

CHAPTER 122.

Published November 4, 1856.

An Act to grant certain lands to the La Crosse and Milwaukee Railroad Company, and to execute the trust created by an act of Congress, entitled "an act granting public lands to the State of Wisconsin to aid in the construction of railroads in said state." Approved June 3d, 1856.

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

SECTION 1. The La Crosse and Milwaukee railroad company is hereby authorized and empowered to survey, locate, contract, complete and perpetually to have, use, maintain and operate railroads, with one or more tracks or lines, from the city of Madison, in the county of Dane, and from the village of Columbus, in the county of Columbia, on the most direct and feasible route, by the way of Portage City, to the St. Croix river or lake, between townships twenty-five and thirty-one, and from thence to the west end of Lake Superior, and to Bayfield, and shall have, possess, exercise and enjoy the same rights, privileges, functions, franchises, authority and immunities with reference to the said routes, or any railroad to be built thereon, as it now possesses, or enjoys, with reference to any route it is now authorized to occupy, or any railroad built or to be built thereon, and there is hereby conferred upon the La Crosse and Milwaukee railroad company, all the power and authority contained in the charter of said company, and in the acts amendatory thereof, for the purpose of carrying out the object of this act and of appropriating and applying the lands hereinafter, in this act granted, or their proceeds, to aid in the construction of railroads by this act authorized to be built.

SEC. 2. The said roads shall be constructed on the most direct and feasible routes from Madison to Portage City, and from Columbus to Portage City, and simultaneously as nearly as practicable, and both of them shall be completed by the last day of December A. D. 1858, and for the purpose of estimating and selecting the lands granted by congress, the city of Madison is hereby designated as the point of commencement of said road, and the whole of the railroad hereby authorized to be constructed shall

be constructed by said La Crosse and Milwaukee railroad company, within ten years from the third day of June A. D. 1856.

Powers granted.

SEC. 3. The said La Crosse and Milwaukee railroad company shall never set up the defence of usury, to any contract in any court whatever; it may purchase and own rails, chairs, spikes, engines, tenders, cars and all other things necessary or useful for the construction or operation of a railroad, and sell the same; and it shall also have power and authority to operate its said roads, or either of them, in connection with any, and all other railroads which may cross, come up to, or connect with the said railroads, or either of them, upon such terms as shall be mutually agreed upon, by and between the said companies; *Provided, however,* That the said La Crosse and Milwaukee railroad company, in making any such contract as last aforesaid, shall give no preference to one company over any such company or companies, as last above mentioned; but all such companies shall be put upon the same equal terms; *And, provided also,* That if the said La Crosse and Milwaukee railroad company, and such other railroad company as may desire a running connection with the same, shall at any time not be able mutually to agree upon the terms of such connections, then and in that case either party may apply to the circuit court of the circuit in which said connection may be sought; and the said circuit court shall appoint three commissioners, whose duty it shall be forthwith to proceed to examine and adjust the terms on which the said connection shall exist, and the said award of terms of connection shall be filed in the office of the secretary of state, and shall be binding on both parties for the term of two years. Such application shall be on not less than ten days notice in writing, to be given by the party making such application to the adverse party.

Proviso.

Proviso.

Interest of state to lands granted to company.

SEC. 4. For the purpose of aiding in the construction of the said roads, which by this act, the said La Crosse and Milwaukee railroad company is authorized to construct, all the interest and estate, present and prospective, of this state, in or to any and all the lands granted by the government of the United States to the state of Wisconsin, for the purpose of aiding in the construction of a railroad from Madison or Columbus, by the way of Portage City to the St. Croix river, or lake, between township twenty-five and thirty-one, and from thence to the

west end of Lake Superior, and to Bayfield, by virtue of an act of Congress, entitled "An act granting a portion of the public lands to the state of Wisconsin, to aid in the construction of railroads," approved June 3d, 1856, together with all and singular the rights, privileges and immunities conferred or intended to be conferred by the said act of Congress, are hereby granted to the said La Crosse and Milwaukee railroad company; *Provided*, That the said land shall be exclusively applied in the construction of that road, for which it was granted and selected, and shall be disposed of only as the work progresses, and the same shall be applied to no other work whatever; *And Provided further*, That the title to said lands shall vest in the said La Crosse and Milwaukee railroad company, in the manner following, that is to say, whenever twenty continuous miles of the said road shall have been completed, so as to admit of running regular trains on the same. The governor of this state shall certify to the secretary of the interior, the fact that such twenty continuous miles of such roads are completed as aforesaid, then the title to two hundred and forty sections of said land shall vest in the said La Crosse and Milwaukee railroad company; and when a second twenty continuous miles of said road shall have been completed, so as to admit of running regular trains on the same, the governor shall certify as above, and thereupon a further quantity of one hundred and twenty sections of said lands shall vest in said company, and so from time to time until said roads are completed. And it shall be the duty of the governor so to certify to the secretary of the interior whenever any such twenty miles are completed, so as to admit of running of regular trains of cars over the same. And the governor of the state shall, in his official capacity, and in behalf of the state, and under the great seal thereof, execute and deliver to the La Crosse and Milwaukee railroad company, whenever it shall by virtue of the provisions of this chapter, be entitled to any of said lands, a deed in fee simple of any and all the lands to which said company shall be entitled. *Provided*, That said company shall not sell any of said lands until twenty miles of said road shall be completed, so as to admit of running regular trains over the same, and so on from time to time, so that the sales of land by said company shall never exceed six sections of land for every mile of said road so completed.

