

How construed. expense consequent on the provisions of the same, shall be paid out of the state treasury,

J. McM. SHAFER,

*Speaker of the Assembly.*

E. B. DEAN, JR.,

*President pro tem. of the Senate.*

Approved, April 14, 1852.

LEONARD J. FARWELL.

[*Published June 2, 1852*]

### Chap 331

An Act to amend an act entitled "An act to incorporate the Milwaukee and Wauwatosa Plank Road Company," approved March 15, 1851.

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

May increase capital stock

SECTION 1. The Milwaukee and Wauwatosa Plank Road Company is hereby authorized to increase their capital to twenty-five thousand dollars, and to extend their road or branch thereof from the village of Wauwatosa in a direct line north until it strikes the Milwaukee and Lisbon Plank Road, and also to extend a branch to intersect the Milwaukee, Watertown, and Madison Plank Road, at such point as they shall see fit.

How stock subscribed.

SEC. 2. The additional capital stock hereby authorized, shall be divided into shares of twenty dollars each, and shall be subscribed under the direction of the directors of said road or company, and shall be paid in the same manner and under the like condition as the original capital of said company.

How damage settled.

SEC. 3. Section eight of the said act to incorporate the Milwaukee and Wauwatosa Plank Road Company, is hereby amended so as to read as follows: when the said corporation cannot agree with the owner or owners of any land, stone, gravel, 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 of the county in which the property may lie, upon application of said company, to issue his warrant directed 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, to inquire into and assess the damages which the owner or owners of said

property proposed to be taken, shall sustain by reason thereof. If at the time and place mentioned; any of the persons so summoned do not attend, the said sheriff or other officer shall 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 taken, their agent or attorney, or either of them, and if not present in person, the sheriff or constable for him, shall strike off each two of said jurors, and the remaining five shall act as a jury of inquest of damages. Before the said jury shall act, the said sheriff or constable shall administer to each of them an oath or affirmation that he will faithfully and impartially inquire into and assess the damage which the owner or owners of said property may sustain by reason of the taking of the same, and the construction of said road according to the best of his skill and ability; whereupon the said jury shall proceed to view the said land or material proposed to be taken, and to hear the evidence of the respective parties, and to inquire into and assess the said damages, taking into consideration the advantage which the owner or owners thereof shall derive from the construction of said road. Such inquisition and assessment shall be reduced to writing and signed by the said jurors or a majority of them, and by the sheriff or other officer in attendance, and shall, within five days thereafter, be by him transmitted to the clerk of the circuit court of the proper county, who shall file the same. Such inquisition shall describe the property taken and the boundaries of the land in question and the damages to be paid to the owner or owners as aforesaid; and when such damages together with the costs of such inquisition shall be paid or tendered to the owner or owners, or deposited with the clerk of said court, the said company shall be vested with the same interest and estate in the said property as if it had been conveyed in fee simple by the owner or owners thereof so long as the property thus described shall be used for the track of said road: *Provided*, That such jury shall not proceed in the Previous. said inquisition and assessment in the absence of the owner or owners thereof, his, her, or their agent or attorney, unless it be made to appear by affidavit that a written notice of the time and place of such meeting shall have been served upon the owner or owners of said property either personally, or by leaving the same at his residence, at least five days before the day appointed for such meeting, or unless it shall in like manner be made to appear 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 said jurors before they shall proceed to make such inquisition and assessment.

May appeal.

SEC. 4. Either party may appeal from the finding of such jury to the circuit court of the proper county, upon filing notice of his intention so to do, and serving a copy of such notice upon the opposite party, within five days after the filing of such inquisition; and such appeal shall be tried in same manner as other civil causes are tried.

May borrow money.

SEC. 5. The said company may borrow money at a rate of interest not exceeding twelve per cent., and give security therefor upon the road.

When act to take effect.

SEC. 6. This act shall be in force as soon after its passage as the said company, by resolution of their board of directors shall give their consent to this amendment.

J. McM. SIAFTER,

*Speaker of the Assembly.*

E. B. DEAN, JR.

*President pro tem. of the Senate.*

Approved, April 14, 1852.

LEONARD J. FARWELL.

[*Published, June 3, 1852.*]

An Act to appropriate to Tibbits & Gordon the sum therein named.

## Chap 332

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

SECTION 1. There is hereby appropriated to Tibbits & Gordon, out of any money in the treasury not otherwise appropriated, the sum of four hundred and ninety-nine dollars, and seventy-one cents, in full for bill of sundries furnished for the use of the state, up to February the 25th, 1852.

J. McM. SIAFTER,

*Speaker of the Assembly.*

E. B. DEAN, JR.,

*President pro tem. of the Senate.*

Approved, April 14, 1852.

LEONARD J. FARWELL.