\$74,500
John Cory, Madison.....	74,600
Frederick H. Horning, Milwaukee.....	78,800
John Fellenz, Milwaukee.....	71,079
James W. Harvey, Madison.....	75,875
David Stephens, Madison.....	69,975
Thos. Davenport, Madison.....	77,376
A. E. Henry, Sheboygan Falls.....	<u>75,995</u>

The contract was awarded to David Stephens, of Madison, for the sum of \$69,975, and the building is to be completed and ready for use October 1, 1876. The sum of \$4,681.83 has been expended on the building during the past fiscal year.

The receipts and disbursements for the fiscal year ending September 30, 1875, were as follows:

RECEIPTS.

Income from productive university fund.....	\$15,403 48
Income from productive agricultural college fund.....	16,148 41
Appropriation by chapter 82, general laws of 1867.....	7,303 76
Appropriation by chapter 100, general laws of 1872.....	10,000 00
From students for tuition and room rent.....	7,735 00
From students, for diplomas.....	195 00
From students, for laboratory bills.....	367 26
From geological survey.....	183 77
From experimental farm, on account of lots sold.....	196 65
From experimental farm, for sale of products.....	859 99
From sale of farm-wagon.....	150 00
From rent of brick house.....	150 00
From sale of two doors.....	2 00
From sale of Soldiers' Orphans' Home horse.....	45 00
From interest on Lewis Medal fund.....	41 05
From appropriation for "Science Hall?".....	7,000 00
Total receipts.....	<u>65,781 37</u>

DISBURSEMENTS.

For salaries of instructional force.....	\$31,574 43
Expenses of regents.....	622 40
For insurance.....	360 00
For repairs.....	2,115 34
For incidental expenses.....	4,576 18
For fuel.....	174 08
For printing and advertising.....	810 55
For library.....	840 37
For furniture.....	521 57
For improvements.....	1,323 21
For apparatus.....	1,154 65
For cabinet.....	56 45
For experimental farm.....	4,071 29
For Lewis prize.....	20 00
For Soldiers' Orphans' Home.....	33 31
For Science Hall.....	4,681 83
Total disbursements.....	<u>52,935 66</u>
Balance September 30, 1875.....	24,157 95
Total.....	<u>77,093 61</u>
Total receipts.....	65,781 37
Balance September 30, 1874.....	11,312 24
Total.....	<u>77,963 61</u>

REPORT OF BOARD OF VISITORS.

To the Board of Regents of the University of Wisconsin:

GENTLEMEN:—The undersigned, members of the Board of Visitors for 1875, would report, that they have attended the annual examinations and are entirely satisfied that the university is conducted most ably and successfully. We regret that one of our number, the Hon. Chas. D. Robinson, is unable to join us in this report, having just been compelled to return to his home. We believe, however, that he would concur in the opinions which we have to express.

To convey adequately our approval of the manner in which the faculty discharge their duties, it would be desirable for us to dwell more at length on this point, and even to take up the several departments, one by one, as the subjects of remark. It will perhaps suffice to say, that so far as our observation has gone, we believe that it would be difficult to make a personal change in any important department, except for the worse.

Believing it desirable to be concise in our recommendations, we confine ourselves to the three following suggestions, each of which we consider of importance.

1. In regard to necessary buildings, we agree unreservedly in the opinions expressed by the president in his report of last year, when he urged the erection, successively, of a Science Hall, a Chapel, and an Astronomical Observatory. We join with all the friends of the university in congratulating you on the rapid progress you have made toward the erection of the Science Hall. The observatory does not appear at first sight so important, yet the more attention we have given to the subject, the more we are persuaded that when established it will prove an invaluable addition to the university. Probably no other means can be found so efficient in extending its reputation, and consequently its usefulness and success. Concerning the chapel, the necessity of which was referred to by the president, it is true that in a State institution, there is not so great a need as in others of such a building for the purposes of religious instruction. Nevertheless, whether it be called chapel or assembly room, a large hall is urgently needed, and ought to be built. We are unanimous in recommending its erection at the earliest practical period. The shifts and inconveniences made necessary for want

of such a room are known to you all, and need not be enlarged upon. No academic exercises of any character requiring the presence of all the students are now possible in the grounds of the university, unless in the open air. We need not call your attention to the vital importance of periodical assemblages of the whole body of faculty and students. In institutions controlled by religious denominations, in which attendance at prayers is compulsory, there is every day opportunity for presenting to the whole body of students any necessary addresses or admonitions. For the sake of securing universal attendance in this university, periodical lectures, or rhetorical exercises, might furnish a proper occasion. Besides providing for all such necessary assemblages, the proposed assembly-room would also be available for religious exercises, and when occasion arises, for funeral ceremonies.

2. We could also earnestly recommend that adequate appropriation be made for furnishing the university with suitable apparatus, models, &c. We feel that this university should have the very best appliances for instruction, equal to those of any other western institution, and may even say that to insure its success such appliances are absolutely necessary.

3. We are impressed with the opinion that each one who enters the university should, in order to fix his proper rank in the classes, be examined by the faculty on the spot. We are aware that the holders of certificates from the graded schools are entitled by law to free tuition. The law does not, however, prescribe that further examinations shall not be made by the faculty, and for the sake of securing a uniform standard of scholarship in the several classes, it seems important that all entrants be submitted to the same personal examination.

We have given attention to the disciplinary regulations of the university, and are glad to report that the watchful care so essential to the proper conduct of such an institution is exercised by the president and faculty in a manner at once firm, judicious and kind.

C. C. REMINGTON.

H. H. HAWLEY.

E. McCLINTOCK.

M. R. GAGE.

H. B. PHILLEO.

MADISON, June 16, 1875.

REPORT OF THE PRESIDENT.

To the Regents of the University of Wisconsin:

The year that has now closed, has been one of prosperity to the university. The students in the regular courses constitute the body and strength of the institution, and it is to these, therefore, that we look, so far as numbers are concerned, to indicate prosperity. At the time of issuing the catalogue in October 1874, there were 244 connected with the regular college classes, distributed as follows: Seniors, 34; Juniors 56; Sophomores 72; Freshmen 82. These students were also more evenly divided between the several courses than hitherto. In the regular sub-freshman classes, there were 97; in the law class 37. The number of special students was 31; the whole number of students 411.

The catalogue issued in the fall term of 1873, shows 228 in the college classes; that for 1872 does not give the number in attendance in any one term; and that for 1871 shows 154. As this increase has been accompanied with an enlargement of the terms of admission, and a more careful examination, it indicates a rapidly growing interest on the part of the State in its university. Comparatively few of the students of Wisconsin go beyond the State for collegiate instruction. The catalogue of the university of the Michigan for the year, ending June 30, 1874, contains 33 students from Wisconsin 111 from Illinois, 108 from Ohio. We are evidently coming to control, in a fair degree, the educational interests of the State by the advantages we offer at home. We trust this influence will yearly be more complete.

A second ground of congratulation in the year past has been the liberal appropriation by the legislature of \$80,000 for Science Hall, a gift followed by that of the property known as the Orphans' Home. Science Hall is well under way; we anticipate its completion in October of the coming year. It will give the best accommodations in all branches of physical science to 600 students. When this building is finished, and completely furnished, we shall have nothing to desire in the external conditions of instruction in this department, for a long time to come.

We remember, however, that a university does not consist in its appliances, but in the ability of its faculty, the spirit of its instructors, and the character of its students. We would strive,

therefore, to register our growth in these directions more than in any other.

We believe that the instruction of the past year has been given wisely and faithfully, and that we have gained, at least, some ground in inspiring a liberal, broad and earnest spirit of acquisition.

The discipline of the university has been attended during the year with no unusual vexation; and though there is much room for improvement in the character of our students, the most of them have been attentive to their work, and have obviously profited by it. We strive to inspire a right disposition, more than to restrain a wrong one; yet, we feel the need of a somewhat decided and positive discipline, when an occasion arises. As we give large liberty, we deem it right to require its wise use, and to punish with decision its abuse.

We have withdrawn, during the year, the opportunity of taking special studies in the sub-freshman classes. The object of these classes is exclusively to fit students for the university. We do not wish to be encumbered with those who are seeking merely high-school advantages, nor to do a work which our high-schools are becoming increasingly able to do. We are looking forward to the time, when we shall be entirely relieved of our preparatory work, and are not, therefore, disposed to do any portion of it for its own sake. The new high-school law, which we owe to our excellent Superintendent of Public Instruction, will, when once in full operation, greatly multiply and improve our intermediate schools, and so consolidate and strengthen our system of education above and below. While we believe that the greatest advantage will accrue to our district schools under this law, we also anticipate much aid from it to the university, and an open way by which the influence of the university can reach all the schools of the State. We desire to build up the university in the closest connection with these schools, knowing that only thus can we gain for ourselves or for them a permanent prosperity. In this work, we anticipate much from the law referred to. These high schools will be strengthened by the university, and will, in turn, strengthen and guide the schools below them. We shall be glad to yield the entire field, a portion of which we now occupy with our sub-freshman classes, to the high schools as soon as the interests of the university will al-

low us to do so. The high school in Madison is disposed to aid, and is becoming increasingly able to aid, the university in its preparatory work. Just at present for the university to reject altogether preparatory students, would be to endanger a portion of its labor.

We hope that the intermediate schools—the graded and high schools—will pay special heed to the new terms of admission to the university, and strive to furnish us students well prepared. A portion of them are doing this, and we look for it on the part of all who offer us students seeking free tuition. We wish to aid the high schools in retaining and training their pupils, and we seek their aid in furnishing these students, thoroughly ready when offered. We wish to make no abatements in our requisitions.

Special students are admitted freely to our college courses, provided they can pass an examination in the English studies included in our terms of admission to the freshman year of the scientific course. We believe, however, that our students would, without scarcely an exception, be profited by choosing some one course and adhering to it. When a regular student becomes a special student, we regard it as a retrogression; while the acceptance of a regular course is almost sure to result in new effort, more satisfaction in labor, and more firmness in purpose. Haste and vacillation are the besetting sins of our students. They hope to do the work of a year in a term, and of four years in two, and that without extraordinary exertion. When they fail in doing this, they frequently become discouraged and leave.

Time and stability, are with us urgent wants. A portion of our instability is referable to poverty; but a large remainder must be attributed to a low estimate of thorough scholarship, and to a haste to enter, ready or otherwise, on the work of life. No one thing has distressed us more in the university than this haste, the ease with which young men drop out, the advantage which they anticipate from one or two terms. Thus, without any very assignable reason beyond the hardness of the times, the freshman class of last year numbering 82 has fallen to 31.

We must have material of a firmer and tougher fibre than this, before we can do thoroughly good work. The firmer movement, the steady advance of our instruction from term to term, and year to year, are greatly impeded by these floating students. A student

for one term is worth little to us, and we are worth comparatively little to him. We hope those who come to us will seek solid, protracted work, and in that we will do our best to aid them. We now insert in our catalogue the names of those only who belong to the university at the time of its publication. Many students, for one term or two terms, do not therefore, appear in it. This is the explanation of its reduced numbers. The reduction has been attended with an increase of strength. The graduates of our graded schools fall away rapidly in freshman and sophomore years, partly because of poor preparation, and partly because many of them, allured by free tuition come to the university with no intention of remaining.

During the past year, the young women have been put, in all respects, on precisely the same footing in the university with the young men. No difficulties have arisen from it. There were eight young women among the graduates at the last commencement. Their average scholarship was certainly as high as that of the young men, and they were apparently in good health. We feel, however, that the young women in attendance on the university should be sheltered from the claims of general society, and that they cannot meet the exactions in dress, labor and time, incident to society, without suffering either in health or scholarship, or in both. We have provided very competent instruction in music, and special students, and those who are not pressed by their regular work, can avail themselves of it to advantage.

The ladies, rooming and boarding in Ladies' Hall, necessarily come under the restrictions incident to a quiet household, and we wish them and their parents to distinctly understand this.

Among our wants, we now put in the foreground an assembly hall. We have no room that will hold our students, and we do not ordinarily meet daily more than a third or fifth of them. General and positive influence is impossible under these conditions. The spirit of the university, the temper of the body of the students, is of more importance even than the quality of the instruction, though the two are intimately associated. We desire exceedingly, a hearty, generous, pleasurable response of the students to the work expected of them. Anything opposed to this, embitters, narrows, and wastes the lives of us all. To secure this, in any good degree, demands a high-toned, earnest and wise spirit on the part of instructors; a concessive, generous one on the part

of students; and free intercourse between officers and students, establishing a common life.

Our students are, many of them, laborious, determined young men, enduring hardships in behalf of an education. There is very little friction between the classes, and the students do not, in their intercourse with each other, systematically set aside the ordinary laws of courtesy. We would be glad to extend this commendation; but we share, in common with many other institutions, a wretched entail of the past. It is still thought by some among us amusing and manly to deface and destroy university property, and to resist its rules of order; while a much larger number are under the bondage of a sense of honor, whose chief support is fear, and whose chief purpose is to cloak low, mean action. We would always recognize the delicacy of treatment which a sense of honor, even though false, calls for; but we greatly regret that so noble an impulse should be put to so base a purpose. We would that our students should feel, that, if they are not willing to call in the authority of the university to repress low-minded action, they should, at least, create a sentiment among themselves efficient to repress it.

The standard of manliness of character, which the students avowedly or tactly maintain among themselves, is of the utmost moment, and possessed of the strongest educational power. Without a sound, courageous, social sentiment, there will be with us very little pure, large knowledge. This is seen in the recitation-room. We are infested with a tendency to cheat in recitations and in examinations. This evil may have been spawned in part of a marking system badly administered, but is perpetuated and increased by a dishonest nature. It is a parasite, feeding upon all thorough knowledge, all generous enthusiasm, all moral integrity, all respect and good-will between instructors and students, and upon self-respect and respect of the students for each other. Terms of honest, frank, courteous communication between all the parties to the process of giving and getting knowledge, are most desirable.—We feel sure that all wise patrons of the university will value a sound, manly, and honest spirit, higher than any formal knowledge, and will see the impossibility of large acquisition without this disposition; we feel sure, also, that the State will regard money poorly expended, which, in its expenditure, does not tend to produce

honesty, courtesy, courage, a cheerful respect of the rights of others, and the claims of the public. But an absolute essential in securing and maintaining among us a sound public sentiment, is an Assembly Hall, in which we shall meet together, become a community, and make way for counsel. Our young men are neither essentially better nor essentially worse than other young men. There is a healthy sentiment as well as a bad sentiment present with us. We wish to give to that which is sound its best conditions of development.

This hall we ask for, and shall strive to use it when obtained for the highest end of education—sound, upright characters.

We are hoping to have some of our wants, as that for an Astronomical Observatory, met by private liberality. We wish the university to represent both the State and its citizens, to intertwine public and private munificence, and hold in pleasant recollection, general wisdom and individual generosity.

Our next urgent want is a larger and more elastic income. We must grow, and we cannot grow without means,—without instituting larger claims. As we cannot help growth, we wish that our garments may enlarge with us. We dislike to come afresh to the State with each new need, knowing it in no other relation than this of constant supplication.

Enlarged instruction and new appliances will be the demand of each year, and we believe that the State, when its present appropriation for a term of years shall have expired, will recognize our necessity, and make permanent provisions for it.

The time does not seem to have arrived for the establishment of a medical department. The profession of the State are not agreed as to the desirability of a medical college in its bounds, and comparatively few earnestly support such an institution. Such a college, if established, should certainly be located at Milwaukee, as affording, by its size, far more clinical advantages than Madison, or than any other place within the State. We should be glad to unite a medical college in Milwaukee to the university, and should hope both to aid it and to receive aid from it. As such an arrangement is entirely in the future, we trust that the coming legislature will allow us to sell the Orphans' Home, and to devote the proceeds to an Assembly Hall.

In making this report to the regents, I wish to express to them

my sense of their personal kindness, and also of the careful consideration they have always given to the claims of the university.

JOHN BASCOM.

FACULTY AND INSTRUCTORS.

JOHN BASCOM, D.D., LL. D.,
President and Professor of Mental and Moral Philosophy.

JOHN W. STERLING, PH. D.,
Vice President and Professor of Mathematics.

WILLIAM F. ALLEN, A. M.,
Professor of Latin and History.

STEPHEN H. CARPENTER, LL. D.,
Professor of Logic and English Literature.

ALEXANDER KERR, A. M.,
Professor of Greek Language and Literature.

JOHN B. FEULING, PH. D.,
Professor of Modern Languages and Comparative Philology.

WILLIAM J. L. NICODEMUS, A. M., C. E.,
Professor of Military Science, and Civil and Mechanical Engineering.

JOHN E. DAVIES, A. M., M. D.,
Professor of Astronomy and Physics.

W. W. DANIELLS, M. S.,
Professor of Agriculture and Chemistry.

ROLAND IRVING, A. M., E. M.,
Professor of Geology, Mining and Metallurgy, and Curator of Cabinet.

HON. E. G. RYAN, LL. D.,
Chief Justice of the Supreme Court of Wisconsin.
Professor of Law.

HON. ORSAMUS COLE, LL. D.,
Associate Justice of the Supreme Court of Wisconsin.
Professor of Law.

HON. WILLIAM PENN LYON, LL. D.,
Associate Justice of the Supreme Court of Wisconsin.
Professor of Law.

HON. P. L. SPOONER,
Dean of Law Faculty.

ANNUAL REPORT OF THE

J. H. CARPFENTER, Esq.,
Professor of Law.

WILLIAM F. VILAS, LL. B.,
Professor of Law.

I. C. SLOAN,
Professor of Law.

R. B. ANDERSON, A. M.,
Professor of the Scandinavian Languages and Instructor in Latin.

JOHN M. OLIN, A. B.
Instructor in Rhetoric and Oratory.

EDWARD A. BIRGE, A. B.,
Instructor in Natural History and Assistant Curator of Cabinet.

JEROME HENRY SALISBURY, A. B.,
Instructor in Greek and Latin.

FREDERICK S. HUNTINGTON, A. B.,
Instructor in English.

ALLEN D. CONOVER, C. E.
Assistant in Civil Engineering.

JAMES R. STEWART,
Instructor in Drawing.

MILTON R. FRENCH,
Instructor in Vocal and Instrumental Music.

MRS. D. E. CARSON,
Preceptress.

MISS S. A. CARVER,
Instructor in French and German.

GENERAL INFORMATION.

The university embraces the following colleges and departments:

COLLEGE OF ARTS.

Five Departments. General Science, Agriculture, Civil Engineering, Mining and Metallurgy, Military Science.

COLLEGE OF LETTERS.

Two Departments. Ancient Classical Department, in which the

course of study is equivalent to that in the best classical colleges in the country.

Modern Classical Department. French and German take the place of Greek.

SUB-FRESHMAN COURSE.

This embraces two years of preparatory study.

Ladies are admitted to all the courses of instruction in the university.

LAW-SCHOOL.

Judge P. L. Spooner, Dean of the Law Faculty.

A QUANTITATIVE LABORATORY.

Has been opened, and numerous additions have been made to the apparatus in the different departments of science.

The laboratories for instruction in Analytical Chemistry, Determinative Mineralogy, and the Assaying of Ores, are believed to be the most complete in the country west of the Alleghanies.

LIBRARIES

Are open to students, without charge, containing more than 70,000 volumes.

CURRENT EXPENSES—FREE TUITION.

Expenses are less than in other institutions of equal grade. One student from each assembly district, and all graduates of graded schools of the State who pass the required examination, are entitled to FREE TUITION.

The institution is under the immediate charge of a president and twenty-six professors and teachers, and is, in all respects, in a highly prosperous condition.

For further information, apply to

JOHN BASCOM,
President.

THE NORMAL SCHOOLS.

REPORT OF THE PRESIDENT OF THE BOARD OF REGENTS OF NORMAL SCHOOLS.

HON. EDWARD SEARING,

Superintendent of Public Instruction:

SIR:—I have the honor to submit the annual report of the doings of the Board of Regents of Normal Schools, of receipts and expenditures, and of the prospect, progress, and condition of the State Normal Schools for the year ending August 31, 1875.

MEETINGS OF BOARD.

Two meetings of the board have been held during the year, one February 1-4, and the annual meeting, July 14-16.

At the February meeting a conference was had with the Committee on Education of the Assembly, and a somewhat full and extended discussion, participated in by President Bascom, of the State University, and President Albee, of the Oshkosh Normal School, on the question of establishing a normal college, after which the whole subject was referred to the Committee on Course of Study, with instructions to report at the annual meeting.

INSURANCE.

The president made a report on insurance, which was approved and adopted.

The report announced that an insurance of \$40,000, divided among twelve carefully selected companies, had been secured for the River Falls normal school building, at an expense of \$1,150; that the policies had been issued directly to the board, by arrangement with and consent of the contractors, to be held as collateral

security on the contract, and that the contractors had agreed to pay their pro rata portion of the insurance until such time as they shall deliver the building to the board, and also such portion of the insurance as shall be chargeable to builder's risk during the construction of the building.

FURNISHING RIVER FALLS BUILDING.

The executive committee were instructed, at the earliest practicable time, to procure and have placed in position the necessary furniture and fixtures for the River Falls school; and the committee on Course of Study and Text-Books were instructed to procure necessary text-books and apparatus for the same school.

WHITEWATER EXTENSION.

The following resolution was adopted:

WHEREAS, The normal school building at Whitewater was erected before experience had determined the character of the building needed for the use of such a school; and whereas, the building has proved to be very inadequate, not only in capacity, but in arrangement and facilities for work therein, with economy in faculty and other respects; and whereas, it is desirable that the different schools be placed as nearly as possible upon a similar basis as regards organization, management, and ends to be accomplished by the operation of the schools; therefore,

Resolved, That an addition to the building at Whitewater be made, substantially in accordance with the plan submitted to this board by the executive committee, as directed by the board at the last meeting thereof, and the executive committee are hereby authorized and directed to carry into effect this resolution, by engaging an architect, providing for plans and specifications, advertising for proposals in accordance therewith, contracting for the erection of the building upon the best terms obtainable, auditing, approving and allowing the estimates for work and material furnished therefor, and authorizing warrants in payment for the same, which shall be drawn and issued in the usual manner; *provided*, that the amount expended under this resolution shall not exceed \$20,000; and the executive committee shall make such provision in carrying out the duties herein imposed that the necessary funds for

the running expenses of the schools shall in no wise be jeopardized or infringed upon.

SUSPENSION.

The following rule regarding suspension and expulsion of students was adopted :

Resolved, That the board does hereby so define the powers of suspension and expulsion of the students in our schools that the authority to expel shall reside primarily in the faculty of each school, while that of suspension may be committed to the President thereof, with the understanding that the suspension shall not prevent any student, after the close of the term in which he has been suspended, from being admitted to any normal school in the State.

Resolved, That whenever for cause the faculty of a normal school shall expel a student, the president thereof shall transmit a notification of such action to the presidents of the other normal schools of the State, which notification shall constitute a bar to the student's admission to any school, until the expulsion is revoked by the faculty of this school, or by the board, to whom the case has been appealed.

The following resolutions were adopted :

DISMISSAL OF TEACHERS.

Resolved, That the committee on employment of teachers are empowered, at the request of the president of a school, to dismiss a teacher, when it shall be their unanimous opinion that the interests of the school will be promoted thereby.

RESIDENT REGENT'S REPORT.

Resolved, That it shall be the duty of each resident regent at the semi-annual meetings of the board, to present a statement in writing, showing the amount received for tuition or other account since the last previous annual settlement, and the amount paid into the treasury by such regent, together with the treasurer's receipt therefor, which statement shall be entered in full upon the records of the board, by the secretary thereof.

VISITATION.

Resolved, That the president and teachers of the several normal schools are hereby authorized to visit normal schools of this and other States, and leave of absence for that purpose is hereby granted at such times and for such periods as they may require, upon approval of the president of this board, whenever such absence will not materially injuriously affect the efficiency of the schools. *Provided,* such leave of absence shall not involve expense to this board.

EMPLOYMENT OF TEACHERS.

The committee on employment of teachers reported that in compliance with the instructions of the board, the following teachers have been employed since the annual meeting:

AT PLATTEVILLE:	Salary.
Prof. D. E. Gardner	\$1,500
Miss Jennie Cook in place of Miss Knight.....	650
Miss Mary Brayman, primary, in place of Miss Curtis, transferred to intermediate.....	700
Miss Emeline Curtis, intermediate	700
AT WHITEWATER:	
G. E. Culver, music, penmanship, &c.....	700
L. C. Wooster, temporary help in fall term.....	100
AT OSHKOSH:	
Prof. W. A. Kellerman, Nat. Science, in place of Prof. Bowen, resigned..	1,200
Miss Rose C. Swart, teacher Geography, &c., in Normal Department, transferred from primary.....	700
Miss Martha Kidder, primary, in place of Miss Swart, transferred	600
Miss Lucy Moore, temporary, per month.....	40
Miss Emily T. Webster, temporary, in place of Miss Ladd.....	60

Which action was approved by the board.

The board then proceeded to ballot for, and unanimously elected the following teachers:

- D. E. Gardner, Platteville.
- Mary Brayman, Platteville.
- G. E. Culver, Whitewater.
- W. A. Kellerman, Oshkosh.

REPORT OF EXECUTIVE COMMITTEE.

The record of the executive committee since the last meeting, was read and approved, and their powers and duties regarding care of buildings defined by the following amendment to the by-laws:

“The executive committee shall exercise a general supervision over all buildings under the control of the board, and shall have charge of all new buildings in progress of erection, and alterations thereof. They shall also have authority to make all needful repairs upon said buildings, and to audit bills therefor.”

COMPILATION OF BY-LAWS.

The secretary was instructed to cause a new edition of 200 copies of the laws, by-laws, &c., with codification of the rules, to be printed—the phrasing to be revised and the date of adoption of each resolution, &c., to be placed at the end thereof.

A large amount of routine business, such as examination and consideration of reports of committees, auditing of accounts, &c., was transacted.

ANNUAL MEETING.

At the annual meeting held at Madison commencing July 14, 1875, Hon. F. W. Cotzhausen, of Milwaukee, appointed regent, and Messrs. Evans and Starr, re-appointed, presented their oaths of office.

The following officers were elected for the ensuing year :

Regent Starr—*President*.

Regent White—*Vice-President*.

Regent Searing—*Secretary*.

The following standing Committees were appointed :

Executive Committee—Regents Starr, Chandler, White.

Committee on Finance—Regents Lynde, Taylor, Cotzhausen.

Committee on Teachers—Regents Starr, Smith, Weld.

Committee on Institutes—Regents Searing, Chandler, Smith.

Committee on Supplies—Regents Starr, Evans, White, Weisbrod.

Committee on Course of Study and Text-books—Regents Searing, Weld, Cotzhausen.

Committee on Visitation—Regents White, Evans, Weisbrod.

Committee on Senior Classes—Regents Weld, Chandler, Searing.

RESIGNATION OF TEACHERS.

The resignation of Prof. H. E. Copeland, and of Miss S. E. Eldridge, both of the Whitewater normal school, were presented and accepted.

CALENDAR.

The following calendar of terms was adopted:

CALENDAR FOR OSHKOSH:

1st term, Aug. 24 to Dec. 17, 17 weeks.

2d term, Jan. 4 to Mar. 17, 11 weeks.

3d term, Mar. 28 to June 12, 12 weeks.

FOR WHITEWATER:

1st term, Aug. 31 to Dec. 17, 16 weeks.

2d term, Jan. 4 to Mar. 24, 12 weeks.

3d term, Apr. 2 to June 22, 12 weeks.

FOR PLATTEVILLE:

1st term, Sept. 7 to Dec. 24, 16 weeks.

2d term, Jan. 4 to Apr. 7, 14 weeks.

3d term, Apr. 25 to June 29, 10 weeks.

FOR RIVER FALLS:

1st term, Sept. 27 to Dec. 24, 16 weeks.

2d term, Jan. 4 to Apr. 7, 14 weeks.

3d term, Apr. 18 to June 22, 10 weeks.

TEACHERS AND SALARIES.

For the River Falls school, J. B. Thayer was elected teacher at a salary of \$1,500, and Miss L. J. Foote at a salary of \$800 per annum. Miss J. S. Cook was elected a teacher in the Platteville school; the salary of Prof. W. A. Kellerman was raised to \$1,500, of Miss Frances Albee to \$700, of G. E. Culver to \$800, and of Miss Catharine H. Lilly to \$800, and the Committee on Employment of Teachers was instructed to supply temporarily such teachers as might be needed in the several schools, and empowered to employ an additional teacher in the grammar or intermediate department of the Whitewater school when they shall consider it advisable.

The following resolution was adopted:

Resolved, That the Committee on Employment of Teachers are hereby authorized to employ a competent person to take charge of the practice work in the school at Oshkosh, who, in addition, shall exercise such supervision in the model school, and render such other service as may be required by the president. The maximum salary of such person is hereby fixed at \$1,800 per annum, and when the arrangement is consummated the professorship of theory and art of teaching in said school shall be abolished, the salary of the person now discharging the duties of that professorship in part shall be held and deemed thereafter to be \$1,500 per annum.

REPAIRS.

Some repairs having become necessary on the Oshkosh building in consequence of the severe frost of last winter, a committee of experts had been appointed to examine its condition, upon whose report, that no serious damage had happened to the building, the executive committee were instructed to make all needful repairs.

NORMAL COLLEGE.

Regent Searing, in behalf of the Committee on Course of Study and Text-books, to which had been referred, at the last meeting, a resolution respecting the establishment of a normal college, presented a report, which, after discussion, was accepted and approved, as follows:

Your committee to whom was referred the resolution respecting a normal college, presented at the last meeting of the board, beg leave to report that they have given the same some consideration, and are not prepared to recommend the adoption of the resolution. There appear to be some sound reasons for the establishment of such a college in connection with the State University, but the success of the schools already established, the fact that the growing needs of the State demand a larger number of a similar character, that the existing schools may be able hereafter to extend their course of study, that there is a danger of jealousy and inharmony resulting from a divided jurisdiction, that the university regents are not disposed to lend much encouragement to the proposition, but in their recent meeting laid down such conditions of its acceptance as to secure certain advantage to their own institution, but

uncertain advantage to the normal college—in view of these facts the committee are unable to recommend the adoption of the resolution at the present time. They are rather disposed to recommend that in a matter of so much importance, involving large expense to the board, and inaugurating a policy untried as yet in any state, and of uncertain value, the passage of such a resolution be deferred until the needs of the State demand the action contemplated in it, and until some well defined scheme of union shall be presented to and meet the approval of both boards. The resolution introduced by Regent Chandler is accordingly reported back to your board for further action.

Regent Searing further stated that at the annual meeting of the university regents, certain action had been taken in reference to a proposed normal college in connection with the university, and that the president of the university and himself had been appointed a committee to present the views of that board to the normal board. President Bascom, on invitation, accordingly addressed the board upon the question. After further discussion, participated in by several members, on motion of Regent Chandler, his resolution respecting a normal college was laid upon the table, subject to be called up at any time.

TEACHERS' INSTITUTES.

In this important branch of work, there was the following action.

The committee on institutes respectfully submit the following statement, as required by the rules of the board, showing the transactions of the committee for the year ending July 14, 1875. A comparison of which statement shows

The amount paid to institute conductors to be.....	\$5,645 93
And for incidental expenditures	714 90
	6,360 83
Total expenditures for the year.....	6,360 83
At the last annual meeting of the board the appropriation for institute work was.....	\$3,500 00
The annual appropriation from State Treasury is	2,000 00
	5,500 00
Making in all.....	5,500 00

It will be seen that the expenditures for the year have exceeded the appropriations \$860.83. The committee intended to keep with-

in the limits of the appropriations; but found, when the bills for service of conductors and expenses were presented, that in yielding to the urgent demands for institutes they had exceeded their authority. A resolution to provide for the excess of expenditures, is herewith submitted.

The committee are of the opinion that the sum of \$4,000 should be appropriated by this board for institute purposes for the ensuing year, and submit a resolution for this purpose.

EDWARD SEARING,
W. H. CHANDLER,
WM. E. SMITH,

Committee on Institutes.

On motion, the report was accepted, and the two accompanying resolutions unanimously adopted, as follows:

Resolved, That the sum of \$860.83 be and the same is hereby appropriated from the normal school income fund, for the purpose of paying expenditures of the committee on institutes for the year 1874-75, in excess of the appropriations for that purpose.

Resolved, That the sum of \$4,000 is hereby appropriated out of the normal school income fund, for the purpose of defraying expenses of holding institutes for the ensuing year.

Resolved, That the committee on institutes, at the earliest practicable time, re-organize the institute districts, in such manner that thereafter four districts shall be provided for.

The Committee on Finance submitted the following report on general receipts and expenditures, up to date of meeting.

The Committee on Finance, to which was referred the accounts and vouchers of the resident regents for receipts and expenditures for the year ending this date, have carefully examined and compared the same, and find the statements and reports submitted by them to be correct, and as follows, and that the amounts received by them have been paid into the treasury, as appears from the receipts of the State Treasurer, exhibited to the committee:

PLATTEVILLE SCHOOL.

Amount received for tuition, Normal Department.....	\$265 00
Amount received for tuition, Grammar Department.....	1,850 50
Amount received for tuition, Intermediate Department	631 10
Amount received for tuition, Primary Department.....	391 30
Total amount received for tuition.....	<u>3,137 90</u>

BOOK-RENTS AND SALES.

Amount received for book-rents during the year.....	\$747 39
Amount received for book-sales during the year.....	171 50
Total amount received for book-rents and sales.....	918 89
Amount received for tuition, book-rents, and sales.....	4,056 79
Amount received of State Treasurer for salaries of teachers.....	13,063 75
Total.....	17,120 54
Amount received of State Treasurer upon audit of bills, Febr'y 4, 1875	2,081 71
Amount received upon audit of bills, July 16, 1875.....	1,302 27
Total amount received during the year.....	20,504 52

DISBURSEMENTS.

Amount paid State Treasurer, February 4, 1875.....	\$1,795 20
Amount paid bills to February 4, 1875.....	2,081 71
Amount paid bills to July 16, 1875.....	1,302 27
Amount paid for teachers' salaries.....	13,063 75
Amount paid State Treasurer, July 16, 1875.....	2,261 59
Total.....	20,504 52

WHITEWATER SCHOOL.

Amount received of State Treasurer for teachers and janitor's salaries	\$11,947 00
Amount received for tuition, Academic Department.....	1,093 50
Amount received for tuition, Primary Department.....	365 10
Amount received for book-rents and sales, fall term.....	416 82
Amount received of State Treasurer, upon bills audited, Feb. 3, 1875.	711 09
Amount received of State Treasurer upon bills audited July 16, 1875.	533 93
Total amount received during the year.....	15,067 44

CONTRA.

Amount paid teachers and janitor's salary.....	\$11,947 00
Amount paid for text-books and libraries.....	448 66
Amount paid upon bills audited February 3, 1875.....	679 25
Amount paid upon bills audited July 16, 1875.....	533 93
Amount paid State Treasurer, February 3, 1875.....	880 00
Amount paid State Treasurer, July 16, 1875.....	578 60
Total.....	15,067 44

There has been audited by the committee upon supplies, bills for supplies for the school during the year, to the amount of \$1,090 37, which sum has been paid by the State Treasurer. No account of book-rents and sales for the spring term has been submitted to the

committee, and we recommend Regent White be permitted to report upon that at a future time.

OSHKOSH SCHOOL.

Amount received for tuition, Primary Department.....	\$567 60
Amount received for tuition, Intermediate Department.....	766 80
Amount received for tuition, Grammar Department.....	1,320 75
Amount received for tuition, Preparatory Department.....	894 30
Amount received for tuition for the year 1874.....	39 50
	<hr/>
	3,588 95
	<hr/>

BOOK-RENTS AND SALES.

Amount received for book-rents.....	844 20
Amount received for book-sales.....	221 47
Amount received for old iron.....	35 90
Amount received of State Treasurer for salaries of teachers.....	12,690 00
	<hr/>
Total amount received from all sources....	17,880 52
	<hr/>

CONTRA.

Amount paid State Treasurer, February 18, 1875.....	\$1,929 98
Amount paid State Treasurer, July 14, 1875.....	2,760 54
Amount paid for salaries of teachers.....	12,690 00
	<hr/>
Total.....	17,880 50
	<hr/>

Bills for supplies for the school to the amount of \$4,292 93, have been audited by the committee on supplies during the year, and paid by the State Treasurer, as per bill of particulars accompanying the report of Regent Weisbrod.

