

necessary to carrying out the object of said company, namely, the construction of a rail road from Fond du Lac in the county of Fond du Lac, via Beaver Dam, Columbus, to Madison in the county of Dane; and the contracts and official acts of said company are hereby declared binding in law and equity upon said corporation, and all other parties to said contracts.

SEC. 20. This act shall be in force from and after its passage, and it shall be lawful for said company to purchase lands adjoining or adjacent to said rail road for the purpose of procuring earth, gravel, stone or other materials for the construction and repair of said road or buildings and fixtures therewith, and whenever such lands shall no longer be needed for the purpose aforesaid, the said company are hereby authorized to sell and convey the same.

J. McM. SHAFER,  
*Speaker of the Assembly.*

TIMOTHY BURNS,

*Lt. Governor and President of the Senate.*

Approved, March 23, 1852.

LEONARD J. FARWELL.

[*Published, April 2, 1852.*]

May purchase  
lands

## Chap 138

An Act to incorporate the Marquette and Columbus plank and turnpike road company.

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

SECTION 1. M. W. Seeley, J. C. Potter, J. H. Comstock, Samuel McCracken, D. M. Green, J. S. Barnes, Thomas C. Snow, D. W. Akin, and G. B. Worth, of the county of Marquette, and S. Whiting, of the county of Columbia, and such other persons as shall associate with them and become stockholders pursuant to the provisions of this act, shall be and they are hereby created a body corporate and politic, in fact and in name, by the name and style of the Marquette and Columbus Plank Road and Turnpike Company, with perpetual succession, and by that name shall have all the privileges, franchises, and immunities incident to a corporation, to wit: they shall be capable in law of purchasing and conveying estate, either real, personal, or mixed, and in their corporate name may contract and be contracted with, sue and be sued, plead and be impleaded, may have and use a common seal, and alter the same at pleasure, and generally may do all and singular such matters and things which they are authorized by law to do, for the interest and well being of said company,

Created a body  
corporate.

Powers.

SEC. 2. The persons named in the first section of this act, or a majority of them, shall be commissioners to open books and receive subscriptions to the capital stock of said company, at such times and places as they may deem expedient; and whenever the amount of four thousand dollars of such stock shall be subscribed for and one dollar per share paid thereon, said commissioners shall call a meeting of the stockholders of said company, by giving at least twenty days' notice thereof in one newspaper published in each of the counties of Marquette and Columbia, for the purpose of electing nine directors of said company, who shall proceed to elect one of their number president; and annually thereafter the said stockholders shall meet on the second Monday in May for the purpose of electing directors as aforesaid, upon like notice to be given by the president and secretary: *Provided*, That if no election, should be held upon such notice at the time specified, the directors of the preceding year shall hold over and act until their successors are elected and qualified, at the next annual election; and in case of any vacancy, a majority of the board may fill the same by appointment until the next annual election thereafter.

Commissioners  
to call meeting

Provido.

SEC. 3. The business of the company shall be managed by a board of nine directors who shall be stockholders, and shall be chosen annually by ballot by the stockholders, and shall serve until others are elected in their stead. The vote may be given in person or by proxy duly authorized. The directors may make such by-laws, rules and regulations, not inconsistent with the constitution and laws of this state, as may be necessary for the well being of the company, and a majority of said directors shall constitute a quorum for the transaction of business. In the absence of the president the board may appoint a president *pro tem*. They may also appoint such other officers and engineers as they may deem necessary, and fix their salaries or compensation, and may demand adequate security for the faithful performance of their respective duties. They shall have power to determine the time and manner in which stockholders shall pay installments of money or labor on their subscriptions, not exceeding twenty per cent. at any one requisition, and to forfeit to the use of the company the stock of any person failing to pay any installment within a reasonable time, not less than thirty days after the same may be called for. The commissioners, until a board of directors are chosen, shall constitute the board of directors for the company, with all the powers herein conferred on said board of directors and may appoint such officers as

Affairs to be  
managed by  
board of direc-  
tors.

they may deem necessary, the president being one of their number, and shall issue certificates of stock to persons subscribing therefor; said certificates to be signed by the secretary and countersigned by the president, and to be subject to all the payments due and to become due thereon; which certificates shall be transferable in such manner as may be prescribed by the by-laws of the company.

**Capital stock.**

SEC. 4. The capital stock of said company shall be thirty thousand dollars, and shall be divided into shares of twenty dollars each. Each stockholder shall be entitled to one vote for each and every share of stock he or she may hold, and any person may subscribe to pay his or her stock in labor or materials upon said road, under the supervision and direction of the board of directors: *Provided always*, That one dollar per share in cash be paid at the time of subscribing.

**May locate road.**

SEC. 5. The said company shall have power to locate and construct a plank road, or road partly of plank and partly of gravel or other materials, commencing in the village of Marquette, in the county of Marquette, and terminating in the village of Columbus, in Columbia county; the route of said road to be determined by the board of directors, and to be on the cheapest and most favorable ground, and as direct as the interest of the company may warrant. Said directors shall have power to construct said road along and upon any highway now or hereafter laid out and established, and of such width as the said board shall determine; but the surface or arch of said road shall, in all places, be of sufficient width for two teams to pass conveniently, though it shall be at the option of the directors, wherever the road shall be constructed of plank, to lay one or two tracks, as they may deem best for the interest of the company.

