

Chap. 347

An Act to incorporate the Manitowoc and Mississippi Rail Road Company,

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

Commissioners appointed to receive subscriptions to stock.

SECTION 1. That George Reed, Hiram McAllister, Peleg Glover, Gustavus Richter and Charles E. Glinger of Manitowoc county, and Charles Doty, Curtis Reed and Joseph Keys of Winnebago and Theodore Conkey, James Hanchett and Orson Clark of Outagamie county, be and they are hereby appointed commissioners under the direction of a majority of whom subscriptions may be received to the capital stock of the Manitowoc and Mississippi Rail Road Company hereby incorporated, and they may cause books to be opened at such times and places as they shall direct, for the purpose of receiving subscriptions to the capital stock of said company, first giving sixty days notice of the times and places of taking said subscriptions, by publishing the same weekly in two public newspapers printed in the counties of Manitowoc and Winnebago.

Capital stock—new divided.

SEC. 2. The capital [stock] of said company shall be one million and five hundred thousand dollars, in shares of one hundred dollars each; and as soon as two thousand shares of stock shall be subscribed and five dollars on a share actually paid in, and a statement shall be deposited with the Secretary of State, authenticated by the oath of the Secretary of the board, and two or more of said commissioners, that such subscriptions and payments have been in good faith made, the subscribers of stock with such other persons as shall associate with them for that purpose, their successors and assigns, shall be, and they are hereby declared and created a body corporate and politic, by the name and style of the "Manitowoc and Mississippi Rail Road 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, receiving, selling, leasing, and conveying estate either real, personal or mixed, so far as the same may be necessary for the purposes of said company, and no further; and in their corporate name may sue and be sued, may have a common seal and alter and renew the same at pleasure, and generally may do all and singular the matters and things which to them shall lawfully appertain to do for the well being of the said corporation.

Conditional Corporate Powers.

Notice to be given to Stockholders of election of directors

SEC. 3. The said commissioners, or a majority of them, after the said two thousand shares of stock shall have been subscribed as aforesaid, shall give at least thirty days notice in the newspapers mentioned in the next preceding section, of the time and place by them appointed for the subscribers or stockholders to meet for the purpose of choosing nine directors, and

annually thereafter the said stockholders shall meet on the first Monday in July for the purpose of electing directors as aforesaid upon a like previous notice to be given in such newspapers by the directors for the time being in such newspaper as they may deem advisable: Provided, That previous to the first election the commissioners hereinbefore named, shall elect one of their number President, and they shall perform all the duties and be invested with all the powers of directors: And provided: That if from any cause an election shall not be held at the regular time specified therefor, the same may be held at any other time, on notice as aforesaid; that until such election, the directors of the preceding year shall continue to act, and that this charter shall not be avoided by reason of the irregularity or want of such election.

Provide.

Special election
—when held.

SEC. 4. The (officers) [affairs] of the said corporation shall be managed by a board of nine directors, who shall be chosen annually by ballot, on the days hereinbefore prescribed by the stockholders of said company, the votes to be delivered in person or by proxy duly authorised, which directors shall appoint one of their number President and shall respectively serve one year, or until other directors are elected; they shall have power to make and establish by-laws, rules, ordinances and regulations not inconsistent with the constitution and laws of the United States or of the State of Wisconsin, as may be necessary for the well ordering of the affairs of said company: Provided, That none but stockholders shall be eligible to be elected directors, and that at every such election and in all other cases upon which stockholders shall be called upon to vote, each share of stock shall be entitled to one vote in all cases of elections of directors, the nine stockholders having the greatest number of votes shall be declared duly elected.

Directors to
manage affairs
make by-laws
&c.

Provide.

Stock to vote.

SEC. 5. The said directors shall meet at such times and places, and be convened in such manner as they may hereafter decide upon. Five directors shall be a quorum for the transaction of business, who in the absence of the President, may appoint a President pro tem. The said directors shall appoint a Secretary, Treasurer, and such engineers and other officers as they may find necessary; shall fix their compensation, and may demand adequate security for the performance of their respective trusts. They shall have full power to decide the time and manner and proportions in which the stockholders shall pay their money due upon their respective shares, and to forfeit to the use of the company the share or shares of every person or persons failing to pay any instalment so required at a reasonable period, not less than thirty days after the time by them appointed for the payment thereof; to regulate tolls; to make

Directors may
appoint certain
officers.General powers
of Directors.

