

AN ACT to authorize the construction of Plank and Turnpike Roads.

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

SECTION 1. Any number of persons not less than five may be formed into a corporation for the purpose of constructing and owning a plank road or a turnpike road by complying with the following requirements: notice shall be given in at least one newspaper printed in each county through which said road is intended to be constructed of the time and place or places where books for subscribing to the stock of said road will be opened and when stock to the amount of at least five hundred dollars for every mile of the road so intended to be built shall be in good faith subscribed, and five per cent. paid thereon, as hereinafter required, then the said subscribers may upon due and proper notice elect directors for the said company, and thereupon they shall severally subscribe articles of association in which shall be set forth the name of the company, the number of years that the same is to continue, which shall not exceed thirty years from the date of said articles, whether it is a plank road or a turnpike, which the company is formed to construct the amount of the capital stock of the company, the number of shares of which the said stock shall consist, the number of directors, and their names, who shall manage the concerns of the company for the first year, and shall hold their offices until others are elected, the place from and to which the proposed road is to be constructed and each town, city or village through which it is intended to pass, and its length as near as may be, each subscriber to such articles of association shall subscribe thereto his name and place of residence, and the number of shares of stock taken by him in said company, the said articles of association may upon complying with the provisions of the next section be filed in the office of the secretary of state; and thereupon the persons who have so subscribed, and all persons who shall from time to time become stockholders in such company shall be a body corporate by the name specified in such articles, and shall possess the powers and privileges and be subject to the provisions hereinafter contained.

SEC. 2. Such articles of association shall not be filed in the office of the secretary of state, until five per cent. on the amount of the stock subscribed thereto, shall have been actually and in good faith paid in cash to the directors named in such articles, nor until there is endorsed thereon, or annexed thereto, an affidavit made by at least three of the directors named in such articles, that the amount of capital stock required by the first section has been subscribed, and that five per cent on the amount has actually been paid in.

SEC. 3. A copy of any articles of associations filed in pursuance of this act with a copy of the affidavit aforesaid endorsed thereon, or annexed thereto, and certified to be a copy by the secretary of this state, shall in all courts and places be presumptive evidence of the incorporation of such company, and of the facts therein stated.

SEC. 4. Whenever any such company shall be desirous to construct a plank road through any part of any county, it shall make application to the board of supervisors of such county at any meeting thereof legally held, for authority to lay out and construct such road and take real estate necessary for such purpose and the application shall set forth the route and character of the proposed road as the same shall have been described in the articles of association filed as aforesaid. Public notice of the application shall be given by the company previous to presenting the same to such board by publishing such notice once in each week for six successive weeks in all the public newspapers printed in such county, or in three of such newspapers if more than three are published in such county, which notice shall specify the time when such application will be presented to such board, the character of the proposed road, and each town, city, and village in or through which it is proposed to construct the same:

SEC. 5. If such company shall desire a special meeting of the board of supervisors for hearing the same, and three members of such board may fix the time of such meeting, and a notice thereof shall be served on each of the other supervisors of the county, by delivering the same to him personally or by leaving it at his place of residence at least twenty days before the day appointed for such meeting. The expenses of such special meeting and of notifying the members of such board thereof, shall be paid by such company.

SEC. 6. Upon the hearing of such application all persons residing in such county or owning real estate in any of the towns through which it is

proposed to construct such road may appear and be heard in respect thereto. Such board may take testimony in respect to such application, or may authorize it to be taken by any judicial officer of such county, and it may adjourn the hearing from time to time.

SEC. 7. If after the hearing of such application said board shall be of the opinion that the public interest will be promoted by the construction of such road on the proposed route as shall be described in the application it may, if a majority of all the members elected to such board shall assent thereto by an order to be entered in its minutes authorize such company to construct such a road upon the route specified in the application and to take the real estate necessary to be used for that purpose, a copy of which order, certified by the clerk of such board, the said company shall cause to be recorded in the clerk's office of such county before it shall proceed to do any act by virtue thereof.

