

## Chap. 174

An Act to authorize the laying out of a State Road in Sauk County.]

*The People of the State of Wisconsin represented in Senate and Assembly, do enact as follows:*

Commissioners appointed to lay out road.

SECTION 1. That Lorenzo B. Needham, James Taylor and George Mertons, are hereby appointed commissioners to lay out and establish a State road from King's tavern in the town of Kingston, by the way of Leland's mill, to the State road at or near the residence of Jonathan Harris in the town of Honey Creek, in the county of Sauk.

County supervisors may pay for services.

SEC. 2. The commissioners appointed under the provisions of this act shall, upon the performance of the work, be entitled to such compensation for their services, as the Supervisors of the county shall allow to be paid out of the county treasury: Provided, no money shall be paid out of the State treasury for the same or any part thereof.

Provide.

FREDERICK W. HORN,  
*Speaker of the Assembly.*

DUNCAN C. REED,  
*President pro tempore of the Senate.*

Approved, March 11th, 1851.

NELSON DEWEY.

## Chap. 175

An Act to incorporate the Madison and Swan Lake Railroad Company.

*The People of the State of Wisconsin represented in Senate and Assembly do enact as follows:*

Commissioners appointed to receive subscriptions.

SECTION 1. That Leonard J. Farwell, Simeon Mills, J. Sprague Pardee, George P. Delaplaine, Moses Kneeland, J. C. Fairchilds, Joseph Utley, Yates Ashley, William T. Bradley, James D. Ruggles and Archibald Tredway be and they are hereby appointed commissioners, under the direction of a majority of whom, subscriptions may be received to the capital stock of the Madison and Swan Lake railroad company hereby incorporated, and they may cause books to be opened at such times and places as they may direct, for the purpose of receiving subscriptions to the capital stock of said company, first giving sixty days' notice of the times and places of taking such subscriptions, by publishing the same weekly in a public newspaper published in the county of Columbia, also a newspaper published in the county of Dane.

Conditional grant of corporate powers.

SEC. 2. The capital stock of said company shall be five hundred thousand dollars in shares of one hundred dollars each, and as soon as three hundred 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 Dane county, au-

thenticated by the oath of the Secretary, and two or more of said commissioners, that such subscriptions and payments have in good faith been made, the subscribers of such stock, with such other person 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 the "Madison and Swan Lake 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, negotiating loans, or transacting other business incident to a corporate body, 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 do all and singular the matters and things which to them it shall lawfully appertain to do, for the well being of said corporation.

SEC. 3. That the said commissioners or a majority of them, after the said three hundred shares of stock shall have been subscribed as aforesaid, shall give 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 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 powers 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 vacancy from the death or resignation of any director his place shall be filled by the board of directors.

Commissioners to give notice of election of directors.

Proviso.

Directors to hold over till successors are qualified.

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 the said company, the votes to be delivered in person or by proxy duly authorised, which directors shall appoint one of their own number President, and shall respectively serve for one year, or until other directors be elected; they shall have power

Directors to appoint the President.

to make and establish such by-laws, rules, orders and regulations, not inconsistent with the constitution and laws of the United States or of the State of Wisconsin, as may be necessary for the well ordering of the affairs of said company: Provided that none but stockholders shall be elected directors, and 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 all cases of elections for directors, the nine stockholders having the greatest number of votes shall be declared duly elected.

Proviso.

Stock to vote.

SEC. 5. The said directors shall meet at such times and places, and be convened 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 shall 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 instalment so required, at a reasonable period, not less than thirty days after the time by them appointed for the payment thereof; to regulate the rate of fare and freight; to make such covenants, contracts and agreements, with any person, co-partnership, or body politic, whatsoever, as the execution and management of the works and convenience and interest 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 instalment called in at any one time shall exceed twenty dollars per share, and that no instalment shall be called by the directors without at least sixty days notice thereof in the newspapers hereinbefore mentioned.

General and specific powers.

Stock transferable under certain conditions.