GRADUATING CLASSES.

Regent Weld, in behalf of the committee on examination of senior classes, presented a report which was accepted and ordered to be placed on file. The report gave the names of the pupils who had been recommended by the several faculties as having completed the courses of study and being entitled to diplomas or certificates, and whose examination by the committee confirmed the recommendation of the faculties. The number at each school was as follows :

PLATTEVILLE—Advanced course.....	9
Elementary course.....	8
WHITEWATER—Advanced course.....	6
Elementary course.....	9
OSHKOSH—Advanced course.....	7
Elementary course.....	12

The report affirmed that: "The examination in each of the schools, both oral and in writing, evinced generally a comprehensive knowledge of the subjects, and a freedom in expression seldom attained by students so young."

PREPARATORY INSTRUCTION.

The Committee on Course of Study and Text-books report as follows:

The following resolution was referred to your committee, at the last meeting of the board, with instructions to report thereon at the present meeting:

Resolved, That the course of study in the grammar department in each normal school shall be at the earliest practicable day so enlarged as to furnish full preparatory instruction for those desiring to enter the State University."

Your committee have to say—

1. That the present four years' course of study is nearly a full preparation for the Freshman class in either department of the State University.

2. That many students desire to and do enter a college or university after leaving the normal schools, and that more would so enter if suitable encouragement and preparation were given.

3. That the present course of instruction in the normal schools, and thorough "preparatory work," so called, have so much in common that there is nothing inconsistent in the latter being done in the normal schools.

4. That an academic or grammar department, as an integral factor of a normal school, in which superior academic and preparatory work may be done, would be a valuable accession to the normal work in giving to normal students a wider field of observation and practice.

5. That such a department is generally desired and needed by the people of the localities in which the normal schools are located—Oshkosh, perhaps, excepted.

6. That the union of the normal and academic work here contemplated has been in successful operation in New York State and elsewhere.

7. That by this modification of the purposes of the normal board, the university would be greatly benefited, and another step taken towards the unification of the State educational system.

8. That this modification would involve little or no additional expense to the board—not more than one extra teacher being required by it, and the income from tuition being materially increased by the same.

9. That with the addition here proposed, the question of “intermediate schools” in the State system would be satisfactorily settled.

10. That the preparatory instruction in the normal schools should be of the very best character—a model to all other schools aiming to give such instruction—essentially itself “normal” instruction.

11. That with this secured, the necessity for a normal college would disappear. The university would supplement the normal schools by the high culture by which it would simply crown the work of the latter.

In view of these facts, your committee favor and recommend the adoption of the resolution referred to them.

On motion, the report was accepted, but further consideration thereof deferred until the next meeting of the board.

LIBRARIAN AND ACCOUNTS.

The following resolutions were adopted:

Resolved, That the librarian in each school be prohibited from dealing in stationery or books, except that he may sell text-books belonging to the library, and it shall be his duty to keep an account in detail of all book rent received, and books sold, and report the same to the resident Regent at the expiration of each term.

Resolved, That all accounts hereafter to be presented for audit to the Committee on Supplies, shall be verified or certified to in the same manner as provided in the by-law regarding verification of accounts referred to the Finance Committee, except that a certificate from the president or a teacher or officer of the school for which supplies were furnished may be held sufficient for audit.

CLASSIFICATION OF SALARIES.

The following resolution of enquiry into the best method of classifying salaries upon some uniform basis was adopted:

Resolved, That the Committee on Employment of Teachers are hereby instructed to inquire into the expediency of arranging and classifying teachers' salaries upon the following basis, to take effect at the expiration of the current year, and report at the next meeting of the board—the sums named to be maximum: President, \$2,500; principal professor, \$1,800; professors, \$1,500; principal lady teacher, \$800; other lady teachers, normal department, \$700; principals of model schools, grammar department, \$800; other departments, \$700, where females are employed.

MISCELLANEOUS.

The question of introducing the Kindergarten method into one or more of our model or training schools, was considered; provision was made for the receiving and putting in place of the Ornithological Cabinets; the report and record of the executive committee was read and approved.

A large amount of routine business was transacted. Preparation was made for the dedication of the new building at River Falls on the 2d day of September, Hon. Edward Searing being invited to give a public address in the grand hall of the building, on that occasion, to which time and place the board adjourned.

MEMBERS AND OFFICERS.

The present members of the board and its officers are:

GOV. W. R. TAYLOR, ex-officio,	- - - - -	MADISON.
EDWARD SEARING, Supt. Pub. Inst., ex-officio,	- - - - -	MADISON.

Term Ending February 1, 1876.

WILLIAM E. SMITH,	- - - - -	MILWAUKEE.
J. I. LYNDES;	- - - - -	LA CROSSE.
CHARLES A. WEISBROD	- - - - -	OSHKOSH.

Term Ending February 1, 1877.

W. H. CHANDLER,	- - - - -	SUN PRAIRIE.
A. H. WELD,	- - - - -	RIVER FALLS.
S. A. WHITE	- - - - -	WHITEWATER.

Term Ending February 1, 1878.

WILLIAM, STARR	- - - - -	RIPON.
J. H. EVANS,	- - - - -	PLATTEVILLE.
F. W. COTZHAUSEN,	- - - - -	MILWAUKEE.

OFFICERS OF THE BOARD.

PRESIDENT, WILLIAM STARR,	- - - - -	RIPON.
VICE-PRESIDENT, WILLIAM E. SMITH,	- - - - -	MILWAUKEE.
SECRETARY, EDWARD SEARING,	- - - - -	MADISON.
TREASURER, ex-officio, FERDINAND KUEHN,	- - - - -	MADISON.

The following regulations govern the admission to the normal schools:

REGULATIONS FOR ADMISSION.

Adopted by the Board of Regents.

1. Each assembly district in the State shall be entitled to six representatives in the normal school, and in case vacancies exist in the representatives to which any assembly district is entitled, such vacancies may be filled by the president and secretary of the board of regents.

2. Candidates for admission shall be nominated by the superintendent of the county, (or if the county superintendent has not jurisdiction, then the nomination shall be made by the city superintendent of the city,) in which such candidate may reside, and shall be at least sixteen years of age, of sound bodily health, and good moral character. Each person so nominated, shall receive a certificate setting forth his name, age, health and character, and a duplicate of such certificate shall be immediately sent by mail, by the superintendent, to the secretary of the board.

3. Upon the presentation of such certificate to the president of a normal school, the candidate shall be examined, under the direction of said president, in branches required by law for a third grade certificate, except History and Theory and Practice of Teaching, and if found qualified to enter the normal school in respect to learning, he may be admitted, after furnishing such evidence as the president may require, of good health and good moral character, and after subscribing the following declaration:

I, _____, do hereby declare that my purpose in entering this State normal school is to fit myself for the profession of teaching, and that it is my intention to engage in teaching in the public schools in this State.

4. No person shall be entitled to a diploma who has not been a member of the school in which such diploma is granted, at least one year, nor who is less than nineteen years of age; but a certifi-

cate of attendance may be granted by the president of a normal school to any person who shall have been a member of such school for one term, provided, that in his judgment such certificate is deserved.

These rules, upon the opening of the Fourth Normal School, can be so far modified as to admit eight from each assembly district, as the four schools will accommodate eight hundred normal students, besides the three departments of the training or model school connected with each.

The following synopsis of the condition of the several funds, brought up to the close of the State fiscal year, ending September 30, is compiled from the books of the Secretary of State and State Treasurer:

NORMAL SCHOOL FUND.

This fund consists of the proceeds of the sales of land set apart for the support of normal schools, by the provisions of chapter 537 of the general laws of 1865.

RECEIPTS.		
Sales.....		\$20,083 28
Dues.....		5,040 00
Loans.....		16,924 00
Penalties.....		15 51
Town of River Falls, bonds Nos. 1 to 10, redeemed.....		1,000 00
Total.....		<u>43,062 79</u>
DISBURSEMENTS.		
Loans.....		\$26,000 00
State bonds.....		3,100 00
Refunded for overpayments.....		336 26
Total.....	\$43,062 79	29,436 26
Balance September 30, 1874.....	21,630 00	
Balance September 30, 1875.....		35,256 53
Total.....	<u>64,692 79</u>	<u>64,692 79</u>
Amount of productive fund September 30, 1874.....		<u>973,806 34</u>
Decreased by payments on certificates of sale.....	\$5,040 00	
Decreased by forfeitures on certificates of sale.....	2,125 00	
Decreased by payments on loans.....	16,924 00	
Decreased by forfeitures on mortgages.....	1,000 00	
Decreased by payment on town bonds.....	1,000 00	
Decreased by payment on Madison city loan.....	2,500 00	
		<u>28,589 00</u>
		= 45,217 34

Increased by new certificates of sale.....	\$2,047 00	
Increased by new loans.....	6,000 00	
Increased by certificates of indebtedness.....	3,100 00	
Increased by Iowa county loan.....	20,000 00	
		<u>\$31,147 00</u>
Total productive fund, September 30, 1875.....		<u>976,364 34</u>

The amounts of productive normal school-fund, September 30, 1874 and 1875, respectively, were as follows:

	1874.	1875.
Amount due on certificates of sale.....	\$50,602 29	\$45,484 29
Amount due on loans.....	137,604 05	113,180 05
Certificates of indebtedness.....	512,600 00	515,700 00
United States bonds.....	43,000 00	43,000 00
Milwaukee city bonds.....	160,000 00	160,000 00
Town bonds ...	20,000 00	19,000 00
Iowa county loan.....	50,000 00	70,000 00
City of Madison.....		10,000 00
Total.....	<u>973,806 34</u>	<u>976,364 34</u>

Showing an increase of \$2,558 during the year.

NORMAL SCHOOL FUND INCOME.

This income, supplemented by such aid as localities may donate, furnishes the means to build our buildings, and to equip and maintain our schools, to conduct and carry on the institute work of the State, and to pay all expenses connected with the administration of affairs by the board.

The following statement exhibits the various sources from which this income was received during the past year, and the disbursements therefrom:

RECEIPTS.

Balance in fund October 1, 1874.....		\$73,725 55
Interest on certificates and loans.....	\$11,674 08	
Interest on certificates of indebtedness.....	36,203 33	
Interest on U. S. 5-20 bonds.....	2,947 65	
Interest on Milwaukee water-work bonds.....	11,200 00	
Interest on loan to Iowa county.....	1,586 62	
Interest on loan to Madison city board of education....	700 00	
Interest on Troy town bonds.....	280 00	
Interest on River Falls town bonds.....	700 00	
Interest on Kinnickinnick town bonds.....	210 00	

Interest on Clifton town bonds.....	\$210 00	
Tuition fees—Platteville Normal School.....	4,080 14	
Tuition fees—Whitewater Normal School.....	1,458 60	
Tuition fees—Oshkosh Normnl School.....	4,690 52	
Refunded insurance.....	53 35	
		<u>\$75,994 29</u>
Total.....		<u>149,719 84</u>

DISBURSEMENTS.

Platteville Normal School—salaries of teachers, supplies, etc.....	\$14,362 81	
Whitewater Normal School—salaries of teachers, supplies, etc.....	25,406 37	
Oshkosh Normal School—salaries of teachers, supplies, etc.....	21,296 95	
Expenses of regents.....	379 14	
Institutes	5,310 54	
Expenses.....	1,762 21	
River Falls Normal School—building, etc	40,833 31	
Refunded for over-payments.....	150 37	
Total	109,501 70	
Balance, September 30, 1875.....	40,218 14	
Total		<u>149,719 84</u>

RECEIPTS AND EXPENDITURES.

For the receipts from various sources, and summary of expenditures for the State fiscal year, reference is made to the foregoing table of Normal School Fund income. A classified statement of expenditures, for the year ending August 31, compiled from the books of our secretary is herewith submitted.

Any apparent discrepancy in the different statements of receipts and expenditures in this report may be explained by the fact that being derived from different sources, they are made up at different periods of time—our annual meeting being held in July, when our finance committee's report is made—the reports from the State Treasurer and Secretary of State are made at the close of the fiscal year, September 30, and my report to you, is required by law to be made bearing date the 31st day of August.

STATEMENT OF EXPENDITURES.

Total amount expended for institutes... ..	\$6,163 31
Amount of regents' expenses.....	874 83
On salary of secretary of board of regents of Normal Schools.....	375 00
Amount expended for Oshkosh Normal School.....	8,247 47

Amount expended for Platteville Normal School.....	\$4,174 82
Amount expended for Whitewater Normal School.....	2,694 02
Amount expended for River Falls Normal School.....	591 87
Amount expended for Normal School building, River Falls.....	50,575 30
Amount expended for enlargement, Whitewater.....	9,187 78
Amount paid for salaries of teachers and janitor in Platteville Normal School.....	13,163 75
Amount paid for salaries of teachers and janitor in Whitewater Normal School.....	12,147 50
Amount paid for salaries of teachers and janitor in Oshkosh Normal School.....	12,780 79
Amount paid for insurance of Normal School buildings.....	1,150 00
Miscellaneous expenditures.....	1,077 80
Total	<u>123,224 24</u>

FOURTH NORMAL SCHOOL.

The Fourth Normal School at River Falls will be inaugurated and opened on the 2d day of September, and there is every indication that it will have a prosperous beginning, and supply a want long felt in the northwestern portion of our State, for better facilities in attaining higher culture, and preparation for their work, by our common-school teachers.

The places in our common schools must be filled, if not by those who have more or less culture and training, then by those endowed—or rather fettered—with more or less of ignorance and unskilfulness.

We shall expect from this school, and from the institutes in connection with it, good fruit in that portion of our State.

MODEL SCHOOLS.

The problem of how best to organize and conduct that branch of our schools, called the model or training department, has received much thought and attention from the board, especially during the past year.

These schools may be considered indispensable for the observation and practice-work of our normal students, and our aim has been, and will be to so manage them, as to give the best possible advantages for culture and training to the pupils in them; thereby

making them most efficient as schools of observation and practice. Some changes are contemplated the coming year, looking directly to these results.

ACCOMPANYING REPORTS.

Your attention is especially invited to the reports of Presidents Charlton, Arey, and Albee, and to the report of the committee on institutes, which accompany this report.

As the presidents do not actually write these reports till another school-year begins, they are apt to tinge them with the later work, and condition of the schools at the actual time of writing. I have not thought necessary to eliminate these portions, but let them pass with this explanation.

They are so full and suggestive in special matters, that I have been able to dispense with much that might otherwise have needed place in the body of my report. Each school has its peculiar excellencies and deficiencies, growing out of the constituent elements of its faculty, its material and its surroundings, and each is well deserving of that laudable State pride, which, without disparaging any other, would exalt and glory in the worthiness of our own institutions.

The teachers have in general been faithful and thorough in their work, and no changes have been made impairing the efficiency of the schools. Each teacher understands that merit and usefulness constitute his claim to place, that the board have no sinecures for decayed teachers, or dilapidated politicians, no easy-cushioned chairs, endowed for waiting expectants.

CONCLUSION.

In reviewing the whole field of work during the year past, there is much to encourage renewed vigor for another campaign against the cohorts of ignorance and incompetence.

Society does poorly when it demands special training for its preachers, its lawyers, its doctors, its artizans of all kinds, and at the same time expects its large army of common-school teachers to perform their work without any special aptitude, culture or training. Because the army is so large, so much more the need of discipline in and for its work, lest it became a mob and do the work of a mob,

or scatter into fragments, and do its work in an aimless fragmentary manner.

The enlightened public sentiment of our age, and especially of our nation, demands universal public education, accessible to the poor and humble, as well as to the lofty. It is well, and augurs well to the republic, and all mankind. Let the educational organizers so direct the public sentiment, as to lay deep, broad, and sure, the foundations of the future, and make haste slowly upon such foundations, to build wisely and well the initial parts belonging to our day and generation.

The first necessity in a system of public education is the trained teacher—one trained in, with, and as a part of the system; and any plan of public instruction that neglects to systematically fit its teachers for their work, must prove abortive of good results.

The private institutions of learning can and will take their choice of those who by natural aptitude or culture, or by both, have shown themselves fitted for the teachers' work.

If the public good demands the best universal public education, which the State can give; then it certainly demands as a co-requisite, the best system of training teachers which the State can furnish.

This is the mission of the normal school, and we shall best and most faithfully do our work, by giving culture and training to that large body of teachers, who must fill the places in our common schools.

Working steadily with this view, we have given careful attention to the institute work, so organizing, distributing and conducting our institutes, that no teacher or expectant need be without their benefit. So too, we have encouraged, rather than discouraged, the attendance at our normal schools of that large class who come for but a year, a term, or it may be less; for, although we cannot with these heterogeneous elements make a homogeneous school, and attain the best results of classification, nor have the glory reflected from work done by polished graduates, yet we may believe that the little rills of influence emanating from the large host of normal under-graduates and institute students, will help to make and swell the mighty river of educational progress, which shall sweep away the debris of superstitious ignorance, and make clear the channels for the coming teacher.

In conclusion, allow me to thank you for your cordial co-operation, and intelligent zeal, official and personal, in our work; and to commend the great and vital interests committed to our board to such favorable mention in your report as you shall deem best conducive to the cause of public instruction.

Respectfully submitted.

WILLIAM STARR,
President Board Regents of Normal Schools.

Reports of Presidents of Normal Schools.

PLATTEVILLE NORMAL SCHOOL.

To the Hon. WILLIAM STARR,

President of the Board of Regents of Normal Schools:

DEAR SIR :—I have the honor to submit a brief statement of the condition and progress of the State Normal School at Platteville, for the year ending June 24th, 1875.

The enrollment during the year was as follows :

NORMAL DEPARTMENT.	
Gentlemen.....	104
Ladies.....	109
Total.....	<u>213</u>
GRAMMAR DEPARTMENT.	
Gentlemen.....	119
Ladies.....	73
Total.....	<u>192</u>
INTERMEDIATE DEPARTMENT.	
Boys.....	28
Girls.....	33
Total.....	<u>61</u>
PRIMARY DEPARTMENT.	
Boys.....	21
Girls.....	21
Total.....	<u>42</u>
Deduct twice counted.....	<u>48</u>
Total enrollment for the year.....	<u>460</u>

During a great part of the year there were as many students in attendance as could be properly accommodated ; and in the winter term it was found necessary to refuse admission to a considerable number of applicants for seats in the grammar department. At the beginning of this term, the desks in the normal department were rearranged, and some additions made, so that we have thus far been able to receive all candidates who were properly qualified to become normal students. The present seating capacity of the school building is as follows :

Normal department.....	150
Grammar.....	110
Intermediate.....	50
Primary.....	40
Total.....	<u>350</u>

The anniversary exercises for 1875 were held June 21—24, according to the following programme :

PROGRAMME.

Examinations—Monday, Tuesday and Wednesday, June 21st, 22d, 23d.

Closing Exercises of Primary Department—Tuesday, June 22d, 10.30 o'clock, A. M.

Closing Exercises of Intermediate Department—Tuesday, June 22d, 2 o'clock, P. M.

Address by Rev. Chas. Caverno, of Lombard, Ill.—Tuesday evening, June 22d.

Closing Exercises of Academic Department—Wednesday, June 23d, 9 o'clock, A. M.

Closing Exercises of Normal Department—Wednesday P. M., June 23d.

Seventh Annual Commencement—Thursday, June 24th, 9.30 o'clock, A. M.

Meeting of Alumni Association—Thursday evening, June 24th.

The seventh annual commencement was held Thursday, June 24th, at which the following persons, having been duly recommended by the faculty and examined and approved by the committee on examination, were admitted to the honors of graduation :

Name.	Post-office.	County.
Dennis J. Gardner, - - - -	Platteville, - - -	Grant.
W. Frederic Main, - - - -	Platteville, - - -	Grant.
William D. Washburn, - - -	Platteville, - - -	Grant.
Ellen E. Grigsby, - - - -	Potosi, - - - -	Grant.
Mary A. Haw, - - - - -	Platteville, - - -	Grant.
Josephine Lemon, - - - - -	Beetown, - - - -	Grant.
Bessie Seely, - - - - -	Elk Grove, - - -	La Fayette.
Sophia C. Thomas, - - - -	Linden, - - - -	Iowa.
Lessie I. Wallace, - - - - -	Belmont, - - -	La Fayette

Each member of the graduating class took part in commencement exercises, and at the conclusion a brief, but earnest and thoughtful address was delivered by Hon. Edward Searing, Superintendent of Public Instruction.

The graduates of the school, including the last class, are eighty-eight in number. The following table gives their classification and employment, on the 1st of December, 1875.

Classification,	Gentlemen	Ladies.	Total.
Teaching in Wisconsin	24	23	47
Teaching in other States.....	1	7	8
County Superintendent, Wisconsin	1	.....	1
Music Teacher .....	.....	1	1
Students in higher Institutions	4	1	5
Clergyman	1	.....	1
Lawyers and Law Students.....	6	.....	1
Merchants and Clerks	3	.....	3
U. S. Mail Agent.....	1	.....	1
Farming	1	.....	1
Mining	1	.....	1
Insurance Agent	1	.....	1
Married and left the profession .....	.....	5	5
Not teaching at present	2	4	6
Deceased	1	.....	1
Total	47	41	88

Most of those designated as "Not teaching at present," are understood to have left school work temporarily, with the intention of resuming it as soon as circumstances shall render it expedient. Three of the graduates, including one now holding the office by appointment, have recently been elected county superintendents, and will enter upon their duties as such on the first of January.

Of the members of the last graduating class, one has entered the Northwestern University, Evanston, Illinois ; the rest are teaching.

In addition to the regular graduates of the school, eight students completed the Elementary Course and received appropriate certificates to that effect at the close of the year. Of these, four are now teaching, and two are pursuing the studies of the Advanced Course.

The changes in the course of study, and in the organization of the school, inaugurated at the beginning of the year, have thus far proved as satisfactory as was anticipated. The libraries, cabinet, and apparatus are in good condition and well adapted to our needs.

I am happy to say that the past year has been marked by earnest work and faithful attention to duty on the part of our students, almost without exception. Cases of discipline are extremely rare, and the moral tone of the school seems to be improving from year to year.

No changes have occurred in our faculty since the date of my last report. The same harmony of which I have taken occasion to speak in former years, has continued to characterize the work of our teachers. All have labored to the best of their ability to promote the welfare and advance the interests of the school. Of the present faculty, one has been employed in the school eight years ; one, seven years ; two, five years ; one, four years ; one, three years ; one, two years ; and three, one year.

The names and departments of the teachers, and the calendar for the ensuing year are as follows :

FACULTY.

EDWIN A. CHARLTON, A. M.,
President and Professor of Mental and Moral Science.

DUNCAN MCGREGOR, A. M.,
Professor of Theory and Practice of Teaching, and Conductor of Institutes.

D. GRAY PURMAN, A. M.,
Professor of English Language and Literature.

GEORGE BECK, M. S.,
Professor of Natural Sciences.

D. E. GARDNER,
Professor of Mathematics and Vocal Music.

CAROLYN E. ADAMS, Ph. B.,
Teacher of Geography and History.

ANNUAL REPORT OF THE

CHARLES H. NYE,
Principal of Grammar Department.

JENNIE S. COOKE,
Assistant in Grammar Department.

EMELINE CURTIS,
Principal of Intermediate Department.

MARY BRAYMAN,
Principal of Primary Department.

CALENDAR, 1876.

WINTER TERM, 14 WEEKS.—From Tuesday, January 4th, to Friday, April 7th, 1876. Vacation, two weeks.

SPRING TERM, 10 WEEKS.—From Tuesday, April 25th, to Thursday, June 29th, 1876. Vacation, nine weeks.

CLASS DAY, Wednesday, June 28th, 1876.

GRADUATING EXERCISES, Thursday, June 29th, 1876.

MEETING OF ALUMNI ASSOCIATION, Thursday eve., June 29.

FALL TERM, 16 WEEKS.—From Tuesday, September 5th, to Friday, December 22nd, 1876.

In conclusion, I cannot do justice to my own feelings without giving expression to the profound gratitude I entertain toward yourself and all the members of the board of regents, for many favors and kindnesses shown me during the past five years. With an earnest purpose to make my future labor in the school acceptable to you,

I remain, with great respect, your obedient servant,
EDWIN A. CHARLTON.

 WHITEWATER NORMAL SCHOOL.

Hon. WILLIAM STARR,

President Board of Regents for Normal Schools :

During the year ending June, 1875, the school at Whitewater sent out as instructors, into the district schools, eighty-one undergraduates. At the close of the year, six graduated from the advanced course, and nine completed the elementary, making, in all, ninety-six teachers furnished the State in the course of the year. Others of the undergraduates have undoubtedly taught, but the in-

stitution has no record of them. Gratifying reports of the work of the graduates are frequently made by those who employ them. The character of the work of the undergraduates cannot be so readily ascertained. With two or three exceptions, however, reasonable satisfaction has been given by this class of students, as can be attested by documentary evidence and by the constant calls on the school, both for those who have completed the courses and for those who have not.

At the present writing the future of the institution is altogether encouraging. The number in attendance at this time is greater than at any period in the history of the school, while its earnestness and spirit have in no wise faltered ; on the contrary, they are increased.

SCHOOL OF PRACTICE.

The addition to the building, which will soon be completed, will open accommodations to the training department far in advance of those it has hitherto enjoyed. The question with regard to the future of the school of practice naturally deserves attention. Some uneasiness has been felt among the patrons of these schools with regard to the employment of pupil teachers, and during the past two years fewer students have been sent into these departments. In accordance with the best judgment of educators engaged in normal schools, a school of practice is an important element in their work. For this purpose these rooms were provided in the normal school buildings. The school of practice tests, or renders practical what has been theoretically learned, and determines the capacity of the candidate to perform the work for which he has been preparing. Without this department the candidate must assume his duties from a problematical stand-point, and the diplomas and certificates must be given from the same basis. It is not an unusual thing to find pupils who are theoretically familiar with the general principles and details of the school-room, but who, in attempting to reduce their theories to practice, prove themselves failures. The best educators the world has produced have found schools of practice an essential element in the work of preparing instructors for the young. Moreover, these schools of practice should not be composed of adult students, but of children of the maturity of those whom the candidates are preparing to teach.

The intellectual condition of the child and that of the adult differ in such essential particulars that the training of the instructor for the adult must be given from a stand-point quite distinct from that necessary for the proper development of the youthful mind. The one lives in the fact of the objective present, and is educated by the truthful presentation of the external world to his senses ; the other lives in the principles which bind facts together, and is educated by addressing these principles to his reason. This view of training schools is substantiated by the best educators of the past as well as of the present.

Some of the points to be tested and secured by the candidates in the training schools are the following :

1. An executive ability which shall assure the State that its diplomas are given into worthy hands.
2. A knowledge of child nature, and the modes of drawing it out successfully.
3. An ability to properly grade pupils who may come under his charge.
4. Power to arouse enthusiasm, without which no teacher can perform more than half duty.
5. His judgment to assign proper daily work for each pupil.
6. A general familiarity and ease in the management of the whole school ; and last, the trial of the personal disposition of the candidate.

The training departments, as existing, are much benefited by this practice ; inasmuch as such departments, in the hands of a single teacher, cannot be as fully taught as when the increased time and energy which can be gained by the employment of pupil teachers is added to the work. In a village like Whitewater, the number of tuition-paying pupils is not sufficiently large to admit of that close grading which is necessary when one teacher does first-class work in a school of forty or fifty pupils. The only desirable substitute for a school of practice would be a model school for the observation of normal pupils. The wants of the school would be best met by both of these. A model school should be a model in every respect, having the best teachers that can be secured, and a sufficient number to do the work in the best manner.

The question then comes before the board :

1. Whether these three departments should form one model school.

2. Whether the two departments now in existence shall remain as they are, with one teacher at the head, and taught in part by pupils, while the new department becomes a model school ; or

3. Whether, with the new department as a model school, a free school of practice, as closely graded as may be, shall take the place of the present primary and intermediate departments, or be added thereto.

These questions I desire to submit entirely to the wisdom of the board.

BOARD OF REGENTS.

The institution has been visited by the following gentlemen, members of the Board of Regents of Normal Schools : Hon. William Starr, Hon. S. A. White, Hon. Edward Searing, Hon. W. E. Smith, Hon. J. H. Evans and Hon. A. H. Weld.

STATE BOARD OF EXAMINERS.

The school has been visited, for the purpose of examination, by Prof. J. Q. Emery, Principal Fort Atkinson High School ; Prof. Samuel Shaw, Principal of Madison High School, and by Prof. J. H. Terry, Principal of private school at Spring Green.

FACULTY.

OLIVER AREY, M. A.,
President, and Professor of Mental and Moral Philosophy and Pedagogics.

S. S. ROCKWOOD, M. A.,
Professor of Mathematics and Elocution.

ALBERT SALISBURY, A. M.,
Professor of History, and Conductor of Institutes.

G. R. KLEEBERGER,
Professor of Natural Sciences.

GARRY E. CULVER,
Teacher of Music, Elocution, Penmanship.

MRS. H. E. G. AREY
Teacher of Rhetoric, English Literature and Drawing.

ANNUAL REPORT OF THE

MISS CATHARINE H. LILLY.

Teacher of Latin and English Grammar.

MISS. MARY DE LANEY,

Teacher of Civil Government and Geography.

MISS. ANNIE M. GREENE,

Teacher and Critic in Academic Department.

MISS ELLA A. WEBSTER,

Teacher in Primary Department.

MISS JULIETTE CONGAR,

Teacher Instrumental Music.

Schedule of Study.

ELEMENTARY COURSE.						ADVANCED COURSE.					
FIRST YEAR.			SECOND YEAR.			THIRD YEAR.			FOURTH YEAR.		
FALL TERM. 16 WEEKS.	WINTER TERM. 12 WEEKS.	SPRING TERM. 12 WEEKS.	FALL TERM. 16 WEEKS.	WINTER TERM. 12 WEEKS.	SPRING TERM. 12 WEEKS.	FALL TERM. 16 WEEKS.	WINTER TERM. 12 WEEKS.	SPRING TERM. 12 WEEKS.	FALL TERM. 16 WEEKS.	WINTER TERM. 12 WEEKS.	SPRING TERM. 12 WEEKS.
Arithmetic	Element'ry Algebra.	Arithmetic (compl'td)	Geometry.	Higher Algebra.	Elocution.	Higher Algebra.	Rhetoric.	Geometry.	Mental Science.	Spherical Geometry and Trig'nomy	Political Economy.
Grammar.	Grammar.	U. S. History.	Civil Government and Natu'l History.	Rhetoric or Latin.	Rhetoric or Latin.	Latin.	Latin.	Latin.	Latin.	Latin.	Latin.
Geography	Physical Geography and Physiolog'y.	Physiol'gy.	Natural Philosophy	General History.	Botany.	Chemistry.	Astron'my.	Zoology.	Geology.	Moral Science.	Pedagogics
Reading.	Orthoepy and Word Analysis.	Drawing.	Drawing and Book-keeping.	Theory and Practice.	Reviews.	Drawing.	Drawing.	English Literature.	Training School Practice.	Training School Practice.	Reviews.
Vocal Music, Penmanship, and Gymnastics.						Vocal Music, Gymnastics, and Lectures.					

CALENDAR.

A change in the calendar was adopted by the board, July, 1875.

FALL TERM consists of sixteen weeks—From Tuesday, August 31st, to Friday December 17th.

WINTER TERM, 12 weeks—From Tuesday, January 4th, to Friday, March 24th.

SPRING TERM, 12 weeks—From Tuesday, April 2d, to Thursday June 22d.

In conclusion permit me to express to the members of the board my sincere thanks for their kindness and assistance rendered in the management of the school, and their presence on the various occasions of interest during the year.

Respectfully submitted.

OLIVER AREY.

 OSHKOSH NORMAL SCHOOL.

HON. WILLIAM STARR,

President of Board of Regents of Normal Schools,

DEAR SIR:—The fourth annual report of the Oshkosh Normal School is herewith submitted for your consideration.

STATISTICS FOR SCHOOL YEAR ENDING JUNE 16, 1875.

Enrollment by Departments.

Normal department.....	293
Model school. { Grammar department.....	105
{ Intermediate department.....	53
{ Primary department.....	57
Total in Normal School.....	<u>508</u>

NORMAL DEPARTMENT.

Enrollment by Terms.

TERMS.	En-rolled.	Average mem'ship.	Average atten'ce.
<i>Fall term—</i>			
Ladies	138		
Gentlemen	71		
Total	209	180.2	172.4
<i>Winter term—</i>			
Ladies	106		
Gentlemen	40		
Total	146	141.	135.6
<i>Spring term—</i>			
Ladies	90		
Gentlemen	97		
Total	187	174.3	160.3
<i>Entire year—</i>			
Ladies			171
Gentlemen			122
Total			293

ENTIRE PERIOD OF MEMBERSHIP AVERAGED BY CLASSES.

	Terms.
Fourth year class, 8 pupils	10.4
Third year class, 8 pupils	7.95
Second year class, 41 pupils	4.72
First year class, 159 pupils	2.29

Enrollment Normal Department during—

1871-72	158
1872-73	224
1873-74	268
1874-75	293

Total number different students enrolled in four years.....	626
Number known to have taught since leaving	349
Number of previous members at present attending	83
Number not known to have taught	*194

*Many placed in this number have probably taught but have failed to notify.

Of those registered in 1874-75, 73 gentlemen and 54 ladies taught during that year; 43 gentlemen and 46 ladies are teaching at present.

EXAMINATION FOR ADMISSION.

TERMS.	Examined.	Admitted.
<i>Fall term—</i>		
Ladies.....	80	68
Gentlemen	37	34
<i>Winter term—</i>		
Ladies.....	8	6
Gentlemen	11	9
<i>Spring term—</i>		
Ladies.....	34	30
Gentlemen	31	24
Total	201	171

Number candidates attaining a rank above 70 per cent.....	58
Number candidates attaining a rank above 50, and below 70 per cent.....	58
Number candidates attaining a rank above 50, and below 60 per cent.....	49

CHARACTER OF EXAMINATION.

One of the sets of questions which applicants of the last year were required to answer is here subjoined for the information of others who may wish to know something of the nature of the tests employed in their first classification.

Principles observed in the examination :

1. Time occupied in answering each paper in arithmetic, geography, and grammar, *three* hours if desired by applicant ; “ mental problems,” answer only written, twenty minutes ; reading and spelling, each not exceeding thirty minutes.

2. All essential steps and statements to be *expressed*, else ignorance is assumed to be the cause of omission.

3. Correct statement, not the phrases of any particular author, is the criterion of excellence ; that is, if the applicant understands *any* author thoroughly, he need not fear a narrow judgment based upon *preference* of the examiner.

QUESTIONS FOR ADMISSION.

Theory of Arithmetic.

1. Express in words 204050979. Write a number ten times as large as the foregoing, and give a reason for what you do.

2. Express 29 by Roman notation, and state principles employed.
3. Explain the subtraction of 68 from 204 without employing the expression, "borrowing ten."
4. Define *cancellation*, and state the principle upon which it depends.
5. Define *greatest common divisor*; *least common multiple*. Illustrate by examples.
6. Divide $\frac{2}{3}$ by $\frac{2}{5}$, analyzing the steps of the process.
7. Distinguish *decimal* from *common fractions*. Express in words .0345.
8. How should we multiply a decimal by any power of ten? Why? Illustrate.
9. Define a *simple*, a *concrete*, and a *compound* number. Example of each.
10. Bought *hay, sugar, molasses, wood, coal, quinine, potatoes*. By which denominate tables were they estimated? Write those *tables*.

Problems.

1. The less of two numbers is $\frac{54\frac{3}{8}}{\frac{1}{3} \text{ of } 8\frac{2}{5}}$; their difference, $\frac{1\frac{5}{9}}{1\frac{9}{16}}$; what is their sum?
2. 17 and 32 hundred-thousandths \times 1,000, + 82 ten-thousandths \div 100, - 104 millionths \div 2 and 14 thousandths = what?
3. What is the sum of \$4 \div 100, 5 dimes \times 100, 1500 cts., 300 mills \times 100?
4. The shadow of a tree measures 42 ft.; a staff $3\frac{1}{3}$ ft. in length casts a shadow $1\frac{1}{2}$ ft. at the same time; what is the height of the tree? Analyze.
5. I have a field $46\frac{2}{3}$ rds. long; what is its width if it contains 10 acres?
6. $\frac{1}{3}$ is what fraction of $\frac{2}{3}$? Analyze.
7. A man had 4 gal. 3 qt. of wine, and sold 3 qt. 2 gi.; what part of the wine had he left?
8. The quotient of a certain division was $18\frac{1\frac{3}{4}}{2}$. Find the *divisor* and *dividend*.
9. A man, upon his arrival at Chicago, found his watch, an accurate time-piece, 25 minutes slower than that of Chicago. Had he traveled eastward or westward, and what distance?

