

## CHAPTER 311.

[Published April 20, 1864.]

AN ACT to incorporate the Waupun and Rock river railway company.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

Commissioners  
to receive sub-  
scriptions.

SECTION 1. George W. Bly, William Hobkirk, David C. Fairbanks, Fred. Dony, M. R. Vinning, John N. Ackerman, David Ferguson, John M. Schraeck and T. W. Markee, (*be and*) are hereby appointed commissioners, under the direction of a majority of whom subscriptions may be received to the capital stock of the Waupun and Rock river railroad company, hereby incorporated, and they may cause the books to be opened at such times and places as they may direct, for the purposes aforesaid, giving notice thereof, not less than ten days, by publication in some newspaper published in the city of Fond du Lac.

Capital stock.

SECTION 2. The capital stock of said company shall be twenty-five thousand dollars, (with the privilege of increasing it to one hundred thousand dollars,) to be divided into shares of one hundred dollars each; and as soon as fifty shares of stock shall be subscribed and ten dollars on each share actually paid in, the subscribers of such stock, with such other persons as shall be associated with them for that purpose, their successors and assigns, shall be and are hereby declared and created a body corporate, by the name and style of the "Waupun and Rock river railroad company," with perpetual succession, and by that name shall have all the privileges, franchises and immunities incident to a corporation. They shall be capable in law of purchasing, holding, selling, leasing and conveying estate, either real, personal or mixed, so far as the same may be necessary for the purpose of said corporation, and in their corporate name may sue and be sued, and, generally, may do all and singular the matters and things which may be necessary for the well being of said corporation.

Name and powers of corporation.

Election of directors, &c.

SECTION 3. The said commissioners, or a majority of them, after fifty shares of the stock shall have been subscribed, shall give at least ten days' notice in a

newspaper published at the village of Waupun or the city of Ripon, of the time and place for the stockholders to meet for the purpose of electing five directors; and annually thereafter the said stockholders shall meet on the first Tuesday in January, of each year, for the purpose of electing directors as aforesaid, upon like previous notice to be given. That if from any cause, an election shall not be held at the regular time, the same may be held at any other time, upon notice given by the president or a majority of the directors for that purpose, and until such election, the directors of the preceding year shall continue to act, and in case of a vacancy in the board of directors, the place may be filled by an appointment made by said board. That previously to the first election, the commissioners named in this act shall name one of their number president, and shall appoint a clerk and treasurer, from whom they shall require sufficient bonds, and they shall perform all the duties and be invested with the powers of directors.

SECTION 4. The affairs of said company shall be managed by a board of five directors, to be chosen by ballot at the times hereinbefore prescribed, by the stockholders thereof, each share of stock being entitled to one vote, and no one shall be eligible to the office of director who is not a stockholder therein, and the five receiving the greatest number of votes shall be declared duly elected.

Management of affairs vested in directors.

SECTION 5. The said directors shall meet at such times and places as may be necessary to transact the business of the said company, and shall have power to make and establish such by-laws and regulations, not inconsistent with the constitution and laws of the United States or of this state, as may be deemed necessary for conducting the affairs of the said company. A majority of the directors shall be a quorum for the transaction of business. They shall appoint one of their number to be president, and shall also appoint a secretary, treasurer and such engineers and other officers as they may find necessary, and shall fix the compensation of all officers, and may demand adequate security for the performance of their respective trusts, and shall decide the time and manner in which the said stockholders shall pay the money due on their respective shares; and in case of failure of payment as required, the di-

Powers of directors.

President and other officers.

directors may declare all previous payments made thereon forfeited for the benefit of the company.

Further powers  
of directors.

SECTION 6. The directors shall have full power to regulate tolls, not in conflict with or repugnant to the laws of this state, to make contracts with any person, co-partnership or corporation whatsoever, as they may deem expedient and requisite for the management of the work and convenience and interests of the company, and, in general, to superintend and direct all the operations and affairs thereof. They shall issue certificates to each stockholder for the number of shares he or she may hold in said corporation, signed by the president and countersigned by the secretary, which stock may be transferable under such regulations as may be provided for in the by-laws of the company.

Annual meeting.

SECTION 7. The directors at each annual meeting of the stockholders, shall make and exhibit a complete statement of the affairs and proceedings of the company for the preceding year, and special meetings of the stockholders may by called by order of the directors.

May construct  
road from Waupun  
to Rock  
river.

SECTION 8. The said company shall have power to locate and construct a single track railroad from such eligible point on the southwest quarter of section number thirty-two, in the village of Waupun, Fond du Lac county, to such eligible point on or near Rock river, either in the town of Chester or Waupun, as shall be determined on by vote of the stockholders holding a majority of the stock of said company, at a special meeting called for that purpose, and said company shall have power to transport, take and carry property and persons upon the same by power and force of animals; and said company shall also have power to extend the line of said railroad from the village of Waupun to any eligible point at or near the village of Markesan, in the county of Green Lake, and also to erect all such side-tracks, turnouts and connecting tracks, and also such warehouses, machine shops, carriages, cars and appendages as may be necessary for the convenience of the company to the use of the said railroad.

Propelling power.

May extend road  
to Markesan.

Road to be commenced  
within  
five years.