**May enter upon lands.**

SEC. 6. It shall be lawful for said company, their officers, and agents, to enter upon any lands for the purpose of exploring, surveying, and locating the route of said road, doing thereto no unnecessary damage; and when said route shall be determined or fixed by the company, it shall be lawful for them, their officers, agents, engineers, contractors, and servants at any time to enter upon and take possession of and use such lands to the width of four rods, and also to take from any lands adjoining said road, gravel, stone, or earth, for the purpose of constructing or repairing said road, subject, however, to such compensation as the company may have agreed to pay therefor, or as shall be ascertained in the manner hereinafter directed and provided.

SEC. 7. Whenever it shall be necessary for said company to enter upon and occupy, for the purpose of constructing said road, any land upon which the same may be located, or to take from such lands or the lands adjoining said road, any gravel, stone, or earth, for the purpose of said road, and the owner or owners of the same shall refuse to permit such entry or occupation or taking, and the parties cannot agree upon the compensation to be made for the injury done to such land, it shall be lawful for the parties to appoint three disinterested persons to estimate such damages, who shall be sworn to fairly and impartially estimate the same, and who shall reside in the county where the land lies. The expenses of such appraisal shall be paid by the company. But if the parties cannot agree upon such persons, or if the persons thus chosen cannot decide upon the matter, or if the owner of the land refuse or neglect to join in such appointment within twenty days after notice for that purpose, or if such owner shall be under legal disability or out of the state, then and in either case it shall be lawful for the judge of the circuit court of the county in which such lands lie, upon application of either party, and at the cost of the party making such application, to appoint three disinterested persons of the same county to view the land and estimate the damage done thereto. The said appraisers shall, as early as practicable, report under oath, to the circuit court of the county, the amount of damages sustained by such party by reason of such entry and taking aforesaid; which report being confirmed by the court, judgment shall be rendered therefor. The said appraisers shall be allowed each one dollar per day for their services by the company in all cases where said damages exceed the amount offered by said company previous to the appraisal, or by the other party, when the sum awarded does not exceed the sum offered by the company. The said appraisers shall, in all cases, take into consideration, in estimating damages, the benefits accruing to the persons claiming such damages in consequence of the building of said road. Upon payment to the owners of said lands of the sum specified in the report of said appraisers, or upon depositing said sum with the clerk of the circuit court of said county, for the benefit of said owners, the said company may immediately enter upon, occupy, or take from said lands, as hereinbefore provided.

How damages  
settled.

Rates of toll

SEC. 8. The said company may erect toll gates and demand and receive toll from all persons traveling on said road, whenever five consecutive miles are finished, or when the whole road is completed. The tolls on said road shall

not exceed the following rates per mile to wit : for every vehicle, sled, sleigh, or carriage drawn by one or two animals, two cents ; and if drawn by more than two, one cent per mile for each additional animal ; for every horse and rider or led animal, one cent per mile ; for every score of neat cattle, four cents per mile ; for every score of sheep or swine, two cents per mile.

Penalty for evading toll.

SEC. 9. Each toll gatherer may detain and prevent from passing any gate on said road all persons riding, leading, or driving animals or carriages subject to toll, until they have paid as authorized by this act, and any person who shall forcibly or fraudulently pass any toll gate erected on said road pursuant to this act without having paid the legal toll, and any person who, to avoid the payment of legal toll, shall, with his horse or carriage, or other vehicle or animal or animals liable to toll, turn out of such road, or pass any gate thereon or land adjacent thereto, and enter again upon said road, shall, for each offence be liable to a fine not exceeding ten dollars, to be recovered in any court having jurisdiction thereof.

Penalty for damage to road.

SEC. 10. If any person shall willfully and maliciously obstruct, break, injure, or destroy said road, or any part thereof or any work, building, or fixture, attached to or in use upon the same, belonging to said company, such person so offending, shall be, for every such offence, liable for the recovery of damages to the company, and shall also be subject to indictment, and upon conviction shall be punished by fine and imprisonment, or either, at the discretion of the court.

May provide for increase of capital stock.

SEC. 11. The directors of said company, or a majority of them, at any meeting of said board called for that purpose, may provide for such increase of capital stock of said company as may be deemed necessary in order to complete said road : *Provided*, The capital stock of said company shall in no case exceed the sum of fifty thousand dollars.

SEC. 12. This act shall be favorably construed to effect the purpose hereby intended, and to take effect from and after its passage.

J. McM. SHAFTER,  
*Speaker of the Assembly.*  
TIMOTHY BURNS,

*Lt. Governor and President of the Senate.*

Approved, March 23, 1852.

LEONARD J. FARWELL.

[*Published, March 25, 1852.*]