10. Write in proper form a bill of 5 items, bought by yourself of R. L. Bigger, dry goods dealer, upon as many different dates.

Mental Problems.

(Statement *heard*, not seen, and *result* alone written.)

1. One inch is what fraction of a foot ?
2. How many sq. inches in a sq. yard ?
3. What fraction of a cord in a load of wood 8 ft. long, 4 ft wide, and 3 ft. high ?
4. If the sum of two fractions is $\frac{5}{8}$, and one of them is $\frac{2}{5}$, what is the other ?
5. If $\$ \frac{3}{4}$ will buy $\frac{3}{10}$ of a bushel of wheat, what is the price a bushel ?
6. A man gave $\frac{2}{3}$ of $\$3\frac{1}{2}$ for a pencil ; required the cost.
7. If 12 yds. of cloth cost \$48, how many yds. can be bought for \$114 ?
8. A farmer after having sold $\frac{2}{3}$ of his flock, had 20 sheep left ; how many had he at first ?
9. If 3 yards of velvet cost $\$5\frac{1}{4}$, how much more than \$9 will 6 yds. cost ?
10. Sold 45 bushels of apples at $37\frac{1}{2}$ cts. a bush. for cider at $12\frac{1}{2}$ cts. a gallon ; how many gallons were received ?

Geography—for admission.

1. Bound Wisconsin by political divisions. Give its area and population.

2. Bound your own county, and state by which river system or systems its waters reach the ocean.

3. Name the six chief agricultural products of the United States, and name the State which ranks first in the production of each.

4. Locate the following cities of Wisconsin, by counties :

Madison.	Watertown.
Janesville.	Beloit.
Sparta.	Ripon.
Oshkosh.	Prairie du Chien.
Green Bay.	Eau Claire.

5. Define equator, great circle, meridian, meridian circle, ecliptic.

6. In speaking of a river, what is meant by the words bed, channel, valley, basin, delta ?

7. Locate five important sea-ports of the United States, and name the principal exports of each.

8. Name the form of government and capital of each of the following countries :

France.

China.

Italy.

India.

Peru.

Brazil.

Spain.

Mexico.

Turkey.

Germany.

9. What is the Western Continent? Western Hemisphere? What great circle divides the earth into Eastern and Western Hemispheres?

10. Name the river systems of the United States. Which States belong wholly to the St. Lawrence system? Which only in part?

Grammar.

1. Define a *word*, *sentence*, *clause*, and *phrase*. Illustrate each.

2. Decline Jackson, spoonful, sheep, 19, and give the rules used in formation of the possessives.

3. Define *case*, *declension*, *comparison*, *parsing*, and *rule of syntax*.

4. Name the principal kinds of pronouns. Show in what respect they are alike; and in what particular each differs from the others. Parse the pronouns in the sentence, "Who wants me to light the lamp that stands on the table?"

5. You can go to school if you wish to study. Parse the verbs of the sentence.

6. State the difference between conjugation and synopsis. Give synopsis of strike, act., prog., 2d sing., solemn.

7. Parse underscored words. *Mary*, *my dear sister*, *be careful* or you will hurt yourself.

8. How is the pass. voice of the verb formed? How are the perfect-tenses formed? The comp. personal pronouns? The comp. relatives?

9. Name the defective verbs and the parts wanting in each. Give principal parts of *sit*, *set*, *lie*, (to recline,) *drink*, *sing*.

10. Correct and give reasons for the changes.

(a) John has went home, but he had ought to have remained.

(b) Them are not the men who I saw walking so slow this morning.

- (c) It was me by whom the copy was wrote.
- (d) Each pupil who wants to may eat their dinner.
- (e) I do not want no dinner.

Reading.

[Extract from "Abraham and the Fire Worshiper," *Benjamin Franklin.*]

1. And it came to pass after these things, that Abraham sat in the door of his tent about the going down of the sun.

2. And behold, a man, bowed with age, came from the way of the wilderness, leaning on a staff.

3. And Abraham arose and met him, and said unto him, "Turn in, I pray thee, and wash thy feet, and tarry all night, and thou shalt arise early on the morrow, and go on thy way."

4. But the man said, "Nay, for I will abide under this tree."

5. And Abraham pressed him greatly; so he turned, and they went into the tent, and Abraham baked unleavened bread, and they did eat.

1. Read first five paragraphs.
2. Give four rules for capitals.
3. State use of quotation marks.
4. Give two uses for hyphen.
5. Give two uses for apostrophe.
6. Give Webster's marking of vowels in monosyllables in first paragraph.
7. What is meant by "tent," "wilderness," "wash thy feet," "unleavened bread?"
8. Give some account of Abraham,—when he lived, where, what he did.
9. Same of Benjamin Franklin.
10. Give some account of "fire worshiper."

Spelling.

1. Spell list of 25 words, beginning no word with a capital, unless it be a proper name.

2. Indicate the principal accent of each word.

3. Denote, by the proper abbreviation, at the right of each word in the list, which "part of speech" it is.

4. Write a clear definition of each word in the list, illustrating

its meaning by appropriate use in a sentence, if you can thus make your thoughts more evident.

List: cancellation, colonel, Delaware, apparatus, Apennines, orally, Cincinnati, roguish, raisin, supersede, proceed, recommend, accommodate, diligence, blamable, salaries, vegetable, bureau, gases, separate, initial, official, juiciness, bilious, valleys.

Characteristics of applicants.

The foregoing table shows that fifty-eight entered the first year class in full standing; fifty-eight entered the first year class on trial; forty-nine entered the preparatory class in full standing.

Of those admitted to class *on trial*, nearly all maintained their positions, yet but few were able to demonstrate by their work that the examination record failed to show their status.

A few who were of mature years, and yet failed to attain even fifty per cent., were permitted to recite with the preparatory class; the remainder either entered the grammar department or returned to their former schools.

A very few of those passing above seventy per cent., having pursued advanced courses of study in other schools, were allowed to pursue some branches more advanced than the first year work, until their lack of a *master's* knowledge of the elementary branches became so apparent to themselves that they became our most cordial and efficient workers in that field. The marked success of those who have received a considerable culture in other schools before entering the normal course, clearly shows that when *good* academic training can be had near home, it would be wise for students to prepare in most branches of the elementary course before seeking admission to the normal. This should never be done, however, with the thought that such preparation will render *normal* work in those branches unnecessary, but because true normal training cannot be given when the pupil's energies are taxed with the acquiring of the rudimentary facts of a branch. Such preparatory schools are comparatively few, and, as a consequence, each class in the normal school has many learners, and but few who can gain a *mastery* of most branches in the time devoted to them.

The experience and intense realization of the kind and degree of knowledge a teacher *should* possess, which each member of the faculty brings to the work, combined with the earnest efforts of the

normal students, do accomplish a good degree of preparation for teaching; first, by the normal training in the "common school" branches, here rendered possible by fair, previous attainments; second, by infusing a spirit of inquiry which can hardly rest satisfied until a like mastery is attained over all subjects which it may be his lot to teach. Yet the two-fold labor of acquiring and mastering, often proves too severe for the ill-prepared minds which, under a regimen extending over more years, might prove thoroughly efficient, are often compelled to forego this extended culture from lack of means. If a part of this training could be obtained at home, a good professional training might be within their reach. It is to the town high-schools now organizing that we must look for this indispensable preparation to be done most economically.

In the meanwhile the normal schools will endeavor, not to solve a problem whose conditions are incompatible, but to approximate to required results with the material at hand.

The effort to do, in a term or two, what requires as many years for its best development, demands instant and effective work for each person, continued from the day the student begins until he has completed the branch. Unlike the institute work, it is not enough that doubts have been raised, weakness made apparent, and anxious groping after light induced; the pupil must be built up into a student; certainties must be properly laid as foundations of his culture; logical thinking must unite his isolated facts, and habits of *acquisition* in thought must take the place of merely receptive attainment. To this end, all normal classes must be treated as composed of *individuals* with widely differing traits, habits, and capacities; and not upon the principle of "average human nature."

In meeting this necessity, two modes have suggested themselves to our experience. First, that all classes be small, not exceeding twenty-five members. In most classes above the "first year," this is the case, and no difficulty is experienced; but in the large first year class, numbering from sixty to ninety members, this is difficult, and only approximately possible with our present force of teachers. The second method is to devote a considerable amount of time outside of school-sessions, to work with individuals, singly, or in groups of several persons alike needy.

So far as the time between 8 a. m. and 6 p. m. permits, this work is done by the teachers; not by simply elucidating the point of dif-

ficulty, but by directing the pupil to lines of thought by which he arrives at his own results. Although this labor taxes the teachers' energies severely, still the paramount need of correct methods of study as preceding excellence in attainment or expression leaves no alternative. The results of this work have proved so satisfactory that teachers are disposed to over-tax themselves rather than forego the profit to the class.

Labor of this kind usually produces thoughtfulness, and strength of character, but not necessarily skill in teaching; and while in our judgment, it is no less "professional work," either in degree or kind, than the *application* of knowledge and theory to actual practice, the conviction has grown deeper with the past experience in this work, that a far more thorough test of the student's ability to apply his knowledge, should be made before he is permitted to pass current as good coin.

PRACTICE WORK.

For this purpose the *practice* work has steadily increased during the past three years, and during the last year has to a considerable extent been improved in character. The work is in the immediate charge of the directors of the model school, whose especial province is in connection with the critic teachers, to direct the student in his dealings with *real* child nature.

Twenty weeks of class-teaching is required before graduation in the elementary course, and forty weeks for the complete course.

The entire practice is divided into four periods, each differing from the others in grade of class or character of branch. No day's work passes without supervision and the advice which the character of that work renders necessary. Before being permitted to enter upon this work, the student must have passed examination in one course of lectures on the "Art of Teaching," which is delivered during the "first year" work. Once each week, in addition to the *daily* meeting of the pupil-teachers with the critics, a *general* meeting of all the pupil-teachers is held by the director together with the president of the school and the critic-teachers, for an examination of plans and practical results. Here the principles of teaching are illustrated and impressed, at a time when each student is most deeply interested in grasping and understanding their significance.

Under the systematic plan of supervision and suggestion the

average quality of instruction is not inferior to that of our best graded schools; but owing to a careful examination of the principle underlying each suggestion, the critic teachers are constantly testing each process by standards which have passed from experimental to permanent value.

Of more than sixty students engaged in practice teaching during the past year, more than one half were teachers of one or more terms' previous experience; yet even with such it was evident that more rather than less of this practical test was needed.

Whether more teaching and less tasks during the elementary course would not provide for the best interest of these teachers and their future work in the State is a question worthy of serious consideration.

The fact that fifty applicants' names are upon the lists awaiting their chance for vacant seats in the several departments of the Model School would indicate that the work of pupil-teachers, under thorough supervision, bears good results.

As will be seen by reference to table of examinations, nearly all new pupils enter at the beginning of the Fall and Spring Terms, during the first half of which the most difficult work of the year, therefore, falls. From sixty to one hundred strangers are to be familiarized with the work at each of those periods, while the other school work makes its regular demands.

The wants of the institute work ask that one of the teachers be withdrawn from his duties in school, just at this critical period, to perform work abroad, and the labors of the remainder are, therefore, increased. The curriculum must be so adjusted that instead of *average* work for the year some teachers must be overburdened for a time, in order that the pupils may be as profitably employed at one time as another, else the corps of instructors must be enlarged unduly to meet this variable demand. This difficulty, in some senses insuperable, has been partly remedied by the employment of teachers belonging to the higher classes of the normal department, the engagement lasting during the time of greatest need. The results have proved good.

The advantage of having Institutes conducted by able men at the proper time is undoubted; the influence upon the school, if the lack be ably supplemented, may prove advantageous in a remote degree.

COURSES OF STUDY.

The following schedule of study, as arranged by terms, is varied in the work of the first year to meet the needs of the large number who enter at the beginning of the Spring Term; so that classes in most of the *third grade* branches are in progress during each term.

Elementary Course.

FIRST YEAR.

SPRING TERM. 12 Weeks.	WINTER TERM. 11 Weeks.	FALL TERM. 17 Weeks.
Grammar.	Book-keeping.	Arithmetic.
Botany.	Geography.	Geography, 9 weeks. Lectures, 8 weeks. Art of Teaching.
Civil Government.	Civil Government.	U. S. History.
Drawing.	Drawing.	Phonics, 8 weeks. Spelling, 8 weeks
Music.	Music.	Penmanship, 8 weeks. Music, 8 weeks.

SECOND YEAR.

SPRING TERM. 12 Weeks.	WINTER TERM. 11 Weeks.	FALL TERM. 17 Weeks.
Geometry.	Geometry.	Elementary Algebra.
Physiscal Geography.	Natural Philosophy.	Physiology and Natural Philosophy.
	Analytical Reading.	Sentential Analysis. Composition.
Arithmetic and other Reviews.	Reviews.	

Practice Teaching in Model Schools, each student 20 weeks.

Advanced Course.

THIRD YEAR.

SPRING TERM.	WINTER TERM.	FALL TERM.
Higher Algebra.	Higher Algebra.	Geometry, 10 weeks. Trigonometry, 8 weeks.
Rhetoric.	General History.	General History.
Drawing.	Astronomy.	Zoology, 12 weeks. Hist. of Education, 5 w'ks. (Lectures.)
Latin.	Latin.	Latin.

20 weeks of Practice Teaching.

FOURTH YEAR.

SPRING TERM.	WINTER TERM.	FALL TERM.
Mental Science.	Mental Science.	Political Economy.
Lectures: Philosophy of Education. School Systems.		English Literature. (optional.)
Geology.	Chemistry. Laboratory Work.	Chemistry.
Latin.	Latin.	Latin.

20 weeks of Practice Teaching.

GRADUATION.

At the close of the last school year, the first class of this school to complete the advanced course received the honors of graduation. At the same time a class of twelve completed the elementary course, and received the certificate of the board.

Below are given the names of students in the respective classes, together with present location :

Advanced course.

- John F. Burke, principal high school, Weyawega.
 Wm. M. Graham, student in Oberlin College.
 Edward McLaughlin. Not teaching.
 Harriet E. Clark, post-graduate, Oshkosh Normal School.
 Margaret Hosford, teacher, River Falls Normal School.
 Mary J. Knisely. Not teaching.
 Rachel L. Sutton, assistant in Ft. Howard high school.
 Emily F. Webster, assistant in Oshkosh Normal School.

Elementary course.

- James Cavanagh, principal graded school.
 Bernard R. Grogan, advanced course, Wilmot, Wis.
 Martin L. Smith, principal ward school, Racine, Wis.
 Frank E. Stevens, principal graded school, Jenny, Wis.
 Henry Straks, advanced course.
 Louis H. Zastrow, Commercial College.
 Lillian Duffes, advanced course.
 Alfaretta Haskell, teacher, Menomonee, Wis.
 Mellie McMurdo, Advanced Course.
 Lizzie Rait, Advanced Course.
 Harriet M. Spence, teacher, Menomonee, Wis.
 Clara Wagner, teacher, Oshkosh, Wis.

INSTRUCTORS.

The corps of teachers for the last year was the same as given in the report of 1874, except that because of ill health leave of absence was granted to Miss Ladd during the last two terms, and Mr. R. B. Leonard was engaged to teach the mathematics during the spring term.

The present organization of the faculty is as follows:

GEORGE S. ALBEE,

President.

Mental and Social Science, and School Management

ROBERT GRAHAM,

Music, Reading, and Conductor of Institute

WILLIAM A. KELLERMAN,

Natural Sciences.

MISS ANNA W. MOODY,

History and Rhetoric.

MISS MARY H. LADD,

Mathematics.

MRS. HELEN E. BATEMAN,

Grammar, Composition, and Reading.

MISS ROSE C. SWART,

Geography, Penmanship, and Book-keeping.

MISS EMILY F. WEBSTER,

Instructor in Latin.

MISS ANNA S. CLARK,

Instrumental Music.

MODEL SCHOOL.

MORTIMER T. PARK,

Director.

MISS MARIA S. HILL,

Teacher and Critic, Grammar Department.

MISS FRANCES E. ALBEE,

Teacher and Critic, Intermediate Department.

MISS LUCY A. NOYES,

Teacher and Critic, Primary Department.

The generally favorable expression regarding the work of normal students as teachers is our best proof that the faithful support of the regents, the earnest labor of instructors, and the self-denying efforts of the students are bearing good fruit.

It is not infrequently the case that but a few weeks or months are spent with us, and that too in the "preparatory class," so that

some "normal students" are really such in name only; and it is gratifying that so many patrons, superintendents, and school officers, appear to fully realize that a wide difference in their merits as teachers must exist, even when the best work of a normal school has been done.

Owing to this fact, a wide correspondence with school officers has sprung up, looking to the supplying of schools with teachers adapted to the duties required, instead of the old method of hiring "a man who came along."

Through the co-operation of our fellow-teachers throughout the State, their sympathy and their suggestions, the teachers in the normal school have been greatly encouraged in the work of the past year. With the trust that a better knowledge, and a greater unity of plan among all the co-workers in the cause, will direct our forces and purposes yet more surely, I am,

Respectfully, yours,

G. S. ALBEE.

OSHKOSH, WIS., December 1, 1875.

Reports of Examining Committees.

PLATTEVILLE NORMAL SCHOOL.

To the Hon. EDWARD SEARING,

State Superintendent of Public Instruction:

Your committee appointed to visit the Normal School at Platteville respectfully reports as follows:

All three members visited the school on May 19 and 20, and two also on March 11 and 12, while the third member made his second visit at the time of the closing exercises, which he praises highly.

We found the building and apparatus in good condition, the ventilation being excellent, and the furnace having proved sufficient for all last winter's demands. The discipline of the school was generally admirable. That of the Normal Department proper, shows how wisely, firmly, yet kindly, President Charlton rules.

The recitations, with the exception perhaps of those in grammar and rhetoric, were very good, and the following, at which we were present together, are worthy of special mention: President Charlton's, in Latin and Greek; Prof. McGregor's, and Prof. Gardner's, in mathematics, (peculiarly commendable for the encouragement of original work;) Prof. Gardner's music classes; those of Miss Adams, in geography; of Miss Curtis, and Prof. Beck, in botany; Miss Brayman's object lessons; and, perhaps the most interesting of all, Prof. Gardner's drill of all the normal pupils in calisthenics. Those of us who were present in March were also much pleased with the classes of Prof. McGregor in drawing, and of Prof. Purman in English literature.

We gave particular attention to the recitations of the graduating class, and are heartily and unanimously of the opinion that the members of the last senior class are likely to prove good teachers and fully maintain the high reputation hitherto held by those who

have had the benefit of a full course at Platteville. Of the pupils leaving the school after a two year's course, we cannot speak so hopefully, though some of them seemed quite promising.

We regret to say that we consider the hours of confinement, namely, five and one-half, or more in school, and two or more out of school, for at least five days of the week, too much, especially as we find that the required thirty-seven and one-half hours weekly are simply a minimum, which scarcely any scholar falls short of, but which almost all of them exceed habitually, and often excessively and injuriously; so that study until two o'clock in the morning and on Saturday and Sunday itself is by no means uncommon.

It is our opinion that such over-study is likely to impair, not only the health of the pupils, but that vigor and interest in education necessary to make successful teachers. We would expressly acquit the faculty of encouraging this dangerous habit, the present excess of which is, we hope, one of the temporary inconveniences attending the change from a three to a four year's course. We think, however, that greater pains than at present should be taken to protect the scholars, especially the girls, from this violation of one of the plainest and firmest laws of physiology. We should be glad, for instance, to find that the girls were given special drill in Calisthenics, besides their share in that given to the whole school. We regret this over-study all the more, because we think it stands in the way of sufficient time being given to the proper work of a normal school, the training of teachers. We heartily approve of all that is done for this object by Prof. McGregor, but we do not think that it is enough in quantity, excellent as the quality is known to be. We think that the pupils in the Normal department should receive some drill in the model school during each year of their course, instead of, as in most cases at present, a single term in all. We also think that Prof. McGregor's invaluable lectures should be given, not in a single course out of school hours for the seniors just before graduation, but in four courses, one each year, before the whole school. This is the least amount of attention to the theory and practice of teaching which seems to us proper for a normal school.

Here also there will, we hope, be much improvement as the four year's course becomes established and organized fully.

We believe that the school has before it a future of ever increas-

ing usefulness, and this belief is strengthened by the fact which we mention with delight, namely, that it is thoroughly unsectarian. Publicly expressing our gratitude for the courtesy shown us by all the faculty, especially the president,

This report is now respectfully submitted.

F. M. HOLLAND,

A. E. HOWARD,

N. C. TWINING,

Committee.

BARABOO, WIS., *August 27, 1875.*

WHITEWATER NORMAL SCHOOL.

Hon. EDWARD SEARING,

Superintendent of Public Instruction.

We find that the laws which empower you to appoint visitors of any Normal School, require that they should examine thoroughly into the condition, organization, and management of the school, and shall report to the Superintendent of Public Instruction their views in regard to its success and usefulness, and any other matters they may judge expedient. This certainly gives a committee latitude enough either for their inspection or their report. We, however, have endeavored to be reasonable in our inspection of the school, and shall now try to be explicit but brief in our report to you.

The committee spent considerable time in visitation; one member using five days in all, coming at three different periods of the school year, the last being commencement day. Another member of the committee went unannounced to the faculty of the school, and inspected the work of those teachers who were strangers to him before he made himself known. The third spent six days, visiting on two occasions. So we feel confident that we know of what we write.

We found the primary department in good condition.

The grammar department did not impress us favorably.

In our opinion there is a lack of efficiency in it, which is a hindrance to the complete success of the school. Doubtless those in charge realize the difficulty, and in the near future will provide for its remedy.

THE NORMAL DEPARTMENT.

The Normal Department we found to be excellent. Our criticisms here are wholly commendatory.

We found in it good management, good recitations, good literary productions. We found an enthusiasm for study and a devotion to it in both scholars and teachers, well worthy of imitation. We regard the division of the course in 2 and 4 years as eminently judicious. Two questions have occurred to us in studying the Normal School problem:

1. Is it wise to grant any kind of State certificate to graduates of the two years' course?

2. Is it wise to grant a diploma to the graduate of the four years' course without any experience in teaching, or to give him an unlimited State certificate after only one year's such experience?

A majority of the committee are inclined to answer both questions in the negative. We desire to see our teachers' State certificates at par in the market, but we fear they will not be so long if the present practice of inflation is persisted in.

Finally, we desire to state that we are in sympathy with the Normal School work of Wisconsin; and we submit this report with some degree of diffidence, not regarding ourselves as experts in that particular line of education.

Respectfully submitted.

SAMUEL SHAW,
J. Q. EMERY,
J. H. TERRY,
Committee.

MADISON, WIS., *August 31, 1875.*

OSHKOSH NORMAL SCHOOL.

TO THE HON. EDWARD SEARING,
State Superintendent of Public Instruction.

Our convictions of the necessity and exceeding value of our Normal Schools to the educational interests of the State, were greatly deepened by our visit to the school at Oshkosh; and this not more by observing the crude and limited attainments of those whom we found applying for admission, than by the professional skill and general culture observed in those who had enjoyed its privileges.

The united number of days (fourteen) given by the members of the Visiting Committee to this work, enabled them to be present at recitations in every branch, and conducted by every member of the faculty.

While we discovered in the mathematical department signs of weakness, due probably in whole or in part to the absence of the regular teacher, on account of sickness during the term; and failed to discover any strong indications that much had been accomplished in the scientific course; the total results as shown by the recitations in most of the classes, evidenced in a very high degree, close, conscientious, and thoughtful application on the part of the students, and equally conscientious and efficient work, on the part of their instructors. That such are the facts, was confirmed by the rare excellence, both in matter and manner, of the orations and essays of the graduating class, and their ability as pupil-teachers in conducting the recitations of classes from the subordinate departments.

We are led to connect these valuable results, with the special attention given to reading, both in its substance and expression, to the thorough instruction in Geography, Constitutional law and Mental Philosophy, reaching to the inner-life of these subjects, and implanting in the minds of the pupils not mere verbiage, or masses of unconnected facts, but seed-thoughts which keep bringing forth fruit manifold.

The government is kind and fraternal; the obedience prompt and spontaneous. The drill in vocal music, participated in so very generally, is fraught with most happy results. The faultless external order is facilitated by an excellent system of calisthenic movements which yet fail, especially among many of the lady members, to secure an easy and graceful carriage, a matter which we think is deserving of being commended to the attention of the faculty.

The buildings throughout are preserved in the most perfect order. We failed to notice any of those marks of vandalism that so often mar our school and other public buildings.

The happy influence of such a body of men and women as are annually graduated here, going out as teachers in our public schools, cannot be overestimated; and when experiments and experience combined with the grave thought which the president and faculty and the regents are steadily giving to everything

which promises to lead to improvement, have brought forth their legitimate results, we have every reason to expect that their number and excellence will be increased.

We cannot commend overmuch the discussions in pedagogics, conducted by President Albee, and we have every reason to anticipate that, through the operation of the "intermediate link,"—the Free High School lately authorized by the legislature, a large accession of candidates better prepared, will present themselves for admission to our Normal Schools, so that much time now necessarily devoted to primary academic work, can then be spared to the Theory and Art of teaching and indeed to all those features which are distinctively normal, and the common school system of Wisconsin, recognising the normal department as its head, will be in every way worthy of the State which sustains it.

ALEX. F. NORTH,

J. B. THAYER,

MICHAEL KIRWAN,

Committee.

REPORT OF INSTITUTE COMMITTEE.

To Hon. WM. STARR,

President Board of Regents of Normal Schools:

SIR:—The undersigned, Committee of the Board of Regents, especially charged with the duty of providing for the institute work of the State, and carrying on and supervising the same, according to the general plan marked out by the board, respectfully submit the following report of their action during the present year, beginning July, 1874.

The annual meeting of Institute Conductors was held at Eau Claire, for three days immediately preceding the annual meeting of the State Teachers' Association. Prof. R. Graham was appointed to arrange a programme of exercises, and preside at the meeting. The programme arranged was carried out, the attendance of conductors and visitors was larger than ever before, the exercises were spirited, evincing much thought and research in preparation, and the unanimous conviction obtained, that the meeting was more interesting and profitable than any of like character heretofore held.

By request, Prof. Graham compiled the results and conclusions reached by the convention, in the form of a syllabus, for the guidance of conductors and assistance of teachers in institutes during the year, which was printed and distributed.

At this convention, in accordance with the resolution of the board, an additional institute district for the State was provided, and J. B. Thayer, professor of mathematics in the normal school at River Falls, was appointed conductor of institutes therefor. A reorganization of the State into institute districts was also made, and these are now as follows:

District No. 1.—Prof. R. Graham, Oshkosh, conductor.

COUNTIES.

Sheboygan,	Manitowoc,	Portage,
Fond du Lac,	Kewaunee,	Oconto,
Green Lake,	Door,	Marathon,
Waushara,	Brown,	Shawano,
Winnebago,	Outagamie,	Lincoln,
Calumet,	Waupaca,	Taylor.—18.

District No. 2.—Prof. D. McGregor, Platteville, conductor.

COUNTIES.

Grant,	Vernon,	Marquette,
La Fayette,	Richland,	Adams,
Iowa,	Sauk,	Juneau,
Crawford,	Dane,	Wood.—12.

District No. 3.—Prof. A. Salisbury, Whitewater, conductor.

COUNTIES.

Racine,	Jefferson,	Dodge,
Milwaukee,	Rock,	Washington,
Walworth,	Green,	Kenosha,
Waukesha,	Columbia,	Ozaukee.—12.

District No. 4.—Prof. J. B. Thayer, River Falls, conductor.

COUNTIES.

Polk,	Dunn,	Monroe,
St. Croix,	Buffalo,	Ashland,
Pierce,	Trempealeau,	Douglas,
Chippewa,	Jackson,	Bayfield,
Pepin,	Clark,	Burnett,
Eau Claire,	La Crosse,	Barron.—18.

The committee have followed the plan of the preceding year, viz: co-operating with county superintendents, furnishing a conductor for short term institutes, and holding as many long term or normal institutes during the summer vacation of schools as suitable conductors thereof could be found, and funds at our disposal would warrant.

Upon commencing our work for the present year, we were aware the calls for help in institutes would be more numerous than ever before, but we were hardly prepared, after all, for the great increase in this direction which immediately pressed upon us. To illustrate this, we need only say that during the summer and fall of 1875, institutes have been held in *forty* different counties of the State. Of these *six* were held for a term of four weeks; *two* were held for three weeks; *twelve* were held for two weeks; and *twenty* were held for one week. A very few applications we were obliged to reject or modify, because unable to procure conductors.

The amount expended in this work, including printing, is \$5,206-68. The number of teachers reached by these institutes has been very large, but the statistics for the partial year not having been compiled, the exact number cannot be given. Full statistics for the entire year will be laid before you at the annual meeting of the board.

The services of Prof. John H. French, late Secretary of the board of education of the State of Vermont, and an institute conductor of experience and high reputation in the Eastern and Middle States, were secured for three months. His valuable and timely assistance and lectures proved highly acceptable to all who enjoyed their advantages.

In but a single instance was there any failure, from any cause, to hold the institutes appointed, and that occurred in La Fayette county.

The work of supervision was divided, so that in not more than a single case did we both visit the same institute, and in comparing notes of observation and information, we are convinced that in no previous year has the work in institutes in this State been as carefully, thoroughly, and conscientiously performed, as general in its scope, and effective in good results, as thus far during the present year.

As the result of our experience, we are prepared to submit the following recommendations :

1. That a change in the law relating to normal institutes be made, so that they may be held not less than *two weeks* in any place, instead of *four weeks*, as now provided.

2. That such rules be prescribed by the board as will more definitely determine the character of incidental expenses which may be paid by your committee, and those which must be met by the counties ; and, if necessary, legislation be sought to enable, or require, counties to meet expenses of institutes legitimately chargeable to them.

The wise provision of the board, and of the legislature of the State, which affords these facilities for instruction and inspiration to teachers, seems everywhere to be approved and appreciated, and there is reason to believe that this work, which has already become recognized as an established and potent auxiliary in our educational forces, will steadily and rapidly grow to yet greater proportions and importance.

EDWARD SEARING,
W. H. CHANDLER,
Institute Committee.

Reports of Universities and Colleges.

UNIVERSITY OF WISCONSIN.

Annual report of the president of the University of Wisconsin for the year ending September 30, 1875.

1. Corporate name of the institution, "The University of Wisconsin."
2. Name of the place where the institution is located, Madison.
2. Year when the institution was founded, incorporated July 26, 1848.
4. Names of members of the faculty, with their respective salaries:

Names.	Department of instruction.	Salars.
John Bascom, Prest.....	Philosophy	\$3,500
J. W. Sterling, Vice-Prest..	Mathematics.....	2,200
Wm. F. Allen	Latin and history.....	2,000
S. H. Carpenter.....	Logic and English literature.....	2,000
Alex. Kerr.....	Greek.....	2,000
J. B. Feuling.....	German and French	2,000
W. J. L. Nicodemus.....	Military science and engineering.....	2,000
John E. Davies.....	Physics and astronomy.....	2,000
W. W. Daniells	Chemistry	2,000
R. D. Irving	Geology, mining and metallurgy	2,000
Hon. P. L. Spooner.....	Law .....	.....
J. H. Carpenter	Law .....	.....
Wm. F. Vilas	Law .....	.....
I. C. Sloan.....	Law .....	.....
R. B. Anderson.....	Prof. of Scandinavian languages and Latin..	1,200
John M. Olin	Rhetoric and oratory.....	1,500
Edward A. Birge	Natural History.....	800
J. H. Salisbury.....	Greek.....	700
F. S. Huntington.....	English	600
A. D. Conover.....	Engineering.....	600
J. R. Stewart.....	Drawing	240
Milton B. French.....	Music.....	1,200
Mrs. D. E. Carver.....	Preceptress	1,000
Miss S. A. Carver.....	German.....	800

	Male.	Female.
5. Total number who have graduated.....	412	54
6. Number who graduated at 1st commencement.....	59	8
7. Number of students in the senior class.....	24	18
8. Number of students in the junior class.....	32	13
9. Number of students in the sophomore class	24	7
10. Number of students in the freshman class.....	66	16
11. Number of students not in the regular classes.....	33	16
12. Number of students in the preparatory department	57	14
13. Law students.....	25	.....

14. Number of acres of land owned by the institution.....	.....
15. Estimated cash value of land owned by the institution.....	.....
16. Estimated cash value of buildings owned by the institution.....	\$165,839 47
17. Amount of endowments and funds, except real estate.....	441,829 11
18. Amount of income for the current year, from all sources except tuition.....	53,008 09
19. Amount received for tuition during the year.....	8,716 70
20. Rates of tuition in collegiate department per annum, not including board.....	18
21. Rates of tuition in preparatory department per annum, not including board.....	18
22. Amount paid on account of expenses of the institution, exclusive of building and repairing, during the year ending August 31, 1875.....	54,779 35

JOHN BASCOM,
President of the University.

BELOIT COLLEGE.

Annual report of the president of the board of trustees of Beloit College, for the year ending August 31, 1875.

1. Corporate name of the institution, The Board of Trustees of Beloit College.
2. Name of the place where the institution is located, Beloit.
3. Year when the institution was founded, 1847.
4. Names of members of the faculty, with their respective salaries.

Names.	Department of instruction.	Salar's.
Aaron L. Chapin, D. D., Pres...	History and civil polity.....	\$1,800
Rev. Jos. Emerson, M. A.....	Prof. Greek language and literature....	1,500
Rev. Wm. Porter, M. A... ..	Prof. Latin language and literature....	1,500
James J. Blaisdell, D. D.....	Prof. mental and moral philosophy....	1,500
James H. Eaton, Ph. D.....	Prof. chemistry and mineralogy.....	1,500
Rev. Henry M. Whitney, M. A..	Prof. rhetoric and English literature...	1,500
Peter Hendrickson, M. A.....	Prof. modern languages.....	1,500
Thos. C. Chamberlain, M. A....	Prof. geology, zoology, and botany.....	1,500
Ira W. Pettibone, M. A.....	Principal of preparatory school.....	1,500
Geo. B. Adams, B. A.....	Assistant in preparatory school.....	500
G. D. Sweezey, B. A.....	Assistant in preparatory school.....	500

	Male.	Female.
5. Total number who have graduated.....	213	.....
6. Number who graduated at last commencement.....	3	.....
7. Number of students in the senior class.....	3	.....
8. Number of students in the junior class.....	9	.....
9. Number of students in the sophomore class..	28	.....
10. Number of students in the freshman class.....	25	.....
11. Number of students in the preparatory department.....	146	.....

12. Number of acres of	{ site..... 20 } land owned by	1,448 acres.
	{ other lands in Wis. 601 } the institution.	
	{ land in other States 827 }	
13. Estimated cash value of land owned by	{ site..... \$20,000 }	\$32,900 00
	{ the institution } other lands 12,900 }	
14. Estimated cash value of buildings owned by the institution.....		55,500 00
15. Amount of endowments and funds beside real estate.....		121,281 06
16. Amount of income for the current year from all sources except tuition.....		12,241 68
17. Amount received for tuition during the current year.....		2,683 55
18. Rates of tuition in collegiate department per annum, not including board.....		36 00
19. Rates of tuition in preparatory department per annum, not including board.....		26 00
20. Amount paid on account of expenses of the institution, exclusive of building and repairs, during the year ending August 31, 1875.....		16,931 82

A. L. CHAPIN,
President of the Board of Trustees.

CARROLL COLLEGE.

Annual report of the president of the board of trustees of Carroll College, for the year ending August 31, 1875.