SEC. 8. Whenever any such board shall grant such application it shall appoint three disinterested persons who are not owners of real estate in any town through which said road shall be proposed to be constructed, or in any town adjoining such town, commissioners to lay out such road; the said commissioners after taking the oath prescribed by the constitution, shall proceed without unnecessary delay to lay out the route of such road, in such manner as in their opinion will best promote the public interest; they shall hear all persons interested who shall apply to them to be heard; they may take testimony in relation thereto, they shall cause an accurate survey and description to be made of such route and of the land necessary to be taken by such company for the construction of such road and the necessary buildings and gates, they shall subscribe such survey and acknowledge its execution, as the execution of deeds is required to be acknowledged, in order that they may be recorded, and they shall cause such survey to be recorded in the office of register of such county. If such company shall intend to construct its road continuously in or through more than one county such application shall specify the number of commissioners which the company desire to have appointed to lay out such road which shall not exceed three for each county, and an equal number of such commissioners shall be appointed by the board of supervisors of each county in or through which it shall be proposed to construct such road, but the whole number of such commissioners shall not be less than three, nor without the consent of such company, shall it exceed six, unless the number of counties in or

through which it is proposed to construct such road, shall exceed that number. And the commissioners so appointed shall lay out the whole of such road, and shall make out a separate survey of so much thereof as lies in each county which shall be subscribed and acknowledged as aforesaid and recorded in the office of the register of such county. Such company shall pay each of the said commissioners two dollars for every day spent by him in the performance of his duties as such commissioner, and his necessary expenses.

SEC. 9. No such road shall be laid out through any orchard to the injury of fruit trees, or through any garden without the consent of the owner thereof, if such orchard be of the growth of four years or if such garden has been cultivated for four years or more before the laying out of such road nor shall such road run through any buildings or any yard or enclosure or yards necessary for the use and enjoyment of such building without the consent of the owner, nor shall any such company bridge any stream where the same is navigable for vessels or steamboats, or in any manner that will prevent or endanger the passage of any raft of twenty-five feet in width.

SEC. 10. No plank road shall be made on the roadway of any chartered turnpike company without the consent of such company, and any plank road company formed under this act shall have power to contract with any turnpike company for the purchase of the roadway or part of the roadway of such turnpike company on such terms as may be mutually agreed on; whenever a plank road shall be made as provided in this act on or adjoining the route of any turnpike road, the company owning such turnpike road is authorized to abandon that portion of their road on or adjoining the route of which a plank road is actually constructed and used; but nothing herein contained shall be so construed as to permit any plank road from crossing any turnpike road, nor any turnpike road from crossing any plank road.

SEC. 11. The route so laid out and surveyed by the said commissioners shall be the route of such road, and such company may enter upon take and hold, subject to the provisions of this act, all such lands as the said survey shall describe as being necessary for the construction of such road, and the necessary buildings and gates. But before entering upon any of such lands the company shall purchase the same of the owner thereof:

or shall pursuant to the provisions of this act acquire the right to enter upon, take and hold the same.

SEC. 12. If any owner of such land shall from any cause be incapable of selling the same, or if such company cannot agree with him for the purchase thereof, or if after diligent inquiry the name or residence of any such owner cannot be ascertained, the company may present to the judge of probate of the county in which the lands of such owner may lie, a partition setting forth the grounds of the application, a description of the lands in question and the name of the owner if known, and the means that have been taken to ascertain the name and residence of such owner, if his name and residence has not been ascertained, and praying that compensation and damages of the owner of the lands described in the petition may be ascertained by a jury. Such petition shall be verified by the oaths of at least two of the directors of the company, and if it shall allege that the name or residence of any owner is unknown, it shall be accompanied by affidavits proving to the satisfaction of said judge that all reasonable efforts have been made by the company to ascertain the name and residence of any owner whose name or residence is unknown.

