

by law; and any election so held shall be as valid as if held within the limits of said town.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 20, 1878.

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[No. 495, A.]

[Published April 10, 1878.]

### CHAPTER 327.

AN ACT relating to the corporate indebtedness of the city of Racine, and amendatory of chapter forty-two of the private and local laws of 1871.

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

SECTION 1. Section nine of chapter forty-two of the private and local laws of 1871, is hereby amended by striking out the words: "*provided*, the same may be at or below par," and, further, the words: "at equal rates below par," where they respectively occur; and section ten of the same chapter is hereby amended by striking out the words: "provided they are below par," where they occur. Amendment.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 20, 1878.

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[No. 114, S.]

[Published April 10, 1878.]

### CHAPTER 328.

AN ACT to provide for amending the articles of association of railroad companies, in certain cases, and relating to fencing railroads.

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

SECTION 1. Any railroad company organized under chapter one hundred and nineteen of the general laws of 1872, may, by resolution, to be entered in the record of its proceedings, and adopted by a vote of two-thirds of its directors at any regular meeting of the board of directors, or any special meeting thereof called for such Amendment of articles of association authorized.

purpose, amend its articles of association so as to provide for the building and construction of an entirely new line of road from that specified in its original articles of association, and from such other new point or points, and upon such other new routes and lines, and to such other point or points as may be specified in such amendment in lieu of the building thereof upon the line specified in the original articles of association, and the secretary of said company shall file a certified copy of such resolution and of the record of the proceedings of said directors, upon the adoption of said resolution, in the office of the secretary of state, and it shall thereupon be the duty of the governor, if it shall appear from such certified copy that the requirements of this section have been complied with, to issue to said company a new patent in the form prescribed by section one of said chapter one hundred and nineteen, reciting the filing of such amendment to said articles, and referring to such articles of association as amended; and said company shall thereupon be deemed to have abandoned the line or route mentioned in the original articles of association: *provided*, that said articles of association shall not be amended after any portion of said road shall have been built or constructed, nor after any municipal aid shall have been granted for the building of such railroad, upon the line specified in the original articles of association, except in cases and in the manner now provided by law: *and provided, also*, that municipal aid may be granted to any such company for the purpose of building and constructing said railroad in conformity with such amendment, and the said articles of associations as so amended, in the same manner and in all respects as the same might have been granted for the building and construction of said railroad upon the line designated in such original articles of association.

**Fence required** SECTION 2. All the railroad companies in this state, whose roads have been in operation two years or more in carrying goods and passengers over the same or over any portion of such roads, are hereby required to fence the same, and to construct the necessary farm crossings and cattle guards wherever said roads or portions thereof have been so running through inclosed lands or through lands that may hereafter be inclosed. All fences four and one-half feet high and in good repair, consisting of rails, timber, boards, or stone walls, or any combination thereof, sufficient to protect the right

of way and track against the entry thereon of cattle and other animals shall be deemed legal and sufficient fences under the provisions of this act: *provided, however*, that this act shall not be construed to require the construction by railway companies of fences in places along their lines where by reason of the proximity of rivers, brooks, ponds, ditches, hills, embankments, or for any other cause, not necessary to fence in order to prevent cattle or other animals from straying or going upon the right of way or track: *and provided further*, that it shall be deemed a full compliance with this law if any railway company shall erect and maintain in any place where required by this act to erect fences, a barbed wire fence consisting of two barbed wires and one smooth wire, with at least forty barbs to the rod, the wire to be firmly fastened to posts not more than two rods apart with one stay between the posts, the top wire to be not more than fifty-two inches high, nor less than forty-eight, and the bottom wire not less than sixteen inches from the ground; or four smooth wires with posts not more than two rods apart, and with good stays not exceeding eight feet apart, the top wire to be not more than fifty-six inches high nor less than forty-eight, and the bottom wire not less than sixteen inches nor more than twenty inches from the ground.

SECTION 3. Any owner or occupant of such lands inclosed, or that may hereafter be inclosed, if the railroad company, whose tracks run through such lands, refuses or neglects to comply with the requirements of the preceding sections, may give notice in writing to such company to fence its roads so running through his premises, and to construct the necessary farm crossings and cattle guards thereon, and if such company, after being so notified, shall refuse or neglect, for the space of three months, to fence its road and to construct the necessary farm crossings and cattle-guards, it shall be liable to pay to the owner or occupant of such premises the sum of one hundred dollars for each and every month thereafter, so long as it shall continue to refuse or neglect to fence its said road and to construct said farm crossings and cattle guards as aforesaid: *provided*, that the time between the first day of November and the first day of May in any year shall be excluded from and not included in the three months as aforesaid.

Penalty for neglect.

SECTION 4. The notice mentioned in the foregoing section shall be signed by the person owning or occupying the land, and shall contain a description of the

Description of premises.

premises so owned or occupied, and may be served on the president, general manager, or superintendent of such road, or on any agent having charge of a station on such road, by leaving a copy thereof with any of said officers.

Possession sufficient to maintain action.

SECTION 5. Upon the trial of any action arising under this act against such railroad company, it shall not be necessary for the plaintiff to prove ownership of the land, but the proof of possession of the premises shall be deemed sufficient to entitle him to sustain such action.

Justices shall have jurisdiction.

SECTION 6. Every justice of the peace shall have concurrent jurisdiction with the circuit court of the county wherein such action may arise against any railroad company not complying with the provisions of this act.

Repealed.

SECTION 7. All acts and parts of acts contravening the provisions of this act are hereby repealed.

SECTION 8. This act shall take effect and be in force from and after its passage and publication.

Approved March 20, 1878.

[No. 195, A.]

[Published April 9, 1878.]

## CHAPTER 329.

AN ACT to amend chapter one hundred and eighty-three of the laws of Wisconsin for 1874, entitled An act relating to the police court of the city of Eau Claire.

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

Amended.

SECTION 1. Section ten of chapter one hundred and eighty-three of the laws of Wisconsin for 1874, is hereby amended so as to read as follows: Section 10. In case of the absence, sickness or other inability of said municipal judge, or in case of a vacancy in such office, until such inability shall cease, or vacancy shall be filled, it shall be the duty of the mayor, by warrant under the seal of said city, by and with the approval of the common council, to authorize a justice of the peace within said city to perform the duties of municipal judge, during the continuance of such vacancy; and the justice of the peace so authorized shall have all the powers and the same jurisdiction as are conferred upon the municipal judge by this act, and shall be entitled

Vacancy.