1. Corporate name of the institution, Carroll College.
2. Name of the place where the institution is located, Waukesha, Wis.
3. Year when the institution was founded, 1846.
4. Names of members of the faculty, with their respective salaries :

NAMES.	Departments of instruction.	Salari
W. L. Rankin, A. M.....	Principal	\$1,200
Miss Lillie C. Camp.....	English language and literature.....	500
Miss Alice P. Perry.....	Grammar department.....	500
Hugo Philleo, M. D.....	German .....	.....

5. Number of students in the preparatory department.....	Male. 83	Female. 71
	<u>83</u>	<u>71</u>
6. Number of acres of land owned by the institution.....		14
7. Estimated cash value of land owned by the institution.....		\$5,000 00
8. Estimated cash value of buildings owned by the institution.....		10,000 00
9. Amount of income for the current year from all sources except tuition		900 00
10. Amount received for tuition during the current year.....		2,032 60
11. Rates of tuition in preparatory department per annum, not including board		24 to 32 00
12. Amount paid on account of the expenses of the institution, exclusive of building and repairs, during the year ending August 31, 1875.....		2,550 00

VERNON TICHENOR,
President of the Board of Trustees.

LAWRENCE UNIVERSITY.

Annual Report of the president of the board of trustees of the Lawrence University, for the year ending August 31, 1875.

1. Corporate name of the institution, The Lawrence University of Wisconsin.
2. Name of the place where the institution is located, Appleton.
3. Year when the institution was founded, 1847.
4. Names of members of the faculty, with their respective salaries:

NAMES.	Departments of instruction.	Sala'rs
Geo. M. Steele, D. D., Pres.	Ethics and civil polity	\$1,500
Hiram A. Jones, A. M.	Ancient languages	1,000
James C. Foye, A. M.	Chemistry and physics	1,000
Wilbur Yocum, A. M.	Natural History	1,000
Wesley C. Savage, A. M.	Philosophy and rhetoric	1,000
DeForest M. Hyde, C. E.	Mathematics and civil engineering	1,000
O. P. DeLand.	Director of commercial school	1,000
Louise M. Hodgkins	Preceptress, French and botany	700
T. Martin Towne	Director of conservatory of music . . . . .	.....
Selina A. Clark	Drawing and painting . . . . .	.....
Mary R. B. Grover.	Juvenile department . . . . .	.....

	Male.	Female
5. Total number who have graduated	114	59
6. Number who graduated at last commencement	8	3
7. Number of students in the senior class	6	6
8. Number of students in the junior class	9	3
9. Number of students in the sophomore class	15	8
10. Number of students in the freshman class	20	15
11. Number of students not in the regular classes	2	2
12. Number of students in the preparatory department	51	46
13. Number of students in the academical department	90	65
14. Number of acres of land owned by the institution, about		1,000
15. Estimated cash value of land owned by the institution		\$2,500 00
16. Estimated cash value of buildings and grounds owned by the institution	60,000	00
17. Amount of endowment and funds except real estate	95,000	00
18. Amount of income for the current year from all sources except tuition	6,150	67
19. Amount received for tuition and incidentals during the current year	3,449	15
20. Rates of tuition in collegiate department per annum, not including board		21 00
21. Rates of tuition in preparatory department per annum, not including board	15 to 21	00
22. Amount paid on account of expenses of the institution, exclusive of building and repairs, during the year ending August 31, 1875	10,815	76

GEO. M. STEELE,
President of the Board of Trustees.

MILTON COLLEGE.

Annual report of the president of the board of trustees of Milton College, for the year ending August 31, 1875.

1. Corporate name of the institution, Milton College.
2. Name of the place where the institution is located, Milton.
3. Year when the institution was founded, as an academy, 1844; as a college, 1867.
4. Names of the members of the faculty, with their respective salaries:

NAMES.	Departments of instruction.	Salaries.
Rev. W. C. Whitford, A. M.	Physical, mental, and moral sciences	\$1,000 00
* Edward Searing, A. M.	Latin language	1,000 00
Albert Whitford, A. M.	Pure and applied mathematics	1,000 00
Truman W. Saunders, A. B.	German and Greek languages	800 00
Lucius Heritage, A. B.	Assistant teacher of Latin	180 00
Miss Jane C. Bond, L. A.	English department	425 00
Mrs. C. C. Whitford, A. M.	Mathematics	242 85
Miss R. Mintie Howard	Instrumental music	350 00
O. E. Larkin	Book-keeping	90 00
G. F. Tuttle	Penmanship	90 00

* Now serving as Superintendent of Public Instruction.

	Male.	Female.	Total.
5. Total number who have graduated	56	55	111
6. Number who graduated at last commencement	6	6	6
7. Number of students in the senior class	6	6	6
8. Number of students in the junior class	5	2	7
9. Number of students in the sophomore class	15	9	24
10. Number of students in the freshman class	27	15	42
11. Number of students in the preparatory class	98	78	176
12. Number of acres of land owned by the institution			173
13. Estimated cash value of land owned by the institution			\$3,900 00
14. Estimated cash value of buildings owned by the institution			30,550 00
15. Amount of endowments and funds, except real estate			6,000 00
16. Cabinets, apparatus, libraries, furniture, and paintings			5,400 00
17. Amount of income for the current year from all sources except tuition			425 00
18. Amount received for tuition during the current year			3,647 18
19. Rates of tuition in collegiate department per annum, not including board			27 to 33 00
20. Rates of tuition in preparatory department per annum, not including board			24 to 27 00
21. Amount paid on account of expenses of the institution, exclusive of building and repairs, during the year ending August 31, 1875			4,656 97

W. C. WHITFORD,
President of the Board of Trustees.

RACINE COLLEGE.

Annual report of the president of the board of trustees of Racine College, for the year ending August 31, 1875.

1. Corporate name of the institution, Racine College.
2. Name of the place where the institution is located, Racine.
3. Year when the institution was founded, 1852.
4. Names of members of the faculty, with their respective salaries:

NAMES.	Departments of instruction.	Salars's
Rev. James DeKoven, D. D.	President.	\$2,000
Rev. E. B. Spalding, A. M.	History and political economy.	1,800
Rev. Homer Wheeler, B. D.	Mathematics.	1,500
Rev. A. Folk, Ph. D.	Greek and German.	1,800
Rev. R. G. Hinsdale, A. M.	Chemistry and geology.	1,600
Rev. J. J. Elmendorf, S. T. D.	Philosophy and belles letters.	1,800
Rev. J. H. Converse, A. M.	Latin.	1,600
Rev. F. S. Luther, A. M.	Rector of grammar school.	1,200
Rev. A. Piper.	Master.	1,200
Geo. S. Mead, A. M.	Master.	1,200
Rev. W. B. Hale, A. M.	Master.	1,200
S. M. Hudson, A. M.	Master.	900
Rev. J. G. McMurphy, A. M.	Master.	900
Edward C. Gould, A. M.	Master.	900
M. La Bemtoine.	Tutor in French. ....	.....

Male.

5. Number who graduated at last commencement.	9
6. Number of students in the senior class.	9
7. Number of students in junior class.	7
8. Number of students in the sophomore class.	11
9. Number of students in the freshman class.	8
10. Number of students in the scientific school.	10
11. Number of students in the preparatory department.	145
12. Number of acres of land owned by the institution.	90
13. Estimated cash value of land owned by the institution.	\$18,000 00
14. Estimated cash value of buildings owned by the institution.	75,000 00
15. Amount of endowments and funds except real estate.	26,000 00
16. Amount received for tuition during the current year, including board.	63,460 75
17. Rates of tuition in collegiate department per annum, including board.	412 00
18. Rates of tuition in preparatory department per annum, including board.	412 00

JAMES DE KOVEN,
President of the College.

RIPON COLLEGE.

Annual report of the vice-president of the board of trustees of Ripon College, for the year ending August 31, 1876.

1. Corporate name of the institution, Ripon College.
2. Name of the place where the institution is located, Ripon, Wisconsin.
3. Year when the institution was founded, (as a college,) 1863.
4. Names of members of the faculty, with their respective salaries:

NAMES.	Departments of instruction.	Sala'rs
Rev. Wm. E. Merriman, D. D.	Mental and moral sciences	\$1,200
Rev. Edw. H. Merrell, A. M.	Greek	1,200
Joseph M. Geery, A. M.	Rhetoric and English literature	1,000
Carlos A. Kenaston A. M.	Mathematics.	1,000
Wm. G. Ballantine, A. M.	Chemistry and natural science.	1,000
Cyrus G. Baldwin, A. B.	Latin	900
John C. Fillmore, A. M.	Music.	
Geo. C. Duffie, A. M.	Instructor in English branches	500
Henry B. Miter, A. B.	Instructor in Latin	500
Mrs. C. T. Tracy	Instructor in botany	550
Miss L. H. Adams, A. M.	Instructor in Greek.	550
Mrs. M. B. Norton.	Instructor in history	700

Male. Female.

5. Total number who have graduated.	41	27
6. Number who graduated at last commencement.	8	5
7. Number of students in the senior class.	8	6
8. Number of students in the junior class.	5	1
9. Number of students in the sophomore class.	10	4
10. Number of students in the freshman class.	10	3
11. Number of students not in the regular classes.	13	4
12. Number of students in the preparatory department	112	107
13. Number of acres of land owned by the institution.	440	00
14. Estimated cash value of land owned by the institution.	\$4,440	00
15. Estimated cash value of buildings owned by the institution.	65,000	00
16. Amount of endowments and funds except real estate.	55,000	00
17. Amount of income for the current year from all sources except tuition	7,316	99
18. Amount received for tuition during the current year	3,433	94
19. Rates of tuition in collegiate department per annum, not including board		24 00
20. Rates of tuition in preparatory department per annum, not including board.		21 00
21. Amount paid on account of expenses of the institution, exclusive of building and repairs, during the year ending August 31, 1875.	10,467	26

ARTHUR LITTLE.

Vice-President of the Board of Trustees.

Reports of Academies and Seminaries.

ELROY SEMINARY.

Annual report of the president of the board of trustees of Elroy Seminary, for the year ending August 31, 1875.

1. Corporate name of the institution, Elroy Seminary.
2. Name of the place where the institution is located, Elroy, Wisconsin.
3. Year when the institution was founded, A. D., 1873.
4. Names of members of the faculty, with their respective salaries:

NAMES.	Departments of instruction.	Salary.
Rev. F. M. Washburn, A. B.,.....	Principal.....	\$500
C. E. Booth, M. D.....	Professor of anatomy and physiology..	.....
Martha A. Washburn, M. A.....	Lady principal.....	250
Anna W. Hopper.....	Principal primary department.....	240
Victoria P. Bovee.....	Principal commercial department.....	115
Mrs. C. E. Smith.....	Teacher of music.....	.....

	Male.	Female.	Total.
5. Number of students in the first year class.....	20	16	36
6. Number of students not in the regular classes.....		1	1
7. Number of students in the preparatory department.....	28	25	53
8. Number of students in the primary department.....	16	10	26
			<u>116</u>

9. Number of acres of land owned by the institution.	2
10. Estimated cash value of land owned by the institution.....	\$400 00
11. Estimated cash value of buildings owned by the institution.....	4,000 00
12. Amount of endowments and funds except real estate.....	1,500 00
13. Amount of income for the current year from all sources except tuition	200 00
14. Amount received for tuition during the current year.....	900 00
15. Rates of tuition in academeical department per annum, not including board	24 25
16. Rates of tuition in preparatory department per annum, not including board... ..	14 25
17. Amount paid on account of expenses of the institution, exclusive of building and repairs, during the year ending August 31, 1875....	<u>85 00</u>

C. E. BOOTH, M. D.,
President of the Board of Trustees.

KEMPER HALL.

Annual report of the president of the board of trustees of Kemper Hall, for the year ending August 31, 1875.

1. Corporate name of the institution, Kemper Hall.
2. Name of the place where the institution is located, Kenosha.
3. Year when the institution was founded, 1870.
4. Names of the members of the faculty, with their respective salaries:

NAMES.	Departments of instruction.	Salary
Geo. M. Everhart, D. D.	Rector ... ..	.....
Mrs. C. A. Everhart.....	Lady superior.....	.....
Prof. Edgar Everhart, A. B.....	Natural sciences and Latin.....	.....
Miss S. M. Dusinberre.....	Mathematics.....	.....
Miss Daisy Murdoch.....	English.....	.....
Miss P. Cecil.....	French and German.....	.....
Miss A. C. Phister.....	Drawing and painting.....	.....
Miss K. A. Hinsdale.....	Instrumental music.....	.....
Miss H. B. Caswell.....	Instrumental music.....	.....
Mrs. Brannon Heishey.....	Vocal music.....	.....
Miss L. S. Nichols.....	Secretary.....	.....
Mrs. S. E. Hope.....	Matron.....	.....

Female.

5. Total number who have graduated..... 10
 6. Number who graduated at last commencement..... 6
 7. Number of students in the senior class..... 8
 8. Number of students in the intermediate class..... 7
 9. Number of students in the junior class..... 18
 10. Number of students in the preparatory classes..... 45
-
11. Number of acres of land owned by the institution..... 8

GEO. M. EVERHART,
Vice-President of the Board of Trustees.

ANNUAL REPORT OF THE
ROCHESTER SEMINARY.

Annual report of the president of the board of trustees of Rochester Seminary, for the year ending August 31. 1875.

1. Corporate name of the institution, Rochester Institute.
2. Name of the place where the institution is located, Rochester, Racine county, Wisconsin.
3. Year when the institution was created, 1866.
4. Names of members of the faculty, with their respective salaries:

NAMES.	Departments of instruction.	Salaries.
R. F. Pouley, B. S.	Principal—Latin, Nat'l sciences, and Math. ....	.....
Miss Gertrude M. Cass, L.P.	Preceptor, English branches .....	.....
Miss Emma B. Willy.	Assistant .....	.....
Miss G. M. Cass	Music and vocal culture .....	.....
J. D. Wright.	Telegraphy .....	.....

5. Total number who have graduated	Male. Female.	
	3	3
6. Number who graduated at last commencement	1	2
7. Number of students	71	42
8. Number of acres of land owned by the institution	Small lot	
9. Estimated cash value of buildings owned by the institution	\$5,000 00	
10. Amount of income for the current year from all sources except tuition	350 00	
11. Amount received for tuition during the current year	1,300 00	
12. Rates of tuition in academical department per annum, not including board	26 00	
13. Rates of tuition in preparatory department per annum, not including board	22 00	
14. Amount paid on account of expenses of the institution, exclusive of building and repairs, during the year ending August 31, 1875.	1,450 00	

O. D. AUGIR,
President of the Board of Trustees.

ST. CLARA ACADEMY.

Annual report of the president of the board of trustees of St. Clara Academy, for the year ending August 31, 1873.

1. Corporate name of the institution, St. Clara Academy.
2. Name of the place where the institution is located, Sinsinawa Mound, Grant Co.
3. Year when the institution was founded, 1852.
4. Names of members of the faculty, with their respective salaries:

NAMES.	Departments of instruction.	Salary
Sisters of the Order of St. Dominic.	The sciences.....	.....
	Music—Piano, harp, and guitar.....	.....
	Painting and drawing.....	.....
	Latin.....	.....
	French.....	.....
	Grammar and Italian.....	.....

	Female.
5. Number who graduated at last commencement.....	5
6. Number of students in the sub-graduating class.....	7
7. Number of students in the senior class.....	17
8. Number of students in the 2d senior class.....	13
9. Number of students in the junior class.....	20
10. Number of students not in the regular classes.....	12
11. Number of students in the preparatory department.....	25
<hr/>	
12. Number of acres of land owned by the institution.....	300
13. Estimated cash value of lands owned by the institution.....	\$20,000
14. Estimated cash value of buildings owned by the institution.....	40,000
15. Amount received from tuition during the current year.....	1,400
16. Rates of tuition in academical department per annum, (no day scholars)	200
17. Rates of tuition in preparatory department per annum, including board	150

SR. M. EMILIE, O. S. D.,
Superioress.

State Teachers' Association.

SEMI-ANNUAL SESSION OF THE WISCONSIN STATE TEACHERS' ASSOCIATION.

The Wisconsin Teachers' Association convened in semi-annual session in the Assembly Chamber of the Capitol, Monday evening, December 28, 1874, and was called to order by President Emery.

Prayer was offered by Rev. J. B. Pradt.

In the absence of the Secretary, Superintendent Kirwan was chosen Secretary *pro tem*.

Papers on "Examinations" were read by Prof. Alexander Kerr and Prof. S. R. Winchell. At the conclusion of these the chair having announced the subject open for discussion,

Prof. S. H. Carpenter said that the main feature of good examinations is the preparation of judicious questions. These should be so framed as neither to indicate nor conceal the answer. Teachers who can frame questions of this character will succeed in making the examination what it ought to be; those who cannot do so will fail. When pupils are under examination the circumstances surrounding them should be such as not to distract attention from their work. Both written and oral answers should be required.

Rev. Mr. Pradt said that higher examinations should discipline the pupil to tell what he knows, though the circumstances be unusual or unfavorable.

Superintendent MacAllister said a school is not thoroughly organized unless it has a regular system of examination. A class is not fully tested unless examined by an individual or a committee of whose manner of conducting the examination the class has had no previous knowledge. Both written and oral answers should be required. In the case of teachers a written examination is preferable, because, as examining committees are usually constituted, it is the only safeguard against fraud.

President Albee said that the training of pupils should have in view the ability to use their knowledge correctly and promptly under *any* circumstances, favorable or otherwise. When the pupil leaves school his mentor is no longer at his elbow, and he should be prepared to meet such tests as he may be subjected to in the world's examination. The manner of examining in the Oshkosh normal school was stated.

The chairman having called for the report of the committee on the "county superintendency,"

Professor Parker stated, in response, that the committee had not prepared a report, but would do so hereafter. He suggested that the meeting listen to the reading of a paper on the county superintendency, which Superintendent Kirwan, of Manitowoc, had prepared at his request. The reading of this paper then followed.

Superintendent Searing said that no topic could be more important than this. It seemed disgraceful for our State to have so long continued a system so faulty as our present system of county superintendence. In this matter Minnesota was far in advance of us. In that State no person is eligible to appointment, unless he has a State certificate, or a diploma from the State University. Our system is very faulty, and needs amendment.

Mr. Chandler asked what the salary of superintendents was in Minnesota?

Superintendent Searing said that the salaries were not larger than at present with us, and he thought this is a good omen.

Mr. Chandler asked if men holding State certificates would not be employed as teachers at much larger salaries?

Mr. Parker stated that the State certificate of county superintendents in Minnesota corresponds very nearly to our third grade certificate.

Other gentlemen corroborated this statement.

Superintendent Searing said the question as to county superintendence had been settled in the affirmative. The only question open was how to improve it.

Mr. Pradt thought the system needed a radical improvement. He thought the matter of salary would adjust itself.

Motion by Mr. Charlton that committee on county superintendency, of which Professor Parker is chairman, be allowed to report at some subsequent session of this meeting. Carried.

Adjourned to 9 a. m., Tuesday.

MORNING SESSION.

DECEMBER 29, 1874.

The morning session was opened with prayer by President Chapin, of Beloit College.

President Albee, of Oshkosh Normal School, read a paper on "Training Schools in connection with Normal Schools."

President Chapin read a paper on the "True Function of the College."

The chair announced these papers open for discussion.

Superintendent Searing raised the question suggested by President Chapin's paper, *why* students did not avail themselves of the privileges of the elective courses of the eastern colleges.

President Bascom.—The American colleges are unique. It is a mistake to attempt to fashion them after English or German models.

Bearing upon Superintendent Searing's question, President Bascom remarked further that the faculties of the eastern colleges were in favor of the old established courses, and those students who took the scientific course, found themselves out of sympathy with the spirit of the place. The experiment of elective courses is now being made at Harvard with much more fairness, and much greater prospect of success than before.

President Chapin, in his paper, had pointed out the advantages of having the college under the control of some one religious denomination.

President Bascom, while granting these advantages, claimed some compensations for these in unsectarian colleges, one of which is, that religious instruction is not limited by the peculiar views of any one sect, and that the grand vital, moral, and religious truths may be grasped, uncircumscribed by sectarian bias.

Professor C. G. Paine, of Beloit.—The scientific departments at Cornell are very full, because the men in charge are very eminent in their department, much more so than are the professors of the classical department in theirs. Cornell is worthy of high praise for the prominence given there to the study of the English language.

Mr. A. F. North.—Do the scientific schools make good men? That is the question. Were the scientific chairs in the eastern colleges spoken of filled with first-class men?

President Bascom.—A man stands best on *both* feet. Not science alone, nor the classics alone, but both together, make a man.

President Albee.—At the university of Michigan there are two courses. There, students entering the scientific course had had on an average at least two years less culture than those entering the classical course. Has science, there, or anywhere, had a fair chance? Supposing two students of equal ability received the same amount of careful training, one in science the other in classical studies, isn't it possible that the scientific student would show as high a degree of culture as the classical student? The experiment has never been tried. Where paralled elective courses exist, the students in their different courses are not in sympathy with each other, and that unity of feeling which does so much for students, is lost.

President Bascom.—The back-bone of the scientific studies is mathematics, than which nothing is more juiceless. The scientific student lacks the flesh and the rounded symmetry, which classical studies alone give.

President Chapin.—Latin, Greek, and Mathematics give the training which brings out the powers of the man in all their completeness.

Mr. W. H. Chandler.—The influences of religion are not absent in the State University. Students are constantly under religious influences. The professors chosen are men of known religious standing.

Professor S. H. Carpenter.—In the study of Latin or Greek, we take one study and carry it through for six years. If one of the scientific studies, chemistry for example, were studied just as thoroughly, for as long a time, then a comparison of the courses might be instituted. If the English language were studied as long and thoroughly as the Latin or Greek, comparison might be made.

President Bascom.—The university is as high now as the educational ladders of the State will reach. Will the people of Wisconsin multiply and lengthen these ladders?

Superintendent James MacAlister.—All our high schools are organized with the classical colleges in view. Preparatory schools must be organized with reference to the scientific colleges, if science is to have a fair trial.

Mr. Richardson, of Milwaukee.—The time has come for changes. Let the "new departure" colleges have a fair chance.

After a short recess, Mr. C. F. Viebahn, of Manitowoc, read the report of the Committee on "Educational Needs of the State."

President Albee moved that the report be adopted. The motion was seconded, and the question called forth a lively discussion.

Superintendent Searing spoke in regard to the recommendation of a compulsory law contained in the report.

Mr. Hughes, of Menasha, explained the provisions of the compulsory law of Michigan.

President Bascom, from his experience as a truant officer, was led to believe that the methods now in use, of dealing with truants, are much too complicated and cumbersome. Compulsory laws have not had a fair trial. Their principle is sound. Taxation is compulsory. Attendance should be.

Assistant State Superintendent Pradt.—The time has not yet come, when a compulsory law, of general application is desirable in this State. The machinery of school supervision must be set in good working order first, and better schools must be provided.

Superintendent McAllister.—Nothing could be more disastrous to the school interests of Milwaukee than a compulsory law. There are many Catholics in the city, all opposed to compulsion. Though theoretically in favor of the principle of the compulsory law, the speaker was sure such a law would not work well in his city.

Professor Paine described the working of a school in Worcester, Mass., provided specially for incorrigibles and truants.

After some further discussion, the motion to adopt the report was amended on motion of President Chapin, and finally the report was re-committed.

Adjourned to 7 o'clock, p. m.

EVENING SESSION.

President Whitford, of Milton, read a paper on "The Co-education of the Sexes."

President Bascom read a paper on "What not to Learn and What to Learn."

Miss Thomas, an elocutionist from Michigan, favored the association with a recitation of "Will the Curfew Ring To-night?"

President Arey read his report as a member of the committee on "Free Tuition in High Schools."

Mr. A. F. North followed on the same subject, reaching a conclusion exactly opposite to that reached by President Arey.

On motion, these two reports were accepted. The chair ruled that this action was equivalent to the adoption of the reports. Appeal having been taken from this ruling, a lively discussion followed on the question, Shall the chair be sustained? The association having reversed the ruling of the chair, the two reports were somewhat summarily disposed of, the discussion of the first being postponed indefinitely, and the second being laid on the table.

Adjourned till 9 o'clock a. m. of Wednesday.

MORNING SESSION.

Rev. A. O. Wright opened the session with prayer.

Prof. B. M. Reynolds, of La Crosse, read a paper on "Problems in the Management of Graded Schools."

Superintendent Hendrickson, of the State Industrial School for Boys, at Waukesha, read a paper on "The Relation of our Public Schools and Crime."

Superintendent MacAlister raised the question whether it would not be better to have a connection between the city schools and the Industrial School through the department of instruction, rather than through the criminal courts.

Professor A. R. Cornwall, of Albion Academy, then read a paper on "Intermediate Schools."

Superintendent MacAlister rose to make the *amende honorable* for his vote of last evening on the ruling of President Emery. He showed that at the meeting of the association held in Milwaukee in 1858, Cushing's Manual was adopted as authority. According to the manual, President Emery was right in his ruling, that the acceptance of a report is equivalent to its adoption.

Superintendent Searing read the report of the committee on "Academic Instruction in State System."

On motion, the report was received.

The motion to adopt, which followed, called forth some discussion.

Superintendent MacAlister. The *government* should have control of education. Private academies are out of the line.

Mr. W. H. Chandler read a carefully prepared paper, germane to the question.

President Bascom spoke in condemnation of New England academies. They do not help the public schools, and the high schools are displacing them.

Professor Cornwall defended the academies.

Professor Paine favored high schools, as did also Professor A. Salisbury and A. F. North.

Rev. J. B. Pradt reminded the association that the proposed town high schools would be high schools in name only—not the much desired “missing link.”

Superintendent Searing read from the report of the State superintendent of Maine, an extract pertaining to the question.

Professor Porter, of Palmyra, bore testimony to the efficiency of the free town high schools of Maine.

Superintendent Lunn, of Sauk county—How do these schools work in towns having no villages?

Superintendent Searing—The law is very flexible. Some schools have but one term a year, others more, as the means of the people warrant, or their necessities require.

Professor B. M. Reynolds—Do these town high schools reach the rural districts?

Superintendent Searing—Just what they are for.

By request, the secretary read a paper prepared by Mr. A. H. Weld, of River Falls, bearing on the question.

On motion of Professor Salisbury, as an amendment to the motion, it was voted that all papers in the possession of the association, bearing on the question, be referred to a committee consisting of Superintendent Searing, President Bascom, and President Albee; this committee to report at the evening session, at the time appointed for the report of the committee on “Teachers’ Institutes.”

On motion, it was voted that the report of the committee on “county superintendency” be made the second order at the meeting this evening.

Adjourned to 7 o’clock, p. m.

EVENING SESSION.

The final session of this meeting was opened by a lecture on “The Geological History of Wisconsin,” by Prof. T. C. Chamberlain, of Beloit.

Professor Samuel Shaw, of Madison, read a paper on “How far may the State provide education for her children at public cost.”

Superintendent Searing then read the report of the committee on "Academic Instruction in State system," as follows:

Your committee agree in recommending—

1. The adoption by the State of Wisconsin of a system of Free Town High Schools, similar to that now in operation in Maine,
2. The placing of the State normal schools in organic connection with the university, by means of a normal college therein.
3. Such modification of courses of study in the normal schools and the university as may be necessary to admit of the proposed connection.

EDWARD SEARING,
JOHN BASCOM,
G. S. ALBEE,
Committee.

On motion, the report was adopted.

W. D. Parker, of Janesville, then read the report of the committee on county superintendency, as follows:

Resolved, That it is the sense of this convention that the State Superintendent should put himself in vital relations to county superintendents, with a view—

1. To ensure examinations regularly held, and of more nearly uniform character; and
2. To stimulate and direct the general educational agitation in all the counties of the State.

MEMORANDA.

All original papers—questions and answers—to be sent to the State department and there preserved during the continuance in force of certificates granted thereon.

The State Superintendent to take cognizance of the holding of teachers' institutes, and to see that county superintendents personally participate in the same, according to law.

To effect unity of purpose among county superintendents, teachers and people.

W. D. PARKER,
W. H. CHANDLER,
A. O. WRIGHT.

On motion, the report was adopted.

On motion, it was voted that Superintendent Searing, President Bascom and President Albee be continued as a committee for the purpose of perfecting the details of the changes recommended in their report on "Academic Instruction in State System."

The thanks of the association were voted to Professor Chamberlain for his able and instructive lecture.

Superintendent Searing offered the following resolution, which was at once adopted :

Resolved, That women should be by law, rendered eligible to all school offices in the State.

President Emery announced the action of the executive committee, appointing the next annual meeting to be held in Eau Claire, July 6, 7, and 8, 1875.

W. D. Parker offered the following resolutions, which on motion were adopted :

Resolved, 1. That recognizing a powerful ally of schools in the press, we gratefully acknowledge many courtesies of editors, and we hereby tender our thanks to the Madison Democrat and Wisconsin State Journal for special reports of proceedings of this meeting.

Resolved, 2. That we hereby tender our thanks to the hotels of Madison ; to the Milwaukee, Lake Shore and Western, the Wisconsin Central, and the Green Bay and Minnesota Railways, for reduced rates of entertainment and of fare during this meeting.

The association then adjourned, to meet in Eau Claire, July 6, 7, and 8, 1875.

J. Q. EMERY,
President.

A. J. HUTTON,
Secretary.

ANNUAL MEETING WISCONSIN STATE TEACHERS' ASSOCIATION.

In accordance with the action of the Executive Committee, the Twenty-third Annual Session of the Wisconsin Teachers' Association, was held in the Eau Claire county court-house, Eau Claire, July 28, 29, and 30, 1875.

EVENING SESSION.

JULY 28.

President J. Q. Emery took the chair at 8 o'clock. The meeting was opened with an appropriate anthem, by a choir under the leadership of Rev. A. Kidder, of Durand.

Rev. J. F. Dudley offered prayer.

Hon. W. P. Bartlett, for eighteen years director of the school-board of Eau Claire, welcomed the association to the city, in a brief and appropriate address.

President Emery responded, and invited the citizens of Eau Claire to attend the meetings, and participate in the discussions of the association.

President John Bascom, of the university of Wisconsin, was then introduced, and delivered a lecture on "Architecture."

The session was closed with a quartette by Mrs. E. J. Swift, Mrs. W. H. Lockwood, Mrs. A. V. Mayhew, and Rev. A. Kidder, Miss Augusta Kidder at the piano.

MORNING SESSION.

The association was called to order at 9 o'clock. After prayer by Rev. A. Kidder, of Durand, and singing by the choir, Vice-President W. H. Chandler took the chair, and President Emery delivered the annual address.

On motion of A. Salisbury, the president's address was referred to the following committee, for distribution to special committees: W. D. Parker, A. A. Spencer, H. C. Howland.

The charter and the constitution of the association were then read by the secretary.

The chair appointed the following named gentlemen a committee on enrollment of members: R. Graham, W. E. Anderson, C. W. Roby.

After a short recess, J. B. Thayer, of Menomonie, and Miss Helen M. Bingham, of Monroe, whose names appeared next on the programme, being absent, E. B. Wood, of Oshkosh, was introduced and read a paper upon "Educational Backbone."

A. F. North, of Pewaukee, followed, with a paper on "Teachers' Examinations and State Certificates."

A spirited and interesting discussion followed the reading of these papers, participated in by President Albee, of Oshkosh; Superintendent McAllister, of Milwaukee; President W. F. Phelps, of Winona, Minnesota; John H. French, LL. D., of Vermont; Hon. W. D. Kenkle, of Ohio; H. S. Tarbell, city superintendent, East Saginaw, Michigan; President John Bascom, of the University of Wisconsin, and Superintendent W. H. Chandler, of Sun Prairie.

The committee on president's address, through their chairman, W. D. Parker, reported the following, which was adopted:

Your committee, to whom was referred the president's address, for distribution, have had the same under consideration, and report the following sub-committees:

1. *Re-organization of the Association*.—G. S. Albee, N. C. Twinning, J. B. Thayer.
2. *History of the Association*.—Albert Salisbury, A. J. Hutton, J. M. Rait.
3. *Functions of the Normal Schools*.—W. H. Chandler, D. McGregor, O. Arey.
4. *Teachers Certificates and Education of Teachers*.—A. F. North, J. F. Ellis, A. A. Spencer.
5. *Centennial Exposition*.—Geo. Beck, J. L. Wallace, L. D. Harvey.
6. *Township System of School Government, and Free High Schools*.—John Bascom, J. T. Lunn, H. C. Howland.
7. *University*.—Edward Searing, James MacAlister, John McGregor.
8. *Women as School officers*.—O. R. Smith, W. E. Anderson, W. S. Johnson.
9. *Text-Books*.—E. B. Wood, Geo. M. Bowen, T. E. Williams.
10. *School Libraries*.—I. N. Stewart, J. H. Terry, R. L. Reed.
11. *Functions of Common and Parochial Schools*.—Robert Graham, E. H. Sprague, Supt. G. M. Guernsey.

All of which is submitted.

W. D. PARKER,
A. A. SPENCER,
H. C. HOWLAND.

Adjourned to 5 o'clock.

AFTERNOON SESSION.

JULY 29.

At 2 o'clock the afternoon session was opened by an anthem by the choir. Hosea Barns, whose paper, "Sewing," was the order for the hour, being absent, President O. Arey, of Whitewater, read a paper on "The Function of the Normal School."

The discussion following this paper was interesting and profitable. The following gentlemen took part: W. H. Chandler, E. B. Wood, C. G. G. Paine, A. F. North, and G. M. Guernsey.

The following committees were announced by the chair:

Honorary Members—H. C. Howland, G. M. Bowen, Ellen Mosher.

Finance—A. Earthman, A. H. Porter, Martha Kidder.

Resolutions—A. Salisbury, James MacAlister, R. Graham.

Miss M. A. Wadsworth, of Fond du Lac, and S. R. Winchell, of Milwaukee, being both absent, "Educational Intelligence," according to programme the order for 4:25 o'clock, was made the order at this hour. "Short speeches" were made by Superintendent Chandler, of Sun Prairie; A. Earthman, St. Paul; C. W. Roby, La Crosse; President Phelps, Winona; Superintendent Pickard, Chicago; Dr. French, Vermont; Superintendent MacAlister, Milwaukee; Hon. W. D. Henkle, Ohio; Superintendent Tarbell, East Saginaw, Michigan; President Bascom, of the University of Wisconsin, and Professor E. H. Merrill, of Ripon College.

Adjourned to 8 o'clock.

EVENING SESSION.

JULY 29.

After music by the choir, and prayer by Professor Merrill, of Ripon College, Mr. Fred. Graham, of Eau Claire, sang a solo, Mrs. E. J. Swift at the piano.

John H. French, LL. D., of Vermont, was then introduced and delivered a lecture on "Entomology."

Mrs. E. J. Swift sang a solo—"The Death of Warren."

MORNING SESSION.

JULY 30.

After an anthem by the choir, and prayer by President Bascom, the committee to whom was referred that portion of the president's address relating to "township-system of school-government and free town high-schools," reported the following, which was adopted:

Your committee would report favorably to the town, and adversely to the district, as the unit in school government, for many reasons, these being prominent among them:

First. A more able school committee can be obtained in the town than in each district of the town.

Second. Local conditions unfavorable to school interests are not likely to prevail in a town as strongly as they may prevail in a district.

Third. Purely personal considerations have not the same weight in a town as in a district.

Fourth. A town can impart unity to its schools, re-combine them, establish a high school, and cause the instruction of its schools to be in harmony with it.

Your committee would give the present high school law their most hearty approval, and express their earnest desire that it may receive a thorough, fair trial.

They are also desirous that the definition of a high school shall in each of the towns be such as to secure a real advance in instruction.

J. BASCOM,
J. T. LUNN,
H. C. HOWLAND.

The following report was presented and adopted.

Your committee to whom was referred that portion of the president's address referring to the history of the association, respectfully report that they have had the same under consideration, and do hereby recommend that some suitable person be appointed by the president of the association to prepare such history, and procure its publication in the Wisconsin Journal of Education, within the ensuing year.

A. SALISBURY,
A. J. HUTTON,
J. M. RAIT,

Committee.

In accordance with the recommendation of the above report, the president appointed A. Salisbury historian of the association.

The Committee on "Functions of Common and Parochial Schools," requested permission to postpone the making of their report till the winter meeting of the association, next December.

On motion the request was granted.