Proviso

such covenants, contracts and agreements with any person or persons, co-partnership or body politic whatsoever, as the execution and management of the works and the convenience and interests of the company may require; and in general to superintend and direct all the operations, receipts, disbursements and other proceedings of the company: Provided, That no instalment called in at any one time shall exceed twenty dollars per share, and that no instalment shall be called by the directors without giving at least sixty days' notice thereof in the newspapers hereinbefore mentioned.

Certificates of Stock transferable under regulations.

SEC. 6. The directors chosen as aforesaid shall issue a certificate to each stockholder for the number of shares he or they shall subscribe or hold in the said corporation, signed by the President, countersigned by the Secretary, and sealed with the common seal; subject, however to all the payments due and to become due thereon; which stock shall be transferable in person or by attorney, executors, administrators, guardians or trustees, under such regulations as may be provided by the by-laws of the company.

Directors to make an annual statement and may call special meetings of Stockholders.

SEC. 7. At each annual meeting of the stockholders for the purpose of electing directors, the directors of the preceding year shall exhibit to them a complete statement of the affairs and proceedings of the company for such year; and special meetings of the stockholders may be called by order of the directors, or by stockholders holding one fourth in amount of the capital stock, on like notice as that required for annual meetings, specifying moreover the object of the meeting; but no business shall be transacted at such special meeting unless a majority in value of the stockholders shall attend in person or by proxy.

Location, Construction to be determined at a special meeting.

SEC. 8. The said company shall have power to locate and construct a single or double track railroad, from such eligible point in the village of Manitowoc to such eligible point on the Mississippi river in the village of La Crosse, as shall be determined upon by a vote of the stockholders holding a majority of the stock of said company, who shall be represented in person or by proxy at a special meeting called for the purpose of fixing the location or termination of said road; and shall have power to transport, take, and carry property and persons upon the [same] by the power and force of steam, of animals, or of any mechanical or other power, or of any combination of them, and they shall also have power to make, construct and erect such turn-outs, and also all such ware houses, toll houses, machine shops, carriages, cars, and other works and appendages as may be necessary for the convenience of said company in the use of said railroad; and also to connect said railroad and operate the

Powers of Company.

same, with other railroads and branch railroads in the State of Wisconsin.

SEC. 9. If said corporation shall not within three years from the passage of this act, commence the construction of said railroad, and expend fifty thousand dollars or more thereon, and shall not within ten years from the passage of this act, construct, furnish and put in operation a single or double tract of railroad from the said village of Manitowoc to the Mississippi river, then the rights, privileges and powers of the said corporation under this act shall be null and void.

SEC. 10. It shall and may be lawful for said company, their officers, engineers, and agents, to enter upon any lands for the purpose of exploring, surveying, and locating the route of said rail roads, doing thereto no unnecessary damage; and when the said route shall be determined by the said company, it shall be lawful for them, their agents, officers, engineers, contractors, and servants, at any time to enter upon, take possession of, and use such lands, not exceeding four rods in width, along the line of said route, subject however, to the payment of such compensation as the company may have agreed to pay therefor, or as shall be ascertained in the manner hereinafter directed and provided in such case respectively: Provided, that the said corporation shall not in their corporate capacity, hold, purchase or deal in any lands within this State other than the lands in which said road shall run, or which shall be actually necessary for the construction or maintainance thereof, and of the ware houses, machine shops, depots and other fixtures connected therewith: And provided further, That said company shall not have right to run said railroad through any garden, orchard, burial ground, or building, without having first obtained the consent of the owner or owners thereof.