SECTION 9. If the said corporation shall not, within five years from the passage of this act, commence the construction of said railroad, then the rights, privileges and power of such corporation shall be null and void.

SECTION 10. It shall and may be lawful for said

company, their officers and agents, to enter upon any land, street or highway for the purpose of exploring, surveying and locating the route of said railroad, doing thereunto no unnecessary damage; and when the said route shall be determined, it shall be lawful for said company at any time to enter upon, take possession of and use such lands, streets or highways, not exceeding four rods in width, along the line of said route, subject to the payment of such compensation as the company may have agreed therefor, or as shall be ascertained in manner hereinafter directed. And said company shall also have power to run said railroad along or across any street or streets within the village of Waupun, or along or across any highway between the towns of Chester and Waupun, or in either of said towns: *provided*, that said railroad track shall be so constructed as not to prevent the use of said highways or streets for the ordinary purposes for which they are used; *and provided, further*, that such compensation shall be ascertained and paid to the respective owners of the lands along said street or streets or highways, as agreed by said company, or is ascertained in the manner hereinafter directed. And said company are further authorized to enter upon the lands adjacent to the railroad, and beyond the limits thereof when necessary to erect depot buildings or fixtures for the operation of the same, and for the purpose of making drains and giving proper direction to water-courses, and to deposit earth and gravel taken from deep cuts, or to obtain earth and gravel and other materials for embankments or repairs of said road; and when such damages shall have been paid for or tendered, the title to the land occupied by such railroad, buildings, fixtures and embankments, shall vest in fee simple in said company.

Location of road,  
and compensation  
for damages

SECTION 11. When said company cannot agree with the owner or owners of such required land for the purchase thereof, or with the respective owners of lands along any street or highway required for said railroad, as to the compensation to be paid therefor, or when, by the reason of the legal incapacity or absence of any such owner or owners, no such agreement or purchase can be made, then and in any such case it shall be lawful for the judge of the circuit court of the county in which such lands, streets or highways are in whole or part situated, on application of either party, to ap-

Appraisal of  
damages.

point three disinterested persons residing in said county, whose duty it shall be to view and examine said lands, streets and highways, with the buildings and improvements of the person or persons so claiming damage, and to estimate the value of the land so taken, and the actual damage which the owner or owners thereof have sustained and ought in equity to receive by reason of the taking of the same for the construction and use of said railroad, taking into consideration the advantages as well as the disadvantages of said road to the owner or owners of said lands. The persons so appointed, before entering upon the discharge of such duties, shall take an oath before some person competent to administer oaths, faithfully and according to the best of their abilities to estimate and appraise said damages; and they shall make a report of such damages in writing, signed by them, or a majority of them, to the judge of said court, and shall cause the same within thirty days to [be] filed with the clerk of said court, and a copy thereof to be filed with the secretary of said company. The said appraisers shall give ten days' notice by publication in some newspaper published at Waupun, or in the county of Fond du Lac, of the time of their meeting to assess said damages, and in case no appeal shall be made within thirty days after filing their report with the clerk of said court, their appraisal shall be final and conclusive between the parties: *provided*, that either party may appeal to said court within thirty days after said report shall have been filed as aforesaid, upon serving a written notice upon the opposite party to that effect, and also in giving bonds in the sum of two hundred dollars, with sufficient sureties, to be approved by the judge of said court, conditioned to pay all costs and damages occasioned by said appeal, in case said assessment should be affirmed or not increased.

Appeal.

Public roads interfered with, to be repaired.

SECTION 12. In all places where said railroad may cross or in any way interfere with any public road, (or that) it shall be the duty of said company to make a sufficient causeway or passage way to enable persons traveling to pass over or under said railroad without inconvenience; and in cases where said road may come in contact with or pass along any public road or street, so as to occupy a portion thereof, the said company may construct a new road in part or in whole,

as may be necessary, on grounds adjacent to such roads, so as to make the same passable and convenient.

SECTION 13. This act shall be favorably construed to effect the purposes intended, and the same is hereby declared to be a public act.

SECTION 14. The said railroad company are hereby authorized and fully empowered in their corporate name and capacity, to contract debts with or to borrow money from any person or persons or corporations of any kind, upon such terms and conditions as may be agreed upon by and between said company and party with whom they may contract, at a rate of interest not exceeding the rate authorized by law, or of whom such money may be obtained; and may make and execute all necessary writings, notes, bonds or papers, and also may execute and deliver such securities upon the property of said company as may be deemed expedient by said corporation, and the contracts and official acts of said company are declared binding in law and equity upon said corporation, and upon all other parties to such contracts.

SECTION 15. The said company shall have the same powers in locating, constructing and continuing said railroad from the village of Waupun to the village of Markesan, as they have upon that portion of the road from the said village of Waupun to Rock river, as hereinbefore stated.

SECTION 16. This act shall take effect and be in force from and after its passage and publication.

Approved April 1, 1864.

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## CHAPTER 323.

[Published April 21, 1864.]

AN ACT to amend chapter one hundred and fifty-three of the private and local laws of 1859, entitled "an act to incorporate the Half Moon lake canal company."

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. Section five of chapter one hundred and fifty-three of the private and local laws of 1859, is

How dam and boom to be constructed.