

of said road, or pass any gate thereon, or ground adjacent thereto, and again return on said road, shall, for each offence, forfeit a sum not exceeding ten dollars, to and for the use of said company, and also for all damages done to the profits of said company, in an action of trespass.

May provide for increase of capital stock.

SEC. 15. The directors of said company, at any annual or special meeting of the stockholders, with the consent of a majority in amount of said stockholders, may provide for such increase of the capital stock of said company as may be found necessary to complete said road, in such sections as may have been actually commenced, but remain in an unfinished state for want of means for completing the same.

How charter forfeited.

SEC. 16. If said corporation should not, within three years from the passage of this act, commence the construction of said plank road and expend three thousand dollars or more thereon, and shall not, within ten years from the passage of this act, construct, finish, and put in operation a single or double track, of plank or gravel road, between the village of Hanchettville and village of Portland, then the rights, privileges, and powers of the said corporation under this act shall be null and void.

Public act.

SEC. 17. This act shall be favorably construed to effect the purposes 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.

SEC. 18. This act may be altered or amended by any future legislature of the state of Wisconsin.

J. McM. SHAFER,

Speaker of the Assembly.

E. B. DEAN, JR.

President pro tem. of the Senate.

Approved, March 9, 1852.

LEONARD J. FARWELL.

[*Published, March 17, 1852.*]

Chap 101

An Act to incorporate the Oconomowoc, Mayville, and Fond du Lac Plank Road Company.

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

SECTION 1. The stockholders of the Mayville, Iron Ridge, Neosho, Monterey, and Oconomowoc Plank Road Company, having been duly organized, and having complied with the provisions of chapter fifty of the revised statutes, requisite for a complete organization under the general plank road law, according to the affidavits of the di-

rectors of said company, endorsed on the articles of association now on file in the office of the Secretary of State, and not being able to accomplish the objects of said association under the general law, are hereby declared a body politic and corporate by the name and style of the Oconomowoc, Mayville, and Fond du Lac Plank Road Company, with perpetual succession, and they shall have all the privileges, franchises, and immunities incident to a corporation; they shall be capable in law in their corporate capacity of suing and being sued, of purchasing, holding, leasing and conveying estate either real, personal, or mixed, and in their corporate name may have a common seal which they may alter or renew at pleasure, and may generally do all things for the interest and well being of said company.

Created a body corporate.

Powers, &c.

SEC. 2. The business and property of this company shall be managed by a board of seven directors who shall be stockholders, and be chosen annually by ballot of stockholders of said company, the vote being given in person or by proxy duly authorized, which directors shall appoint one of their number president. The present officers of the Mayville, Iron Ridge, Neosho, Monterey, and Oconomowoc Plank Road Company, shall be the officers of the company hereby incorporated, until others are elected and qualified. Each share of stock shall be entitled to one vote, and in all elections for directors the seven stockholders having the greatest number of votes shall be declared duly elected. They shall make and establish such by-laws, rules, orders, and regulations not inconsistent with the constitution and laws of the United States and of the state of Wisconsin, as may be necessary for the well ordering of the affairs of said company. Whenever any vacancy or vacancies shall occur in the board of directors, they shall be filled for the remainder of the term by the remaining directors; and in elections no stockholder shall be entitled to vote for directors or any other purpose unless all assessments due on his stock shall have been paid before such election.

Affairs to be conducted by board of directors.

How vacancy filled.

SEC. 3. That in case the annual election for directors shall not be held on the day fixed by the by-laws, the corporation shall not be dissolved, and it shall be lawful to hold an election on any other day for the election of directors; and the directors of such company shall give proper notice of such election, by posting notices at least fifteen days before such elections. Four directors shall form a quorum for the transaction of business; and the acts of a majority of such quorum shall bind the corporation; the board of directors shall appoint a treasurer, secretary, and such

When election not held on day fixed may be at any other time.

other officers as they may find necessary, and shall fix their compensation, and adequate security for the performance of their trust.