SEC. 13. On receiving such petition the said judge shall appoint a time for drawing such jury, which shall be drawn from the grand jury box of the county by the clerk thereof, at his office, at least fourteen days notice of the time and place of such drawing shall be served personally upon each owner of lands described in the petition, who shall be known, and reside in the counties where the lands lie or by leaving the same at his residence, and such notice shall be served on all such owners in the manner aforesaid, or by putting the same into the post office directed to them at their respective places of residence and paying the postage thereon, or by publishing the same in each week for two successive weeks in a newspaper printed in such county, the first of which publications shall be at least fourteen days before such drawing.

SEC. 14. In case any lands described in such petition shall be owned by a married woman, infant, idiot or insane person or by a non-resident of the state the said judge shall appoint some competent and suitable person having no interest adverse to such owner to take care of the interests of such owner, in respect to the proceedings to ascertain such compensation and damages. And all such notices as are required to be served on any owner residing in such county, shall be served upon the person so appoint-

ed in like manner as on such owner; but any person so appointed to take care of the interests of any such non-resident may be superceded by him.

Sec. 15. The said judge shall attend such drawing, and shall decide upon any challenge made to any juror drawn by any person interested. Twenty-four competent and disinterested jurors and as many more as the said judge shall direct, shall be drawn; the clerk shall make, certify and deliver to the judge and to any party requiring the same a list of them, and the ballots drawn shall be returned to the box. The said judge if he shall deem it necessary, may at any subsequent time, direct the drawing of an additional number of jurors, and they shall be drawn, and all proceedings in relation to such drawing shall be had in the manner hereinbefore provided. Before proceeding to draw any such jury the company shall furnish to the said judge proof by affidavit, satisfactory to him, of the time and manner of serving and publishing notice of such drawing, which affidavit shall be filed in such clerk's office; and no jury shall be drawn unless it shall appear to the satisfaction of the said judge, that the provisions of this act in respect to giving notice of such drawing have been complied with.

Sec. 16. From the jurors so drawn, the said judge shall draw as many as he shall deem necessary to secure the attendance of twelve, and he shall issue his precept directed to the sheriff of such county either of his deputies or any constable of such county to summon the jurors so drawn by the said judge, to attend at the time and place therein specified to ascertain such compensation and damages. And he may from time to time, in case of the absence or inability to serve of any juror directed to be summoned draw and direct to be summoned as aforesaid, as many as may be necessary in his opinion to secure the attendance of twelve.

Sec. 17. Every juror named in any such precept, shall at least four days before the day therein specified for his attendance, be summoned personally, or by leaving at his residence, a notice containing the substance of such precept. The officer serving such precept, shall return it to the said judge, with an affidavit of the manner of serving the same, and of the distance necessarily travelled by him for that purpose; and such officer shall receive for making such service, six cents a mile for the distance so travelled.

Sec. 18. Every juror so summoned, who shall neglect or refuse to attend or serve, in pursuance of such summons, shall be liable to the same

penalties, as in case of such neglect or refusal of a person duly summoned as a juror in a court of record, and may be excused by the said judge from attending or serving, for reasons for which such juror might be so excused if summoned as a juror in the circuit court. Every juror attending shall be entitled therefor to one dollar a day, and his reasonable and necessary expenses to be paid by the company.

SEC. 19. On the application of any party interested, any judge or justice of the peace, may issue a subpoena requiring witnesses to attend before such jury, and such subpoena shall, have the same force and effect; and witnesses duly subpoenaed by virtue thereof, and refusing or neglecting to obey the same, shall be subject to the same penalties and liabilities as though such subpoena were issued from a court of record, in a suit pending therein.