SEC. 6. The directors chosen as aforesaid, shall issue a certificate to each stockholder for the number of shares he or she may subscribe for or hold in said corporation, signed by the President, countersigned by the Secretary, and sealed with the common seal, subject, however, to all payments due, or to grow due thereon, which stock shall be transferable in person, or by attorney, executors, administrators, guardian 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 prece-

ding 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 notices as that required for annual meetings, specifying moreover the object of the meeting; no business shall be transacted at such special meeting unless a majority in value of the stockholders shall appear in person or by proxy.

Directors to exhibit a statement annually.

SEC. 8. The said company shall have power to locate and construct a single or double track railroad from such eligible point in the village of Madison, to such eligible point at or near Swan Lake, on lots nine, ten and fourteen, in section five, town ten, range twelve, in the county of Columbia; as shall be determined on by a majority of the directors, 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, branches, turn outs, and connecting tracks, and also all such warehouses, machine shops, carriages, cars and other works and appendages, as may be necessary for the convenience of the company to the use of the said railroad, and also to connect said railroad and operate the same with other railroads and branch railroads in the State of Wisconsin.

Location and construction.

SEC. 9. If said corporation shall not within five years from the passage of this act commence the construction of said railroad, and expend two thousand dollars or more thereon, and shall not within six years from the passage of this act construct, finish and put in operation a single or double track railroad from the village of Madison to Swan Lake, then the right, privileges and power of said corporation under this act shall be null and void.

Condition of Charter.

SEC. 10. It shall and may be lawful for said company, their officers, engineers and agents, to enter upon any land for the purpose of exploring, surveying and locating the route of said railroad, doing thereto no unnecessary damage, and when the said route shall be determined by 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 compensation as the company may have agreed to pay therefor, or shall be ascertained in the manner hereinafter directed and provided in such cases respectively: Provided, That the said corporation shall not in their corporate capacity, hold, purchase or deal, in

Appropriation of necessary lands how made

Proviso.

any lands within this state, other than the lands on which said road shall run or which may hereafter be granted by Congress for the purpose of aiding in the construction of said road, or which may be actually necessary for the construction and maintenance thereof and of the warehouses, machine shops and other fixtures connected therewith.

Judge of circuit court may appoint commissioners in certain cases.

SEC. 11. When the said corporation cannot agree with the owner or owners of such required land for the purchase thereof, or for the damage sustained, 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 the 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 circuit court of the county in which such lands shall be 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 such 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 said owner or owners thereof may have sustained, by reason of the taking of the same for the construction and use of said railroad, or works appertaining thereto, taking into consideration the advantages as well as the disadvantages 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 an oath, faithfully and according to the best of their abilities, to examine the land 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 commissioners shall proceed to examine the premises and estimate the value of such land and the amount of damages, 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 circuit court of the county in which they reside; and it shall be the duty of the 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 clerk shall record the same at the expense of said company,

Commissioners to take oath.

Commissioners to make return of valuation to Clerk of circuit court.

and judgment of the said court shall be entered thereon, on motion of either party, at any term of said court: **Provide,** 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 empanelled 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 of owners from the construction of such railroad, and judgment of court shall be entered accordingly: **Provide,** 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 attorneys, unless it shall be shown to them by competent testimony, that the said owner or owners have had at least five days notice of the time and place at which such assessment or valuation was to be made, or that the said owner or owners are absent from the State of Wisconsin, and if the said owner or owners shall be minors, or non compos mentis, or absent from the State, the service of notice may be made on their guardian or Trustee, if any there be, or in such manner as the court may direct: **Provide,** 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 lands, 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 received when 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: **Provide,** That the cost of any proceedings and judgments specified in the last preceding section shall be taxed by the court and paid by 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.

Extension of  
right in certain  
cases to enter  
upon Lands.

SEC. 13. It shall be lawful for said company, their officers, engineers and agents to enter upon lands adjacent to the rail road beyond the limits of four rods 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 operation of the business of said road and for the purpose of drains and giving a 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 and other materials for embankments and structures necessary to the construction and repairs 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 and agreeable to the provisions contained in the eleventh section of this act.

Railroad not to  
obstruct other  
roads.