Location of
route, &c.

SEC. 5. The location and designation of the route and line of the said roads, shall be made by the said La Crosse and Milwaukee railroad company, and the same shall from time to time, and as fast as practicable, be reported to the governor of this state. The selection of lands provided for in the act of Congress herein mentioned, shall be made by such agents as may be appointed by the governor of this state. Said selection, as well as the survey, location and completion of said roads, and the compensation of such agents, shall be at the cost and charge of said company, without charge of any kind upon the treasury of the state of Wisconsin. Said railroads which shall be constructed by the application of funds derived from the lands herein granted, shall be and remain public highways for the use of the government of the United States, free from any toll or other charge upon the transportation of property or troops of the United States; and the United States mail shall be transported over said roads under the direction of the Post Office Department, as provided in said act of Congress.

Shall pay annually to the state a certain sum in lieu of taxes.

SEC. 6. In consideration of the grants, privileges and franchises herein conferred upon the said La Crosse and Milwaukee railroad company, for the purposes aforesaid, the said company shall, on or before the first day of March, in each year, pay into the treasury of the state such sum as it is by the existing laws of the state required to pay, in place of taxes upon its road so constructed, or which it may hereafter construct under the present charter, and in addition thereto, it shall pay into the treasury of the state, on or before the first day of March in each year, four per centum on the gross earnings of said road, to be built by said company, in pursuance of the power and authority conferred by this act for the year ending on the last day of the preceding December, in place of taxes on that portion of its said railroad so to be constructed; and for the purpose of ascertaining the gross earnings aforesaid, an accurate account of such earnings shall be kept by said company, an abstract whereof shall be furnished by said company to the treasurer of this state, on or before the first day of February, in each year; the truth of which abstract shall be verified by the affidavits of the treasurer and secretary of the said company, and for the purpose of ascertaining the truth of said affidavits and the correctness of such abstracts, full power is hereby vested in the

To furnish to state treasurer an abstract of earnings, &c.

governor of this state or any other person appointed as may be by law prescribed, to examine the books and papers of said company, and to examine under oath the officers, agents and employees of the said company and other persons, and if any person so examined by the governor or other authorized person, shall knowingly or wilfully swear falsely, concerning the matter aforesaid, every such person is hereby declared to have committed perjury. And for securing to the state the payment of the aforesaid per centum, it is hereby declared that the state shall have a lien upon the railroad of the said company, and upon all other property, estate and effects of said company, whether real, personal, or mixed, and the lien hereby secured by the state shall take and have precedence of all demands, decrees and judgments, against the said company. The first payment shall be made on the first day of March next, after fifty miles of said road shall be completed, and such payment shall be in lieu and in full of all claims of the state for the grant hereby made; and in consideration of such annual payment, the said company shall be forever exempt from all assessments or taxes whatever by the state, or by any county, town, city, village or other municipal authority in the state, (except special taxes for the improvement of streets and sidewalks) upon all stock in the said La Crosse and Milwaukee railroad company, whether belonging to said company or to individuals, or any of its franchises, or estate, real, personal, or mixed; held by said company, and necessary for the operating of said railroad, and said lands granted by said act of congress, and hereby authorized to be conveyed to the La Crosse and Milwaukee railroad company, shall be exempt from all taxation under or by virtue of the laws of this state, for the period of ten years after the passage of this act, unless sooner sold, conveyed or leased by the said La Crosse and Milwaukee railroad company, and the state shall have a prior lien upon the road of said company, and all the appurtenances and stock thereof, for all dues that may accrue to the state from said corporation as herein provided, which lien of the state shall take precedence of all demands, judgments or decrees against said corporation.

Lien on road
by state.

Exempt from
assessments
and taxes.

SEC. 7. Within five years after the title of such lands shall become vested in the said railroad company, the same, if any shall remain unsold, shall be offered for sale

Sale of lands
remaining un-
sold.

in limited quantities at fair prices, preference being given to actual settlers.

Transportation.

SEC. 8. The said La Crosse and Milwaukee railroad company shall have full power and authority to transport persons or property in boats, vessels, barges, or other water crafts, on any navigable water which any portion of their railroad may run to, or connect with, and to receive and collect reasonable compensation for the same, and for that purpose may purchase or build, and own such vessels, boats, barges, or water crafts as it may require.

Capable of holding lands and disposing of same.