The president announced the following committees:

Nominations—R. Graham, D. McGregor, J. M. Rait.

Obituaries—O. R. Smith, A. F. North, J. H. Terry.

The following report was adopted:

Your committee on honorary membership would recommend that the following gentlemen be chosen honorary members of this association: Hon. J. L. Pickard, Chicago; John H. French, LL. D.,

Vermont; President W. F. Phelps, Winona; Hon. W. D. Henkle, Ohio; Professor E. H. Merrill, Ripon College; H. S. Tarbell, East Saginaw, Michigan; A. Earthman, St. Paul; O. Whitman, Red Wing, Minnesota; Rev. A. Kidder, Durand, and the resident clergymen of Eau Claire, in attendance upon the meetings of the association—viz: Rev's W. H. Lockwood, J. F. Dudley, R. Telford, J. B. Bachman, and P. B. Morrison.

H. C. HOWLAND,
GEO. M. BOWEN,
MISS H. C. MOSHER,
Committee.

W. E. Anderson, of Waukesha, read a paper on "Drawing."

Miss. A. R. Luse, of Albion, favored the association with "Select Readings."

After a short recess, and music by the choir, A. Salisbury, of Whitewater, read a paper on "The District-School Curriculum." The same subject was discussed by President Bascom, Superintendent MacAlister, John H. Rolfe, A. F. North, E. B. Wood, Superintendent Searing, O. R. Smith and Professor E. H. Merrill.

On motion the following gentlemen were appointed a committee to formulate the sense of the association on the subject.

District-School Curriculum—E. Searing, R. Graham, J. Bascom, O. R. Smith, A. F. North.

The following was then presented and adopted:

Your committee, to whom was referred the subject of the feasibility of adopting a course of study for normal institutes for a term of years, beg to report as follows:

Your committee fully realize the advantages arising from the following a prescribed course of study. It gives definiteness as well as comprehensiveness to the work required. Yet it seems that a very serious mistake may be made by prescribing the same course of study for sections of the State differing in educational facilities to such an extent as they do in this State at present. Your committee would much prefer to recommend the adoption of a course of study, and obtained a postponement of this report from the executive session of last winter, in the hope that sufficient data might be collected upon which to base an intelligent opinion. Such data have not yet been obtained. Believing that the time may come when such action may be not only expedient but necessary, and

knowing that a failure in its operation, arising through a premature attempt, would prove an obstacle when the proper time arrived, we have preferred to report against the adoption of such a course. Our objections are based upon the following considerations, and are comprised under two heads:

I. Such as grow out of the objects and aims sought to be attained by institutes.

II. Such as grow out of the conditions under which Institutes must be held.

Under the first head might be mentioned:

(a.) They are not designed for giving academic instruction to any great extent, and teachers unqualified in this respect must be taught by this means to look to other sources for their advancement in scholarship.

(b.) They can do almost nothing for discipline or culture, and the impression should not go abroad that they are a royal road to either of these.

(c.) They are designed to familiarize teachers with the best methods of presenting and developing subjects.

(d.) They are designed to secure attention to and interest in particular branches of study, and to proper methods of organizing and managing schools.

Under the second head:

(a.) The work done in institutes must vary in different places, and with different classes, to meet existing needs.

(b.) The inevitable fact that but few teachers attend successive institutes, owing in part to the necessity of holding them at different points, even in the same county. In several respects the institute is yet too variable to be profited by a course of study.

(c.) The utter impossibility of giving any exhaustive instruction upon any branch during the short time pupils can be held in an institute, and the consequent danger to the popularity and usefulness of the institute work, by advertising to do what, under the most favorable circumstances, can have but partial success.

Respectfully submitted.

D. MCGREGOR,
W. H. CHANDLER,
J. H. TERRY,
Committee.

Adjourned to 2 o'clock.

AFTERNOON SESSION.

The following was read and adopted:

Your committee on finance beg leave to report that they have examined into the accounts of the secretary and treasurer, and find the finances of the association in the following condition:

Cash on hand at close of session of 1874.....	\$88 19
Cash received for membership tickets.....	93 00
Total	<u>181 19</u>
Expenditures, as per vouchers.....	90 75
Balance on hand.....	<u><u>90 45</u></u>

Respectfully submitted.

A. EARTHMAN,
 MARTHA KIDDER,
Committee.

The committee having in charge that part of the president's address relating to "text-books," and the committee on that part relating to "teachers' certificates," were allowed until next winter meeting to prepare their reports.

The report of the committee on national Centennial was adopted as follows:

Your committee to whom was referred that portion of the president's address relating to the approaching Centennial, would recommend that a committee of this association be appointed to co-operate with Hon. John Eaton in securing the best practical representation of the educational interests of this State in the exhibition at Philadelphia.

Respectfully submitted.

GEO. BECK,
 J. L. WALLACE,
 L. D. HARVEY.

The president announced as such committee, G. S. Albee, H. C. Howland, Jas. MacAllister, and E. H. Merrill.

On motion, it was voted to allow the ladies of the association, as a separate body to express their thanks to all who were instrumental in the passage of the law last winter, making women eligible to school offices in this State.

In accordance with the above, an informal expression of thanks was made by the ladies.

Professor E. H. Merrill read a paper on "The Student's Hope."
Miss Martha Kidder, of Oshkosh, read an essay—"Can We Do It?"

Superintendent James MacAlister spoke upon the subject of "A State School Tax." The subject was further discussed by A. F. North, President Arey, and Superintendent Searing.

On motion the subject was referred to a committee of three, with instructions to report next winter.

The following were appointed as such committee: James MacAlister, Edward Searing, A. F. North.

On motion, it was voted that Miss Bingham's paper be handed by the secretary to the editors of the Journal of Education for publication.

Superintendent Searing read a paper on the "High-School Law." The paper called out a discussion of the law, in which the following gentlemen took part: A. F. North, I. N. Stewart, W. P. Bartlett, C. G. G. Paine, and President Bascom.

On motion, it was voted that a committee of five be appointed to examine the course of study prepared for town high schools by the State Superintendent. Committee appointed as follows: President Bascom, President Arey, R. Graham, D. McGregor, and Superintendent G. M. Guernsey.

By request, the committee on "Functions of the Normal Schools" were allowed until next winter meeting for the preparation of their report.

The following report was adopted:

The special committee, to which was referred the subject of "The District School Curriculum," report the following resolutions:

Resolved, That it is the sense of this association that the primary district schools of the State should give formal instruction in reading, writing, spelling, arithmetic, geography, and grammar, but that incidental instruction should also be given in history, drawing and botany.

Resolved, That this association decidedly disapproves of the teaching in those schools of any other than the English language.

E. SEARING,
R. GRAHAM,
J. BASCOMB,
O. R. SMITH,
A. F. NORTH.

By request, the committee on "Libraries" were allowed until the winter meeting to prepare their report.

The committee on "obituaries" offered the following resolutions, which were adopted by a standing vote of the association.

Resolved, That in the death of Hon. Thomas H. Little, this State has lost a public servant of greatest worth; education one of its strongest supporters; ourselves a noble brother, and the unfortunate blind a true friend and paternal protector.

Resolved, That our deepest sympathies are tendered to his family in their bereavement, and our cordial encouragement to his noble wife in her efforts to carry out his work.

O. R. SMITH,
A. F. NORTH,
Committee.

After a short recess the association proceeded to the election of officers for the ensuing year. H. C. Howland, of Eau Claire, was nominated for president. The association having voted, the result was declared as follows:

Total number of votes cast.....	52
Necessary to an election.....	27
H. C. Howland received.....	48
Scattering.....	4

H. C. Howland was therefore declared duly elected president of the association for the ensuing year.

The committee on nominations reported the following:

Vice-Presidents—G. H. Guernsey, E. B. Wood, Miss S. A. Stewart.

Secretary—A. J. Hutton.

Treasurer—J. H. Terry.

Executive Committee—J. Q. Emery, G. S. Albee, W. D. Parker, James MacAlister, A. F. Morth.

Respectfully submitted.

R. GRAHAM,
D. MCGREGOR,
J. M. RAIT,
Committee.

The report, as above, having been adopted, on motion, the secretary was instructed to cast the ballot of the association for the persons named in the report, for the offices designated. This having been done, the secretary declared them duly elected to their respective offices for the ensuing year. Adjourned to 8 o'clock.

EVENING SESSION.

July 30.

At 8 o'clock the session opened with music by the choir, and prayer by the Rev. W. H. Lockwood. After prayer a quartett was sung by A. V. Mayhew, C. F. Mayhew, Jasper Kepler, and S. H. Wilcox.

President Emery then happily introduced Superintendent Pickard, of Chicago, whose name is first on the list of the original members of the association.

Superintendent Pickard then delivered a lecture on "Language Study—Its Means and its End."

Mrs. E. J. Swift then sang a Scottish ballad, "A man's a man for a' that."

The following report was adopted:

Your committee on resolutions would respectfully report the following, viz :

Resolved, That we would recognize our indebtedness to the press of the State for the extensive notice which this meeting has received ; and to the railroads, Steamboat lines and hotels which have favored us with a reduction of rates.

Resolved, That we shall long hold in remembrance the people of Eau Claire, for their overflowing hospitality, and for the interest which they have shown in the deliberations of our body.

Resolved, That we return thanks to principals Hutton, Howland, Williams and Crandall for their unremitting and systematic labor, which has so contributed to the success of this meeting and comfort of its members.

Resolved, That our gratitude is due in an especial manner to Rev. A. Kidder, and the sweet singers of Eau Claire, for the inspiring music with which they have enlivened our sessions ; and to the ladies, whose fine taste is shown in the decoration of our place of meeting.

Resolved, That we would make acknowledgement to President John Bascom, Hon. J. H. French, and Hon. J. L. Pickard, for the instructive lectures with which they have favored us.

ALBERT SALISBURY,

ROBT. GRAHAM,

JAMES MACALISTER,

Committee.

A. F. North presented the following, and it was adopted :

Resolved, That the hearty thanks of this association be and are hereby tendered to the president and other officers of this society, for the very efficient services they have rendered us on this occasion.

Mrs. Teall and Mr. Lockwood sang a duett—Mrs. Callahan at the piano.

The president then declared the twenty-third annual session of the Wisconsin Teacher's Association adjourned *sine die*.

J. Q. EMERY,
President.

A. J. HUTTON,
Secretary.

Report of State Charitable and Reformatory Institutions.

INDUSTRIAL SCHOOL FOR BOYS.

A. D. HENDRICKSON, SUPT.

[In the absence of a special report, extracts from the printed reports are given.]

The operations of the school for the past year may be regarded as reasonably successful and afford substantial encouragement to the friends of the Institution. During the sixteen years of our school-life we have sent out over eight hundred boys. It is fair to assume that more than three-fourths of that number have been saved to the State through the instrumentalities provided by law for their reformation in this Institution. The Industrial School has from the outset and at all periods in its history been regarded favorably, by those acquainted with its management and especially by every person connected with our State government. Visitors, with scarcely an exception, leave with higher estimates of the school than they had previously entertained. We indulge the hope that it may continue to deserve and enjoy these favorable regards, and demonstrate beyond question the wisdom of the legislators who have so often and so generously endowed it. We believe that the Wisconsin Industrial School for Boys has fairly earned the reputation it enjoys, ranking with the best in the land, and we invoke the careful attention of the people of the State and their official representatives to its records and operations. We are frequently addressed by the citizens of our own and other States who have seen or heard of the system adopted here, asking for the admission of children who are beyond the control of their natural guardians. Of course, we are obliged to deny these applications, but we regard them as the best evidence of the success of the school, and a doubt arises whether the managers might not with propriety be invested with a discretionary power in cases of the kind alluded to within the State.

Should the legislature take the view of this matter that we do, it would be consistent with the practice in some of the older States, to provide by law that boys might be received by the board, on application of parents or guardians, for incorrigible and vicious conduct or vagrancy, upon such terms as the law should prescribe, or that the board might see fit to adopt. We recommend the passage of such a law. It is not possible by any method of computation with which we are acquainted, to show the exact amount of good returned to the State by the reformation of so large a percentage of its juvenile violators of law and order; but every observer can realize that the perpetration of a vast amount of crime has been prevented, and a large number of our boys restored to society, and are now growing and grown into good citizens, industrious and useful members of society, the friends of law instead of its enemies, earning by their own efforts an honest living, instead of preying upon the fruits of the labor of others, or wasting their lives in confinement, at the expense of the tax-payers of the State.—*Report of Board of Managers.*

It was at first a juvenile prison with its cells and grates; it is now a home with its social relations and its family circle. It was organized on the congregate plan with its crowd of boys in a single herd; it is now a miniature colony, with its homes and work-shop, its farms and gardens, its schools, reading-rooms and library, its social, educational, and religious facilities. During the sixteen years of its history, 1,184 children have been brought under its influence. Of this number, about one-fourth are still in the school and full two-thirds and probably three-fourths of the others are, so far as our best knowledge extends, acting the part of good citizens by living quiet, industrious lives. Many of these doubtless would, but for the restraining influence of this school, have been found in the county jails and the State Prison. The expense of reform is repaid many fold in saving criminal prosecutions, jail and prison expenses. A much greater good is, however, accomplished in converting a promising vagabond into a productive citizen. I could enlarge upon this part of our history, giving individual instances in large numbers, but I forbear. There is, however, another influence for good exerted by this school that is seldom recognized. The influence alluded to, though indirect and silent in its operations, is, notwithstanding, very general in its workings and very patent

in its effects. I allude to the restraint that a knowledge of the existence of the school has upon the boys all over the State and especially in the localities from which inmates have been sent to the institution. I have abundant reasons to know that scores and hundreds of boys between the ages of six and sixteen are held in check and restrained by their parents and teachers, by the police and the public referring them to the existence of a reform school.

—*Report of the Superintendent.*

Whole number of pupils under instruction at the commencement of the year . . .	301
Whole number received during the year	111
	<hr/>
Total	412
	<hr/>
Whole number pupils under instruction during the year	412
Whole number left school during the year	112
	<hr/>
Whole number in present attendance (Sept. 30, 1875)	300

—*Teachers' Report.*

INSTITUTE FOR THE EDUCATION OF THE BLIND.

JANESVILLE, WIS., December 8, 1875.

Hon. E. SEARING,

Superintendent of Public Instruction:

SIR:—I cheerfully comply with your request to furnish a brief report of this institution.

Since the fire, which destroyed the main building in April, 1874, the operations of the institution have been carried on under great disadvantages, in small and inconvenient buildings, poorly supplied with apparatus. Still, commendable progress has been made, for which credit is due to faithful work on the part of pupils.

The last legislature made an appropriation for rebuilding upon the old foundations, one wing of a new edifice. This is expected to be ready for use in a few weeks, and will add much to the comfort and convenience of the school.

It will, however, accommodate but a portion of the household, and the difficulties incident to the occupation of detached buildings must still be met and conquered. It is hoped that these obstacles to the success of the school may soon be removed.

In February last, Thomas H. Little, for more than thirteen years superintendent of the institution, was removed by death. It may not be inappropriate to subjoin an extract from a memorial written by one who knew him well.

“ His integrity and absolute truthfulness gave him a reputation it is an honor for any man to wear. As a private citizen, he was quiet, unassuming and upright, as a public officer, he was thorough, untiring, efficient and jealously watchful of the interests committed to his care; as an instructor, he was a recognized leader in his profession, a disciplinarian, who knew how to govern, without seeming to govern at all, and who was to his pupils far more like a kind and wise parent than a superintendent; and as a Christian, he was manly, generous, humble, full of faith, and given alike to prayer and good works. In his death, the community has lost an upright and useful citizen, the State, a faithful, honest and valued servant, and the church an exemplary, prayerful member, and efficient officer.”

Since Mr. Little's death, the work of the institution has been continued with as little deviation as practicable from his policy and plans.

Since the last report was made to your office, 85 pupils have been in attendance here. Four of these were adults, connected with the mechanical department, having been admitted for a brief time for the purpose of acquiring a trade whereby they might become self-supporting citizens.

In the literary department, instruction has been given in reading, writing, spelling, arithmetic, geography, grammar, United States history, geometry, natural philosophy, and mental philosophy.

In the musical department, vocal and instrumental, music has been taught. Music for the pupils here is not considered chiefly a pleasant accomplishment, but it is believed to provide for those possessing a fair amount of musical talent, a better opportunity for earning a livelihood in competition with seeing persons, than is afforded by any other occupation.

In the mechanical department, the elder boys have been as formerly, taught broom making; the smaller boys and girls, have learned to make the beadwork common in institutions of this kind, and which is valuable chiefly as a means of cultivating delicacy and precision of touch. The girls also learn to sew, knit, crochet, and do a variety of useful and ornamental work.

The law requiring school-district clerks to make an enumeration of children excluded from the common schools by defective vision,

has proven, notwithstanding inaccuracies in the returns, a means of decided practical benefit to many in need of the facilities for education afforded here. Thanks are due to many of the school-officers of the State for assistance given by correspondence, and in some cases by personal efforts to bring the knowledge of the institution to those in need of its privileges.

Very respectfully,

MRS. THOMAS H. LITTLE,
Superintendent.

WISCONSIN INSTITUTE FOR THE DEAF AND DUMB.

DELAVAN, WIS., November 29, 1875.

HON. EDWARD SEARING,

Superintendent of Public Instruction:

SIR:—Assuming the position of principal near the close of the year—July 14—I am unable to report intelligently of the conduct of the school during the year, but can give you a statement of its present condition. There are at present one hundred and forty-eight pupils, divided into eight grades—each grade in charge of a teacher—and a class of twenty pupils in articulation (such as have some knowledge of verbal language, and are susceptible of improvement in its use), under a special teacher.

The course of study is the same as that in the public schools; same text-books used, except in the study of language in the two lower grades, where special books are used.

The advancement of the pupils will compare favorably with that of students in the public schools.

We esteem the institution a part of the State system of public education, peculiar only as the misfortunes of its beneficiaries create the necessity, and no more charitable than are the provisions made in every village for the education of others.

In addition to the school proper, the pupils are taught to work. There are, for the boys, a cabinet-shop, a shoe-shop, and the garden, grounds, barn, etc.; and for the girls, the varieties of sewing, chamber, and dining-room work, etc. The day is apportioned as follows: Rise, 6 o'clock; breakfast, 6:30; work, 7 to 8:30; school, 9 to 12 m.; dinner; school, 1 to 3; work, 3 to 5; recess; supper, 6; study, 7 to 8:45; retire, 9 p. m.

Respectfully,

W. H. DEMOTTE, *Principal.*

Statistical Tables.

The following apportionment was made in June last, on the returns made for the school year ending August 31, 1874. The rate was 41 cents per scholar. The amount received by the cities is included:

TABLE No. 1.—Apportionment of school fund income in 1875.

COUNTIES.	No. of children.	Apportionment.
Adams.....	2,520	\$1,033 20
Ashland.....	233	95 53
Barron.....	768	314 88
Bayfield.....	190	77 90
Brown.....	12,599	5,165 59
Buffalo.....	5,226	2,142 66
Burnett.....	364	149 24
Columbia.....	11,065	4,536 65
Crawford.....	5,651	2,316 91
Calumet.....	5,821	2,386 61
Chippewa.....	3,102	1,271 82
Clark.....	1,862	763 42
Dane.....	20,545	8,423 45
Dodge.....	18,978	7,780 98
Door.....	2,558	1,048 78
Dunn.....	4,467	1,831 47
Douglas.....	324	132 84
Eau Claire.....	4,313	1,768 33
Fond du Lac.....	19,515	8,001 15
Grant.....	15,527	6,366 07
Green.....	8,412	3,448 92
Green Lake.....	5,295	2,170 95
Iowa.....	10,106	4,143 46
Jackson.....	3,693	1,514 13
Jefferson.....	13,808	5,661 28
Juneau.....	5,714	2,342 74
Kenosha.....	5,219	2,139 79
Kewaunee.....	5,310	2,177 10
La Crosse.....	8,138	3,336 58
La Fayette.....	9,215	3,778 15
Manitowoc.....	16,051	6,580 91
Marathon.....	3,149	1,291 09
Milwaukee.....	41,513	17,020 33
Marquette.....	3,528	1,446 48
Monroe.....	7,675	3,156 75
Oconto.....	3,769	1,545 29
Outagamie.....	9,624	3,945 84
Ozaukee.....	7,361	3,018 01
Pepin.....	2,070	848 70

TABLE No. 1—Apportionment of school-fund income—Continued.

COUNTIES.	No. of children.	Apportionment.
Pierce	5,395	2,211 95
Polk	2,130	873 30
Portage	4,693	1,924 13
Racine	10,002	4,100 82
Richland	6,689	2,742 49
Rock	13,415	5,500 15
St. Croix	5,163	2,116 83
Sauk	9,906	4,061 46
Shawano	1,684	690 44
Sheboygan	13,843	5,675 63
Trempealeau	4,849	1,988 09
Vernon	8,452	3,465 32
Walworth	9,350	3,833 50
Washington	10,285	4,216 85
Waukesha	10,998	4,509 18
Waupaca	6,844	2,806 04
Waushara	4,662	1,911 42
Winnebago	15,327	6,284 07
Wood	1,703	698 23
Total	450,304	184,624 64

TABLE No. II.—Districts, children, and school attendance.

[In the remaining tables, by counties, independent cities are not included. The statistics of such cities will be found in a subsequent series of tables.]

COUNTIES.	Whole number of school-districts in the county.		Number of districts which have reported.		Whole number of parts of districts in the county.		Number of parts of districts which have reported.		Number of male children over 4 and under 20 years of age.		Number of female children over 4 and under 20 years of age.		Whole number over 4 and under 20 years of age in county.		Number over 4 and under 20 years in districts maintaining school 5 or more months.		Number of days school has been taught by qualified teachers during the year.		Number over 4 and under 20 years who have attended school.		Number under 4 years who have attended school.		Number over 20 years who have attended school.		Total number of different pupils who have attended school during the year.		Number of days attendance of pupils over 4 and under 20 years.		Number of days attendance of pupils under 4 years.		Number of days attendance of pupils over 20 years.		Total number of days attendance of different pupils during the year.						
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39
Adams	40	40	38	38	1,301	1,185	2,486	2,440	10,088	2,048	13	7	2,068	116,011	55	436	116,502																						
Ashland	2	2	2	2	118	98	216	216	708	129	3	1	133	12,361	41	78	12,480																						
Barron	38	35	16	14	598	603	1,201	938	4,422	755	2	4	761	29,823	48	182	30,053																						
Bayfield	1	1	1	1	119	122	241	241	195	91	1	1	92	10,160	98	10,258																							
Brown	81	81	12	12	4,221	4,556	9,477	9,477	9,479	7,123	5	5	8,540	820,900	20	10	820,930																						
Buffalo	62	62	28	23	2,833	2,740	5,573	5,545	9,819	3,575	12	11	3,598	245,910	67	331	246,308																						
Burnett	6	6	6	6	222	205	427	427	609	257	9	9	266	9,530	234	9,764																							
Calumet	56	56	22	22	3,002	2,822	5,824	5,747	10,919	3,382	22	8	3,412	242,401	102	296	242,799																						
Clark	47	46	23	23	1,297	1,192	2,489	2,319	9,008	1,674	10	13	1,697	119,640	224	916	120,780																						
Columbia	146	145	74	74	4,647	4,285	8,932	8,932	27,041	6,427	7	87	6,718	469,450	97	2,993	472,540																						
Crawford	66	66	47	45	2,601	2,409	5,010	5,010	13,063	4,258	14	33	4,514	233,174	422	1,038	234,634																						
Dane	205	205	130	130	8,743	8,246	16,989	16,912	39,981	10,652	16	92	10,760	713,249	380	2,791	716,420																						
Dodge	136	136	115	112	8,308	7,956	16,264	16,264	34,390	9,524	16	53	9,553	664,002	246	1,757	666,005																						
Door	39	36	3	3	1,476	1,478	2,954	2,954	5,358	1,584	15	12	1,463	113,862	631	386	114,879																						
Douglass	2	2	2	2	163	136	299	299	1,200	212	1	1	212	26,400	26,400																								
Dunn	71	71	20	17	2,414	2,272	4,686	4,630	10,842	3,395	5	58	3,458	224,595	48	3,673	227,316																						
Eau Claire	54	49	10	8	2,389	2,393	4,782	4,739	7,588	3,350	43	3,393	287,446	554	288,000																								
Fond du Lac	176	176	64	64	7,069	6,688	13,757	13,757	24,141	4,941	26	38	9,040	636,651	245	1,587	638,583																						

Ozaukee	59	59	11	11	3,862	3,669	7,531	7,531	9,376	3,743	12	2	3,757	275,050	779	127	275,956
Pepin	30	30	11	11	1,140	1,069	2,209	2,209	5,432	1,460	7	21	1,582	96,669	55	276	97,001
Pierce	77	77	39	38	3,075	2,722	5,797	5,700	14,167	4,156	6	23	4,185	225,861	61	675	226,597
Polk	54	53	7	6	1,234	1,147	2,381	2,218	6,337	1,568	9	23	1,598	78,032	100	772	78,904
Portage	74	74	27	27	2,603	2,575	5,278	5,278	12,884	3,182	2	20	3,204	203,590	12	625	204,227
Racine	56	56	47	47	3,058	2,890	5,948	5,948	15,162	3,485	3	10	3,498	253,158	.....	413	253,571
Richland ...	120	120	46	46	3,648	3,446	7,094	7,094	16,290	5,361	17	51	5,429	350,009	350	1,997	352,356
Rock	114	114	123	123	4,533	4,228	8,761	8,761	35,609	6,697	15	40	6,752	509,151	57	1,579	501,787
St. Croix ...	82	75	17	17	2,509	2,378	4,887	4,732	13,337	3,099	6	11	3,564	187,873	61	431	188,066
Sauk	126	126	78	76	5,296	5,087	10,383	10,383	21,257	7,302	10	29	7,341	522,129	242	1,573	553,944
Shawano ...	34	30	5	5	1,065	963	2,028	1,995	3,919	1,073	6	.....	1,079	49,668	159	.....	49,827
Sheboygan ..	94	94	49	49	5,768	5,505	11,274	11,274	20,769	6,731	7	31	6,769	453,170	61	1,045	454,227
Trempealeau	58	57	29	28	2,930	2,701	5,631	5,475	11,704	3,298	14	29	3,341	149,243	352	553	150,148
Taylor	3	2	.....	.....	68	56	124	.....	46	58	.....	.....	58	2,191	.....	.....	2,191
Vernon	118	118	55	55	4,682	4,217	8,899	8,899	22,533	5,812	22	106	5,940	341,744	73	6,771	348,588
Walworth ...	98	97	71	71	4,738	4,566	9,304	9,304	25,405	6,679	12	20	6,711	577,002	119	696	577,817
Washington ..	82	82	57	56	5,088	4,838	9,926	9,926	17,320	5,007	4	11	5,022	424,852	49	643	425,544
Waukesha ...	119	119	64	64	5,795	5,417	11,212	11,212	18,002	6,752	11	34	6,796	78,054	18	81	78,153
Waupaca ...	85	85	40	40	3,754	3,471	7,225	6,966	16,168	4,921	18	18	4,957	380,315	171	450	380,937
Waushara ..	57	57	72	72	2,526	2,342	4,868	4,868	17,764	3,177	10	13	3,200	309,779	134	443	210,357
Winnebago ...	136	134	71	70	3,800	3,598	7,398	7,398	19,448	5,031	9	41	5,037	396,235	45	1,399	398,021
Wood	29	26	3	2	692	720	1,412	1,412	3,680	998	...	1	999	73,240	.....	33	73,273
Total s. . .	4468	4424	2148	2118	185,834	186,474	372,308	369,971	811,012	238,187	474	1,473	245,621	16,687,239	6,831	57,567	16,901,673

TABLE No. III.—Schools, teachers, wages, libraries, &c.

COUNTIES.	SCHOOLS, TEACHERS, WAGES, ETC.										LIBRARIES.			
	Number of schools with two departments.	Number of schools with three or more departments.	Number of teachers required to teach the school.	Number of different persons employed as teachers during the year.	Average wages of male teachers per month.	Average wages of female teachers per month.	Highest wages paid.	Number of schools visited by county sup't. during the year.	Number of different visits made.	Number of addresses or lectures delivered by him.	Number of volumes added during the year.	Amount expended for books during the year.	Whole number of volumes in district library.	Cash value of the library.
Adams.....	2	.....	64	105	\$26 60	\$21 50	\$45 00	60	125	.....	7	.....	54	\$48 00
Ashland.....	4	.....	4	3	80 55	32 50	.....	.....	.....	.....	.....	.....	28	48 00
Barron.....	.....	.....	7	65	27 02	28 77	37 50	37	54	40	.....	.....	.....	.....
Bayfield.....	1	.....	2	2	95 00	40 00	95 00	1	.....	.....	.....	.....	.....	.....
Brown.....	1	.....	89	119	37 62	28 71	76 00	84	193	193	.....	\$10 00	52	45 00
Buffalo.....	1	2	80	112	44 25	30 19	90 00	77	102	.....	5	7 00	411	371 60
Burnett.....	.....	.....	6	10	43 75	34 80	55 00	3	3	.....	12	18 50	26	42 80
Calumet.....	3	1	71	98	43 87	24 79	100 00	55	100	3	22	38 73	355	423 46
Clark.....	.....	1	60	95	36 18	30 22	75 00	46	90	.....	12	12 00	72	87 00
Columbia.....	6	2	155	272	40 17	23 42	78 40	137	273	.....	.....	.....	615	430 00
Crawford.....	.....	.....	91	213	35 07	22 82	60 00	21	21	15	71	84 01	164	165 25
Dane.....	2	5	259	425	40 09	25 68	113 63	232	265	7	.....	39 73	594	698 00
Dodge.....	8	6	219	345	43 84	25 69	120 00	185	247	172	23	8 00	1,176	1,070 00
Door.....	.....	1	43	64	41 40	28 49	65 00	44	83	68	.....	.....	16	60 00
Douglas.....	3	.....	6	6	100 00	36 25	100 00	6	12	5	.....	.....	.....	200 00
Dunn.....	1	1	91	150	39 47	29 46	180 00	83	148	109	.....	.....	56	98 00
Eau Claire.....	1	4	75	113	55 40	31 92	175 00	39	116	14	.....	.....	23	203 00
Fond du Lac.....	5	24	190	329	40 26	24 58	111 11	184	398	.....	.....	.....	267	279 00
Grant.....	6	8	247	357	45 75	28 00	127 00	150	198	10	66	120 00	230	296 00

Green	6	2	152	258	37 35	21 25	144 00	116	152	.....	75	.....	498	750 00
Green Lake	6	.....	77	125	37 51	23 82	54 00	74	148	.....	.....	.....	.....	.....
Iowa	3	1	144	190	35 80	23 64	55 00	88	95	.....	.....	.....	.....	.....
Jackson	2	1	76	124	43 18	29 26	111 00	72	74	74	.....	.....	.....	.....
Jefferson	10	5	151	235	40 25	23 80	88 88	85	85	85	2	8 25	370	490 75
Juneau	2	3	104	161	45 92	23 80	111 11	83	145	.....	6	178 80	264	293 80
Kenosha	1	.....	61	95	38 08	29 86	60 00	60	.....	.....	.....	.....	483	455 00
Kewaunee	.....	2	55	.....	36 50	26 37	72 00	30	39	.....	.....	.....	.....	.....
Lincoln	1	.....	8	10	51 50	37 50	85 00	6	12	.....	.....	.....	.....	.....
La Crosse	3	1	71	109	39 43	29 68	62 50	64	121	42	.....	.....	42	109 75
La Fayette	2	2	135	211	40 00	23 61	100 00	73	73	73	.....	48 38	108	105 00
Manitowoc	3	4	130	157	48 50	33 68	150 00	93	.....	.....	13	43 55	152	407 00
Marathon	.....	.....	60	72	40 37	33 38	50 00	38	9	38	55	36 49	264	262 00
Marquette	.....	.....	64	104	31 85	21 88	47 00	64	116	.....	4	11 00	124	87 00
Milwaukee	4	2	83	107	48 45	31 52	108 00	66	136	28	73	134 16	1173	1,023 00
Monroe	2	2	137	236	38 56	25 09	200 00	110	237	8	.....	.....	.....	.....
Oconto	4	1	42	63	60 50	35 37	90 00	36	123	.....	.....	.....	.....	.....
Outagamie	3	.....	89	158	41 56	27 86	60 00	93	165	163	.....	.....	93	342 00
Ozaukee	6	1	67	79	45 75	23 50	120 00	53	56	43	.....	.....	853	1,021 50
Pepin	1	1	42	71	37 31	25 54	75 00	31	37	.....	.....	.....	.....	.....
Pierce	1	2	101	171	42 88	31 17	100 00	91	150	6	7	.....	9	20 00
Polk	.....	.....	52	75	38 56	32 02	50 00	96	96	31	8	12 00	135	149 50
Portage	2	1	90	130	45 32	25 80	155 00	86	179	77	.....	.....	196	150 00
Racine	2	1	83	128	39 50	27 00	90 00	77	160	.....	.....	.....	573	389 00
Richland	1	2	127	216	32 85	20 96	66 00	101	133	.....	.....	.....	.....	.....
Rock	8	4	189	350	38 08	24 89	133 33	167	341	.....	26	25 00	1659	1,043 50
St. Croix	3	1	87	146	46 02	31 31	75 00	76	118	15	8	15 80	8	63 00
Sauk	5	4	185	279	42 35	26 75	144 44	147	197	25	73	60 00	1256	1,343 50
Shawano	.....	.....	29	44	33 41	22 59	50 00	8	5	.....	3	9 15	5	11 00
Sheboygan	6	3	129	201	45 00	24 17	100 00	71	87	11	20	23 40	616	529 78
Trempealeau	2	2	83	127	37 25	29 61	90 31	63	119	119	.....	.....	113	127 00
Taylor	.....	.....	3	3	40 00	.....	40 00	2	4	2	.....	.....	.....	.....
Vernon	3	1	147	244	32 90	21 96	75 00	140	194	140	7	10 40	7	10 40
Walworth	2	7	162	246	50 06	27 50	135 00	133	258	.....	75	281 50	434	772 75
Washington	2	3	112	140	43 49	21 90	111 11	90	90	7	45	60 00	482	324 00
Waukesha	6	3	137	230	52 32	28 68	126 00	77	113	14	5	.....	218	125 00
Waupaca	5	4	120	193	41 85	26 75	125 00	80	145	.....	.....	.....	22	292 00

TABLE No III.—Schools, teachers, wages, libraries, &c.—Continued.

COUNTIES.	SCHOOLS, TEACHERS, WAGES, ETC.							LIBRARIES.						
	Number of schools with two departments.	Number of schools with three or more departments.	Number of teachers required to teach the schools.	Number of different persons employed as teachers during the year.	Average wages of male teachers per month.	Average wages of female teachers per month.	Highest wages paid.	Number of schools visited by county superintendent during year.	Number of different visits made.	Number of addresses or lectures delivered by him.	Number of volumes added during the year.	Amount expended for books during the year.	Whole number of volumes in district library.	Cash value of the library.
Waushara	2	.....	91	161	36 65	21 61	55 00	90	204	.....	.....	.....	.....	.....
Winnebago	2	4	113	194	42 49	27 55	100 00	91	139	.....	12	60 00	24	100 00
Wood	1	.....	28	48	37 33	30 15	65 00	28	53	.....	.....	.....	40	40 00
Totals	156	125	5,572	8,774	43 50	27 13	200 00	4,493	7,036	1,637	735	1,355 85	14,356	15,402 34

TABLE No. IV.—School-houses, sites, apparatus, &c.

