

rate the village of Fond du Lac," approved February 8th, 1847, and all acts and parts of acts inconsistent with this act, shall be, and the same are hereby repealed; such repeal to take effect at the time when this act becomes operative. Acts repealed.

SEC. 46. This act shall be considered a public act, and shall be construed favorably in all courts and places.

J. McM. SHAFER,

Speaker of the Assembly.

TIMOTHY BURNS,

Lt. Governor and President of the Senate.

Approved, March 19, 1852.

LEONARD J. FARWELL.

[*Published, April 1, 1852.*]

An Act to incorporate the Cascade and Lake Michigan Railroad Company.

Chap 133

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

SECTION 1. E. Fox Cook and such other person or persons as may hereafter become associated with him in the manner and under the restrictions hereinafter prescribed, his and their successors and assigns, are hereby created a Created a body corporate. body corporate by the name of the Cascade and Lake Michigan Railroad Company, and by that name shall be and are hereby authorized to construct and maintain a rail road, with one or more railways or tracks, from, and beginning at or near as may be the north-east corner of section twenty-seven, town fourteen, north of range twenty-three east, in the county of Sheboygan; running thence westerly from water's edge on west shore of Lake Michigan, along the section line on the north side of said section twenty-seven, through to where said line crosses the Sauk trail road; thence across the said Sauk trail road along the said section line, as near as may be practicable, to the village of Cascade, in said county of Sheboygan; and the said company are hereby made capable in law, to purchase, hold and enjoy and retain to them and their successors and assigns, lands, tenements and hereditaments, so far as may be necessary to construct said rail road, and the same to sell, grant, rent, or in any manner dispose of, to contract and be contracted with, to sue and be sued, to plead and be impleaded, answer and be answered, defend and be defended, and also to make, have and use at their pleasure a common seal: *Provided*, The said company do not construct Provided. the said railroad across any public or private highway, road,

stream of water or water course, if the same shall be necessary, without restoring such road, highway, stream of water or water course, to its former state, or in sufficient manner not to impair the usefulness of said road, highway, stream of water or water course, to the owner or to the public.

How road to be built.

SEC. 2. The said railroad shall be substantially built in the usual way, with ties and strap rails, and all carriages or cars run thereon by the said company, may be propelled either by steam or horse power; and for the purpose of ascertaining the most advantageous line or practicable route whereon to construct the said railroad, the said company are hereby empowered to cause all necessary examinations and survey to be made, and when it shall be necessary in the location or construction of said road to pass through the land of any individual and thereby deprive him of a wagon way on the same, it shall be the duty of the said company to provide for such individual, proper wagon ways, and said company shall be liable to such individuals in treble the amount of damages sustained or occasioned by neglect to provide such way, which may be recovered in any court of competent jurisdiction.

When to elect officers.

SEC. 3. The stockholders of said company, shall annually, on the first Monday of May, elect one of their number president and treasurer, who may appoint a secretary and such other officers and agents as the company may deem necessary; and the said stockholders shall have power to make, from time to time, all needful rules, regulations and by-laws touching the construction and use of said road and business of said company, as they may find necessary and proper successfully to carry into effect the object of this charter.

How damages settled.

SEC. 4. The said company shall have the right to enter upon any lands and lay down said road, not exceeding four rods in width, and whenever any lands or materials shall be required for the construction of said road, and the same shall not be given or granted to said company, the compensation to be paid therefor shall be ascertained as follows: the person or persons claiming compensation as aforesaid, or if the owner or owners thereof are minors or insane persons or married women, the guardian or guardians of such minors or insane persons, and the husband of such married women may select for themselves an arbitrator, and the company shall select an arbitrator, and the two thus selected shall take to themselves a third; and in case either party shall refuse to appoint an arbitrator, the other party may petition any justice of the peace of the county of Sheboy-