SEC. 9. The said La Crosse and Milwaukee railroad company shall be capable in law of taking and holding any lands granted by the government of the United States, or of this state, to aid in the construction of railroads, which shall be conveyed to said company by this act, or by deed, or by operation of law, and may also mortgage or pledge, or otherwise dispose of all their right, title and interest, claims or demands of, in or two any lands, or interest in lands, granted to said company, by this act, and in any other estate, real, personal, or mixed, of which they may be seized at the time of execution of such mortgage, or which they may acquire subsequent thereto, in such manner and on such terms as the directors may think proper.

May construct road over route of any other company.

SEC. 10. In case the said La Crosse and Milwaukee railroad company shall construct the railroad, which by this act, it is authorized to construct, or any part of it, upon or over any route, upon or over which any other railroad company is authorized to construct a railroad, and upon or over which it has, prior to the passage of this act, actually surveyed or located its line of railroad, it shall be the duty of the La Crosse and Milwaukee railroad company to settle with such railroad company, upon principles of justice and equity, for all its property and rights of property, which the said La Crosse and Milwaukee railroad company shall take, injure, or destroy; and the latter company shall pay to any such company, whose property or rights of property shall be thus taken, injured or destroyed, whatever the same is reasonably worth; such payment to be made in money, bonds, stocks, or lands, or in such other manner as said companies shall mutually agree, and if the said companies cannot mutually agree upon the amount of compensation to be made by the said La Crosse and Milwaukee railroad company, to such other company, for the property and rights of pro-

Compensation to other company.

erty, which said La Crosse and Milwaukee railroad company shall, as aforesaid take, injure or destroy, then, and in that case, each of such companies shall select a disinterested engineer, and the two engineers so selected, shall choose a third person, and in case they cannot agree upon such third person, the governor shall appoint such third person; and the third person so selected, shall constitute a board of commissioners, whose duty it shall be to ascertain, determine and award the amount of compensation which the said La Crosse and Milwaukee railroad company ought, in justice and equity, to make to such other railroad company, for the property and rights of property which shall be so as aforesaid taken, injured or destroyed.

Sec. 11. This act and all grants herein contained shall cease and be void, unless the said La Crosse and Milwaukee railroad company shall accept of the same within five days after the passage of this act; and such acceptance shall be by a resolution adopted by the directors of said company, a copy of which, duly certified by the secretary of said company, under its corporate seal, within said period of five days from the passage of this act, shall be deposited in the office of the secretary of state; and in case the said La Crosse and Milwaukee railroad company shall violate the provisions of this act, the legislature may repeal this act, and may revoke all and singular the rights and franchises herein conferred, so far as the same has not been performed and fulfilled, and so far as the rights and privileges hereby granted have not become complete and absolute.

Sec. 12. All property which the said La Crosse and Milwaukee railroad company is authorized to appropriate, take, possess, hold, use or enjoy, by making payment therefor, as is in this act provided, is hereby declared to be taken for public use so soon as the said company shall so appropriate, take, possess, hold or use the same.

Sec. 13. The capital stock of the La Crosse and Milwaukee railroad company is hereby increased two millions of dollars over and above its present capital, and within three months after the passage of this act, said company shall open books for subscription to such increased capital stock, after giving at least thirty days' notice thereof, in two newspapers, one published in the city of Milwaukee and one published in the city of Madison. Such books shall be opened in the city of Milwaukee, and shall be kept open for not less than three

Shall accept
grant within
certain time,
&c.

Property taken
deemed for
public use.

Capital stock
increased.

days ; and all persons shall be permitted to subscribe to said stock on the payment to the treasurer of the company, of five per cent. on the amount subscribed in cash ; but no one person shall be allowed to subscribe for more than two hundred and fifty shares of such stock ; and in case the number of shares subscribed shall exceed the amount of two millions of dollars, the same shall be reduced to that amount by deducting such sum as may be necessary, *pro rata*, from each of the several subscriptions, and the shares of stock so subscribed, shall be subject to calls for installments thereon, in like manner as the other stock of said railroad company.

Objects cannot be attained by general laws.

SEC. 14. It is hereby declared that in the judgment of the legislature of this state, the objects of the corporation named in this act cannot be attained under or by general by-laws.

To fence its road.

SEC. 15. The La Crosse and Milwaukee railroad company shall fence its road in parcels, as it shall, from time to time, operate the same, within one year after it shall commence the operating of any and every such parcel, until the whole of such railroad shall be in a good, proper, and substantial manner fenced throughout the entire extent thereof.

Public act.

SEC. 16. This act is hereby declared to be a public act, and the same, immediately after the passage thereof, shall be printed by the state printer, and when thus published, shall take effect and be in force.

Approved October 11, 1856,

CHAPTER 123.

Published November 18.

An Act to provide for paying the Lieutenant Governor for services as member of the State Board of Equalization.

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

Appropriation to Lt. Governor

SECTION 1. The Lieutenant Governor shall receive the same per diem and mileage for attendance as a member of the state board of equalization that he is entitled to as