COUNTIES.	No. of school-houses in the county.	No. of pupils school-houses will accommodate.	No. of sites containing less than one acre.	No. of sites well enclosed.	No. school-houses built of stone or brick.	No. of school-houses in good condition.	No. with out-houses in good condition.	No. of school-houses properly ventilated.	No. of districts which have adopted text-books.	No. furnished with outline maps.	No. of joint districts with school-house in the county.	No. of parts in those joint districts.
Adams.....	60	2,645	42	10	.....	45	40	43	8	13	20	41
Ashland.....	3	160	2	3	.....	1	2	1	.....	1	.....	.....
Barron.....	27	863	10	1	9	13	11	6	20	6	2	11
Bayfield.....	1	90	1	1	.....	1	1	.....	1	1	.....	.....
Brown.....	86	5,885	72	74	20	86	86	86	86	86	.....	.....
Buffalo.....	72	3,712	50	15	3	60	51	44	11	42	12	14
Burnett.....	6	230	2	3	.....	4	4	4	.....	2	.....	.....
Calumet.....	66	3,796	53	29	5	51	53	50	21	28	10	23
Clark.....	55	2,890	21	18	4	50	38	48	20	30	15	30
Columbia.....	146	8,408	110	42	12	112	99	104	61	56	40	40
Crawford.....	89	4,291	63	12	3	64	33	52	36	23	21	.....
Dane, 1st district.....	104	5,252	77	47	27	81	79	69	20	39	40	.....
Dane, 2d district.....	138	7,984	95	44	37	103	74	64	29	70	40	.....
Dodge, 1st district.....	100	8,139	84	30	14	79	76	65	29	22	37	.....
Dodge, 2d district.....	91	5,856	78	29	18	77	65	58	11	17	33	64
Door.....	42	1,889	20	8	.....	31	25	33	14	12	2	2
Douglas.....	3	340	2	2	.....	3	3	3	2	2	.....	.....
Dunn.....	84	3,762	48	12	.....	56	41	46	13	46	12	19
Eau Claire.....	54	3,018	31	11	1	31	28	30	12	25	4	7
Fond du Lac, 1st district.....	87	5,575	76	48	10	57	57	.....	23	34	33	50
Fond du Lac, 2d district.....	80	5,387	68	28	11	66	61	69	18	50	19	37
Grant.....	215	13,611	134	63	40	169	118	173	52	69	46	.....

TABLE No. IV.—School-houses, sites, apparatus, &c.—Continued.

COUNTIES.	No. of school-houses in the county.	No. of pupils school-houses will accommodate.	No. of sites containing less than one acre.	No of sites well enclosed.	No. school-houses built of stone or brick.	No. of school-houses in good condition.	No. with out-houses in good condition.	No. of school-houses properly ventilated.	No. of districts which have adopted text-books.	No. furnished with outline maps.	No. of joint districts with school-houses in the county.	No. of parts in those joint districts.
Green.....	133	6,976	85	40	32	95	72	83	36	50	27	.....
Green Lake.....	72	3,799	56	17	7	62	43	55	9	10	30	79
Iowa.....	123	6,234	80	24	15	92	51	77	23	9	17	4
Jackson.....	67	3,490	47	15	1	50	37	54	27	18	12	26
Jefferson.....	130	8,637	105	47	60	101	94	76	31	46	40	.....
Juneau.....	86	4,887	71	16	.....	69	55	77	30	32	19	38
Kenosha.....	60	2,784	57	27	3	44	45	39	8	23	19	.....
Kewaunee.....	50	3,976	41	24	1	42	29	36	10	12	5	12
La Crosse.....	66	3,433	39	23	8	51	45	41	16	29	13	30
La Fayette.....	119	7,453	73	47	23	96	58	99	32	52	27	.....
Lincoln.....	7	497	4	2	.....	6	5	6	2	5	1	2
Manitowoc.....	111	10,360	83	31	7	88	70	68	19	61	23	46
Marathon.....	62	2,769	37	13	.....	52	24	43	28	44	4	.....
Marquette.....	57	2,934	49	7	.....	47	29	36	21	10	15	33
Milwaukee, 1st district...	35	2,639	31	15	10	28	24	32	21	12	8	7
Milwaukee, 2d district...	33	2,219	29	19	8	28	25	28	10	29	2	4
Monroe.....	122	6,201	96	37	2	88	81	68	26	17	31	64
Oconto.....	38	2,013	27	13	.....	29	25	10	4	23	.....	.....
Outagamie.....	95	5,446	83	39	4	70	59	67	20	45	15	23
Ozaukee.....	59	4,783	54	26	32	52	49	36	12	29	8	5
Pepin.....	36	1,965	16	3	4	29	22	21	12	13	5	.....
Pierce.....	94	5,087	68	22	.....	56	57	4	13	39	18	39

Polk	50	1,980	27	11	.....	37	28	29	5	30	3	.....
Portage	80	4,205	56	15	.....	52	50	52	15	22	17	2
Racine	77	4,235	67	32	22	56	57	44	19	35	20	43
Richland	122	5,711	104	28	2	88	71	79	36	37	24	53
Rock, 1st district.....	81	4,461	61	34	36	64	61	64	30	31	24	.....
Rock, 2d district.....	86	4,398	63	46	14	65	56	67	26	37	32	70
St. Croix.....	83	3,857	40	30	2	58	48	55	16	44	12	.....
Sauk	162	8,563	132	37	14	110	105	121	58	83	40	85
Shawano.....	32	1,554	9	3	.....	20	20	17	17	7	3	.....
Sheboygan	113	7,939	104	37	6	97	89	81	27	51	20	47
Taylor	2	80	2	.....	.....	1	1	1	.....	.....	.....	.....
Trempealeau	77	4,154	37	20	3	59	42	61	17	25	16	30
Vernon.....	144	7,003	108	20	2	102	60	94	55	49	30	.....
Walworth	129	8,848	105	31	27	98	95	83	49	48	38	.....
Washington	103	8,423	90	16	44	85	76	75	12	21	32	.....
Waukesha.....	120	7,997	97	44	40	91	82	85	33	59	47	112
Waupaca.....	104	6,169	79	34	3	77	64	69	25	54	20	44
Waushara.....	89	4,315	14	14	3	67	48	58	43	48	29	.....
Winnebago	99	5,785	83	52	14	77	78	67	35	50	29	.....
Wood	29	1,152	24	9	.....	23	16	17	3	11	1	3
Totals.....	5,049	292,814	3,672	1,550	663	3,842	3,180	3,223	1,402	2,024	1,163	1,239

TABLE No. V.—School-house property—By counties.

COUNTIES.	Highest valuation of school-house and site.	Cash value of school-houses in the county.	Cash value of sites.	Cash value of apparatus.
Adams	\$2,000	\$14,850	\$1,106	\$457 50
Ashland	4,000	5,000	1,000	75 00
Barron	1,100	6,050	185	217 50
Bayfield	3,000	2,500	500	.....
Brown	19,750	38,440	7,840	4,975 00
Buffalo	7,000	41,495	3,210	2,895 00
Burnett	350	1,510	150	155 17
Calumet	6,500	34,420	3,723	1,852 00
Chippewa .....	.....	.....	.....	.....
Clark	17,000	33,585	4,246	2,248 00
Columbia	16,500	86,450	7,440	2,632 00
Crawford	3,400	22,342	2,259	1,539 00
Dane, 1st dist.	5,000	58,440	5,152	1,890 00
Dane, 2d dist.	12,500	77,141	5,476	3,684 00
Dodge, 1st dist.	4,000	49,990	4,692	1,791 00
Dodge, 2d dist.	13,000	62,260	5,955	1,372 00
Door	3,600	12,035	1,795	763 00
Douglas	5,000	9,000	2,200	75 00
Dunn	20,000	34,990	6,781	1,326 40
Eau Claire	19,500	57,700	9,702	1,505 50
Fond du Lac, 1st dist.	13,000	74,680	7,653	1,592 00
Fond du Lac, 2d dist.	1,575	26,198	3,622	1,819 00
Grant	20,400	178,065	12,405	4,816 00
Green	25,000	104,050	9,667	1,938 00
Green Lake	3,600	32,560	2,825	360 00
Iowa	3,000	42,762	3,652	2,468 00
Jackson	35,000	49,675	6,112	510 00
Jefferson	15,000	129,137	11,141	4,002 00
Juneau	8,500	36,001	3,347	1,586 05
Kenosha	2,050	29,010	2,697	1,480 00
Kewaunee	7,105	26,500	2,319	2,298 00
La Crosse	4,800	30,935	2,904	2,063 00
La Fayette	32,100	110,618	7,232	2,450 00
Lincoln	6,000	6,500	1,140	600 00
Manitowoc	45,000	107,676	15,400	3,598 00
Marathon	3,500	27,251	2,167	1,882 00
Marquette	2,300	18,894	1,036	545 00
Milwaukee, 1st dist.	16,500	36,200	4,744	1,473 00
Milwaukee, 2d dist.	7,450	22,785	3,595	1,443 00
Monroe	25,500	62,126	4,761	1,996 00
Oconto	4,200	25,033	3,592	1,314 00
Outagamie	2,500	40,110	5,758	1,838 00
Ozaukee	6,000	40,510	7,275	2,900 00
Pepin	4,500	18,910	1,314	396 00
Pierce	4,650	31,875	4,177	2,299 00
Polk	1,500	16,945	1,589	1,850 00
Portage	3,300	32,773	4,505	835 00
Racine	2,700	47,090	4,925	1,273 00
Richland	4,000	38,290	3,198	2,030 00
Rock, 1st dist.	16,500	68,250	4,477	1,911 00
Rock, 2d dist.	10,000	57,640	6,002	2,255 50
St. Croix	1,750	34,550	3,720	1,933 50

TABLE No. V—School-house property—Continued.

COUNTIES.	Highest valuation of the school- house and site.	Cash value of school-houses in the county.	Cash value of sites.	Cash value of ap- paratus.
Sauk	34,000	90,875	10,541	4,027 00
Shawano	2,000	8,964	972	433 00
Sheboygan	12,000	66,732	5,654	3,643 00
Taylor	475	400	75	.....
Trempealeau	4,500	34,023	2,409	1,460 50
Vernon	8,500	43,965	2,462	2,148 40
Walworth	20,000	127,310	10,595	2,747 00
Washington	8,000	78,549	6,115	4,164 00
Waukesha	16,000	96,475	14,086	3,482 00
Waupaca	10,500	181,018	4,493	2,198 00
Waushara	2,200	31,045	2,698	1,609 00
Winnebago	6,250	62,711	7,480	3,252 00
Wood	850	7,655	1,070	574 00
Totals	45,000	3,081,519	315,099	119,435 02

TABLE No. VI.—Private schools, not incorporated.

COUNTIES.	No. of such schools in the county.	No. which are denominational or parochial.	No. of teachers engaged in such schools.	Av. No. of days such schools have been taught.	No. of pupils registered who have not attended district school during year.	Average number in daily attendance.
Adams.....	1	1	1	15	.....	10
Ashland.....	.....	.....	.....	.....	.....	.....
Barron.....	1	.....	.....	.....	.....	.....
Bayfield.....	.....	.....	.....	.....	.....	.....
Brown.....	.....	.....	.....	.....	.....	.....
Buffalo.....	3	3	5	434	195	125
Burnett.....	.....	.....	.....	.....	.....	.....
Calumet.....	6	5	8	850	136	94
Chippewa.....	.....	.....	.....	.....	.....	.....
Clark.....	.....	.....	.....	.....	.....	.....
Columbia.....	4	2	4	176	37	18
Crawford.....	.....	.....	.....	.....	.....	.....
Dane, 1st district.....	9	8	10	499	74	159
Dane, 2d district.....	9	8	11	589	107	142
Dodge, 1st district.....	3	2	3	486	51	40
Dodge, 2d district.....	30	29	32	3,009	889	576
Door.....	.....	.....	.....	.....	.....	.....
Douglas.....	.....	.....	.....	.....	.....	.....
Dunn.....	.....	.....	.....	.....	.....	.....
Eau Claire.....	3	2	3	53	6	27
Fond du Lac, 1st district.....	7	5	7	160	12	14
Fond du Lac, 2d district.....	17	17	29	1,916	922	534
Grant.....	11	9	24	690	236	75
Green.....	7	3	8	220	89	75
Green Lake.....	3	3	3	396	91	95
Iowa.....	2	2	3	.....	.....	.....
Jackson.....	6	3	5	204	20	40
Jefferson.....	9	9	9	99	502	460
Juneau.....	1	1	1	40	22	11
Kenosha.....	3	3	5	120	62	45
Kewaunee.....	6	6	8	350	311	211
La Crosse.....	5	5	7	267	79	24
La Fayette.....	3	.....	3	40	.....	.....
Lincoln.....	.....	.....	.....	.....	.....	.....
Manitowoc.....	21	17	24	1,352	602	306
Marathon.....	.....	.....	.....	.....	.....	.....
Marquette.....	1	1	1	96	58	29
Milwaukee, 1st district.....	9	7	10	490	127	101
Milwaukee, 2d district.....	8	8	9	.....	328	247
Monroe.....	5	2	7	342	27	75
Oconto.....	1	1	1	200	16	12
Outagamie.....	4	2	5	192	60	60
Ozaukee.....	13	12	16	664	322	240
Pepin.....	.....	.....	.....	.....	.....	.....
Pierce.....	.....	.....	.....	.....	.....	.....
Polk.....	.....	.....	.....	.....	.....	.....
Portage.....	3	3	5	.....	.....	.....
Racine.....	10	7	11	260	452	.....

Private schools, not incorporated—Continued.

COUNTIES.	No. of such schools in the county.	No. which are denominational or parochial.	No. of teachers engaged in such schools.	No. of days such schools have been taught.	No. of pupils received who have not attended district schools during year.	Average number in daily attendance.
Richland.....	3	.....	3	90	.....	50
Rock, 1st district.....	1	1	1	15	.....	16
Rock, 2d district.....	5	2	3	190	29	62
St. Croix.....	1	1	2	40	.....	12
Sauk.....	7	5	9	200	75	12
Shawano.....	1	.....	1	.....	71	71
Sheboygan.....	15	13	16	170	.....	293
Taylor.....	1	.....	1	.....	.....	.....
Trempealeau.....	2	2	2	60	13	13
Vernon.....	14	14	12	643	50	110
Walworth.....	8	5	16	750	177	181
Washington.....	17	17	17	1,996	604	422
Waukesha.....	11	9	18	480	290	245
Waupaca.....	.....	.....	.....	.....	.....	.....
Waushara.....	4	1	3	177	41	78
Winnebago.....	3	3	3	.....	.....	.....
Wood.....	2	1	2	140	16	21
Totals.....	319	260	389	20,060	7,213	5,431

TABLE No. VII.—Financial statistics—receipts.

COUNTIES.	Money on hand August 31, 1874.	From taxes levied for building and repairing.	From taxes levied for teachers' wages	From taxes levied for apparatus and library.	From taxes levied at annual town-meeting.	From taxes levied by county supervisors.	From income of State school-fund.	From all other sources.	Total amount received during the year.
Adams.....	\$1,618 29	\$1,071 65	\$6,141 78	\$214 50	.....	\$1,050 75	\$1,031 98	\$1,099 74	\$12,010 47
Asbland.....	391 16	300 00	2,000 00	.....	500 00	316,11	83 50	306 00	3,896 77
Barron.....	935 00	169 13	584 53	.....	1,607 86	.....	319 80	3,140 21	6,286 03
Bayfield.....	144 57	.....	.....	.....	.....	.....	77 90	1,777 93	2,000 40
Brown.....	8,216 99	9,008 35	14,393 36	178 30	6,794 4 ¹	3,397 79	3,683 74	356 65	46,113 00
Buffalo ...	9,248 12	3,081 51	10,672 73	330 64	815 40	1,873 40	1,709 66	6,113 35	31,459 36
Burnett.....	1,028 80	912 29	646 16	65 00	.....	.....	38 64	.....	2,240 89
Calumet.....	4,225 59	2,308 18	13,400 34	153 63	.....	2,247 20	2,387 75	1,957 23	26,679 92
Chippewa.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Clark.....	9,422 74	5,596 29	12,065 32	1,147 59	751 47	729 27	618 22	3,206 88	33,537 78
Asbland.....	5,631 89	3,251 03	31,500 87	89 38	2,749 43	3,039 42	3,211 20	4,009 60	47,494 52
Crawford.....	6,885 36	1,035 56	11,438 04	338 02	869 44	2,257 73	1,140 19	802 00	31,093 41
Dane, 1st dist..	5,159 32	4,599 57	15,817 96	135 00	498 37	2,683 62	2,559 71	2,428 66	31,462 15
Dane, 2d dist..	7,277 84	4,294 32	22,293 88	286 73	1,056 69	4,552 21	4,065 98	5,025 62	48,853 27
Dodge, 1st dist..	4,372 08	2,138 86	19,179 89	187 52	1,100 25	3,071 62	2,945 87	1,403 64	34,399 73
Dodge, 2d dist..	4,636 93	5,715 04	16,808 87	335 04	1,230 73	3,899 50	3,728 82	3,664 75	38,719 68
Door.....	4,931 49	342 75	6,378 25	.....	996 18	575 40	1,408 00	626 89	15,258 97
Douglas.....	3,399 55	467 46	2,014 44	.....	.....	.....	132 84	741 02	6,755 31
Dunn.....	3,992 35	3,423 64	23,881 11	739 90	1,429 06	1,083 16	1,630 29	939 26	37,401 53
Eau Claire.....	9,467 66	6,801 25	27,192 57	392 10	987 00	1,480 75	1,944 94	5,560 49	53,827 76

Fond du Lac, 1st	4,886 25	2,717 06	21,164 69	78 00	279 77	1,592 22	4,082 33	1,145 88	35,834 76
Fond du Lac, 2d	3,345 47	3,564 42	6,838 51	183 25	1,467 48	2,719 53	2,658 58	921 22	21,698 46
Grant	11,042 74	5,343 03	53,068 47	507 57	248 06	6,299 74	6,009 70	4,576 91	87,096 22
Green	6,676 54	5,117 07	24,817 19	577 64	894 09	3,857 56	3,793 56	4,444 09	50,177 74
Green Lake	3,099 81	1,864 50	9,840 01	77 90	24,027 71	1,486 37	1,691 09	1,279 13	19,338 81
Iowa	5,906 33	3,683 78	21,289 64	99 50	780 26	3,631 50	3,523 86	2,370 41	41,184 75
Jackson	8,101 03	2,301 73	16,154 13	72 15	600 12	1,245 82	1,469 35	3,553 39	33,498 02
Jefferson	5,768 27	3,922 03	25,317 45	273 42	2,637 33	4,702 54	5,012 46	3,295 58	52,564 13
Juneau	5,263 29	3,530 31	18,662 01	314 15	618 22	2,284 31	2,116 34	3,508 69	36,297 32
Kenosha	2,710 22	1,677 06	11,737 80	123 96	72 26	4,284 48	1,330 25	1,504 49	23,159 89
Kewaunee	6,283 76	1,928 82	6,995 19	23 00	1,790 11	1,724 03	2,328 48	3,239 36	23,862 53
La Crosse	5,260 03	1,843 39	14,503 68	279 09	100 00	1,905 20	1,984 35	6,098 93	31,975 97
La Fayette	7,810 55	6,856 78	22,620 56	588,48	4,190 34	3,138 27	3,277 20	3,931 39	49,963 46
Lincoln	2,071 69	183 15	228 96	.....	68 27	596 10	64 85	160 00	2,118 17
Manitowoc	20,717 61	4,244 30	27,422 29	1,325 88	2,247 35	12,606 56	6,632 00	2,468 36	79,936 77
Marathon	14,836 75	4,832 28	6,811 18	119 07	3,469 54	2,804 74	793 85	5,725 71	42,366 73
Marquette	1,841 82	989 05	6,510 60	25 00	15 00	1,407 76	1,430 37	886 15	13,125 75
Milwaukee, 1st..	5,577 31	1,502 40	3,314 55	250 00	2,570 49	2,464 14	1,719 23	2,138 84	23,203 58
Milwaukee, 2d..	3,778 48	1,073 20	7,786 69	12 31	.....	3,015 80	1,503 33	391 75	17,407 34
Monroe	7,622 59	4,521 70	25,686 28	220 29	293 01	2,644 79	2,984 11	5,140 19	49,112 96
Oconto	7,186 38	3,865 72	8,775 96	100 00	1,806 92	463 74	1,164 69	6,363 39	29,723 05
Outagamie	6,055 62	2,880 48	15,089 09	186 01	1,241 12	3,991 63	2,753 66	1,843 22	35,034 88
Ozaukee	3,475 89	2,698 28	10,614 37	28 16	2,246 16	3,150 73	3,025 15	234 22	25,472 96
Pepin	1,815 11	1,654 00	6,251 39	124 00	469 02	472 26	671 54	499 44	12,008 88
Pierce	5,744 43	2,393 90	20,305 87	555 40	1,241 24	1,134 80	2,215 89	4,676 82	38,527 03
Polk	4,069 95	6,975 85	6,974 95	320 77	1,264 48	687 39	667 59	2,015 19	20,018 86
Portage	7,007 60	785 50	15,088 35	17 80	.....	1,534 64	1,687 32	3,893 02	30,799 24
Racine	2,941 50	1,653 28	18,518 45	25 00	.....	2,559 51	2,453 06	658 11	28,808 54
Richland	7,829 69	2,682 41	12,791 71	217 50	887 74	3,325 03	2,812 39	2,402 73	23,603 95
Rock, 1st	4,559 87	4,084 77	15,881 16	295 25	165 60	2,854 82	1,829 29	4,047 54	33,718 30
Rock, 2d	5,015 00	2,618 04	17,245 68	88 00	.....	4,008 59	1,756 85	5,329 80	36,061 96
St. Croix	4,390 23	2,475 66	14,997 48	165 17	3,520 11	789 35	1,593 88	4,205 25	30,551 06
Sauk	7,557 35	5,559 46	32,764 42	854 45	1,322 50	4,378 26	3,785 34	4,065 65	60,287 02
Shawano	2,353 08	1,916 92	3,903 92	188 80	1,107 39	636 09	555 70	1,824 04	11,491 06
Sheboygan	4,175 21	3,948 91	15,236 14	25 00	1,904 88	4,627 84	4,641 95	2,124 04	43,214 60
Trempealeau	7,541 95	6,316 08	14,064 10	31 38	675 50	1,459 57	1,853 26	4,496 94	35,392 78
Taylor	.....	.....	.....	.....	.....	.....	.....	2,400 00	2,400 00

TABLE No. VII.—Financial statistics—receipts.—Continued.

COUNTIES.	Money on hand August 31, 1874.	From taxes levied for building and repairing.	From taxes levied for teachers' wages.	From taxes levied for apparatus and library.	From taxes levied at annual town-meeting.	From taxes levied by county supervisors.	From income of State school-fund.	From all other sources.	Total amount received during the year.
Vernon	6,342 21	3,712 57	16,480 28	845 00	778 00	3,085 79	3,389 11	1,895 59	36,837 64
Walworth.....	9,339 34	7,178 66	41,282 68	67 12	581 25	3,895 53	4,183 90	4,635 27	71,117 34
Washington....	4,475 52	4,117 64	15,786 15	319 80	2,362 61	6,077 34	4,047 88	2,210 51	39,664 72
Waukesha	6,987 62	5,553 51	28,580 03	212 98	299 99	4,047 72	4,142 09	2,525 97	56,516 92
Waupaca	9,234 80	3,013 48	19,277 23	152 80	540 69	2,222 85	2,572 50	2,951 81	38,601 87
Waushara.....	4,685 61	4,489 18	10,673 98	10 93	192 25	3,322 39	1,757 66	1,381 27	24,985 33
Winnebago.....	6,012 00	3,575 45	22,662 84	89 45	1,542 27	4,226 92	3,583 79	1,164 51	44,664 64
Wood	1,619 23	290 10	4,917 61	50 00	184 19	192,87	532 66	3,530 77	11,317 43
Totals	354,003 41	200,552 69	945,343 81	14,723 68	68,108 04	159,719 10	144,800 47	171,355 07	2,072,584 27

TABLE No. VIII.—Financial statistics—Disbursements.

COUNTIES.	For building and re- pairing.	For apparatus and library.	For services of male teachers.	For services of fe- male teachers.	For old indebted- ness.	For furniture, regis- ter, and records.	For all other pur- poses.	Total amount paid out during the year.	Money on hand Au- gust 31, 1875.
Adams	\$10,005 92	\$99 69	\$2,134 00	\$6,101 91	\$386 14	\$88 36	\$644 25	\$10,483 22	\$1,802 96
Ashland	522 51	.....	1,450 00	596 00	60 00	.....	352 68	2,981 19	916 58
Barron	769 38	67 50	1,038 50	3,444 42	.....	47 24	2,173 45	5,021 95	415 42
Bayfield	310 00	.....	960 00	360 00	87 60	91 41	193 39	2,000 40	.....
Brown	9,066 57	2,595 45	8,791 22	9,593 75	966 92	2,220 82	2,624 59	39,228 81	10,210 72
Buffalo	2,114 62	328 33	9,558 96	8,150 88	1,321 70	531 14	3,029 78	24,817 66	8,409 13
Burnett	342 06	114 17	502 00	550 00	15 41	50 00	194 92	1,768 66	472 23
Calumet	2,381 52	593 97	8,532 26	7,753 22	895 61	235 59	1,814 52	22,206 69	4,473 23
Clark	6,118 17	840 49	3,688 00	9,411 23	2,836 43	1,375 95	2,687 37	26,957 64	6,580 14
Columbia	1,817 70	229 24	14,458 81	17,096 27	3,190 87	530 58	4,475 66	42,802 80	4,279 64
Crawford	171 45	.....	630 00	1,297 00	28 00	1 20	540 76	2,668 40	466 69
Dane, 1st district	3,653 21	144 75	8,763 30	12,732 76	628 61	238 13	3,453 69	29,430 56	4,146 42
Dane, 2d district	3,415 76	465 48	14,454 77	15,412 48	2,459 88	1,331 28	4,666 66	41,906 30	7,046 97
Dodge, 1st district	2,577 66	183 82	9,967 05	12,572 17	808 21	221 74	4,222 85	30,503 51	3,896 22
Dodge, 2d district	5,905 19	227 85	9,738 46	12,738 68	1,239 18	505 64	3,594 90	33,945 59	4,774 09
Door	674 50	2 90	4,649 20	3,727 60	264 57	83 45	1,272 11	10,674 38	4,584 59
Douglas	209 85	66 40	2,000 00	1,450 00	.....	29 42	494 25	4,249 92	2,505 39
Dunn	376 28	7,683 10	7,554 50	12,787 95	1,164 69	421 03	4,439 15	29,847 09	7,545 44
Eau Claire	9,992 02	440 58	8,822 50	17,138 25	5,593 19	1,292 54	5,392 39	48,671 37	4,962 44
Fond du Lac, 1st district	1,434 87	27 00	10,480 70	13,808 72	1,190 95	254 84	4,126 01	29,741 63	6,086 90
Fond du Lac, 2d district	1,553 02	63 30	6,281 87	7,997 23	90 87	274 35	1,566 71	17,827 35	3,871 11
Grant	5,720 96	731 57	23,325 60	32,605 90	3,907 12	913 97	7,475 80	74,680 92	12,415 30
Green	3,502 80	502 00	12,977 31	17,619 64	2,499 44	744 14	4,885 01	42,748 34	7,429 40
Green Lake	1,132 56	27 30	4,201 12	8,885 14	1,249 11	71 82	1,903 20	17,470 37	1,868 44

TABLE No. VIII.—Financial statistics--Disbursements—Continued.

COUNTIES.	For building and repairing.	For apparatus and library.	For services of male teachers.	For services of female teachers.	For old indebtedness.	For furniture, register, and records.	For all other purposes.	Total amount paid out during the year.	Money on hand August 31, 1875.
Iowa.....	\$4,736 19	\$131 95	\$10,720 60	\$12,534 62	\$1,521 56	\$430 73	\$3,713 15	\$32,291 15	\$6,909 97
Jackson.....	3,137 41	147 65	6,125 00	11,174 27	302 76	476 12	1,991 06	23,976 97	9,522 55
Jefferson.....	3,317 58	268 85	14,722 25	16,436 59	1,805 02	473 43	7,215 20	46,707 33	6,319 50
Juneau.....	4,825 17	330 00	8,120 77	12,324 18	1,170 77	387 26	2,493 16	29,651 31	6,646 01
Kenosha.....	1,784 34	156 76	7,885 95	7,323 18	1,007 40	200 56	2,123 55	20,526 73	2,811 02
Kewaunee.....	4,665 23	89 75	5,421 77	5,498 49	1,332 11	340 05	1,821 74	18,137 95	5,205 98
La Crosse.....	3,439 34	442 42	10,436 50	6,209 33	1,623 08	531 87	1,809 37	24,491 91	7,483 66
La Fayette.....	8,554 65	533 06	13,781 57	13,911 07	3,461 54	985 94	4,507 28	47,024 17	5,109 26
Lincoln.....	68 46	39 31	845 00	610 00	14 00	13 70	220 40	1,814 87	1,558 77
Manitowoc.....	8,835 64	193 56	25,077 00	17,167 40	1,382 85	1,562 19	6,804 86	60,346 98	20,007 27
Marathon.....	10,663 15	221 55	7,615 34	4,524 40	1,346 48	816 40	2,783 95	28,809 18	16,389 85
Marquette.....	706 03	42 50	2,345 00	1,576 93	194 29	155 98	1,323 22	11,343 95	1,781 80
Milwaukee, 1st district.	898 95	75 66	4,861 00	8,457 00	1,106 94	436 75	2,415 08	18,247 38	4,956 20
Milwaukee, 2d district.	1,141 01	.....	6,512 50	4,349 50	16 75	164 83	2,208 77	14,393 54	3,105 04
Monroe.....	6,137 67	517 82	11,397 88	19,186 01	809 39	618 83	3,916 37	42,583 97	6,528 99
Oconto.....	4,877 86	223 50	4,492 40	8,327 58	1,825 63	837 86	1,582 99	22,648 66	7,074 33
Otagamie.....	2,351 44	85 40	7,586 84	12,119 37	1,177 60	576 52	2,384 26	26,281 43	7,763 45
Ozaukee.....	1,237 13	12 00	13,748 06	4,793 40	197 09	228 39	1,447 95	21,663 93	3,809 03
Pepin.....	826 21	50 50	109 08	2,348 00	86 16	447 46	901 01	9,981 64	2,203 89
Pierce.....	5,853 76	332 10	9,249 90	11,011 54	1,379 90	366 73	3,177 80	33,484 38	5,042 65
Polk.....	148 08	458 60	3,343 10	5,653 25	627 89	481 29	1,334 62	15,445 63	4,981 73
Portage.....	2,537 96	37 20	5,524 70	11,166 53	922 08	668 11	1,471 88	22,637 00	7,559 69
Racine.....	2,374 76	28 76	4,509 25	14,026 40	161 60	533 97	3,455 45	25,020 19	3,800 63
Richland.....	2,730 22	398 72	7,836 50	11,950 94	1,002 05	410 33	2,548 10	27,077 27	6,738 97

Rock, 1st district.....	2,020 37	223 71	7,056 66	12,836 99	503 97	746 80	3,386 26	26,777 76	6,940 54
Rock, 2d district.....	1,904 10	151 75	5,825 50	15,405 08	2,035 07	603 88	4,388 63	30,270 01	5,791 95
St. Croix.....	1,250 28	301 52	7,238 50	6,778 19	888 72	885 10	2,089 14	22,304 97	5,071 98
Sauk.....	4,973 97	824 12	14,255 16	24,338 40	2,046 29	1,090 40	5,608 45	39,181 79	7,883 94
Shawano.....	937 06	87 69	2,287 00	3,528 00	312 23	144 91	1,921 26	8,802 03	3,336 49
Sheboygan.....	3,557 39	279 09	13,647 68	14,942 69	2,837 61	444 33	3,915 57	37,970 63	5,593 74
Taylor.....	450 41								1,949 60
Trempealeau.....	9,017 92	178 80	8,047 50	8,918 37	459 41	1,139 65	2,994 52	29,938 02	7,122 28
Vernon.....	3,358 19	1,304 51	9,376 25	13,001 70	1,108 73	615 89	2,546 25	31,311 52	5,526 12
Walworth.....	7,347 07	340 02	16,558 46	27,585 50	4,556 91	1,008 23	8,307 52	62,909 61	8,991 28
Washington.....	4,427 46	147 02	14,497 19	9,790 50	1,927 23	894 63	2,683 48	34,872 59	5,601 75
Waukesha.....	5,432 07	153 23	15,192 75	20,528 06	546 93	613 82	6,247 86	51,194 83	6,000 29
Waupaca.....	3,082 94	258 34	5,981 32	6,449 63	1,298 06	248 23	3,188 35	29,223 76	7,521 02
Waushara.....	4,929 21	99 73	3,474 80	9,838 87	1,081 62	214 76	1,792 30	21,462 52	3,480 25
Winnebago.....	3,154 68	258 41	9,740 69	16,664 95	1,358 51	403 80	3,581 66	35,069 19	7,930 63
Wood.....	649 81	191 10	1,754 29	4,118 62	843 44	167 53	863 98	8,588 77	2,728 66
Totals.....	207,169 54	25,000 56	498,161 84	646,251 44	76,163 71	32,923 37	183,393 55	1,687,700 27	353,940 25

TABLE No. IX.—Text-books—Number of districts using the different books mentioned.

COUNTIES.	SPELLERS.					READERS.					ARITHMETICS.				GEOGRAPHY.					
	Sander's.	Sander's Union.	McGuffey's.	Sargent's.	National.	Wilson's.	Sander's.	Sander's Union.	McGuffey's.	New American.	National.	Ray's.	Robinson's.	Davies'.	Thompson's.	Monteith & McNally's.	Mitchell's.	Cornell's.	Guyot's.	Warren's.
Adams	21	38	.....	.....	.....	.....	9	47	.....	.....	.....	16	42	.....	.....	18	30	.....	.....	.....
Ashland	1	.....	1	.....	.....	.....	1	.....	1	.....	.....	2	.....	.....	.....	2	.....	.....	.....	.....
Barron .....	.....	31	.....	.....	.....	.....	.....	30	2	.....	.....	21	.....	.....	.....	10	11	.....	.....	.....
Bayfield	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	1	.....
Brown .....	.....	.....	.....	86	.....	.....	.....	.....	.....	86	.....	86	.....	.....	.....	86	.....	.....	.....	.....
Buffalo .....	.....	.....	.....	.....	59	.....	9	.....	.....	60	.....	.....	.....	58	9	64	.....	.....	6	.....
Burnett .....	.....	.....	.....	.....	6	.....	.....	.....	.....	6	.....	.....	.....	4	.....	4	.....	.....	.....	2
Calumet	23	3	2	.....	32	.....	20	.....	4	37	.....	6	7	36	10	40	.....	12	.....	.....
Chippewa .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Clark	23	.....	21	.....	.....	.....	.....	25	.....	19	.....	5	15	25	.....	42	.....	.....	.....	.....
Columbia	82	34	.....	.....	.....	.....	79	19	1	.....	.....	27	66	1	.....	12	65	26	.....	.....
Crawford .....	.....	36	2	.....	17	.....	.....	58	13	.....	.....	58	24	.....	.....	57	.....	.....	.....	54
Dane, 1st dist	89	.....	.....	.....	5	.....	77	.....	4	10	.....	31	25	12	35	10	12	42	.....	.....
Dane, 2d dist	114	.....	16	.....	11	.....	.....	.....	13	15	.....	80	30	18	12	47	59	22	.....	.....
Dodge, 1st dist	78	.....	6	.....	10	.....	72	.....	12	11	.....	49	8	8	33	7	12	28	.....	.....
Dodge, 2d dist	70	.....	3	.....	12	.....	57	.....	8	18	.....	5	21	16	39	38	.....	36	.....	.....
Door .....	.....	13	11	.....	.....	.....	.....	15	15	.....	.....	16	.....	2	.....	19	.....	16	.....	.....
Douglas .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	2	.....	.....	.....
Dunn	57	12	.....	.....	15	.....	56	10	.....	18	.....	47	.....	29	3	32	.....	39	.....	.....
Eau Claire	24	.....	15	.....	.....	.....	16	.....	.....	4	.....	16	9	9	11	3	.....	38	.....	2
Fond du Lac, 1st dist	60	14	.....	.....	21	.....	48	.....	.....	20	.....	.....	34	4	44	2	.....	25	.....	.....
Fond du Lac, 2d dist	67	6	.....	.....	9	.....	70	.....	.....	13	.....	.....	6	22	63	24	.....	58	.....	.....
Grant	11	14	125	.....	.....	.....	8	16	129	.....	.....	150	27	5	.....	47	76	.....	.....	.....