SEC. 20. The time and place of meeting of the jury, to ascertain such compensation and damages, may be fixed by the said judge, by an order to be made by him at any time after receiving such petition, and notice thereof shall be served on the owners whose lands are described in the petition, as follows: On any owner residing in the county, or within fifteen miles of the lands in question owned by him, personally, or by leaving the same at his residence, at least fourteen days before the time so fixed: On any other owner residing within this state, and whose residence is known, in the manner aforesaid, or by putting the notice into the post office directed and paid as aforesaid at least forty days before the time so fixed: and on owners whose residence is unknown, by publishing the notice once in each week for six successive weeks in one of the public newspapers printed in the county, if there be any, if not then in a paper published at the capitol of the state.

SEC. 21. The jurors so summoned, shall meet at the time and place fixed by the said judge for that purpose, and shall be sworn by him to diligently inquire and ascertain the compensation and damages which ought justly to be paid for the land described in the petition, or for those of them in respect to which they shall be called upon to inquire, to the owners thereof, and for taking the same for such road, and faithfully to perform their duty according to law.

SEC. 22. The said judge shall attend such jurors, shall administer oaths to witnesses called before them, shall take minutes of the testimony given, and admissions of the parties made before them, shall advise such ju-

ry as to the law applicable to any case that may arise, shall receive certify and return to the clerk's office of the circuit court for said county the verdicts agreed upon by them, and while so attending, shall have all the powers possessed by a court of record when trying issues of fact joined in civil cases.

Sec. 23. The jury after hearing the parties, and viewing the lands in question, in each case, shall by a verdict, ascertain and determine the compensation and damages that ought to be paid to the owner for the land to be taken by the company, and for taking the same for such road, and also the amount that ought to be paid to him for the time spent, and necessary expenses incurred by him in respect to the proceedings, to ascertain and determine such compensation and damages; of which time and expenses a bill of items shall be presented to the jury, verified by the oath of the owner or his agent and such compensation and damages shall be ascertained and delivered without any deduction on account of any supposed benefit which the owners of such lands may derive from the construction of such road.

Sec. 24. Such jury shall not proceed to a hearing in any case until the company shall have produced to the said judge, satisfactory proof by affidavit that the notice of the meeting of the jury has been given in such case according to the provisions of this act; and such affidavit shall be attached to and filed with the certificate of the verdict in the case: And on any such hearing, no evidence or information shall be given, nor any statement made to the jury, of any proposition by, or negotiation between the parties or their agents in respect to any such lands, or such compensation or damages, nor shall any such petition contain any such statement or information.

Sec. 25. Such jury finding any such verdict, shall after agreeing upon the same, make a certificate thereof, and sign and deliver the same to the said judge; and shall embrace therein a particular description of the land in respect to which it is found. Such certificate may include one or more verdicts, in the discretion of the jury. Every such certificate shall be certified by the judge, to have been made by such jury; and shall be recorded in the records of deeds in the register's office of the county where the lands therein described shall lie, at the expense of the company.

Sec. 26. Whenever it shall become necessary for any such company to use any part of a public highway for the construction of plank or turn-

pike road, the supervisors and commissioners of highways of the town in which such highway is situated, or a majority, if there be more than one such commissioner in such town, may agree with such company upon the compensation and damages to be paid by said company, for taking and using such highway for the purposes aforesaid. Such agreement shall be in writing and shall be filed and recorded in the town clerk's office of such town. In case such agreement cannot be made the compensation and damages for taking such highway for such purposes, shall be ascertained in the same manner, as the compensation and damages for taking the property of individuals. Such compensation and damages shall be paid to the said commissioners, to be expended by them in improving the highways of such town.

SEC. 27. Any party interested in any such verdict may within twenty days after be notified of the rendition thereof, apply to the circuit court for a new trial, and it may be granted upon such terms as to the costs of the application, and of the first trial, as that court shall deem reasonable. If a new trial shall be granted, a jury shall be drawn therefor, and the same proceedings shall be had as are hereinbefore provided.

