

An Act to appropriate to J. Quintus the sum therein named.

Chap 104

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

SECTION 1. There is hereby appropriated to J. Quintus ten dollars for printing two hundred copies of the Governor's Message in Dutch, out of any money in the treasury not otherwise appropriated.

J. McM. SHAFTER,
Speaker of the Assembly.

E. B. DEAN, JR.
President pro tem. of the Senate.

Approved, March 9, 1852.

LEONARD J. FARWELL.

An act to appropriate to James C. Brown the sum therein named

Chap 105

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

SECTION 1. That there is hereby appropriated to James C. Brown, out of any money in the treasury not otherwise appropriated, the sum of fourteen dollars, in full to December twenty seventh, one thousand eight hundred and fifty-one, for making maps or town plats, by order of the commissioners of the school and university lands.

J. McM. SHAFTER,
Speaker of the Assembly.

E. B. DEAN, JR.
President pro tem. of the Senate.

Approved, March 9, 1852.

LEONARD J. FARWELL.

An Act to incorporate the Milwaukee and Waukesha Plank Road Company.

Chap 106

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

SECTION 1. The stockholders of the Milwaukee and Waukesha plank road company, having been duly organized, and having complied with all the provisions of chapter fifty of the revised statutes requisite for a complete organization under the general plank road law, according to the affidavit of the directors of said company endorsed on the articles of association now on file in the office of the secretary of state, and not being able fully to accomplish the objects of said association under the general law, are hereby declared a body politic and corporate, by the name

Created a body corporate.

and style of "The Milwaukee and Waukesha Plank Road Company," with perpetual succession, and they shall retain all the rights, and be subject to all the liabilities acquired or incurred under their previous organization, and shall have all the privileges, franchises, and immunities incident to a corporation, to wit: they shall be capable in law 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 generally may do all and singular the matters and things which they are authorized by law to do for the interest and well being of said company.

Powers, &c.

Affairs to be conducted by board of directors.

SEC. 2. The business and property of this company shall be managed and conducted by a board of seven directors, who shall be elected annually, at such time and place as shall be directed by the by-laws of said corporation; and public notice shall be given of the time and place of holding such election, of not less than twenty days previous thereto, in such manner as shall be prescribed by the by-laws of said company. The election of the directors shall be made by such of the stockholders as shall attend for that purpose either in person or by proxy. All elections shall be by ballot, and each stockholder shall be entitled to as many votes as he or she shall own shares of stock; and the persons having the greatest number of votes shall be directors. Whenever any vacancy or vacancies shall happen in the board of directors, such vacancy or vacancies shall be filled for the remainder of the term by the remaining directors. The directors shall hold their office for the term of one year, and until others are elected in their place, and no person shall be a director unless he is a stockholder in the company; and no stockholder shall be entitled to vote for directors, or for any other purpose, unless all assessments due on his stock shall have been paid before such election.

How vacancy filled.

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

SEC. 3. In case it shall happen that an election for directors shall not be held on the day fixed for such election by the by-laws of said company, such corporation shall not for that reason be dissolved, but it shall be lawful to hold an election on any other day, for directors, as shall be provided for in the said by-laws; and in all such cases the same notice of the time and place of holding such election shall be given as is required in the preceding section; and all of the acts of the directors shall be binding as against said corporation until their successors shall have been elected.

SEC. 4. Four directors shall form a quorum for the trans-^{Quorum.} action of business, and the acts of a majority of such quorum shall bind the corporation.

SEC. 5. The directors at their first meeting after their election shall choose one of their number as president, and they shall supply a vacancy in the office of president whenever the same shall occur.^{Officers}

SEC. 6. The president and directors shall have power^{Powers.} to make and prescribe such by-laws, rules, and regulations, respecting the transfer of the stock and the management and control of the property, business, and affairs of said corporation, as they may deem proper, not inconsistent with the constitution and laws of this state, or of the United States. They shall have full power to decide the time and manner in which the said stockholders shall pay the money due on their respective shares, not exceeding ten per cent. in any one installment; nor shall any two installments be required to be paid within thirty days of each other. They may sue for installments in the name of the corporation after the same shall have been due thirty days; or may declare the shares of stock on which said installment shall have remained so due, forfeited to the use and for the benefit of said company: *Provided*, the same be not paid within thirty days after the publication of a notice to that effect in some paper published in the county where the owner or owners of such shares reside, and in case no paper shall be published in such county, then the same may be published in a paper in an adjoining county, or by written notice served upon such owners.^{Proviso.} The said president and directors shall exercise all powers conferred upon them by law, and pay all accounts, give and receive such receipts and discharges of debts as shall be deemed by them to be for the best interests of said company. They may prescribe the time for the meetings of stockholders, appoint and remove at their pleasure a secretary, treasurer, and engineer, and such other officers as they may find necessary, and prescribe their duties and compensation, and may require such security as they may think proper for the faithful performance of their trusts. They shall meet at such times and places as shall be prescribed in their by-laws. They shall have power to regulate tolls and to make such covenants, contracts, and agreements with any person or persons, or body politic whatever, as the execution and management of the works and construction of said road, the convenience and interest, the consolidation of the stock of said company, and the prosperity of said

company may require, and in general to superintend and direct all the operations of said company.

Capital stock.

SEC. 7. The capital stock of said company shall not exceed fifty thousand dollars, which shall be divided into shares of one hundred dollars each; and said company shall have power to construct a single or double track plank road, or turnpike road, of a hard and even surface, and of sufficient width to admit of the easy passing of wagons and carriages from the city of Milwaukee to the county line between the county of Milwaukee and Waukesha, over the route as located by said company under their former organization, and they shall have power to extend said road upon any eligible route to the village of Waukesha in the county of Waukesha; and they shall also have power to erect all such gates, toll-houses, bridges and other works and appendages, as may be necessary for the convenience of said company in the building and use of said road, and also to connect said road with any other road in Wisconsin, and to unite and consolidate their stock with any such plank or turnpike road.