Green	13	57	57				47	65		123	5			33	96		
Green Lake	6	68				2	71			3	48	2	22	42	32		
Iowa		6	71	14		14	10	65	14	89	8	6		43	43		
Jackson	32	2	2	15		6	5	2	37	41	6	5		25	7		4
Jefferson	63			45		42	5		63		23	67	25	73	31		
Juneau	16	45	21			26	44	12		44	40			23	61		
Kenosha	38	11		4		17	11		20		9	30	15	47		3	
Kewaunee	23		24			29		15		36	6		3	7	12	17	
La Crosse			32	31				18	46	41	4	21		12	50		
La Fayette	32	12	30	4	15	21	12	56	4		8	8		73	21	6	
Lincoln	3	1		2		1	1		4		3	4		7			
Manitowoc	80		13	2		77	11		3	70	14	12		45	26	8	
Marathon		15	4	38			12	4	40	8	2	48		37			
Marquette		64					55	1		6	44		3	28		14	
Milwaukee, 1st	11		17	3		9		23	2	22	3	4		19		3	
Milwaukee, 2nd	10		16	3	3	8		21	2	16	5	2	4	3	7	4	
Monroe	78	17	8			70	22	7		77	24	2		52		1	
Oconto			10					10		10	13	8		14		11	
Outagamie	12	8	9	61			8		55	19	52	17		33			
Ozaukee	39		15			41		12		29	9	20		40	14		
Pepin	8			26		6			28	8	10	11	5	23		4	
Pierce	84				59	21					86			66		17	
Polk	2			42						45		36		43		2	
Portage																	
Racine	55	3	5	10		37			29	20		35	12	49	14		3
Richland		112	7				144	5		26	93	1	1	3	111		
Rock, 1st	13		27	2		17	16	15	3	50	28	3	3	8		41	
Rock, 2nd	22	29	31	3		18	28	16	8	39	35	5	10	5	19	41	4
St. Croix	55			13		46			21		20	48		46	10		
Sauk	59	52	3	29		39	75		36	25	51	74		53			
Shawano	13			7		12				13		14			19		
Sheboygan	69	23		10		43	16		11		29	79		24			
Taylor		2					2				2	1			1		1
Trempealeau	14			41					41	1		55	5	18	15		
Vernon	47	17	58	6		30	22	68	9	124	2	3		51	78		
Walworth		87		6			90			98			7	17		5	2
Washington	81	2	15			66	16	12		20	72	7		54	40		

TABLE No. IX.—Text-books—Continued.

COUNTIES.	SPELLERS.						READERS.					ARITHMETICS.				GEOGRAPHY.				
	Sanders.	Sanders' Union	McGuffey's.	Sargent's.	National.	Wilson's.	Sanders'.	Sanders' Union	McGuffey's.	New American.	National.	Ray's.	Robinson's.	Davies'.	Thompson's.	Montieth & Mc-Nally's.	Mitchell's.	Cornell's.	Guyot's.	Warren's.
Waukesha	77	16	.....	.....	7	.....	69	19	.....	.....	.....	39	.....	55	.....	23	44	.....	.....
Waupaca	67	.....	7	.....	7	.....	.....	19	12	.....	23	8	23	16	39	4	3 ²	20	18	.....
Waushara	38	41	.....	.....	.....	.....	40	37	.....	.....	.....	20	51	5	.....	13	56	.....	.....
Winnebago	47	.....	33	.....	.....	.....	.....	66	25	.....	.....	25	51	16	.....	23	18	.....	.....
Wood .....	.....	2	.....	.....	24	.....	.....	.....	.....	.....	22	4	2	21	.....	2 ⁵	.....	.....	.....
Totals.	1,928	893	741	96	642	74	1,329	1,056	666	506	936	1,787	1,196	477	1,220	1,105	949	557	31	74

TABLE No. IX.—Text-books—Continued.

COUNTIES.	HISTORY U. S.				GRAMMAR.						PHYSIOLOGY.		ALGEBRA.		
	Swinton.	Wilson.	Goodrich.	Barnes Brief.	Clark.	Green.	Harvey.	Pinneo.	Kerl.	Brown.	Cutter.	Jarvis.	Davies.	Robinson.	Ray.
Adams			19	7	17		13		13					3	
Ashland		2													1
Barron			6		5				5						
Bayfield		1													
Brown						86								1	
Buffalo					41						1			3	
Burnett			2			6									
Calumet	18		2	1	20		12		3			1	2	1	
Chidpewa															
Clark	24			4	11				22				2		
Columbia		7	79	11	40	5			29	26	1		2	13	3
Crawford			31	12				35	33					7	
Dane, 1st dist	2	9	33	6	20	5			23		3		1	2	3
Dane, 2d dist	21		68	31	38			21	48	5	2		5	8	12
Dodge, 1st dist	5		51	13	50				34		10			7	20
Dodge, 2d dist			15	24	55				11						5
Door		4	18		3				12		1				1
Douglas			2												2
Dunn	19				47				11				7		
Eau Claire	7		8	7	20		9		1					5	
Fond du Lac, 1st dist			45	14			14		38		16		2	20	
Fond du Lac, 2d dist		19	61				23		31				13	12	
Grant	18	6	39			16	20	63	71		2		1	9	8

TABLE No. IX.—Text-books—Continued.

COUNTIES.	HISTORY U. S.				GRAMMAR.						PHYSIOLOGY.		ALGEBRA.		
	Swinton.	Wilson.	Goodrich.	Barnes Brief.	Clark.	Green.	Harvey.	Pinneo.	Kerl.	Brown.	Cutter.	Jarvis.	Davies.	Robinson.	Ray.
Green.....		8	17	.....	8	.....	29	66	.....	11	.....	.....	.....	1	7
Green Lake.....	20	.....	24	.....	39	.....	.....	.....	29	.....	8	.....	.....	22	.....
Iowa.....	.....	32	29	5	19	.....	.....	43	25	5	.....	.....	.....	.....	5
Jackson.....	6	10	7	8	28	.....	.....	.....	2	1	1	.....	2	2	.....
Jefferson.....	12	.....	27	.....	69	.....	.....	.....	9	.....	4	.....	9	.....	.....
Juneau.....	.....	.....	16	30	14	.....	.....	12	37	.....	2	.....	.....	6	2
Kenosha.....	10	.....	30	.....	24	21	.....	.....	1	.....	4	.....	11	3	.....
Kewaunee.....	.....	.....	11	.....	1	.....	.....	24	2	.....	.....	.....	.....	1	.....
La Crosse.....	2	.....	.....	3	26	.....	.....	16	.....	1	.....	.....	4	2	.....
La Fayette.....	.....	.....	29	9	13	.....	4	46	35	.....	.....	.....	1	6	.....
Lincoln.....	.....	.....	.....	.....	.....	1	6	.....	.....	.....	.....	.....	1	.....	.....
Manitowoc.....	10	.....	26	5	.....	1	6	18	32	1	.....	.....	.....	3	1
Marathon.....	9	.....	.....	2	21	.....	20	.....	2	.....	4	1	10	.....	.....
Marquette.....	.....	.....	35	4	24	.....	.....	.....	12	7	.....	.....	.....	.....	.....
Milwaukee, 1st dist.....	2	3	14	.....	5	5	2	11	3	.....	2	1	1	2	.....
Milwaukee, 2d dist.....	2	6	14	9	13	4	4	.....	7	2	6	.....	1	5	1
Monroe.....	2	.....	40	20	11	10	2	21	20	.....	1	.....	.....	6	.....
Oconto.....	.....	4	8	2	16	.....	.....	6	4	.....	.....	.....	.....	3	.....
Outagamie.....	2	16	53	.....	32	16	.....	.....	29	.....	.....	.....	.....	.....	.....
Ozaukee.....	7	8	11	.....	13	.....	.....	20	4	2	.....	.....	1	1	5
Pepin.....	.....	.....	6	.....	18	.....	.....	.....	6	.....	.....	.....	1	4	.....
Pierce.....	.....	.....	12	9	.....	11	.....	.....	38	.....	.....	.....	.....	9	.....
Polk.....	7	6	.....	12	25	1	.....	.....	.....	8	.....	.....	4	.....	.....

Portage.....		12	6	4	18	9	3					3	1	1	
Racine.....			28	2	22	28	12			2		1	3		
Richland.....	5	3	59		8		3	4	85	1			5		
Rock, 1st dist.....	4		16		25		5	20		3	3		2	6	
Rock, 2d dist.....	12		11		16	31	21	6			2		8	4	
St. Croix.....			6	5	3	5			4		6		10	3	
Sauk.....	11	12	33	9	51		23		26		4		6	2	
Shawano.....	4		2		14				3						
Sheboygan.....	4	1	60		17		4		39				2	5	
Taylor.....	1		1		1				1						
Trempealeau.....		7	8	3	42								3	2	
Vernon.....	17		25	5				52	35	1	10		1	1	
Walworth.....	12	2	32	4	22	2	4		55		4		1	14	
Washington.....		3	71		34			7			2			5	
Waukesha.....	16		55		43				33		4		4	6	
Waupaca.....		7	33		30				27		5		3	5	
Waushara.....	2		46		44				26		4			10	
Winnebago.....	4	1	26		20	5	5	1	38					9	
Wood.....			2		15				6						
Totals.....	297	160	1,408	280	141	259	238	492	1,091	74	115	3	125	253	103

TABLE No. X.—Special statistics of school attendance, &c.

COUNTIES.	Number of children between 4 and 7 years of age in the county.	Number of children between 7 and 15 years of age in the county.	Number of persons between 15 and 20 years of age in the county.	Number of children between 4 and 7 years of age who have attended school.	Number of children between 7 and 15 years of age who have attended school.	Number of children between 15 and 20 years of age who have attended school.	Number incapacitated for instruction from defect of vision.	Number incapacitated for instruction from defect of hearing.	Number incapacitated for instruction from defect of intellect.
Adams	614	1,210	627	404	1,121	453	.....	5	8
Ashland	65	94	54	12	62	26	.....	.....	1
Barron	347	527	301	221	435	108	.....	.....	.....
Bayfield	67	122	52	18	50	23	.....	.....	.....
Brown	2,369	4,206	1,906	1,084	2,898	609	.....	.....	7
Buffalo	1,568	2,787	1,228	828	2,231	539	2	5	2
Burnett	108	237	82	29	171	51	.....	.....	1
Calumet	1,608	2,890	1,326	823	2,078	481	1	5	4
Clark	697	1,151	635	420	907	347	.....	3	.....
Columbia	1,810	3,824	2,144	1,115	3,279	1,490	37	20	7
Crawford	1,315	2,490	1,178	623	2,175	803	1	3	1
Dane, 1st district	1,486	3,099	1,767	823	2,625	864	2	6	11
Dane, 2d district	2,225	4,739	2,591	1,184	3,693	1,439	7	9	13
Dodge, 1st district	1,627	3,352	1,961	1,011	2,717	1,053	3	.....	20
Dodge, 2d district	2,135	3,917	2,457	945	2,565	888	.....	5	14
Door	949	1,592	487	415	981	214	.....	4	3
Douglas	66	158	75	40	130	42	1	.....	.....
Dunn	1,243	2,319	1,164	721	2,000	674	2	6	8
Eau Claire	1,224	2,280	1,087	643	2,115	537	1	5	4
Fond du Lac, 1st district	818	3,229	1,849	1,067	2,888	964	1	7	7

Fond du Lac, 2d district	1,541	2,967	1,870	881	2,334	924	1	3	11
Grant	3,926	7,766	4,236	2,338	6,404	2,470	1	19	12
Green	1,794	3,660	3,199	1,261	3,367	1,675	1	4	3
Green Lake	889	2,031	1,038	488	1,542	544	.....	2	2
Iowa	1,965	4,118	2,408	1,215	3,472	1,421	2	3	5
Jackson	891	1,767	896	449	1,531	515	2	2	6
Jefferson	2,534	5,251	2,939	1,412	4,031	1,723	2	11	8
Juneau	1,593	2,786	1,562	939	2,415	949	1	2	5
Kenosha	696	1,584	875	374	1,319	491	.....	2	2
Kewaunee	1,964	2,968	1,306	794	1,757	336	1	7	12
La Crosse	1,078	2,310	1,220	561	1,823	580	1	3	4
Lafayette	1,978	3,927	2,370	1,601	5,657	1,300	6	7	6
Lincoln	61	173	24	34	119	30	.....	2	.....
Manitowoc	4,327	7,660	3,917	1,947	5,382	950	4	15	12
Marathon	711	1,303	560	383	1,027	155	.....	3	14
Marquette	847	1,622	920	378	1,142	393	4	4	2
Milwaukee, 1st district	1,030	2,047	1,013	423	1,383	277	.....	3	2
Milwaukee, 2d district	940	1,899	982	346	1,242	238	1	4	4
Monroe	1,980	3,976	1,892	1,364	3,374	1,120	5	10	16
Oconto	770	1,332	505	386	1,072	161	.....	3	5
Outagamie	2,132	3,629	1,631	1,300	2,597	843	.....	2	4
Ozaukee	1,949	3,455	2,007	972	2,350	421	2	2	8
Pepin	532	966	526	207	676	215	3	5	4
Pierce	1,326	2,612	1,305	698	2,268	562	3	6	4
Polk	607	1,195	458	244	917	217	.....	1	7
Portage	1,230	2,452	1,275	584	1,965	474	.....	7	4
Racine	1,284	2,534	1,369	748	2,051	737	1	4	9
Richland	1,727	3,362	1,891	1,165	3,012	1,180	5	11	11
Rock, 1st district	877	1,932	1,297	591	1,944	874	2	3	2
Rock, 2d district	796	2,001	1,271	589	1,848	769	3	5	5
St. Croix	1,008	1,939	1,006	683	1,714	494	1	1	7
Sauk	2,479	5,027	2,635	1,354	4,443	1,558	4	4	18
Shawano	480	827	378	183	514	79	1	1	1
Sheboygan	2,781	5,287	3,115	1,609	391	1,210	3	9	14
Taylor	.....	.....	.....	34	23	1	.....	.....	.....
Trempealeau	1,431	2,692	1,270	613	1,994	633	.....	6	7
Vernon	2,414	4,266	2,176	1,135	3,354	1,190	3	3	19

TABLE No. X.—*Special statistics of school attendance, &c.*—Continued.

COUNTIES.	Number of children between 4 and 7 years of age in the county.	Number of children between 7 and 15 years of age in the county.	Number of persons between 15 and 20 years of age in the county.	Number of children between 4 and 7 years of age who have attended school.	Number of children between 7 and 15 years of age who have attended school.	Number of children between 15 and 20 years of age who have attended school.	Number incapacitated for instruction from defect of vision.	Number incapacitated for instruction from defect of hearing.	Number incapacitated for instruction from defect of intellect.
Walworth.....	2,108	4,338	2,674	1,259	3,972	1,446	3	7	9
Washington.....	2,490	4,483	2,608	1,095	3,152	721	3	4	6
Waukesha.....	2,427	4,835	2,837	1,374	3,773	1,373	1	3	13
Waupaca.....	1,934	3,449	1,842	1,070	2,834	1,017	.....	9	13
Waushara.....	1,072	2,205	1,158	638	1,867	761	4	5	6
Winnebago.....	1,673	3,559	2,121	809	2,976	1,148	.....	2	3
Wood.....	379	733	300	249	602	147	2	2	2
Totals.....	89,000	172,998	94,043	49,003	135,751	45,933	134	299	418

TABLE NO. XI.—Number of certificates issued.

COUNTIES.	MALE TEACHERS.			FEMALE TEACHERS.			Total.
	1st grade.	2d grade.	3d grade.	1st grade.	2d grade.	3d grade.	
Adams		6	16		1	60	83
Ashland							
Barron			11			36	47
Bayfield						2	2
Brown	1	3	20	1	3	58	86
Buffalo	2	10	33		3	82	130
Burnett	1		2			6	9
Calumet	1	1	28		1	59	90
Chippewa							
Clark	2	1	15		6	90	114
Columbia	4	18	111		7	260	400
Crawford	2	4	18	2	6	63	95
Dane, 1st district	1	12	63		7	134	217
Dane, 2d district		7	71		7	123	208
Dodge, 1st district	5	23	47	2	6	118	201
Dodge, 2d district	1	1	51			114	167
Door	1	1	27		2	33	64
Douglas			1			6	7
Dunn	5	5	22	1	5	87	132
Eau Claire	3	7	17		3	49	79
Fond du Lac, 1st district	3	19	95	1	24	118	260
Fond du Lac, 2d district	1	15	43		12	94	165
Grant	9	10	79	1	22	235	346
Green	2		39		4	132	177
Green Lake	5	4	16	4	6	105	140
Iowa		6	49		6	106	165
Jackson	2	4	24	2	5	113	150
Jefferson	6	6	57		6	135	210
Juneau	2	3	52		1	112	170
Kenosha		9	33		9	52	103
Kewaunee		3	25			34	62
La Crosse	3	3	48		2	59	115
La Fayette		1	12	3	9	105	130
Lincoln		1	4	1	1	4	10
Manitowoc		2	71		3	65	141
Marathon		1	30			31	62
Marquette	3	4	17	1	11	82	118
Milwaukee, 1st district		3	19	1	2	43	68
Milwaukee, 2d district	2		21			28	51
Monroe	3	2	61	1	3	112	182
Oconto	1	4	2		4	52	63
Outagamie	1	2	34			95	132
Ozaukee	1		15		1	16	33
Pepin	3		15	2	2	60	82
Pierce	4	5	46	1	3	57	116
Polk	1	2	22	2	8	39	74
Portage	1	1	27		2	97	128
Racine	2	6	29	1	15	107	160
Richland	3	4	55		5	97	164
Rock, 1st district	3	6	43		8	142	202
Rock, 2d district	2	3	37	2	2	120	166

TABLE No. XI.—Number of certificates issued—Continued.

COUNTIES.	MALE TEACHERS.			FEMALE TEACHERS.			Total.
	1st grade.	2d grade.	3d grade.	1st grade.	2d grade.	3d grade.	
St. Croix.....	2	2	36	1	5	82	128
Sauk.....	2	5	72	.....	2	202	283
Shawano.....	.....	1	8	.....	1	17	27
Sheboygan.....	2	1	52	1	1	100	157
Taylor.....	.....	.....	2	.....	.....	.....	2
Trempealeau.....	.....	9	34	.....	6	96	145
Vernon.....	1	.....	47	.....	.....	141	189
Walworth.....	4	5	58	.....	6	159	232
Washington.....	5	2	44	1	5	79	136
Waukesha.....	1	3	60	1	1	148	214
Waupaca.....	4	2	22	2	4	106	140
Waushara.....	2	12	22	1	12	106	155
Winnebago.....	6	7	51	1	3	160	228
Wood.....	.....	3	10	.....	.....	40	53
Totals.....	121	280	2,186	37	268	4,433	7,365

TABLE No. XII.—Teachers institutes.

COUNTIES.	Where held.	By whom conducted.	Teachers pres-ent.	No. of days in-stitute contin-ued.	When held.
Adams.....	White Creek.....	Alex. F. North...	62	4½	Oct. 18-23
Brown.....	West Depere.....	Robert Graham..	91	5	Oct. 18-23
Buffalo.....	Alma.....	A. Earthman.....	80	.....	Aug. 30.
Calumet.....	Chilton.....	Robert Graham..	69	8	Sept. 20.
Clark.....	Neillsville.....	W. D. Parker....	58	5	April 5-9.
Columbia.....	Lodi.....	A. Salisbury.....	51	5	M. 29-A. 3
Columbia.....	Rio.....	A. Salisbury.....	85	9	Sept. 20.
Dane, 2d dist..	Middleton.....	Profs. Butler and Carpenter.	88	5	M. 29-A. 2
Dane, 2d dist..	Oregon.....	Albert Salisbury..	85	9	Sep. 20-30
Dane, 1st dist..	Marshall.....	W. H. Chandler..	103	5	Apr. 5-10
Dodge, 1st dist.	Fox Lake.....	A. Salisbury.....	80	4	Apr. 12-16
Dunn.....	Menomonie.....	A. Earthman and G. Skewes.	39	15	Aug. 9.
Eau Claire....	Eau Claire.....	A. J. Hutton and H. C. Howland.	52	18	A. 9-S. 2.
Fond du Lac...	Fond du Lac.....	.....	197	6	Mich 20-27
Fond du Lac...	Fond du Lac.....	R. Graham.....	111	4	Sep. 13-17
Grant.....	Boscobel.....	D. McGregor and H. Jane.	58	9	Aug. 9-20
Grant.....	Patch Grove.....	D. McGregor.....	38	4	Oct. 25-29

TABLE No. XII.—Teachers' institutes—Continued.

COUNTIES.	Where held.	By whom conducted.	Teachers present.	No. of days institute continued.	When held.
Green Lake...	Berlin	R. Craham.	63	10	Aug. 9-21
Iowa	Dodgeville	D. McGregor	50	5	Apr. 19-23
Iowa	Mineral Point.....	D. McGregor.....	61	4	Oct. 18-22
Jackson.....	Black River Falls.	Prof. Delamayter and French.	34	10	A. 30-S. 2
Juneau	New Lisbon.....	A. Salisbury.....	44	19	A. 9-S. 10
Jefferson.....	Port Atkinson....	A. Salisbury.....	130	4	Apr. 5-10
Kewaunee	Kewaunee	R. Graham	37	4	Oct. 4-8.
Kenosha	Wilmot.....	R. Graham	64	10	A. 30-S. 11
La Crosse.....	Bangor	W. D. Parker....	60	5	Apr 19-23
Manitowoc	Manitowoc	Messrs. Kiewan, Viebahn, and Barnes.	67	10	Aug 17-30
Marquette	Westfield	W. D. Parker ...	54	4	Apr 12-16
Marquette	Packwaukee	D. McGregor	45	10	S. 20-O. 4
Milwaukee.....	Oak Creek.....	Alex. F. North...	40	4	Oct. 4-8.
Milwaukee.....	Wauwatosa .....	.....	42	5	M. 29-A. 2
Monroe	Glendale.....	D. McGregor.....	38	5	Apr 12-16
Monroe	Sparta.....	O. R. Smith.....	50	10	Aug. 23.
Oconto	Oconto	G. J. Tisdale.....	31	3	Aug 23-26
Pepin	Durand.....	J. B. Thayer	28	5	S. 27-O. 1
Pepin	Arkansaw.....	W. D. Parker ...	32	4	Apr 26-30
Pierce.....	Ellsworth.....	J. B. Thayer and Miss L. G. Lovell	50	9½	Aug 16-28
Polk	Osceola Mills.....	A. O. Wright and C. W. Fenslon.	59	19	A. 9-S. 6.
Portage.....	Stevens Point....	Robert Graham...	128	5	Apr. 5-9.
Racine	Rochester.....	Alex. F. North...	66	8½	Sep. 20-30
Richland	Sextonville.....	Prof. Terry.....	50	4½	Mc. 22-26
Richland	Richland Center..	Chas. H. Nye.....	83	10	Aug 16-28
Rock, 2d dist..	Milton.....	A. Salisbury.....	114	4½	Mc. 22 26
Rock, 1st dist..	Evansville.....	Geo. Beck.....	24	4	A. 30-S. 3
Sauk	Delton.....	A. Salisbury.....	57	9	Apr. 12-23
Sauk	Reedsb'g & Sp'g G.	J. H. Terry and J. T. Lunn.	116	19	Aug. 9.
Shawano.....	Shawano.....	.....	22	4½	Apr-19-24
Sheboygan	Plymouth.....	I. M. Stewart.....	57	5	Aug. 23-28
Trempealeau ..	Whitehall.....	J. B. Thayer.....	45	5	Sept 13-18
Vernon.....	Ontario	D. McGregor.....	33	5	A. 26-M 1
Vernon.....	Viroqua	D. McGregor and A. F. North.	158	20	Aug. 23.
Washington....	Hartford.....	A. Salisbury.....	31	4	Oct. 18-22
Walworth.....	Elkhorn	Geo. Beck and E. H. Sprague.	90	13	Aug. 10.
Waupaca.....	New London	D. McGregor.....	75	5	Oct. 11-16
Waukesha.....	Waukesha	A. Salisbury and I. M. Stewart.	42	9½	Sept. 6-18
Winnebago	Omro.....	R. Graham	64	4	Oct. 11-15
Wood	Grand Rapids....	C. L. Powers	29	10	Aug. 23.
Totals .....	.....	.....	3,760	424½	.....

TABLE No. XIII.—Teachers' institutes—Special reports.

COUNTIES.	NO. ATTENDING THE INSTITUTE.			No. of days institute was in session.	NO. HOLDING CERTIFICATES.			Average age of members.	Average experience in teaching of those having taught.	Not having taught, but intending to teach.	No. having previously attended institutes.	NUMBER HAVING ATTENDED.					No. of schools in county or superintendent district.
	Males.	Females.	Total.		1st grade.	2d grade.	3d grade.					Colleges and Universities.	Academies.	Normal schools.	High schools.	Common schools.	
Adams	15	47	62	4½	1	1	43	20.8	<i>Mths.</i> 19	10	49	2	4	.....	29	27	63
Brown	34	57	91	5	.....	3	60	23	.....	6	55	6	2	4	16	36	.....
Buffalo .....	.....	.....	83	5	.....	1	.....	.....	.....	.....	.....	.....	.....	8	33	25	80
Calumet	19	50	69	8	.....	1	41	20	27.5	28	45	4	.....	.....	.....	.....	66
Clark	12	46	58	5	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	51
Columbia	18	33	51	5	2	1	13	24	.....	.....	.....	4	13	5	51	51	161
Columbia	24	61	85	9	1	7	45	22	24	13	41	7	10	5	26	36	148
Dane, 2d dist.	35	53	88	5	6	15	181	20	.....	.....	.....	.....	.....	.....	.....	.....	150
Dane, 2d dist.	30	60	90	5	6	7	35	21.3	26.5	.....	.....	37	16	3	11	23	150
Dane, 1st dist.	41	62	103	5	.....	.....	.....	21.3	.....	.....	.....	4	10	6	11	6	103
Dodge, 1st dist.	34	46	80	4	6	26	187	24	.....	.....	.....	14	9	11	30	71	102
Dunn	8	31	39	15	2	5	24	20.5	18.5	8	22	1	6	2	22	8	.....
Eau Claire	6	48	52	18	2	5	32	21	27.7	8	40	1	9	6	19	17	84
Fond du Lac .....	.....	.....	197	6	4	43	213	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Fond du Lac	27	84	111	4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	104
Grant	10	48	58	9	5	4	34	20	27	6	33	4	5	11	33	5	280
Grant	9	29	38	4	3	2	23	25	30	9	29	4	22	4	.....	7	280
Green Lake	13	50	63	10	5	8	40	23	36	15	58	3	3	6	20	31	82
Iowa	8	42	50	5	1	10	165	20	.....	.....	.....	3	5	13	15	8	135
Iowa	16	45	61	4	4	9	41	22.7	30	9	42	2	17	15	9	21	140
Jackson	6	28	34	10	3	2	19	21	16	3	20	8	1	3	19	3	67
Jefferson	37	93	130	4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	154
Juneau	4	40	44	19	.....	1	30	20	20	8	31	3	2	1	32	6	112

TABLE No. XIV.—Statistics of cities—Schools, children, and attendance.

CITIES.	No. of male children over 4 and under 20 years of age.	No female children over 4 and under 20 years of age.	Whole No. children over 4 and under 20 years of age in city.	No. under 4 years who have attended school.	No. over 20 years who have attended school.	No. over 4 and under 20 years who have attended school.	Total No. different pupils who have attended school during year.	No. days' attendance of pupils under 4 years.	No. days' attendance of pupils over 20 years.	No. of days of attendance of pupils over 4 and under 20 years.	Whole No. days' attendance of different pupils during year.	No. days school has been taught by qualified teachers.	Per cent. enrollment on No. resident in city.	Per cent. of attendance on No. enrolled.
Appleton	1,162	1,269	2,431	.....	.....	1,216	1,216	.....	.....	130,851	130,851	182	55	60
Beaver Dam	746	779	1,525	.....	.....	780	780	.....	.....	75,305	75,305	200	50.5	89.4
Beloit	799	800	1,599	.....	.....	866	866	.....	.....	115,001	115,001	200	54	49
Berlin	546	578	1,124	.....	.....	675	675	.....	.....	89,035	89,035	200	61	86.4
Columbus	300	308	608	1	1	497	500	63	25	57,154	57,252	180	82	70
Fond du Lac	2,954	3,039	5,993	.....	.....	3,096	3,096	.....	.....	365,542	365,542	200	51.6	.....
Fort Howard	616	630	12,46	.....	.....	815	815	.....	.....	87,224	87,224	200	65	81
Grand Rapids	222	216	438	.....	.....	225	225	.....	.....	.....	.....	234	51.3	.....
Green Bay	1,096	1,108	2,204	.....	.....	1,126	1,126	.....	.....	137,681	137,681	200	51	61
Hudson	319	323	642	.....	1	522	522	.....	35	57,322	57,357	180	81.4	65
Janesville	1,729	1,842	3,571	.....	.....	.....	1,625	.....	.....	43,280	43,280	200	45.5	92.4
Kenosha	948	966	1,914	.....	2	744	746	.....	366	95,296	95,562	188	39	68
La Crosse	1,682	1,850	2,532	.....	6	1,870	1,896	.....	306	233,290	233,596	200	54	95
Madison	1,891	1,875	3,766	.....	1	2,233	2,234	.....	184	371,776	371,960	185	59.5	90
Menasha	538	599	1,137	.....	4	536	510	.....	523	61,890	62,413	200	47	64
Milwaukee	16,637	17,262	33,919	.....	5	12,740	12,745	.....	.....	1,663,118	1,663,118	200	34.6	59
Mineral Point	670	708	1,378	.....	.....	740	740	.....	.....	73,755	73,755	180	.....	79
Neenah	643	636	1,279	.....	.....	660	660	.....	.....	91,468	91,468	200	52	69
Oconto	630	569	1,199	.....	.....	829	829	.....	.....	72,955	72,955	196	69.1	44.4

Oshkosh.....	2,691	2,995	5,686	.....	.....	3,119	3,119	.....	.....	.....	.....	200	.....	.....
Portage	854	902	1,756	.....	.....	967	967	.....	.....	98,235	98,235	188	63	55
Prairie du Chien	499	534	1,033	.....	.....	409	409	.....	.....	47,731	47,731	200	39.5	58.3
Racine	2,088	2,361	4,449	.....	2	2,181	2,183	.....	175	293,692	293,867	199	49	95
Sheboygan.....	1,353	1,339	2,692	.....	.....	1,051	1,051	.....	.....	120,175	120,175	193	39.3	.....
Watertown	1,801	1,866	3,667	.....	.....	1,280	1,280	.....	.....	153,280	153,280	200	35	95
Wausau	379	354	733	.....	.....	500	500	.....	.....	.....	.....	180	.....	.....
Totals.....	43,813	45,708	89,521	1	22	41,322	41,345	63	1,514	4,535,106	4,536,683	5,085	53.4	72.7

Neenah	12	2	10	11	1,300	1,050	500	370	1	1	....	1	....	....	....	....	....	39	....	156
Oconto	12	2	11	13	1,000	850	560	460	3	1	....	....	....	....	....	....	....	....	....	....
Oshkosh	53	2	51	53	2,000	1,100	750	450	6	4	....	1	....	....	....	....	....	100	....	300
Portage	14	2	12	14	1,200	825	450	325	3	2	....	....	....	....	....	....	....	....	....	....
Prairie du Chien.	8	2	6	8	700	700	600	400	1	1	2	....	....	....	....	....	....	....	....	....
Racine	36	6	34	40	2,000	1,360	800	400	6	....	1	1	....	....	1,000	1	1,350	....	....	700
Sheboygan	17	3	14	17	1,400	966	600	310	2	2	....	1	....	....	....	....	....	210	....	78
Watertown	19	4	15	19	1,350	812	500	325	2	1	1	1	56	46	....	....	....	556	....	1,000
Wausau	9	1	11	12	900	900	495	418	1	1	1	1	....	....	....	....	....	....	....	125
Totals	652	105	573	677	35,545	28,435	15,140	10,249	85	28	10	13	121	126	1,000	1	3,365	625	....	3,749

TABLE No. XVI.--Statistics of cities--School-houses and sites.

CITIES.	Number public school-houses in the city.	Number school-houses yet required.	Number now being built.	Whole number school children resident in city.	Whole number school-houses will accommodate	Number of school-house sites owned by city.	Number sites containing only one lot.	Number of sites containing more than one lot.	Number of sites suitably enclosed.	Number of school-houses built of stone or brick.	Highest valuation of school-house and site.	Cash value of all the public school-houses in the city.	Cash value of sites.	Number school-houses properly ventilated.	Number of school-houses with separate out-houses for the sexes.	Number of school-houses with out-houses in good condition.
Appleton.....	6	2	.....	2,431	1,300	5	.....	5	4	3	\$17,500	\$40,000	\$12,000	3	5	5
Beaver Dam.....	4	2	.....	1,525	759	4	.....	4	4	4	15,000	30,000	4,500	4	4	4
Beloit.....	3	1	1	1,599	860	3	.....	3	3	3	35,000	52,000	14,000	2	3	3
Berlin.....	2	.....	.....	1,124	900	2	.....	2	2	.....	35,000	47,000	7,000	2	2	2
Columbus.....	3	1	.....	508	500	2	1	1	1	1	5,000	8,000	2,500	2	2	2
Fond du Lac.....	16	3	.....	5,993	2,800	16	.....	16	16	2	50,000	95,656	21,000	16	16	16
Fort Howard.....	6	.....	.....	1,246	800	4	2	2	2	2	20,000	23,000	6,800	4	6	4
Grand Rapids.....	1	1	1	438	250	2	.....	2	1	.....	30,000	25,000	1,500	.....	1	1
Green Bay.....	4	1	.....	2,204	1,000	4	.....	4	4	3	30,000	55,000	9,000	.....	4	4
Hudson.....	6	.....	.....	642	550	3	.....	3	2	6	12,000	18,000	2,000	1	6	6
Janesville.....	6	.....	.....	3,571	1,682	6	.....	6	6	6	33,000	77,000	16,000	1	6	5
Kenosha.....	3	1	.....	1,914	700	2	.....	2	2	2	10,000	17,000	3,000	3	3	3
La Crosse.....	7	1	1	3,532	1,950	8	4	7	7	3	20,000	52,000	10,000	7	7	7
Madison.....	8	.....	.....	3,766	1,600	2	1	7	7	8	20,000	96,000	10,000	8	8	8
Menasha.....	4	4	9	1,137	536	4	3	1	2	4	6,000	10,500	2,500	4	4	4
Milwaukee.....	20	2	.....	33,919	10,500	20	1	19	18	16	40,000	275,000	90,000	.....	20	20
Mineral Point.....	2	1	.....	1,378	600	2	2	2	2	2	10,000	15,000	1,500	2	2	2
Neenah.....	6	3	.....	1,279	650	5	1	4	4	2	7,000	6,400	6,600	.....	5	6
Oconto.....	5	1	.....	1,199	450	5	.....	5	4	.....	2,000	7,500	.....	.....	5	5

Oshkosh	9	.....	.....	5,686	2,800	9	.....	9	9	4	50,000	85,000	25,000	4	9	9
Portage	4	.....	.....	1,756	980	4	.....	4	3	3	10,000	25,000	6,000	3	4	4
Prairie du Chien....	4	1	1	1,033	468	4	2	2	4	2	4,000	6,200	260	4	4	4
Racine	7	1	.....	4,449	1,850	7	1	6	4	6	1,500	50,000	15,000	.....	7	4
Sheboygan	4	1	.....	2,692	900	4	.....	4	2	2	10,500	13,000	4,000	3	4	4
Watertown	5	.....	.....	3,667	1,200	5	.....	5	4	3	10,000	20,000	9,000	4	5	5
Wausau	3	1	.....	733	750	2	.....	2	1	1	25,000	30,000	4,500	1	3	3
Totals	148	28	14	89,421	37,335	140	18	125	118	87	50,000	1,179,256	233,860	78	145	140

TABLE No. XVII.—Statistics of cities—School-rooms, apparatus—Private schools.

