

No. 90.

AN ACT to incorporate the Racine and Rock river railroad company.

Name and powers of the corporation.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin*, That Lorenzo Janes, Bushnell B. Cary, Elias Smith, Consider Heath, Eugene Gillespie, H. D. Wood and Charles Leet, of Racine county, Samuel F. Phoenix, of Walworth county, and Henry F. Janes, of Rock county, together with such other persons as may hereafter become associated with them in the manner hereinafter prescribed, their successors and assigns, be and they are hereby created a body corporate by the name of "the Racine and Rock river railroad company," and by that name shall be and are hereby made capable in law to purchase, hold and enjoy and retain, to them and their successors, lands, tenements and hereditaments, so far as may be necessary, for the purposes of said road, and the same sell, grant, rent or in any manner dispose of; to contract and be contracted with, sue and be sued, implead and be impleaded, answer and be answered, defend and be defended; and also to make, have and use a common seal, and the same to alter, break or renew at pleasure. And if either of the persons named in this section shall die, refuse or neglect to exercise the powers and discharge the duties hereby created, it shall be the duty of the remaining persons hereinbefore named or a majority of them to appoint some suitable person or persons to fill such vacancy or vacancies, so often as the same shall occur.

Survey

SECTION 2. That the said corporation are hereby empowered to cause such examination and survey to be made between the town of Racine, Racine county, and Janesville, Rock county, as shall be necessary to ascertain the most advantageous route, whereon to construct a railroad; and shall cause an estimate to be made of the probable cost thereof, for each mile separately. And the said corporation shall be, and they are hereby invested with the right to construct a railroad with one or more railways or tracks, from the town of Racine aforesaid to the town of Janesville aforesaid.

and construction of the road.

Capital stock.

SECTION 3. That the capital stock of said corpora-

tion shall be five hundred thousand dollars, and shall be divided into shares of one hundred dollars each, and ten dollars on each share shall be paid at the time of subscribing.

SECTION 4. That the above named persons or a majority of them or the survivors of them are authorized to open books for receiving subscriptions to the capital stock of said company, and shall prescribe the form of such subscription, which books shall be opened within two years from the passage of this act, at such place or places as they may deem expedient, by giving thirty days' notice in some newspaper printed in the counties of Racine and Rock and Walworth, and in such other place or places as may be thought advisable of the time and place or times and places of opening said books: *provided, however*, that if the publisher of any newspaper printed in said county shall neglect or refuse to print such notice, then the required notice shall be published by affixing the same to the door of the court house in said county, at least twenty days previous to the opening of the said books, and said books shall be kept open at least ten days.

SECTION 5. That so soon as said stock or eighty thousand dollars thereof shall have been subscribed, the above named persons or the same number thereof as shall have given the notice above required shall give like notice for a meeting of the stockholders to choose directors, at some time at least thirty days thereafter, and at some place within the said counties of Racine and Rock, and if at such time and place the holders of one-half or more of said stock subscribed shall attend either in person or by lawful proxy, they shall proceed to choose from the stockholders, by ballot, three directors, each share of capital stock entitling the owner to one vote. And at such election the persons named in the first section of this act, or those appointed by its provisions to fill vacancies which may have occurred, or any three of them if no more be present, shall be inspectors of such election and shall certify in writing signed by them or a majority of them what persons are elected directors. And if two or more have an equal number of votes such inspectors shall determine by lot which of them shall be director or directors to complete the number required, and shall certify the same in like manner. And such

When and by whom books to be opened.

Notice.

Directors, when and how chosen.

Number.

Tie.

- inspectors shall appoint the time and place of holding the first meeting of directors, at which meeting seven shall form a board competent to transact all business of the company. And thereafter a new election of directors shall be made annually at such time and place as the stockholders at their first meeting shall appoint. And if the stockholders at their first meeting shall fail to appoint the day of such election then it shall be holden in the succeeding year on the same day of the same month on which said first election was holden unless the same should be the first day of the week, in which case it shall be holden on the day next succeeding. And if no election be made on the day appointed said company shall not be dissolved, but such election may be made at any time appointed by the by-laws of said company. And directors chosen at any election shall as soon thereafter as may be, choose of their own number one person to be president and another to be treasurer of such company and another to be secretary of said company; and from time to time may choose such other officers as by their by-laws they may designate as necessary.
- SECTION 6.** That the directors may require payment to the subscription to the capital stock, at such times, in such proportions, and on such conditions as they shall deem fit under the penalty of forfeiture of all previous payments thereon or otherwise: *provided* they shall never require the payment to be made at any place out of the counties through which said road shall pass. And such directors shall, at least thirty days previous to the appointed time of such required payment, give notice thereof in the manner provided in the fourth section of this act, for giving notice of the opening of the books of subscription for the stock of said company.
- SECTION 7.** That the directors of said company shall have power to make from time to time all needful rules, regulations and by-laws, touching the business of said company, and to determine the number of tracks or railways upon said road, and the width thereof, and the description of carriages, which may be used thereon; to regulate the time and manner in which passengers and goods shall be transported thereon, the manner of collecting tolls for such transportation and to fix penalties for the breach of any such
- Quorum.
- Subsequent elections.
- Directors to choose officers.
- Payment of subscription.
- Proviso.
- Power of directors.

rule, regulation or by-laws; and to direct the mode and condition of transferring the stock of said company; and penalties provided for by said by-laws may be sued for by any person authorized thereto, in the name of said company, and recovered in an action of debt before any court having jurisdiction of the amount. And said company may erect and maintain toll houses and such other buildings and fixtures as the accommodation of those using said road of themselves as they may deem in any way necessary for their interest or convenience.