SEC. 14. The said rail road shall be so constructed, as not to impede or obstruct any public road, and in all cases where said rail road may cross any public road, it shall be the duty of said company to make sufficient passage-way, to enable all persons travelling on such public road to cross the same without inconvenience, and it shall be lawful for said company to construct said rail road across any public or private road, after altering and putting the same in as good condition as before.

Rates of freight  
and passage.

SEC. 15. On the completion of said rail road, or of any portion of the track, not less than five miles, it shall and may be lawful for the company to demand and receive such sums of money for passage and freight of persons or property, as they shall from time to time think reasonable.

Penalties for  
wilful injury or  
obstruction.

SEC. 16. If any person shall wilfully or maliciously injure or destroy the said rail road so to be constructed 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 an action of debt, in any court having competent jurisdiction, 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; and any person or persons who shall wilfully and maliciously place any obstruction or thing upon 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 of not less than one, nor more than five years, at the discretion of the court; and be liable to said company for all damages, and to any person or persons 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 punished agreeable to the law in such cases made and provided.

SEC. 17. 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 six hundred thousand dollars.

Capital Stock  
may be increased.

SEC. 18. The said company are hereby authorised to lay out, extend and continue the rail road authorised to be constructed by this act. from Swan Lake to some point at or near Fort Winnebago or Portage City, and whenever said company shall decide to extend said rail road as aforesaid, they may increase their capital stock to eight hundred thousand dollars, which shall be subscribed in shares of like amount as the original stock of said company, and for that purpose may re-open their books of subscription, or open new books, for the subscription of such additional stock, and may appoint such agent to attend to the same as may be deemed necessary for carrying out fully the provisions of this act.

Company may  
extend road and  
increase capital  
stock.

SEC. 19. The said company shall have the same powers in locating, constructing and continuing such extension as this act gives for locating any part of the road, and the liabilities of said company, and all the powers, regulations and restrictions, and authority, shall not in any manner be abridged, extended or altered by the increase of capital stock, or extension of road as aforesaid, except as to such alterations, extension and increase, as is authorised by the provisions of this and the last preceding section.

Privileges, liabilities, &c., under the extension the same as under original road.

SEC. 20. 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 State, shall be received as evidence thereof.

Rule of evidence

SEC. 21. In case of a violation by the company of any of the provisions of this act, the legislature of the State of Wisconsin, may resume all and singular, the rights and privileges hereby granted to said company.

Reservation.

SEC. 22. This act shall be in force from and after its passage.

FRÉDERICK W. HORN,

*Speaker of the Assembly.*

DUNCAN C. REED,

*President pro tempore of the Senate.*

Approved, March 11th, 1851.

NELSON DEWEY.

## Chap. 176

An Act to incorporate the Milwaukee and Watertown Railroad Company.]

*The People of the State of Wisconsin represented in Senate and Assembly, do enact as follows :*

Commissioners appointed to receive subscriptions.

SECTION 1. Edward D. Holton, Alexander Mitchell, Eliphalet Cramer, James Kneeland, Daniel Wells, Jr., Hans Crocker, John H. Tweedy, George H. Walker, Byron Kilbourn, Daniel H. Chandler, John W. Medbury, William M. Dennis, Daniel Jones, Benjamin F. Fay, Luther A. Cole, Simeon Ford, Peter Rogan, Peter V. Brown and Edward Gilman be, and they are hereby appointed commissioners, under the direction of a majority of whom subscriptions may be received to the capital stock of the Milwaukee and Watertown railroad company, hereby incorporated, and they may cause books to be opened at such times and places as they may direct, for the purpose of receiving subscriptions to the capital stock of said company, first giving thirty days' notice of the times and places of taking such subscriptions, by publishing the same weekly in a newspaper printed in the county of Milwaukee, and also in one printed in the county of Jefferson.

Conditional Corporate Powers.

SEC. 2. The capital stock of said company shall be five hundred thousand dollars in shares of one hundred dollars each, and as soon as five hundred shares of stock shall be subscribed, and five dollars on each share actually paid in, 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 the "Milwaukee and Watertown 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, as 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