SEC. 11. When the said corporation cannot agree with the owner or owners of such required land, for the purchase thereof, or for the damages sustained by said owner or owners thereof, or as to the compensation to be paid to the owner or owners of any land taken for the purpose aforesaid; or when by 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 or County Court of the county in which such lands are situated, on application of either party, and at the charge of such corporation, to appoint three disinterested persons residing in said county, whose duty it shall be to view and examine or survey said lands, with the buildings and improvements, if any, thereon, and to estimate the value of the land so taken or required by the said company, and all damages which the owner

Conditions of
Charter.

Appropriation
of Lands, when
lawful.

Compensation--
how provided.

Proviso.

When consent
of owners ne-
cessary.

When Judge of
Court to ap-
point appraisers
to assess dam-
ages.

or owners thereof shall sustain, or may have sustained, by reason of the taking of the same for the construction and use of said railroad, or works appertaining thereto; taking into consideration the advantages as well as disadvantages of the same to the said owner or owners; and the persons so appointed, before entering upon the discharge of such duties, shall take an oath before some Justice of the Peace, or other person competent to administer oaths, faithfully and according to the best of their abilities, to examine the lands so taken or required by said company, and impartially to examine and appraise the value of the same; and the damages or injury which the owner or owners thereof shall have sustained or may sustain by reason of the taking and using thereof by the said company, over and above all benefits and advantages which such owner or owners shall derive from the construction of said railroad; whereupon such commissioners shall proceed to examine the premises and estimate the value of such land, and the amount of damages, if any, over and above the benefits and advantages which may accrue to such owner or owners, as aforesaid, and shall make a report of such valuation, in writing, under their hands and seals to said Judge, and shall return the same within thirty days after their appointment to the clerk of the Circuit Court of the county in which they reside; and it shall be the duty of the said clerk to file the same, and in case no appeal shall be made within thirty days after the filing said reports, as hereinafter provided, then the said clerk shall record the same, at the expense of the said company, and judgment of the said Court shall be entered thereon, on motion of either party, at any term of said Court: Provided, that either party may appeal to said Court within thirty days after said report shall have been filed in the clerk's office, and such appeal shall be tried in said Court, and the jury empaneled to try the same shall find the value of the land so taken or required by said company, and the damages which the owner or owners thereof shall have sustained, or may sustain by taking of the same, over and above the benefits which will accrue to such owner or owners from the construction of such railroad; and judgment of Court shall be entered accordingly: Provided also, that it shall not be lawful for the said commissioners, or the said Court, to proceed in the assessment of damages, or in the valuation of any lands or materials, as aforesaid, in the absence of the owner or owners thereof, his, her, or their agents or attorney, unless it shall be shown to them, by competent testimony, that the said owner or owners have had at least five days' notice of the time and place at which such assessment or valuation was to be made, or that the said owner, or owners are absent from the

Appraisers to
make oath, &c

Appraisers to
report to Judge
through Clerk
of Circuit Court

When judgment
shall be entered.

Proviso.

Appeals to be
tried as other
issues.

Proviso.

State of Wisconsin; and if the said owner or owners shall be minors, or non compos mentis, or absent from the State, the service of notice may be made on their guardians or trustees, if any there be, or in such manner as the said Court may direct; Provided also, that upon the making and filing of any report, as aforesaid, and payment, or legal tender, of the amount of any valuation or appraisal specified therein to the owner or owners of any such lands, his, her, or their legal representatives, the said company, their agents, or the contractors for making or repairing said railroad, may immediately take and use the same, without awaiting the issue of any appeal brought thereon.

Upon whom notice to be served

Proviso.

Company entitled to use on tender of money.

SEC. 12. The said railroad shall be so constructed as not to impede or obstruct the free use and passage of any public road or roads which may cross the same, and in all places where said railroad may cross or in any way interfere with any public road, it shall be the duty of said company to make or cause to be made a sufficient causeway or passageway, to enable all persons passing or traveling such public road to pass over or under such railroad without inconvenience; and whenever said railroad shall cross any navigable stream, it shall be constructed with a draw over the channel of such stream, not less than thirty feet wide, so as not to obstruct the navigation of said stream, and said company shall at all times provide the necessary attendance, so as to open said draw for the convenience of persons navigating such stream.