SECTION 8. That the said company shall have the right to enter upon any land, to survey and lay down said road not exceeding one hundred feet in width, and to take any materials necessary for the construction of said road; and whenever any lands or materials shall be taken for the construction of such road, and the same shall not be given or granted to said company, and the owners thereof do not agree with said company as to the compensation to be paid therefor, the person or persons claiming compensation as aforesaid or if the owner or owners thereof are minors, insane persons or married women, then the guardian or guardians of such minor or minors and insane persons, and the husbands of such married women, may select for themselves an arbitrator, and the company shall select one arbitrator, and the two thus selected shall take to themselves a third who shall be sworn and paid as arbitrators 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 lands or materials may have been situate. And in all cases where compensation shall in any manner be claimed for lands it shall be the duty of the arbitrators and court to estimate any advantage which the location and constructing of said road may be to the claimant for such compensation. And the value of such advantage if any shall be set off against the compensation so claimed of said company. And all appeals in such cases shall when taken, be in all respects proceeded in as appeals in other cases to said court, and brought into said court, by filing the award with the clerk of said court whose duty it shall be to enter the same on the docket of said court, setting

May take private property.

Compensation.

Appeal.

Rule for estimating compensation.

down the claimant or claimants as plaintiff and said company as defendant. And when the valuation so ascertained shall be paid or tendered by said company, said company shall have the same right to retain, own, hold and possess said lands and materials as fully and absolutely as if the same had been granted and conveyed to said company by deed, so long as the same shall be used for the purpose of said road.

Road may cross the highway, &c.

SECTION 9. That said company may construct the said railroad across or upon any public road, highway, stream of water or water course if the same shall be necessary; but the said company shall restore such road, highway, stream of water or water course to its former state or in a sufficient manner not to impair the usefulness of such road, highway, [stream of] water or water course to the owner or the public.

Rate of tolls.

SECTION 10. That said company may demand and receive for tolls upon and for the transportation of persons, goods, produce, merchandize or property of any kind whatever, transported by them along said railway, any sum not exceeding the following rates: on all goods, merchandize or property of any description whatsoever transported by them, a sum not exceeding one and one half cents per mile per ton for toll; five cents on a ton per mile for transportation on all goods, produce, merchandize or property of any description whatsoever, transported by them or their agents; and for the transportation of passengers, not exceeding three cents per mile for each passenger.

Persons may transport with their own cars.

SECTION 11. That all persons paying the toll aforesaid may with suitable and proper carriages use and travel upon the said road, always subject however to such rules and regulations as said company are authorized to make by the seventh section of this act.

When road to be begun and finished.

SECTION 12. That if proceedings be not had under this act by an election of directors within three years from the taking effect thereof, and if said road be not completed within fifteen years thereafter, then the same to be void and of no effect.

Dividend.

SECTION 13. That so soon as the amount of tolls accruing and received for the use of said road, or any part thereof, according to the provisions of this act, shall exceed five per centum on the amount of said capital stock paid in, after deducting therefrom the expenses and liabilities of said company, the directors of said

company shall make a dividend of such net profits among the stockholders in proportion to their respective shares. And no contingent or accumulating fund, exceeding one per centum of the profits of said company, shall remain undivided for more than six months.

SECTION 14. That if any person or persons shall willfully obstruct or in any way spoil, injure or destroy said road, or any thing belonging or incident thereto, or any materials to be used in the construction thereof, or any buildings, fixtures or carriages, erected or constructed for the use or convenience thereof, such person or persons shall each be liable for every such offense to treble the damages sustained thereby, to be recovered by action of debt in any court having jurisdiction of that amount.

Penalty for injuring the property of said company.

SECTION 15. That whenever it shall become necessary in the location or construction of said road, to pass through the land of any individual, it shall be the duty of said company to provide for said individual proper wagon ways. It shall be liable to such individual in double the amount of damages occasioned by such neglect.

Company must provide private ways.

SECTION 16. That the territory or state, as the case may be, shall have power at any time to purchase the stock and road of said company for use of the territory or state, at a price not exceeding the original cost for construction, repairs and fixtures of said railroad, and seven per cent. thereon; of which cost an accurate account shall be kept and submitted to the legislature duly attested on the oath of the officers of said company whenever the legislature shall demand the same.

Rights of company may be purchased.

Approved Jan. 19, 1838.

No. 91.

AN ACT to establish ferries across the Mississippi river opposite the town of Burlington in Des Moines county.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That Lamson, Ladd & co., their heirs and assigns, be and they are hereby authorized to establish and keep a ferry

Lamson, Ladd & co.