Powers to locate route, &c.

SEC. 8. 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 whenever 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 purposes 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.

Questions of damage, how settled.

SEC. 9. When the said company 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 such case it shall be lawful for any justice of the peace of the county in which such 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 said warrant, and if at the time and place named, any of the persons so summoned do not attend, the said sheriff or constable shall immediately summon as many as may be necessary with 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, or if they are not present in person or by attorney, the sheriff or constable shall for him or her, strike off each two 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 lands or material required for said road, and all damages which the owner or owners shall sustain by reason of the construction of said road, taking into consideration the advantages the same will be to the owner or owners according to the best of his skill and judgment; whereupon the jurors aforesaid shall proceed to view the land or material so required and to hear the evidence of the respective parties, which the said jurors shall reduce to writing, which shall be signed by all or a majority of the jurors, and by the sheriff or other officers 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 taken or 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 costs 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 so long as the land thus valued and taken shall be used for the track of said plank road: *Provided*, It shall not Proviso 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 representatives, 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 shall be 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 com-

pany 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.

Stock to be personal property.

SEC. 10. The shares of stock of said company shall be deemed personal property, and every person becoming a stockholder by transfer, purchase, or otherwise, of shares of said stock, shall succeed to all the rights and liabilities of the prior holder of said share or shares, and said share or 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*, All debts due said company shall be first paid. Whenever the route of said road follows the line of any public highway, the said company shall not take possession of the said highway until the commissioners of highways of the town through which it passes shall have given the said company written consent so to do, 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 highways for the purpose of service of notice of inquest, or for any other necessary proceedings in order to obtain the right of way upon such highway.

Proviso.

May erect toll gates.

SEC. 11. The directors may erect toll gates, and may exact toll from all persons traveling on their road whenever two consecutive miles are finished, or when the whole road is completed, not exceeding two cents a mile for every vehicle, sled, sleigh, or carriage drawn by two animals, and if drawn by more than two, one cent a mile for every additional animal; for every vehicle, sled, sleigh, or carriage drawn by one animal, one cent a mile; and for every horse and rider or led animal, one cent a mile; and for every score of neat cattle, four cents a mile; for every score of sheep or swine, two cents a mile; and no more than one-half of the usual gatage demanded at any gate, shall be taken from persons living within one mile of the gate at which the toll is taken: *Provided*, That persons going to and from military parade at which they are required by law to attend, and persons going to and returning from funerals, shall be exempt from toll; and no toll shall be ex-

acted of any person or persons while actually going to or returning from any religious meeting on Sunday.

SEC. 12. If any person shall wilfully or knowingly 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 of them, for every such offence, be liable in a civil suit for the recovery of the damages by said company, in an action of trespass in any court having competent jurisdiction in the county where the offence shall have been committed, and shall also be subjected to indictment, and upon conviction shall be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months or by both at the discretion of the court.

Damage to road
how punished.

SEC. 13. The directors of said company may at any annual or special meeting of the stockholders, with the consent of a majority of amount of such stockholders, 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.

May increase
capital stock.

SEC. 14. Said company shall be liable for all damages that may be sustained by any person or persons, in consequence of the omission or neglect to keep said road in good repair and condition.

Liable for dam-
age.

SEC. 15. Each toll gatherer may detain and prevent from passing through his gate, all persons riding, leading, or driving animals or carriages, subject to tolls, until they shall have paid respectively, as authorized and required in 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, or ground adjacent thereto, and again return on said road, shall for each offence forfeit a sum not less than five dollars, to and for the use of said company, to be recovered in an action of trespass.

Penalty for evad-
ing tolls.

SEC. 16. Joseph Cary, George Burnham, Charles A. Hastings, Charles C. Dewey, Bigalow Case, Dituir Fishback, and Joseph Guild, having been duly elected directors of the Milwaukee and Waukesha plank road company according to the former by-laws, rules, and regulations of

Directors.

said company, are hereby declared to be the board of directors of this company, and shall hold their office for the term of one year from the time they were so elected, and until others shall be duly elected, and all their acts and doings shall be as binding upon said company as they would be if they had been elected according to the provisions of this act.

Public act.

SEC. 17. This act shall be favorably construed to effect the purposes thereby intended in all courts of justice, 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 the provisions herein contained, and shall be binding upon the 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 the acceptance of this act, in the office of the secretary of state.

J. McM. SHAFTER,
Speaker of the Assembly.

TIMOTHY BURNS,
Lt. Governor and President of the Senate.

Approved, March 11, 1852.

LEONARD J. FARWELL.

[*Published March 20, 1852.*]

Chap 107

An Act to incorporate the Fort Winnebago and Stevens Point Turnpike and Plank Road Company.

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

Commissioners.

SECTION 1. That William Ewen, Jr, Ira R. Rood, Edward D. Pattengell, Robert Cochran, Henry Merrill, Joseph B. Phillips, and George W. Mitchell, be and are hereby appointed commissioners, under the direction of a majority of whom subscriptions may be received to the capital stock of the Fort Winnebago, Pakwaukee, and Stevens Point Turnpike and Plank Road Company; and they may cause books to be opened at such times and places as they may direct, for the purpose of receiving subscriptions, by publishing in a newspaper printed in the counties of Columbia or Marquette, at least thirty days previous to the opening of the books of said company, for the purpose of receiving subscriptions to the capital stock of said company, giving notice of the times and places of receiving subscriptions.

SEC. 2. All persons who shall become stockholders pursuant to the provisions of this act, are hereby created