CITIES.	SCHOOL-ROOMS, APPARATUS, ETC.								PRIVATE SCHOOLS.							
	Whole number of school-rooms occupied.	Number sufficiently supplied with black-boards.	Whole number supplied with illustrative charts.	Whole number supplied with outline maps.	Whole number supplied with a globe.	Whole number supplied with other apparatus.	Whole number adequately supplied with apparatus.	Cash value of all apparatus, incl'd'g maps and globes.	Number such schools in the city.	Number which are denom. or parochial.	Number of same which are graded.	Whole number teach'rs employed in private schools.	Number pupils taught in such schools	Number taught who have not attended the public school during the year.	Average number of days such schools have been taught.	Average number pupils in daily attendance.
Appleton.....	21	21	18	10	4	1	1	375	3	1	.....	4	200	125	176	75
Beaver Dam.	11	11	11	11	11	11	.....	140	3	2	.....	5	235	175	200	175
Beloit.....	17	14	6	2	3	1	.....	600	3	1	1	6	350	.....	.....	.....
Berlin.....	14	14	14	14	6	14	14	600	2	1	.....	2	60	60	150	30
Columbus.....	8	8	8	8	.....	.....	8	100	1	1	.....	1	.....	.....	.....	.....
Fond du Lac.....	47	50	15	16	15	3	4	600	.....	.....	.....	.....	.....	.....	.....	.....
Fort Howard.....	10	9	4	2	2	.....	.....	150	.....	.....	.....	.....	.....	.....	.....	.....
Grand Rapids.....	4	4	4	4	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Green Bay.....	14	14	14	14	12	3	.....	100	5	3	.....	11	600	.....	200	.....
Hudson.....	8	3	.....	3	2	.....	.....	50	.....	.....	.....	.....	.....	.....	.....	.....
Janesville.....	24	24	.....	24	24	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Kenosha.....	13	13	4	4	3	.....	.....	150	5	3	3	17	500	500	195	490
La Crosse.....	26	26	7	12	5	7	15	600	4	4	.....	7	500	400	200	375
Madison.....	26	26	26	26	26	26	26	800	4	2	1	9	500	450	200	375
Menasha.....	8	8	8	8	1	4	4	500	2	2	.....	6	327	327	200	196
Milwaukee.....	160	160	160	160	160	14	.....	.....	50	30	50	216	8,531	.....	223	7,493
Mineral Point.....	11	10	10	10	2	1	1	100	3	3	.....	6	.....	.....	.....	.....

Neenah.....	10	10	7	1	1	1	.....	189	2	2	.....	4	130	14	200	120
Oconto.....	8	8	8	8	8	.....	.....	200	1	1	1	200	.....	.....	200	150
Oshkosh.....	57	57	25	30	7	12	55	2,000	.....	.....	.....	.....	.....	.....	.....	.....
Portage.....	14	14	12	12	5	12	.....	300	2	2	.....	3	200	200	150	150
Prairie du Chien.....	8	8	1	6	4	.....	.....	100	5	5	2	28	450	423	180	390
Racine.....	30	30	.....	.....	3	27	.....	500	.....	.....	.....	.....	.....	.....	.....	.....
Sheboygan.....	13	13	.....	7	3	.....	.....	538	3	3	2	7	346	346	207	300
Watertown.....	20	20	20	20	19	20	18	2,200	6	4	3	10	570	500	220	450
Wausau.....	9	9	.....	.....	3	.....	.....	.....	2	.....	.....	2	.....	.....	.....	.....
Totals.....	591	584	382	412	330	160	146	10,892	106	70	63	345	13,749	3,520	2,901	10,769

TABLE No. XVIII.—Statistics of cities—Financial statistics—Received.

CITIES.	Money on hand Aug. 31, 1874.	From taxes levied for building and repairing.	From taxes levied for teachers' wages.	Taxes levied for apparatus and library.	From taxes levied at the annual meeting.	From taxes levied by the county supervisors.	From income of state school fund.	From all other sources.	Total amt received during the year.
Appleton.....	\$3,567 66	\$2,625 82	\$6,835 00	\$677 30	\$3,775 30	\$1,140 58	\$970 63	\$3,249 81	\$22,842 68
Beaver Dam.....	1,304 25	200 00	4,000 00	.....	1,300 00	588 00	588 00	89 20	8,069 45
Beloit.....	1,966 62	.....	.....	.....	14,310 00	1,126 70	6,310 40	3,454 44	21,489 16
Berlin.....	3,153 12	.....	.....	.....	7,000 00	458 22	450 18	454 16	11,515 68
Columbus.....	225 13	.....	.....	.....	3,100 00	249 28	247 38	231 40	3,953 19
Fond du Lac.....	910 51	.....	.....	.....	49,245 28	.....	.....	254 50	50,410 29
Fort Howard.....	3,366 11	300 00	4,710 00	.....	1,435 00	406 98	508 81	.....	10,726 90
Green Bay.....	.....	.....	10,000 00	.....	7,000 00	902 00	839 65	11 50	18,803 15
Hudson.....	1,833 38	2,000 00	.....	.....	3,445 42	258 72	264 45	144 13	7,946 10
Janesville.....	10,061 33	10,000 00	.....	.....	.....	2,265 37	1,184 08	497 97	24,008 80
Kenosha.....	1,841 93	.....	.....	.....	5,450 00	1,600 00	773 26	401 11	10,066 30
La Crosse.....	6,853 27	2,834 79	17,600 00	.....	25,071 40	1,413.30	1,432 10	69 00	34,846 07
Madison.....	3,150 43	.....	.....	.....	22,400 00	.....	1,526 88	1,767 79	29,845 10
Menasha.....	715 95	.....	.....	.....	5,000 00	500 00	494 05	67 11	6,776 11
Milwaukee.....	57,695 20	.....	.....	.....	92,379 75	53,775 15	13,807 57	.....	217,637 67
Mineral Point.....	.....	950 00	.....	.....	5,000 00	.....	620 78	72 70	6,642 44
Neenah.....	923 66	.....	.....	.....	10,250 00	600 00	563 34	91 00	12,428 00
Oconto.....	.....	.....	.....	193 00	4,042 00	276 00	448 13	2,047 87	7,007 00
Oshkosh.....	3,632 14	.....	.....	.....	24,000 00	15,000 00	2,147 17	11,643 75	56,423 06
Portage.....	.....	5,500 00	.....	.....	7,598 33	603 96	642 47	655 02	14,999 78
Prairie du Chien..	963 04	.....	.....	.....	3,637 54	500 00	459 20	.....	5,559 73
Racine.....	.....	8,334 15	.....	.....	15,000 00	5,000 00	1,798 26	562 78	30,695 20
Sheboygan.....	756 10	.....	.....	.....	7,068 32	1,008 00	1,008 00	35 00	9,875 42
Watertown.....	2,055 83	.....	.....	.....	8,435 76	1,529 36	1,496 91	646 02	14,163 88
Wausau.....	890 58	1,000 00	4,185 00	.....	.....	.....	322 26	3,114 89	9,512 73
Total.....	105,866 29	33,744 77	47,330 00	870 83	326,944 10	89,201 62	33,271 92	29,261 35	646,264 89

TABLE No. XIX.—Statistics of cities—Financial statistics—Paid.

CITIES.	For building and repairing.	For apparatus and libraries.	For services of male teachers.	For services of female teachers.	For old indebtedness.	For furniture, registers, and records.	For all other purposes.	Total amount paid out during the year.	Money on hand Aug. 31, 1875.
Appleton	\$4,806 12	\$715 92	\$2,960 00	\$5,230 00	\$1,629 42	\$1,611 19	\$2,656 83	\$19,609 50	\$3,233 18
Beaver Dam...	216 04	.....	1,400 00	3,340 00	.....	75 00	1,584 20	6,615 24	1,454 21
Beloit	582 52	.....	1,800 00	6,805 00	7,959 44	926 26	2,198 67	20,271 89	1,217 29
Berlin .....	.....	.....	3,000 00	3,250 00	.....	.....	.....	8,372 32	2,943 36
Columbia .....	.....	.....	900 00	2,070 00	.....	.....	394 71	3,367 71	588 18
Fond du Lac...	16,688 64	300 00	1,780 00	18,229 25	.....	2,162 12	6,840 20	46,000 21	4,410 08
Fort Howard ..	393 38	.....	1,900 00	3,541 36	.....	227 16	1,473 84	7,535 74	3,191 16
Grand Rapids ..	.....	.....	.....	.....	.....	.....	.....	.....	.....
Green Bay	391 98	.....	1,600 00	7,620 00	.....	785 96	1,000 00	11,397 94	7,405 21
Hudson	2,242 96	.....	420 00	2,336 25	.....	385 16	878 94	6,313 31	1,632 79
Janesville	10,000 00	.....	2,125 00	8,441 00	.....	.....	3,442 80	24,008 80	.....
Kenosha	341 87	140 40	1,250 00	4,225 00	.....	148 90	1,524 27	7,630 44	2,435 86
La Crosse	5,913 88	83 23	6,007 50	11,651 52	.....	937 75	47,286 88	28,850 76	5,995 31
Madison	523 48	.....	2,000 00	12,702 76	6,400 00	.....	6,255 92	27,682 52	1,962 58
Menasha	594 99	.....	1,400 00	2,437 75	.....	433 07	700 85	5,566 64	1,210 47
Milwaukee	11,144 98	586 14	.....	.....	.....	.....	.....	157,645 03	60,012 64
Mineral Point ..	337 51	.....	1,500 00	1,935 00	.....	.....	792 85	4,505 36	2,177 08
Neenah	1,345 00	.....	2,100 00	3,701 00	3,000 00	29 50	1,330 56	11,506 06	921 94
Oconto	450 00	50 00	1,300 00	4,417 00	.....	.....	790 00	7,007 00	.....
Oshkosh	15,673 24	.....	2,560 00	21,431 50	.....	1,690 58	13,636 95	54,992 27	1,430 79
Portage	5,819 65	.....	1,650 00	3,820 00	847 42	1,078 46	1,347 47	14,781 39	218 39
Prairie du Chien	.....	.....	1,400 00	2,400 00	.....	.....	635 28	4,435 28	1,124 50
Racine	9,057 72	174 43	6,800 00	11,286 88	5,417 89	1,251 50	2,207 36	37,295 78	.....
Sheboygan	834 76	89 00	2,900 00	4,340 00	.....	256 00	2,041 53	10,441 29	.....
Watertown	207 51	83 06	3,350 00	4,768 81	.....	58 97	1,126 65	9,595 20	4,568 68
Wausau	3,911 07	.....	775 00	3,363 75	.....	535 25	1,256 87	9,841 94	.....
Totals	91,487 31	2,222 18	52,877 50	153,493 83	25,254 17	12,592 83	58,383 83	545,666 62	108,133 78

TABLE No. XX.—Statistics of cities—Text-books.

CITIES.	Spellers.	Readers.	Mental arithmeti c.	Written arithmetic.	Grammar.	Geographies.
Appleton	Watson & Patterson	Independent	Robinson	Robinson	Swinton & Harvey.	Mon'eith.
Beaver Dam	Swinton & Patter'n	Sanders	Robinson	Robinson	Swinton	Mitchell.
Beloit	Swinton	Independent	Robinson	Robinson	Greene	Mitchell.
Berlin	Swinton	Union	Robinson	Robinson	Kerl	Guyot.
Columbus	Sanders	Union	Stoddard & Colburn	Robinson	Kerl	Warren & Mitchell.
Fond du Lac	Parker & Watson.	Independent	Davies	Davies	Harvey	Warren.
Fort Howard	Union	Union	Robinson	Robinson	Kerl	Mitchell.
Grand Rapids	National	National	Stoddard	Ray	Kerl & Clark	Cornell.
Green Bay	American	Union	Robinson	Robinson	Kerl	Colton.
Hudson	Sanders	Monroe	Davies	Davies	Swinton	Monteith.
Janesville	Union	Union	Davies	Robinson	Greene & Swinton.	Warren.
Kenosha	Analytical	Analytical & Nat'l.	Walton	Walton	Swinton & Kerl	Cornell & Mitchell.
La Crosse	National	Independent	Davies	Davies & Stoddard.	Harvey & Swinton	Guyot.
Madison	Independent	Independent	Robinson	Robinson	Greene	Eclectic.
Menasha	Sanders	Sanders	Robinson	Robinson	Kerl	Monteith.
Milwaukee	Swinton	McGuffey		Ray	Greene	Guyot.
Mineral Point	Swinton	Sanders	Robinson	Robinson	Harvey & Pinneo.	Guyot.
Neenah	Swinton	Union	Robinson	Robinson	Harvey & Kerl	Guyot.
Oconto		Watson	Robinson	Robinson	Kerl	Monteith.
Oshkosh	Swinton	Union		Olney	Swinton	Eclectic.
Portage	Worcester	Hillard & Sanders.	Robinson	Robinson	Brown & Swinton.	Mitchell.
Prairie du Chien	National	Union	Robinson	Robinson	Kerl	Mitchell.
Racine	Sanders	Sanders		Stoddard	Greene	Warren.
Sheboygan	Swinton	American	Robinson	Robinson	Harvey	Mitchell.
Watertown	National	National	Robinson	Ray	Swinton	Warren.
Wausau	National	Independent	Davies	Davies	Harvey	Monteith.

TABLE No. XX.—Statistics of cities—Text-books—Continued.

CITIES.	United States histories.	Physiology.	Algebra.	Geometry.	Latin grammars and readers.	Natural Philosophy.
Appleton	Barnes	Cutter	Loomis & Robinson			
Beaver Dam	Barnes	Cutter	Olney	Olney	Allen & Greenough	Quackenbos.
Beloit	Anderson	Hitchcock	Robinson	Robinson	Harkness	Cooley.
Berlin	Goodrich	Hooker	Robinson	Robinson	Allen & Greenough	Wells.
Columbus	Goodrich & Barnes	Hutchinson	Robinson	Robinson	Andrews & Stoddard	Steele.
Fond du Lac	Swinton	Hitchcock	Davies	Davies	Harkness	Peck's Ganot.
Fort Howard	Anderson	Cutter	Robinson	Davies		Peck's Ganot.
Grand Rapids	Swinton	Cutter	Ray	Robinson		Peck.
Green Bay	Barnes	Steele	Robinson	Evans	Allen & Greenough	Wells.
Hudson	Barnes		Davies & Robinson	Robinson	Harkness	Quackenbos.
Janesville	Swinton	Cutter	Robinson	Robinson	Andrews & Stoddard	Steele & Norton.
Kenosha	Barnes	Hooker	Robinson	Davies	Harkness	Rolfe & Gillette.
La Crosse	Barnes	Cutter	Robinson	Davies	Harkness	Steele.
Madison	Barnes	Brown	Robinson	Loomis	Allen	Norton.
Menasha	Barnes	Steele	Olney			Steele.
Milwaukee	Swinton	Cutter	Loomis	Loomis	Allen & Greenough	Balfour & Stewart.
Mineral Point	Swinton		Robinson	Evans	Harkness	Norton.
Neenah	Swinton	Hutchinson	Olney	Robinson		Wells.
Oconto	Swinton	Robinson				
Oshkosh	Lossing	Hitchcock	Robinson	Robinson	Andrews	Norton.
Portage	Goodrich & Barnes	Cutter & Steele	Robinson	Robinson	Harkness	Steele.
Prairie du Chien	Barnes	Brown	Robinson			
Racine	Anderson	Hooker	Olney	Olney	Harkness	Steele.
Sheboygan	Swinton	Cutter	Davies	Davies		Steele.
Watertown	Barnes	Steele	Robinson	Davies	Brooks	Steele.
Wausau	Barnes		Davies	Robinson		Wells.

20—SUPPL.

(Doc. 17)

SUPERINTENDENT OF PUBLIC INSTRUCTION.

TABLE No. XXI.—Statistics of cities—Special statistics.

CITIES.	Number of children between 4 and 7 years of age in the city.	Number of children between 7 and 15 years of age in the city.	Number of persons between 15 and 20 years of age in the city.	Number of children between 4 and 7 years of age who have attended school.	Number of children between 7 and 15 years of age who have attended school.	Number of persons between 15 and 20 years of age who have attended school.	Number incapacitated for instruction from defect of vision.	Number incapacitated for instruction from defect of hearing.	Number incapacitated for instruction from defect of intellect.
Appleton	581	1,127	723	252	850	115	.....	.....	.....
Beaver Dam	348	776	401	168	491	121	.....	.....	.....
Beloit	350	734	512	126	444	86	.....	.....	.....
Berlin	238	632	249	78	534	101	.....	1	3
Columbus	91	450	67	75	380	55	.....	.....	1
Fond du Lac	1,425	2,879	1,689	.....	.....	.....	3	4	.....
Fort Howard	318	611	317	152	612	51	.....	.....	1
Grand Rapids	125	211	102	58	80	87	.....	.....	.....
Green Bay	503	935	766	210	923	67	1	.....	2
Hudson	140	315	187	84	310	128	.....	.....	1
Janesville	839	1,580	1,152	.....	.....	.....	3	1	1
Kenosha	369	1,021	524	131	545	68	1	1	2
La Crosse	923	1,783	826	306	1,379	205	1	1	2
Madison	749	1,937	1,030	288	1,681	264	2	2	3
Menasha	287	560	290	130	351	55	.....	2	.....
Milwaukee	7,517	16,855	9,847	3,482	8,821	437	6	36	16
Mineral Point	347	606	425	160	480	100	1	2	1
Neenah	277	692	310	74	507	79	.....	1	8
Oconto	399	576	224	221	560	47	1	1	1
Oshkosh	1,624	2,722	1,440	540	1,634	249	.....	.....	.....
Portage	387	902	467	187	609	171	1	1	1
Prairie du Chien	256	572	205	79	284	46	.....	1	3

Racine	1,137	2,041	1,271	416	1,572	193	1	3	1
Sheboygan	817	1,277	598	270	722	59	.....	5	10
Watertown	833	1,827	1,007	50	1,200	30	3	4	5
Wausau	228	375	130	147	319	34	.....	.....	.....
Totals	21,108	44,046	24,759	6,684	25,338	2,848	24	70	62

TABLE No. XXII.—Statistics of cities—Certificates.

CITIES.	MALE TEACHERS.			FEMALE TEACHERS.			Total.
	1st grade.	2d grade.	3d grade.	1st grade.	2d grade.	3d grade.	
Appleton.....	1	2	2	.....	.....	18	23
Beaver Dam.....	1	.....	1	1	1	15	19
Beloit.....	.....	.....	1	.....	.....	18	19
Berlin.....	.....	3	.....	.....	9	.....	12
Columbus.....	2	.....	.....	1	.....	7	10
Fond du Lac.....	.....	2	1	.....	8	36	47
Fort Howard.....	1	1	.....	.....	4	6	12
Grand Rapids.....	.....	.....	.....	.....	.....	3	3
Green Bay.....	.....	.....	1	.....	.....	15	16
Hudson.....	1	.....	.....	9	.....	.....	10
Janesville.....	.....	1	.....	.....	2	21	25
Kenosha.....	1	.....	.....	4	5	4	14
La Crosse.....	.....	.....	6	.....	.....	34	40
Madison.....	1	.....	.....	.....	.....	35	36
Menasha.....	1	.....	.....	1	3	3	8
Milwaukee.....	1	1	2	15	11	21	50
Mineral Point.....	1	1	.....	.....	.....	8	10
Neenah.....	2	.....	.....	.....	2	8	12
Oconto.....	2	.....	.....	.....	4	7	13
Oshkosh.....	.....	.....	5	.....	.....	50	55
Portage.....	2	.....	.....	.....	.....	12	14
Prairie du Chien.....	2	.....	.....	.....	8	5	15
Racine.....	1	2	.....	.....	.....	17	20
Sheboygan.....	1	2	.....	.....	.....	14	17
Watertown.....	.....	.....	.....	6	3	11	20
Wausau.....	1	.....	.....	.....	.....	10	11
Totals.....	22	15	19	37	61	378	531

TABLE No. XXIII.—Summaries of statistics.

DESCRIPTION	Counties.	Cities.	Totals.
Number of children over four and under twenty years of age.....	372,308	89,521	461,829
Number of children over four and under twenty years of age in districts maintaining school five or more months. . . .	369,971	89,521	459,492
Number of children over four and under twenty years of age who have attended school.....	238,187	39,697	277,884
Total number of the different pupils who have attended the public schools during the year.....	245,621	41,346	286,967
Number of days attendance of pupils over four and under twenty years of age.....	16,687,239	4,535,106	21,222,345
Total number of days attendance of different pupils during the year.....	16,901,673	4,536,683	21,438,356
Number of days school has been taught by qualified teachers.....	811,012	5,085	816,097
Number of children who have attended private schools.....	7,213	13,749	20,962
Number of schools with two departments.	156	28	184
Number of schools with three or more departments.....	125	85	210
Number of teachers required to teach the schools.....	5,572	652	6,224
Number of different persons employed as teachers during the year.....	8,774	677	9,451
Number of public school-houses.....	5,049	148	5,197
Number of pupils the school-houses will accommodate.....	292,814	37,335	330,149
Number of school-houses built of brick or stone.....	1,663	87	1,750
Number of school-houses with out-houses in good condition.....	3,180	140	3,320

AGGREGATE OF VALUES.

Total valuation of school-houses.....	\$3,081,519	\$1,179,256	\$4,260,775
Total valuation of sites.....	315,099	283,860	598,959
Total valuation of apparatus.....	119,435	10,892	130,327
Totals.....	3,516,053	1,473,908	4,884,169

TABLE No. XXIII.—*Summary of statistics*—Continued.

AGGREGATE OF EXPENDITURES.

DESCRIPTION.	Counties.	Cities.	Totals.
Amount expended for building and repairing	\$207,169	\$91,487	\$298,656
Amount expended for apparatus and libraries	25,000	2,222	27,222
Amount expended for teacher's wages...	1,144,413	206,371	1,350,784
Amount expended for old indebtedness..	76,163	25,254	101,417
Amount expended for furniture, registers and records.....	32,923	12,592	45,515
Amount expended for all other purposes.	183,393	58,383	241,776
Total amount expended.....	1,669,061	396,309	2,065,370

TABLE No. XXIV.—Distribution of dictionaries—Statement showing the counties, towns, and districts which have been supplied with dictionaries during the year ending December 10, 1875.

COUNTIES.	Towns.	Departments.	No. of district.	No. of copies.
Adams.....	Jackson.....		3	1
Ashland.....	La Pointe.....		1	1
Barron.....	Rice Lake.....		2, 3, 4	3
	Sumner.....		2, 3, 4	3
Brown.....	Glenmore.....		4	1
	Green Bay and Humboldt.....		7	1
	Holland.....		5	1
	Suamico.....		4	4
	West Depere, village.....	4	1	4
Buffalo.....	Alma.....		4	1
	Naples.....		7	1
Burnett.....	Grantsburg.....		6	1
	Wood Lake.....		1	1
Calumet.....	Chilton.....	1	1	1
Chippewa.....	Anson.....		11, 12	2
	Auburn.....		9, 10	2
	Bloomer.....		6	1
	Eagle Point.....		5 sub dis.	5
	Edson.....		4, 5	2
	La Fayette.....		11	1
	Sigel.....		2, 4	2
Clark.....	Beaver.....		2	1
	Colby.....		1	1
	Fremont.....		2	1
	Hixon.....		2, 4	2
	Levis and Pine Valley.....		1	1
	Levis and Washburn.....		2	1
	Mayville.....		2	1
	Perkins.....		2	1
	Pine Valley.....	1	4	1
	York.....		1	1
Columbia.....	Columbus.....		5	1
Dane.....	Berry.....		6	1
	Blue Mounds and Berry.....		8	1
	Montrose.....	1	2	1
	Vermont.....		4	1
Dodge.....	Trenton.....		11	1
	Waupun, village.....	1	1	1
Dunn.....	Dunn.....		8	1
	Sherman.....		7	1
	Stanton.....		5	1
Eau Claire.....	Bridge Creek.....		4	1
	Eau Claire, city.....	5		5
	Lant.....		3	1
	Lincoln.....		6	1
Fond du Lac.....	Calumet.....	1	4	1
	Metomen.....	1	12	1
Grant.....	Beetown.....		9	1
	Union, and Marietta, Crawford Co.....		1	1
Green.....	Exeter.....		6	1
Green Lake.....	Manchester.....	1	4	1
	St. Marie.....		6	1
Iowa.....	Mineral point.....		13	1
Jackson.....	Northfield, and Sumner, Tremp. Co.....		7	1
Jefferson.....	Fort Atkinson, village.....	4	6	4
	Palmyra.....	2	2	2

TABLE No. XXIV.—Distribution of dictionaries—Continued.

COUNTIES.	Towns.	Departments.	No. of district.	No. of copies.
Juneau	Lyndon		1	1
	Necedah	1	1	1
Kenosha	Kenosha city	1	1	1
	Kewaunee		3	1
La Crosse	Pierce		5	1
	Bangor, and Leon, Monroe county		3	1
	Hamilton	1	6	1
La Fayette	Seymour		1	1
Manitowoc	Manitowoc, city and town, joint	2	1	2
	Manitowoc, city	1	7	1
Marathon	Hull		1,2,3,5	4
	Hull, and Unity, Clark county		1,2	2
	Knowlton		2	1
Marquette	Mosinee		8	1
	Crystal Lake		5	1
	Mecan, Neshkoro and Shields		1	1
	Montello	1	1	1
Monroe	Oxford	1	2	1
	Byron		1,2	2
	Clifton		4	1
	Lincoln		8	1
	Wellington		2	1
Outagamie	Appleton, city	8	2	8
	Appleton, city	1	3	1
	Black Creek		6	1
	Dale		5	1
	Deer Creek		2	1
	Seymour	1	4	1
Ozaukee	Cedarburg	2	2	2
	Frankfort		4,5	2
Pepin	Diamond Bluff		1	1
	Salem and Union		3	1
	Trimbelle		7	1
Polk	Back Brook		5	1
	Eureka		4	1
	Laketown		3	1
	Luck		4	1
	Milltown		3	1
	Stevens Point		2	1
Portage	Stevens Point		2	1
Racine	Racine, city	4	2	4
Richland	Akan		2	1
Rock	Beloit, city	1	1	1
	Lima		12	1
St. Croix	Magnolia and Union	1	6	1
	Baldwin and Hammond		4	1
	Hudson		2	1
	Hudson, city	2		2
Sauk	Kinnickinnick		6	1
	Springfield		4	1
	Baraboo and Greenfield		2	1
Shawano	Honey Creek		9	1
	Westfield	1	3	1
Shawano	Almon		1	1
	Hartland		2	1
	Pella		2	1
	Richmond		2,4	2
	Shawano, city and town, joint	1	4	1
	Washington		1	1

TABLE No. XXIV.—*Distribution of dictionaries, &c.*—Continued.

COUNTIES.	Towns.	Departments.	No. of district.	No. of copies.
Sheboygan	Sheboygan Falls, village.....		1 jt	1
Trempealeau	Albion.....		4	1
	Dodge		4	1
	Preston		4	1
Taylor.....	Medford		2,3	2
Vernon.....	Coon		4	1
	Forest		8	1
	Genoa		1	1
	Viroqua		19	1
	Webster		26	1
Walworth.....	Bloomfield	2	2	2
Washington	West Bend.....		4	1
Waupaca	Bear Creek and Larabee		2	1
	Dupont		4	1
	Iola		6	1
	Larabee.....		3,5	1
	Waupaca.....		3	1
Winnebago.....	Algoma.....		8	1
	Neenah		2	1
	Neenah, city	1	.....	1
Wood	Auburndale		1	1
	Remington		2	1

TABLE No. XXV.—Statement showing the districts to which dictionaries have been sold during the year ending December 10, 1875.

COUNTIES.	Towns.	Departments.	No of district.	No. copies.
Adams	Adams and Preston.....		1	1
Barron	Shetek.....		7	1
Calumet.....	Chilton.....		3	1
Chippewa	Anson.....		3,7	2
Columbus	Leeds.....		1	1
Dane	Madison, city.....	1	1	1
Dodge	Ashippun, and Ocon'c, Wauk. Co.....		2	1
	Randolph vil., (jt. with Col. Co.).....		9	1
	Rubicon.....		3	1
	Trenton.....		13	1
	Williamstown.....		4	1
Dunn.....	Rock Creek.....		2	1
Fond du Lac.....	Eldorado.....		2	1
	Ripon, city and town joint.....	2	9	2
	Rosendale.....		9	1
Grant.....	Marion.....		4	1
Green.....	Albany.....		6	1
	Brooklyn.....		12	1
	Decatur.....		2	1
	Jefferson.....		1	1
	Mt. Pleasant.....		4,6	2
	Sylvester.....		2,5	2
	York.....		1	1
Green Lake.....	Berlin.....		3	1
	Berlin, and Nepeuskun, Win. Co.....		1	1
Iowa.....	Mifflin.....		7	1
	Ridgeway.....		5	1
Jefferson	Palmyra.....		1,2	2
	Hebron.....		2	1
Juneau	Lindina.....		4	1
Kenosha.....	Bristol.....		10	1
	Somers.....		8	1
Kewaunee.....	Casco.....		2	1
La Crosse.....	Hamilton.....	2	6	2
La Fayette.....	Darlington.....	2	12	2
Manitowoc	Kossuth.....		3	1
	Liberty.....		4,5	2
	Manitowoc, city.....	1	4	1
	Manitowoc, city and town joint.....	4	1	4
	Meeme.....		3,4	2
Monroe	Adrian and Tomah.....		4	1
	Glendale.....		2	1
	Washington.....		2	1
Oconto	Peshtigo.....		4,5	2
Outagamie	Dale, and Caledonia, Waup. Co.....		6	1
	Ellington.....		2	1
	Hortonia.....		4	1
	Maple Creek.....		3	1
Pierce	El Paso.....		3	1
Portage	Plover.....	2	1	2
	Stockton.....		4	1
Racine	Caledonia.....		3	1
	Dover.....		5, jt.	1
	Mt. Pleasant.....		12	1
	Raymond.....		10	1
Richland	Henrietta.....		5	1

TABLE XXV.—*Dictionaries sold*—Continued.

COUNTIES.	Towns.	Departments.	No. of district.	No. of copies.
Rock	Clinton and Turtle		1	1
	Harmony.....		3	1
	La Prairie and Turtle.....		1 & 5	1
	Rock		5	1
	Turtle		7	1
	Union		8	1
Sauk.....	Delton and Fairfield.....		4	1
	Excelsior and Reedsburg.....		10	1
	Woodland.....		2	1
Sheboygan.....	Greenbush and Mitchell.....		9	1
	Sheboygan Falls, village.....		1, jt	1
Trempealeau.....	Lincoln		1	1
Vernon	Bergen and Harmony.....		4	1
Walworth	Delavan	1	1	1
	East Troy.....		1	1
	Spring Prairie		9	1
	Whitewater.....	6	1	6
	Waukesha... ..	Eagle.....		1
Waukesha... ..	Mukwanago		3	1
	Oconomowoc, city and town, jt.....		10	1
	Waukesha.....		7	1
	Dayton.....		1	1
	Farmington and Waupaca.....		3	1
Waushara.....	Royalton.....		4	1
	Aurora.....		5	1
	Leon and Poysippi.....		3	1
	Marion.....		7	1
	Plainfield		2	1
Winnebago.....	Algoma.....		4	1
	Neenan, citv.....	1	1	1
	Nekimi		10	1
	Nepeskun.....		2	1
	Omro and Rushford		4	1
	Rushford.....		2, 12	2

TABLE XXVI.—County and city superintendents in the State of Wisconsin.

[In commission January 1, 1876.]

COUNTY.	Name.	Post-office.
Adams	Jesse M. Higbee.....	Plainville.
Ashland.....	John W. Bell.....	La Pointe.
Barron	H. J. White.....	Rice Lake.
Bayfield	Jno. McCloud	Bayfield.
Brown	T. E. Sedgwick.....	West Deperre.
Buffalo	L. Kessinger.....	Alma.
Burnett	John G. Fleming....	Grantsburg.
Calumet	Wm. B. Minaghan..	Chilton.
Chippewa	John A. McDonald..	Chippewa Falls.
Clark	H. J. Hoffman.....	Neillsville.
Columbia	Kennedy Scott.....	Rio.
Crawford.....	G. L. Miller.....	De Soto.
Dane (1st district).....	A. R. Ames.....	Door Creek.
Dane (2d district).....	M. S. Frawley.....	Black Earth.
Dodge (1st district).....	John T. Flavin.....	Watertown.
Dodge (2d district).....	Arthur K. Delaney ..	Hustisford.
Door	Chris Daniels.....	Sturgeon Bay.
Douglas	I. W. Gates.....	Superior.
Dunn.....	Geo. Shafer	Menomonie.
Eau Claire.....	Miss Agnes Hosford..	Eau Claire.
Fond du Lac (1st dist).....	W. L. O'Connor.....	Rosendale.
Grant	G. M. Guernsey	Platteville.
Green	Thos. C. Richmond ..	Bem.
Green Lake	A. A. Spencer.....	Berlin.
Iowa	Albert Watkins.....	Mineral Point.
Jackson	T. P. Marsh.....	Hixton.
Jefferson	C. I. Collier.....	Rome.
Juneau	J. W. Wightman.....	Werner.
Kenosha	David H. Flett.....	Kenosha.
Kewaunee	Wm. H. Seymour.....	Ahnapee.
La Crosse.....	S. M. Leete.....	West Salem.
La Fayette.....	Henry Jane.....	Shullsburg.
Lincoln	David Finn.....	Jenny.
Manitowoc	W. A. Walker.....	Manitowoc.
Marathon	Thos. Greene.....	Wausau.
Marquette.....	H. M. Older.....	Packwaukeee.
Milwaukee (1st dist.).....	Thos. O'Herrin.....	Oak Creek.
Milwaukee (2d dist.).....	James L. Foley.....	Butler.
Monroe	N. H. Holden.....	Sparta.
Oconto	Maggie M. Comstock.	Oconto.
Outagamie	Patrick Flanagan.....	Appleton.
Ozaukee	Edward H. Janssen..	Cedarburg.
Pepin	J. H. Rounds.....	Durand.
Pierce	H. S. Baker.....	River Falls.
Polk	James W. Dean.....	Black Brook.
Portage.....	J. O. Morrison	Plover.
Racine	M. J. Smith.....	Sylvania.
Richland	David D. Parsons.....	Sextonville.
Rock (1st dist.).....	John W. West.....	Footville.
Rock (2d dist.).....	J. B. Tracy.....	Milton.
St. Croix	Frank P. Chapman ..	New Richmond.
Sauk	James T. Lunn.....	Ironton.
Shawano.....	Miss C. A. Magee.....	Belle Plaine.

TABLE No. XXVI.—County and city superintendents—Continued.

COUNTY.	Name.	Post-office.
Sheboygan	Geo. W. Weeden....	Sheboygan City.
Taylor.....	O. N. Lee.....	Medford.
Trempealeau	Amos Whiting	Trempealeau.
Vernon	O. B. Wyman	Viroqua.
Walworth.....	Fred. W. Isham....	Elkhorn.
Washington	S. S. Barney	West Bend.
Waukesha	John Howitt	Waukesha.
Waupaca	C. W. Packard	New London.
Waushara	Wm. T. Williams...	Berlin.
Winnebago.....	F. A. Morgan	Oshkosh.
Wood	C. B. Garrison.....	Centralia.

CITY SUPERINTENDENTS.

CITIES.	Name.
Appleton.....	A. H. Conkey.
Beaver Dam.....	James. J. Dick.
Beloit	T. L. Wright.
Berlin	N. M. Dodson.
Columbus	S. O. Burrington.
Fond du Lac.....	C. A. Hutchins.
Fort Howard	R. Chappell.
Grand Rapids.....	Henry Hayden.
Green Bay.....	A. H. Ellsworth.
Hudson.....	H. H. Slack.
Janesville	R. W. Burton.
Kenosha	H. M. Simmons.
La Crosse.....	J. W. Weston.
Madison	Sam'l. Shaw.
Menasha.....	W. H. Lull.
Milwaukee	Jas. MacAlister.
Mineral Point.....	Thomas Priestly.
Neenah	T. T. Moulton.
Oconomowoc	D. R. Thompson.
Oconto	H. W. Gilkey.
Oshkosh	Chas. W. Felker.
Portage	N. K. Shattuck.
Prairie du Chien	Joshua Sutter.
Racine	R. H. Tripp.
Sheboygan	John H. Plath.
Watertown.....	William Bieber.
Wausau	B. W. James.