SEC. 28. Within forty days after the rendition of any such verdict, if a new trial shall not be applied for, the company shall pay to the person entitled to receive the same, the amount thereof, or shall make a legal tender thereof to him, if he shall refuse to receive the same; and the company may thereupon enter upon the lands in respect to which such verdict was rendered, and take and hold the same to it and its assigns so long as it shall be used for the purposes of such road as such company was formed to construct.

SEC. 29. If any person entitled to receive the amount of any such verdict be not a resident of this state or cannot be found therein after diligent search, the company may furnish to the said judge satisfactory proof by affidavit, of such fact, and he shall thereupon make an order, that the amount of such verdict be paid to the treasurer of the county in which the land lies in respect to which such verdict was rendered for the use of such owner, and that notice of such payment shall be given by publishing the same once in each week, for six successive weeks in a newspaper published in the county, if there be any, if there be none, then in a paper at the capitol of the state, on satisfactory proof being made to the said judge by affidavit within three months from the time of making the last mentioned

order, of such payment and publication, he shall make an order authorizing the company to take and hold the land in respect to which such verdict was rendered, in the same manner and with the same effect as if such payment had been made to the owner personally. The affidavit and orders mentioned in this section, and all other affidavits and orders made and precepts issued in the course of the proceedings under this act in relation to the acquisition of land to be used for such road shall be filed in the register's office of the proper county, and all such orders shall be recorded by such register in the records of deeds, at the expense of the company.

SEC. 30. If any owner shall apply for a new trial, the company upon depositing the amount of the verdict sought to be set aside, in such manner as the said judge shall, upon hearing the parties, direct, in trust that the same or so much thereof as the said owner shall be entitled to receive, shall be paid to him on demand, and on giving such security, by bond, as the judge shall approve, for the payment to such owner of any sum which he may be entitled to receive from the company, in respect to the land in question, by reason of any verdict or the judgment of any court, for such compensation, damages, costs and expenses, the company may enter upon and use such land for the purposes of such road, but the title of the owner thereof shall not be divested until the payment or legal tender to him of the whole amount which he shall be entitled to receive from the company for such compensation, damages, costs and expenses: and on such payment or tender being made, the company shall be entitled to take and to hold such lands to it and to its assigns so long as the same shall be used for the purposes of such a road as such company was formed to construct.

SEC. 31. Every plank road made by virtue of this act, shall be laid out at least four rods wide, and shall be so constructed as to make secure and maintain a smooth and permanent road the track of which shall be made of timber, plank or other hard material, so that the same shall form a hard and even surface, and be so constructed as to permit carriages and other vehicles conveniently and easily to pass each other, and also so as to permit all carriages to pass on and off where such road is intersected by other roads.

SEC. 21. Every turnpike road that shall be constructed by virtue of this act shall be laid at least four rods wide, and shall be bedded with stone, gravel or such other material as may be found on the line thereof

and faced with broken stone or gravel, so as to form a hard and even surface with good and sufficient ditches on each side whenever the same is practicable. The arch or bed of such road shall be at least eighteen feet wide, and shall be so constructed as to permit carriages and other vehicles conveniently to pass each other, and to pass on and off such turnpike where it may be intersected by other roads.

SEC. 33. In each county of this state in which there shall be any plank road, or turnpike road, constructed by virtue of this act, there shall be three inspectors of such roads, who shall not be interested in any plank or turnpike road in such county. They shall be appointed by the board of supervisors of the county, and shall hold their offices during the pleasure of such board. Before entering on their duties, such inspectors shall take and subscribe the constitutional oath of office and file the same in the office of the clerk of the circuit court of the county.

SEC. 34. Whenever any such company shall have completed their road, or any five consecutive miles thereof, it may apply to any two of the inspectors to be appointed pursuant to this act, in the county where said road, or a part thereof, so completed and to be inspected is located, to inspect the same, or if such inspectors, or a majority of them, are satisfied on inspection that the road so inspected is made and completed according to the true intent and meaning of this act. They shall grant a certificate to that effect, which shall be filed in the office of the clerk of the circuit court of the county. The inspectors shall be allowed two dollars per day for their services pursuant to this section, to be paid by the company whose road they inspect.