Rail road not obstruct oth roads.

When Draw be construct —their width &c.

SEC. 13. For the convenience of persons owning or possessing lands through which said railroad shall pass, it shall be the duty of said company, when required, to make a good and sufficient passage way over or under said railroad, whenever the same may be necessary to enable the occupants of said lands to pass over or under the same with wagons, carts, and implements of husbandry, as occasion may require: Provided, that the said company shall in no case be required to make more than one passageway for each farm, and when any public road shall cross such railroad in any farm, the person owning or possessing the farm shall not be entitled to require said company to make any additional passage or causeway.

Lands.

Company make passag ways across roads.

Proviso.

SEC. 14. On the completion of said railroad, or any portion of the track not less than ten miles, it shall and may be lawful for the company to demand and receive such sum or sums of money for passage and freight, or persons and property, as they shall from time to time think reasonable.

Company fix a Tariff freight and passg.

SEC. 15. If any person shall wilfully and knowingly break, injure, or destroy the railroad so to be constructed by said company, or any part thereof, or any works, buildings or ma-

Penaltie wilfuly obst ucion, &c.

achinery attached to or in use upon the same belonging to said company, such person or persons so offending shall each of them, for every such offence, forfeit and pay a sum not exceeding three times the amount of damages caused by such offence, which may be recovered in the name of the said company, by action of debt, in any Court having competent jurisdiction in the county wherein the offence shall be committed, and shall also be subject to indictment, and upon conviction of such offence, shall be punished by fine and imprisonment, or either, at the discretion of the Court.

Property subject to execution SEC. 16. The property of every individual invested in said corporation shall be liable to be taken in execution for the payment of his or her debt, in such manner as is or may be provided by law: **Provided**, that all debts due said company shall be first paid.

Stock how increased. SEC. 17. The stockholders holding a majority in value of the stock, may at any annual or special meeting, increase the capital stock of this company to an amount not to exceed three millions of dollars.

Rule of evidence. SEC. 18. This act shall be favorably construed to effect the purposes thereby intended, and the same is hereby declared to be a public act, and copies thereof, printed by authority of the State, shall be received as evidence thereof.

Reservation of this State SEC. 19. In case of a violation by the company of any of the provisions of this act, the legislature may resume all and singular the rights and privileges hereby granted to said company.

FREDERICK W. HORN,
Speaker of the Assembly.
DUNCAN C. REED,
President pro tempore of the Senate.

Approved, March 15th, 1851.

NELSON DEWEY.

Chap. 348 An Act for the relief of School District number two, in the town of Richmond, in the county of Richland.

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

When Town Superintendent to pay over moneys. SECTION 1. That whenever the district board of School District number two, in the town of Richmond, in the county of Richland, report to the Town Superintendent that they have kept three month's school, he shall thereupon pay to the treasurer of said district the proportion of school moneys of said town.

STATE OF WISCONSIN, }

SECRETARY'S OFFICE, }

I have compared the Acts, Resolutions and Memorials contained in this book with the originals deposited in this office, and do hereby certify that the same appear to have been correctly printed, excepting such errors as are corrected in the following ERRATA, and such minor variations as do not change the meaning or sense of the original text.

Witness my hand and the Great Seal of the State at Madison, this fifteenth day of May,

L. S. A. D 1861.

WM. A. BARSTOW, SECRETARY OF STATE.

ERRATA.

