

Chap 166

An Act to incorporate the Green Bay and Depere Plank Road Company.

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

Created a body
corporate.

SECTION 1. That Henry S. Baird, John Day, Francis Denoyer, Daniel Butler, D. M. Say, Randall Wilcox, M. L. Martin, Hoel S. Wright, George W. Sawe, Julius S. Buck, and Charles A. Grignau, and such other persons as shall associate with them, and become stockholders pursuant to the provisions of this act, shall be and are hereby created and made a body corporate and politic, in fact and in name, by the name and style of the "Green Bay and Depere Plank Road 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 conveyigg estate either real, personal, or mixed, and in their corporate name may sue and be sued, may have and use a common seal, which they may alter 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.

Commissioners
to call meeting.

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 two thousand dollars of such capital stock shall be subscribed for and distributed, and five per cent. paid thereon, said commissioners shall call a meeting of the stockholders of said company by giving at least twenty days' notice thereof in one or more newspapers published in the county of Brown, for the purpose of electing nine directors of said company, who shall immediately proceed to elect one of their number president, and annually thereafter, the said stockholders shall meet on the second Monday in April, for the purpose of electing directors as aforesaid, on a like notice to be given by the president and secretary, in some newspaper, as they may deem proper: *Provided*, That if from any cause, an election shall not be held at any other time on notice as aforesaid, and that until such election, the directors of the preceding year shall continue to act, and this charter shall not be avoided by reason of any irregularity in or want of such election; and in case of a vacancy in the board of directors, the same may be filled by appointment of a majority of the board, until the next annual election thereafter.

Proviso.

SEC. 3. The business of said company shall be managed by a board of nine directors, who shall be stockholders. The directors shall be chosen annually by ballot by the stockholders of said company, and shall serve until others are elected in their stead. The vote may be given in person or by proxy duly authorized. The directors shall make such by-laws, rules, and regulations, not inconsistent with the constitution and laws of this state, as may be necessary for the well ordering of the affairs of said company, and a majority of said directors shall form a quorum for the transaction of business for the company. In the absence of the president of the board of directors, the board may appoint a president *pro tem*. The board shall also appoint a secretary, treasurer, engineers, and such other officers as they may deem necessary, and fix their compensation, and may demand adequate security for the performance of their respective duties. They shall have full power to decide the time and manner in which said stockholders shall pay the money or labor due on their respective shares, not exceeding twenty per cent. at any one installment, and to forfeit to the use of the said company the share or shares of every person failing to pay any installment, at a reasonable period, not less than thirty days after the time appointed for the payment thereof. The commissioners, until the directors are chosen, shall do and perform all and singular the duties and trusts imposed by this act upon the directors of said company. They shall appoint a chairman, secretary, and treasurer, the chairman to be one of their own number; and until the directors are appointed according to the provisions herein contained, they shall in fact constitute a board of directors for the company, with like powers as are herein conferred upon the said board of directors. The said commissioners shall issue certificates to the stockholders for the number of shares such stockholders may have subscribed for or may hold in said company; the certificates to be signed by the secretary and countersigned by the chairman, and to be subject to all the payments due and to become due thereon; which stock shall be transferable in such manner as shall be prescribed by the by-laws of said company.

SEC. 4. The capital stock of said company shall be ten thousand dollars, and shall be divided into shares of twenty-five 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 shares in labor or materials upon said road, under the supervision and direction of the board of directors: *Provided*

Board of directors.

Commissioners to issue certificates.

Capital stock.

always, That five per cent. in cash be paid on making such subscription to the stock of said company.

**May locate road
Proviso.** SEC. 5. The said company shall have power to construct a plank road, or a road partly of plank and partly of gravel, or other good and substantial material, from Green Bay, in the county of Brown, to the village of Depere, in said county, with the privilege of continuing said road to Kaukauna, in the county of Outagamie, on either side of Fox river, as the directors may determine, the route of said road to be determined by the directors of the company, when elected and duly organized: *Provided always*, That the points of said road herein established shall in no case be changed by said directors; and the said directors shall have power to construct said road along and upon any highway now, or hereafter laid out, or to be laid out and established by the proper authorities, and of such width as the said directors 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 whenever the said road shall be constructed of plank to lay down 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, engineers 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 the 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 have agreed to pay therefor, or as shall be ascertained in the manner hereinafter directed and provided.

**How damages
settled.** 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 land or the land adjoining said road, any gravel, stone, or earth, for the purposes 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 to be done to such land for such entry, occupation, or taking, it shall and may be lawful for the parties to appoint

three disinterested persons to estimate such damage, who shall be sworn fairly and impartially to 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 upon him made, or if such owner shall be under a legal disability, or out of the state, then and in either of such cases, 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 and charges of the company, to appoint, and he shall appoint, three disinterested persons of the same county to view the lands and estimate the damage or injury which will be sustained by reason of the entry, or occupation, or taking, as aforesaid: *Provided*,^{PROVIDED.} That notice be given in some newspaper published in the county, at least ten days before such view and estimate be made. The said appraisers shall as early as practicable, report under oath, to the circuit court of the county, the amount of damages sustained by any party by reason of such entry as aforesaid, which report being confirmed by the court, judgment shall be rendered therefor. The said appraisers shall be paid, each, two dollars 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 to be paid by the other party when the sum awarded does not exceed the sum offered for damages by the company. The said appraisers shall in all cases take into the account, in awarding damages, the benefits accruing to the person claiming damages in consequence of the building of said road. Upon the 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 the county where said lands are situated, for the benefit of said owners, the said company may immediately enter upon, occupy, or take from said lands as hereinbefore provided.

SEC. 8. The said company may erect toll-gates, and demand and receive toll from all persons traveling on the said road, whenever three consecutive miles are finished, or when the whole road is finished. 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 animals, 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, two cents per mile, and for every score of 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 tolls, 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, pursuant to 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 land adjacent thereto, and enter again upon said road, shall for each offence be liable to a fine not to exceed 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 for every such offence be liable for the recovery of damages by 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 in amount of said stockholders, may at any meeting of said company, called for that purpose, provide for such increase of the capital stock of said company as may be deemed necessary: *Provided*, That the capital stock of said company shall in no case exceed the sum of fifty thousand dollars: *And provided further*, That such increase of capital shall be necessary to complete said road.

SEC. 12. This act shall be favorably construed to effect the purposes hereby intended, and the same is hereby declared to be a public act.

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

Lt. Governor and President of the Senate.

Approved, March 27, 1852.

LEONARD J. FARWELL.

[*Published, April 14, 1852.*]