SEC. 35. Upon filing as aforesaid such certificate, the company owning any plank road so inspected may erect one or more toll gates upon their road, but not within three miles of each other, and may demand and receive toll, not exceeding one and a half cents per mile, for any vehicle drawn by two animals, and for any vehicle drawn by more than two animals one half cent per mile for every additional animal, for every vehicle drawn by one animal three quarters of a cent per mile; for every score of sheep or swine, and for every score of neat cattle one cent per mile; for every horse and rider, or led horse half a cent per mile. In no case shall any plank road company charge or receive rates of toll which will enable said company to divide more, nor shall any company divide more than twelve per cent. per annum on their capital stock actually paid in, and

invested in their road after keeping the road in repair, and appropriating not exceeding ten per cent. per annum on their capital stock invested as aforesaid, as a fund for the reconstruction of their road when necessary.

SEC. 36. Upon filing such certificate as aforesaid, the company owning any turnpike road so inspected, may erect one or more toll gates upon its road, but not within three miles of each other, and may demand and receive toll not exceeding the following rates: for every vehicle drawn by one animal three quarters of a cent a mile, for every vehicle drawn by two animals one and one quarter cents a mile; and for every vehicle drawn by more than two animals, one and one quarter cents a mile, and one quarter cent additional a mile for every animal more than two; for every score of neat cattle, one cent a mile; for every score of sheep or swine, one half cent a mile; and in the same proportion for any greater or less number of neat cattle, sheep or swine; for every horse and rider or led horse one half cent a mile; and in no case shall any such turnpike company charge or receive rates of toll which will enable it to divide more than twelve per cent. on its capital stock actually paid in cash, and invested in its road, after paying the expenses of managing the same, and keeping it in repair.

SEC. 37. The commissioners of highways of any town in which a toll gate may be located or any such roads, or in an adjoining town, whenever they or a majority of them shall be of the opinion that the location of such gate is unjust to the public interest, by reason of the proximity of diverging roads or for other reasons, may, on at least fifteen days written notice to the president or secretary of said company, apply to the court of probate of the county in which such gate is located, for an order to alter or change the location of the said gate; the court on such application and on hearing the respective parties, and on viewing the premises, if the said court shall deem such view necessary, shall make such order in the matter as to the said court may seem just and proper; and either party may, within fifteen days thereafter appeal from such order to the circuit court, on giving such security as said probate judge shall require; such order, unless appealed from shall be observed by the respective parties, and may be enforced by attachment or otherwise, as the said court shall direct; and if appealed from the decision of the circuit court shall be final in the matter. The said probate and circuit courts may direct the payment of costs in the premises, as shall be deemed just and equitable.

SEC. 38. The business and property of such company shall be managed and conducted by a board of directors consisting of not less than five nor more than nine, who after the first year shall be elected at such time and place as shall be directed by the by-laws of such corporation, and public notice shall be given of the time and place of holding such election, not less than twenty days previous thereto in one or more newspapers printed in each county in or through which the road of such company is located. The election shall be made by such of the stockholders as shall attend for that purpose either in person or by proxy. All elections shall be by ballot and each stockholder shall be entitled to as many votes as he shall own shares of stock, and the persons having the greatest number of votes shall be directors. Whenever any vacancy shall happen in the board of directors such vacancy shall be filled for the remainder of the year by the remaining directors; the directors shall hold their office for one year and until others are elected in their places no person shall be a director unless he is a stockholder in the company, and no stockholder shall be permitted to vote at any election for directors on any stock except such as he has owned for the thirty days next previous to the election.