Special powers. SEC. 4. In addition to the general powers, duties, and trusts heretofore authorized, the president and directors shall have specially the power to decide the time and manner in which the said stockholders shall pay the money due on their respective shares already subscribed, and may be subscribed, not exceeding ten per cent. on any one installment, nor shall any two installments be required to be paid within thirty days of each other, and if such installments are not paid within thirty days after they become due, they may sue for and collect the same in the name of the corporation, or may declare the stock forfeited on which such installments shall have remained so due, to the use and benefit of the company, after publishing a notice to that effect thirty days in a newspaper printed in a county where the owner or owners of such stock resides, or by a written notice served upon such owners; they shall exercise all powers conferred upon them by law, and pay all accounts, give and receive such receipts and discharges of debt as shall be deemed by them for the best interest of the company; they shall have power to regulate tolls: *Provided*, They shall not collect more than is allowed by the rates as established by the general laws on the road which is planked or graveled, nor more than one-half of that amount for traveling on the grade before it is planked or gravelled; and they shall have power to make such covenants, contracts, and agreements with any person or persons, or body politic whatsoever, as the execution and management of the work and construction of said road, the convenience and interest, the consolidation of the stock of said company, and the prosperity of the said company may require.

Proviso.

Capital stock.

SEC. 5. The capital stock of the company shall not exceed one hundred thousand dollars, which shall be divided into shares of ten dollars each, and certificates of stock in the Mayville, Iron Ridge, Neosho, Monterey, and Oconomowoc Plank Road Company, duly executed and signed unconditionally, shall be certificates of so much stock in the company hereby chartered, and said company shall have full power and authority to take, use, and adopt the grade now constructed by said company under their former organization, and they shall have power to extend such road from Mayville to Fond du Lac, at such point as the directors of said company may think proper, and also to construct such branch or branches to connect with such

town or towns in Dodge county, as the best interest of the company may indicate as advisable; and they shall have power to erect all such toll gates, houses, bridges, and other works and appendages as may be necessary for the convenience and interest of said company; and so long as the road is made free to the public, and so long thereafter as they may elect, all persons residing on said road shall pay their highway taxes to said company, and any town through which said road may run, is hereby authorized to subscribe and pay for such amount of stock in the same as the people of such town may direct at any annual town meeting, and raise the same in the same manner as other town expenses.

SEC. 6. 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 plank or turnpike road, doing thereto no unnecessary damage, and when 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 for the purpose of said road, 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 as shall be ascertained in the manner hereinafter directed and provided for.

Powers to locate route, &c.

SEC. 7. When the said corporation cannot agree with the owner or owners of any land, gravel, stone, or other material required for the construction of said road, for the purchase thereof, or the compensation to be paid therefor, or when by reason of the absence or legal incapacity of the owner or owners, no such agreement or purchase can be made, then and in that case it shall be lawful for any justice of the peace in the county in which the property may lie, to issue his warrant to the sheriff or any constable of said county, not directly interested, requiring him to summon a jury of nine freeholders of said county not interested in said property to meet at some convenient place at or near the property to be valued on a day in said warrant named, not less than five nor more than ten days from the date of the warrant, and if at the time and place named, any of the persons so summoned do not attend, the sheriff or constable shall immediately summon as many as may be necessary from the persons in attendance, as jurors, to furnish a pannel of nine jurors, and from them the said company and the owner or owners of the property to be valued, their agent or attorney, or either of them, and if they are not present in person or by attorney, the sheriff

Questions of damage, how settled.

or constable shall for him or her, strike off each two of said jurors, and the remaining five shall act as a jury of inquest of damages, and before they act as such, the said sheriff or constable shall administer to each of them an oath or affirmation, that he will faithfully and impartially value the land or material required for said road, and all damages which the owner or owners shall sustain by reason of the construction of the said road, taking into consideration the advantage the same will be to the owner or owners according to the best of his skill and judgment; whereupon the said jurors shall proceed to view the land or material so required and to hear the evidence of the respective parties, which said jurors shall reduce to writing, which shall be signed by all or a majority of said jurors, and by the sheriff or other officer in attendance, and the said officer shall, within five days thereafter, transmit the same to the clerk of the county court of the proper county, who shall file the same. Such inquisition shall describe the property to be taken, or the boundaries of the land in question, and the value thereof as aforesaid; and such valuation, when paid, together with the cost of such inquisition, or tendered to the owner or owners, or deposited with the said court, shall entitle the said company to the estate and interest in the same thus valued, as if it had been conveyed by the owner or owners thereof in fee simple: *Provided*, It shall not be lawful for any such jury of inquest, to proceed in the valuation of any such property, or material, in the absence of the owner or owners thereof, his, her, or their legal representative, unless it be made to appear by affidavit, that such owner or owners have had at least five days' notice of the time and place of meeting, for the purpose of making such valuation, or unless it shall in like manner be shown that such owner or owners are absent from the county, and if such owner or owners are under age or *non compos mentis*, the service of notice upon the guardian or trustee, (if there be any,) or their absence from the county shall be required to be established by affidavit, to the said jurors, before they shall proceed to make such valuation: *Provided, further*, That in case of disagreement the company shall not take possession of any land or material until said jury shall have first decided that the taking thereof is necessary, and in the case of materials, that the same are not essentially necessary to the owner or owners, for his, her, or their private use.