- Page 9, Chap. 8, Sec 1, line five, for *forty-nine*: read "fifty-nine."
 Page 15, Chap. 21, Sec 1, for first three lines read, "It shall be the duty of the Commissioners of the School and University Lands to convey to the United States of America, in the same manner that other School lands are by them conveyed, the following described lands"
 Page 29, Chap. 37, in title, for *rejection*: read "ejection;" and for *Approved January 19th, 1861* read "Approved February 4th, 1861."
 Page 29, Chap 38, for *Approved January 29th*: read "Approved February 4th"
 Page 38, Chap 34, Sec. 1, last line, before *Iowa*, read Grant and also "in one printed in the county of"
 Page 198, Sec 1, for *John C. Holmes*, read John E. Holmes;" and for *E. W. Graves*, read "D. W. Graves"
 Page 223, Chap 220, read "Sec 9 This act shall take effect from and after its passage."
 Page 232, Sec 289, for *Brigham*, read "Bingham"
 Page 233, Chap 241, Sec 1, line six, for *Stowund*, read "Stow and."
 Page 243, line five, for *Kock* read "Bark"
 Page 256, Chap 262, line six, for *Beard* read "Baird;" and for *Lay*, read "Loy."
 Page 268, Chap 262, line six, Sec 7, for *the amount of tolls*, read "and determine the price for transportation of freight and the fare of passengers."
 Page 272, Chap. 268, line one, for *Zelotee*: read "Zelotus;" and line two, for *Brecker* read "Becker."
 Page 273, line thirty eight, for *examination* read "execution."
 Page 274, line five, for *such* read "each"
 Page 278, Chap 280, for D. Hantz, read D Holt, Jr.
 Page " Chap 281, for *Carmon & Ladd*, read "Cannon & Ladd."
 Page 279, Chap 282, for *ten* read "two." in line two
 Page 280, Chap 285, Sec. 1, line five, for *N. S* read "U. S."
 Page 280, Chap 286, Sec 2, line six, for *executing* read "Executive"
 Page 281, Chap 287, Sec. 2, line two, for *election* read "appointment;" and Sec 12, line one, for *ten* read "five;" and in the last line, for *elected* read "appointed"
 Page 284, Chap 288, line nine, after *license*, read, "to be recovered in the name of the County Treasurer before any Justice of the Peace in an action of debt."
 Page 287, Chap. 291, Sec 1, line seven, for *sixty cents* read "sixteen cents"
 Page 290, Chap 297, line two, for *Doussman*, read "Dousman;" and for *Olset*, read "Vliet;" in line three
 Page 292, Sec 6, for *Oliet* read "Vliet."
 Page 299, Chap 303, line four, for *Waucoma* read "Waucoma"
 Page 345, Chap 315, title, before *Contingent* read "payment of the"
 Page 318, Sec 13, line two, for *ninety-five* read "twenty-one"
 Page 319, Chap 322, for *Halpin* read "Halpin."
 Page 351, Sec 4, line two, for *increase* read "income" and Sec. 5, line three, for *fifteen* read "fifty-four"
 Page 360, Sec 12, line six, for *member*, read "number"
 Page 361, Sec. 16, line three, for *already*, read "actually."
 Page 362, Sec 1, Chap 323, line one, for *four*, read "[four]."
 Page 363, Chap 340, for *Beloit*, read "Beloit"
 Page 372, Sec 1, line two, for *Charles E. Glinger*, read "Charles Hisinger"
 Page 383, line one, for *and* read "out."
 Page 388, line six, Chap. 384, for *suit*: read "suit;" and line ten, for *ret razit* read "ret razit."
 Page 393, Chap 368, for *H Ladd*, read "H. Sadd"
 Page 395, Chap 368, line four, strike out the word "five."
 Page 398, Sec 4, line eight, for *Appointed*, read "Approved."
 Page 408, line seven, for *balance*, read "ballot."
 Page 418, Sec. 7, line 7, after *transportation*, read "and to direct the mode and condition of transferring the stock aforesaid;" and Sec. 8, enclose all between the words *missor* in line eight and *person* in line nine, in brackets.
 Page 427, Sec 3, line five, for *Officers*, read "affairs."
 Page 437, for *Isaac J. Walker*, read "Isaac P. Walker."

[NOTE.—In preparing these acts for publication, where a superfluous word has been found in the enrolled bills, it has been printed in the text, but in italics, and enclosed in parenthesis, (*thus*). Where a word has been found necessary to sustain the sense of the context, or where one word has been obviously mistaken for another, the word supposed to be proper has been supplied, but in brackets, [*thus*]; thus adopting a plan heretofore adopted in publishing the laws, for the sake of uniformity.]