SEC. 39. The directors of any company incorporated under this act may require payment of the sums subscribed to the capital stock, at such times, and in such proportions, and on such conditions as they shall see fit, under the penalty of the forfeiture of their stock, and all previous payments thereon; and they shall give notice of the payments thus required, and of the place and time, when and where to be made at least thirty days previous to the payment of the same in some newspaper printed in each county in or through which their road is located, if there be one, if not then in a paper printed at the capitol of the state, or by sending such notice to such stockholder by mail, directed to him, at his usual place of residence.

SEC. 40. The shares of any company formed under this act shall be deemed personal property, and may be transferred as shall be prescribed by the by-laws of such company. The directors of every such company may at any time, with the consent of a majority, in amount of the stockholders in such company provide for such increase of the capital stock as may be necessary to finish the making of a road actually commenced and partly constructed, but the whole capital stock of any company shall not exceed five thousand dollars per mile for each mile of road.

SEC. 41. It shall be the duty of the directors of every company form-

ed under this act to report annually to the secretary of state, under oath of any two of such directors, the cost of their road, the amount of all money expended, the amount of their capital stock, and how much paid in, and how much actually expended, the whole amount of tolls or earnings expended on such road, the amount received during the year for tolls, and from all sources, stating each separately, the amount of dividends made, and the amount set apart for a reparation fund, and the amount of indebtedness of such company, specifying the object for which the indebtedness accrued.

SEC. 42. Within two weeks after the formation of any company by virtue of this act, the directors thereof shall designate some place within a county in which according to the articles of association of such company, its road or some part thereof is to be constructed, as the office of such company, and shall give public notice thereof by publishing the same in a public newspaper published in such county, if any there be, if not then in a paper at the capital of the state, which publication shall be continued once in each week, for three successive weeks and shall file a copy of such notice in the office of the clerk of the circuit court of every county in which any part of such road is constructed or is to be constructed. And if the place of such office shall be changed, like notice of such change shall be published and filed as aforesaid before it shall take place, in which notice the time of making the change shall be specified. And every notice, summons, declaration or other paper required by law to be served on such company may be served by leaving a copy of the same at such office with any person having charge thereof, at any time between nine o'clock in the forenoon and noon, and between two and five o'clock in the afternoon of any day except Sunday.

SEC. 43. It shall be the duty of the directors of any such company to cause a book to be kept by the secretary treasurer or clerk thereof containing the names of all persons alphabetically arranged, who are or shall within six years, have been stockholders of such company, and showing their places of residence, the number of shares of the stock held by them respectively, and the time when they respectively became the holders of such shares; which book shall from nine o'clock in the forenoon until noon, and from two o'clock in the afternoon until five, on every day except Sunday, and the fourth day of July be open for the inspection of all persons who may desire to examine the same, at the office of such company and any

and every person shall have the right to make extracts from such book, and no transfer of stock shall be valid for any purpose whatever except to render the person to whom it shall be transferred liable for the debts of the company according to the provisions of this act, until it shall have been entered therein as required by this section, by an entry showing to and from whom transferred. Such book shall be presumptive evidence of the facts therein stated, in favor of the plaintiff in any suit or proceeding against such company or against any one or more stockholders jointly. Every officer or agent of any such company who shall neglect to make any proper entry in such book, or shall refuse or neglect to exhibit the same, or allow the same to be inspected, and extracts to be taken therefrom as provided by this section, shall be deemed guilty of a misdemeanor and the company shall forfeit and pay to the party injured a penalty of fifty dollars for every such neglect or refusal, and all the damage resulting therefrom. And every company that shall neglect to keep such a book open for the inspection as aforesaid shall forfeit to the people the sum of fifty dollars for every day it shall so neglect to be sued for and recovered in the name of the people by the district attorney of any county in or through which the road of such company shall be constructed or shall be according to its articles of association intended to be constructed, and when so recovered, the amount shall be paid in equal portions to every such county for the use thereof.