SEC. 8. The shares of stock of the corporation shall be deemed personal property, and every person becoming a stockholder by transfer, purchase, or otherwise, of shares

Stock to be personal property.

Proviso

of said stock, shall succeed to all rights and liabilities of the prior holder of said share or shares, and said shares shall be liable to be taken in execution for the payment of the debts of their owners, in such manner as is, or may be provided by law: *Provided*, That all debts due said company shall be first paid. Provided. Whenever the route of said road follows the line of any public highway, the said company shall not take possession of said highway until the commissioners of highways of the town through which it passes shall have given their written consent, which shall be recorded in the town clerk's office, or if the said commissioners refuse to give their consent, then the damages to the town shall be appraised for each highway so taken or ascertained, as in the case of private property, and the amount so appraised for each highway so taken, shall be paid to said commissioners of the town to which it belongs, to be by them applied in improving the roads in such town, and the commissioners of highways of such town shall be deemed the owners of such highway so taken, for the purpose of service of notice of inquest, &c.

SEC. 9. If any person shall knowingly or wilfully obstruct, break, injure, or destroy, the plank or turnpike road so to be constructed by said company, or any part thereof, or any work, building, or fixture attached to, or in use upon the same, belonging to said company, such person or persons so offending shall each and every one of them, for every such offence, be liable in a civil suit for the recovery of damages by said company, by an action of trespass in any court having competent jurisdiction in the county wherein the offence shall have been committed, and shall also be subjected to indictment, and upon conviction shall be punished by fine not to exceed five hundred dollars, or by imprisonment not to exceed six months, or by both at the discretion of the court. Damage to road how punished.

SEC. 10. Each toll gatherer may detain and prevent from passing through his gate, all persons riding, leading, or driving animals or carriages, subject to toll, until they shall have paid respectively, as authorized by this act; and any person who shall forcibly or fraudulently pass any toll gate erected on said road in pursuance of this act without having paid the legal toll, and any person who, to avoid the payment of legal toll, shall with his carriage or horse or other vehicle or animal or animals liable to toll, turn out of such road or pass any gate thereon, on any ground adjacent thereto, and enter again on such road, shall for each offence be liable to a fine not exceeding ten dollars. Penalty for evading tolls.

SEC. 11. This act shall be favorably construed to effect

Public act.

the purposes thereby intended in all courts and places, 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 of all provisions herein contained, and shall be binding upon said company from and after the time when the president and directors of said company, chosen under their former organization, shall have filed their certificate of acceptance of this act, in the office of the secretary of state, and on completion of said road or any portion thereof not less than five miles, the company may erect one or more toll gates upon their road and demand and receive toll from time to time as heretofore provided.

J. McM. SHAFTER,

Speaker of the Assembly.

E. B. DEAN, Jr.,

President pro tem. of the Senate.

Approved, March 9, 1852.

LEONARD J. FARWELL.

[Published March 22, 1852.]

An Act to incorporate the Waterloo and Sun Prairie and Madison Plank and Gravel Road Company.

Chap 102

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

Commissioners appointed.

SECTION 1. A. T. Mattice, M. T. Walker, Charles Boorman, C. D. Topping, Nathaniel Smith, Silas Smith, George Anderson, Richard Dean, A. Ogden, A. A. Bird, Wm. Welch, and their associates, 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 Waterloo and Sun Prairie Plank and Gravel Road Company, and they, or a majority of them, 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 thirty days' notice of the times and places of taking such subscriptions, by publishing the same in one or more newspapers printed in the town of Madison.

May open books

Powers and duties.

SEC. 2. The capital stock of said company shall be eleven thousand dollars, and shall be divided into shares of twenty dollars each; and as soon as four hundred shares of the capital stock shall be subscribed, and one dollar of 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