

shall be constructed in or through the City of Baltimore, or in or through any of the counties of the State; except under a special charter of the General Assembly; provided, however, that nothing of this section shall apply to railroads constructed by mining companies, as provided for in section 180 of this article.

A structure held to be an "elevated railroad" within the meaning of this section; the facts that the road is elevated owing to engineering difficulties, and that the elevated structure is but a fractional part of the road, are immaterial. *Koch v. North Ave. Ry. Co.*, 75 Md. 224.

An. Code, sec. 294. 1904, sec. 275. 1888, sec. 187. 1886, ch. 134, sec. 1. 1910, ch. 725 (p. 80).

231. In case of the sale of any railroad situated wholly within this State, or partly within this State and partly within an adjoining State, or the District of Columbia, heretofore or hereafter made by virtue of any mortgage or deed of trust, whether under foreclosure or other judicial proceedings, or pursuant to any power contained in said mortgage or deed of trust, the purchaser or purchasers thereof or his or their survivor or survivors, representatives or assigns may, together with their associates, if any, form a corporation for the purpose of owning, possessing, maintaining and operating such railroad, or such portions thereof as may be situated within this State, by filing in the office of the secretary of state a certificate of the name and style of such corporation, the number of the directors of the same, the name of its first directors, the period of their service not exceeding one year, the amount of the capital stock of such corporation, and the number of shares into which it is to be divided, and the par value thereof, which may consist wholly of common stock, or partly of common stock and partly of preferred stock, and the whole or any part thereof may be issued as fully paid up stock in payment or part payment for the road as purchased, and for the construction and equipment thereof, and shall not in the aggregate exceed the amount of stock which the corporation, whose road shall have been purchased as aforesaid, was entitled to issue, and the persons signing such certificate, and their successors, shall be a body corporate and politic by the name specified in such certificate, with power to sue and be sued, contract and be contracted with, and to own, maintain, possess and operate the railroad referred to in such certificate, and to transact all business connected with the same; and a copy of such certificate attested by the secretary of state shall in all courts and places be evidence of the due organization and existence of such corporation and of the matters specified in such certificates; and provided, however, that nothing in this or the following section contained shall be construed to confer upon any railroad lying wholly within this State or partly within this State and partly within an adjoining State or the District of Columbia, organized under the provisions of this article, where any portion of said railroad lying within the State of Maryland is uncompleted, any of the rights, franchises, privileges, benefits or advantages belonging to the corporation whose railroad shall be so sold as aforesaid until the railroad company so organized under the provisions of this article shall have entered into a bond to the State of Maryland with surety or sureties satisfactory to the "Board