SEC. 44. The stockholders of every company incorporated under this act shall be liable in their individual capacity for the payment of the debts of such company, for an amount equal to the amount of the stock they severally have subscribed or held in said company over and above such stock to be recovered of the stockholder who is such when the debt is contracted, or of any subsequent stockholder and any stockholder who may have paid any demand against such company either voluntarily or by compulsion shall have a right to resort to the rest of the stockholders who were liable to contribution, and the dissolution of any company shall not release or effect the liability of any stockholder which may have been incurred before such dissolution.

SEC. 45. The debts and liabilities of any company formed under this act shall not exceed in amount at any one time fifty per cent. of the amount of its capital actually paid in, and if such debts and liabilities shall at any time exceed such amount, the stockholders who were such at the time any excess of debts or liabilities shall be created or incurred shall be jointly

and severally and individually liable for such excess in addition to their other individual liability as provided in this act.

SEC. 46. In any action against any company formed under the provisions of this act, the plaintiff may include as defendants any one or more of the stockholders of such company who shall by virtue of the provisions of this act be claimed to be liable to contribute to the payment of the plaintiff's claim; and if judgment be given against such company in favor of the plaintiff for his claim or any part thereof, and any one or more of the stockholders so made defendants shall be found to be liable as aforesaid, judgment shall also be given against him or them, and shall show the extent of his or their liabilities individually. The execution upon such judgment shall direct the collection of the sum for which it may be issued of the property of such company liable to be levied upon by virtue thereof, and in case such property sufficient to satisfy the same cannot be found in the county of the officer to whom the same shall be directed, that the deficiency or so much thereof as the stockholders who shall be defendants in such judgment shall be liable to pay, shall be collected of the property of such stockholders respectively. And if in any action any one or more of such stockholders shall be found not to be liable for the demand of the plaintiff or any part thereof judgment shall be given for the stockholder so found not to be liable, but no verdict or judgment in favor of any such stockholder shall prevent the plaintiff in such action from proceeding therein against the company or against it and such defendants who are stockholders as shall be liable for such demand or some portion thereof. Suits may be brought against one or more stockholders who are claimed to be liable for any debt owing by the company or any part of such debt without joining the company in such suit, but no such suit shall be so brought until judgment on the demand shall have been obtained against the company and execution thereon returned unsatisfied in whole or in part or the company shall have been dissolved, but it shall not be necessary that such dissolution shall have been declared by any judicial decree, sentence or determination, and in such suit there may be a verdict and judgment in favor of any defendant not liable as aforesaid but such verdict and judgment shall not prevent the plaintiff in such suit from proceeding therein against any defendant who shall be liable aforesaid.

SEC. 47. So much of any such road and of the toll houses gates and other appurtenances thereof constructed by virtue of this act, as shall be

within any town, city or village, shall be liable to taxation in such town city or village as real estate.

SEC. 48. Every company incorporated under this act, shall cease to be a body corporate: First if within two years from the filing of their articles of association they shall not have commenced the construction of their road, and actually expended thereon at least ten per cent. of the capital stock of such company, and second, if within five years from such filing of the articles of association such road shall not be completed according to the provisions of this act.

SEC. 49. All companies formed under this act shall at all times be subject to visitation and examination by the legislature or by a committee appointed by either house thereof or by any agent or officer in pursuance of law, and the courts of this state shall have the same jurisdiction over such corporations and their officers as over those created by special acts.

SEC. 50. The legislature may at any time alter amend or repeal this act, or annul or repeal any corporation formed or created under this act.

N. E. WHITESIDE,

Speaker of the Assembly.

JOHN E. HOLMES,

Lieut. Governor and President of the Senate

Approved, August 21, 1848.

NELSON DEWEY.

AN ACT to pay Samuel S. Kaeller the several sums therein named.

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

SECTION 1. There shall be appropriated and paid out of any money in the state treasury to Samuel S. Kaeller jailor of the county of Iowa, viz: