

licensee dies before the expiration of the term of his license, or if a license has been surrendered and cancelled and not transferred the board or authority issuing the license may issue another such license of the same class, and the two licenses shall count as one license; and said board or authority shall require as a license fee for such second license a part of the license fee required therefor for the whole year proportionate to the unexpired term of the license. Said board or authority may in its discretion, in cases where two licenses of the same class have been issued for the same place in the same year, give a certificate to the party to whom the first license was issued, or, in case of his death, to his administrator or executor, stating that a part of the fee paid therefor proportionate to the unexpired term of the license is to be refunded to such party, or to such administrator or executor, by the treasurer of the city or town from the fees thereafter received by said treasurer for licenses to sell intoxicating liquors. Said treasurer shall comply with the requirements of such certificate, and shall retain one quarter of the amount so paid from any money thereafter due from him or the city to the Commonwealth on account of licenses to sell intoxicating liquors. If a licensee dies before the expiration of the term of his license, the city or town by which it was granted may refund to his executor or administrator a part of the license fee proportionate to the unexpired term of the license, and the proportionate part of the percentage which has been paid to the Commonwealth shall be refunded to the city or town.

A new license may issue in case a licensee dies, etc.

Part of fee may be refunded in certain cases, etc.

SECTION 2. This act shall take effect upon its passage and shall apply to licenses granted in the year nineteen hundred and four as well as to all licenses granted thereafter.

When to take effect, etc.

*Approved March 23, 1905.*

AN ACT TO AUTHORIZE THE BERKSHIRE RAILROAD COMPANY, THE STOCKBRIDGE AND PITTSFIELD RAILROAD COMPANY AND THE WEST STOCKBRIDGE RAILROAD COMPANY TO UNITE. Chap.207

*Be it enacted. etc., as follows:*

SECTION 1. The Berkshire Railroad Company, the Stockbridge and Pittsfield Railroad Company and the West Stockbridge Railroad Company are hereby authorized, by a vote of a majority in interest of the stockholders of each of said corporations, at meetings called for the

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purpose, to unite themselves in one corporation, to be called Berkshire Railroad Company. The terms of such union shall be as set forth in said votes. When such votes shall have been passed by said corporations, and the terms of the proposed union shall have been approved by the board of railroad commissioners, and a certificate signed by the board setting forth the vote of approval shall have been filed in the office of the secretary of the Commonwealth, as required by section two hundred and seventy-eight of chapter one hundred and eleven of the Revised Laws, the said corporations shall thereupon become one corporation with the name aforesaid; and all the franchises, property, powers and privileges now enjoyed by, and all the restrictions, liabilities and obligations imposed upon, said three corporations, by virtue of their respective charters, shall appertain to said united corporation in the same manner as if the same had been contained in or acquired under an original charter.

Dissenting stockholders to file declaration, etc.

Proviso.

Value of shares of dissenting stockholders, how determined, etc.

SECTION 2. Every stockholder of each corporation shall be deemed to assent to the consolidation authorized by this act, unless, within sixty days after the date of approval by the board of railroad commissioners of such consolidation, he shall file with the clerk of the company whose shares he holds a writing declaring his dissent from the consolidation, and stating the number of shares held by him and the number of the certificate or certificates evidencing the same: *provided, however*, that as against any stockholder legally incapacitated from acting for himself, and having no legal guardian, said period of sixty days shall not begin to run until the removal of such incapacity by the appointment of a legal guardian or otherwise. The shares of any stockholder dissenting as above specified shall be acquired by the company and shall be valued, and the value thereof shall be paid or tendered or deposited to or for the account of such stockholder in the manner following:— Within sixty days after the filing of any stockholder's dissent as above provided the company shall file its petition with the supreme judicial court sitting within and for the county of Berkshire, setting forth the material facts and praying that the value of such dissenting stockholder's shares may be determined. Thereupon, after such notice to all parties concerned as it may deem proper, said court shall pass an order requiring such dissenting stockholder's certificate or cer-

tificates of stock to be deposited with the clerk of said court, and shall appoint three commissioners to ascertain and report the value of such dissenting stockholder's shares. Such report shall be made to the court as soon as practicable, and after due notice to the parties in interest it shall be accepted by the court, unless before such acceptance either of the parties to said proceeding shall claim a trial by jury, in which case the court shall order the value of said shares to be tried and determined by a jury in the same manner in which other civil cases are tried in said court. The said commissioners' report, or such verdict when accepted by the court, shall be final and conclusive as to the value of such dissenting stockholder's shares, and the amount so ascertained as such value shall at once be paid or tendered to such stockholder, or, if such payment or tender be impracticable, the money shall be paid into court. Upon such payment or tender or deposit the shares of such dissenting stockholder and the certificate or certificates thereof shall become the property of the company, whose right and title thereto may be enforced by the court by any appropriate order or process. Exceptions may be taken to any ruling or order of said court, to be heard and determined by the full court, as in other civil cases. Said court may make all such orders for the enforcement of the rights of any party to the proceedings, for the consolidation of two or more petitions and their reference to the same commissioners, for the consolidation of claims for a trial by jury and the trial of two or more cases by the same jury, for the deposit of money in court, and for the payment of interest upon the value of the stockholder's shares, as determined, and the payment of costs by one party to the other, as justice and the speedy settlement of the matters in controversy may require.

Value of shares of dissenting stockholders, how determined, etc.

Exceptions, orders of court, etc.

SECTION 3. The capital stock of the consolidated company shall not exceed in amount the aggregate of the outstanding capital stock of the uniting companies.

Capital stock.

SECTION 4. This act shall take effect upon its passage.

*Approved March 23, 1905.*