gan, who, upon notice to the other party, shall appoint three arbitrators, who in either case shall be sworn by a justice of the peace, as arbitrators, to act justly according to the best of their understanding and judgment by and between the parties, and render copies of their award to each of the parties in writing, from which award either party may appeal to the court of proper jurisdiction for the county in which such land or material may be situated, and in all cases in which compensation shall in any manner be claimed for lands when there is no improvements made, it shall be the duty of the arbitrators and court to award a fair compensation for said land and materials; and appeals in such cases shall, when taken, be in all respects proceeded in as appeals in other cases in said court, and brought into said court by filing the award with the clerk of the said court, whose duty it shall be to enter the same on the docket of said court, setting down the claimant or claimants as plaintiff and said company as defendant, and when the valuation so ascertained shall be paid or tendered by the said company, said company shall have the same right to retain, hold, own, and possess said lands and materials as fully and absolutely as if the same had been granted and conveyed to the said company by deed, so long as the same shall be used for the purpose of said road: *Provided*, That none of said arbitrators so chosen shall be of kin to any of said parties or in any way interested on either side, and that the said company pay the said arbitrators.

Proviso.

SEC. 5. Any person or persons having any claim or demand in writing against the said company, signed by the president and secretary thereof, either for the right of way or for work and labor done and performed for the said company, in the location or construction of said railroad or otherwise, or for materials furnished in the construction or running of said road, or otherwise, may have a lien on the property of the said company in like manner as mechanics and others have a lien on private property under the provisions of chapter one hundred twenty of the revised statutes: *Provided*, That it is first made to appear that payment of the same has been demanded of and refused by the treasurer of said company, who is hereby authorized and required to receive and safely keep all monies of the said company, and not to pay out the same or any part thereof only upon the order of the president and secretary, whose duty it is hereby made to draw their orders upon the treasurer in favor of all persons having any such claim or demand against the said company.

Claim to be a lien upon road.

Proviso.

SEC. 6. If any person or persons shall wilfully obstruct

Damage to road
how punished. or in any way spoil, injure, or destroy said railroad, or any part thereof, or any thing belonging or incident thereto, or any materials to be used in the construction thereof, or any building, fixtures or carriage, erected or constructed for the use or convenience thereof, such person or persons shall each be liable for every such offence to treble the damages sustained thereby, to be recovered in an action of debt in any court having jurisdiction of the amount.

Capital stock. SEC. 7. The capital stock of said company shall be twenty-five thousand dollars, divided and disposed of in such manner as the stockholders in and by their by-laws may direct, and the president, treasurer and secretary shall be the directors of said company, whose property, personal and real, shall be taxed in like manner as individual property is taxed.

When road to
be finished. SEC. 8. The said company shall have the said railroad finished in ten years from and after the taking effect of this act, which is declared to be from and after its passage.

J. McM. SHAFER.

Speaker of the Assembly.

TIMOTHY BURNS,

Lt. Governor and President of the Senate.

Approved, March 23, 1852.

LEONARD J. FARWELL.

[Published, March 26, 1852.]

Chap 134 An Act to amend an act entitled "An act to incorporate the city of Racine in the county of Racine," and the acts amendatory to the same.

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

Tax limited. SECTION 1. The mayor and city council shall not levy a tax on said city, in any one year, for current city expenses to exceed five thousand dollars.

To levy tax to
pay debts. SEC. 2. The mayor and city council shall levy a tax, in addition to the current city expenses, sufficient to pay the present indebtedness of said city, as the same shall become due and payable; and shall also levy a tax on the several wards of said city sufficient to pay the present indebtedness of said wards respectively.

Special tax to be
voted upon. SEC. 3. There shall be no other tax levied upon said city, or the several wards thereof, for city or ward purposes, except the poll tax, unless specially authorized by a vote of the property tax payers as hereinafter provided.

SEC. 4. On the written petition of fifty freeholders of said city, asking for an appropriation, stating the amount