

An Act to amend an Act entitled "An Act to incorporate the Sheboygan and Fond du Lac Road Company." Chap. 140

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

SECTION 1. It shall be lawful for the company incorporated by the Act entitled "An Act to incorporate the Sheboygan and Fond du Lac road company" approved March eleventh, eighteen hundred and forty-eight, and they are hereby authorized and empowered to extend the road authorized to be constructed by said act from Fond du Lac by way of Rosendale to some eligible point on Fox River north of Green Lake, and also to construct a branch of said road from Fond du Lac by way of Rosendale to some eligible point on Fox River south of Green Lake.

SEC. 2 The said two points on Fox River shall be located by said company by the first day of June next.

FREDBRICK W. HORN,

*Speaker of the Assembly.*

DUNCAN C. REED,

*President pro tempore of the Senate.*

Approved, March 5th, 1851.

NELSON DEWEY.

An Act to incorporate the Milwaukee and Green Bay Plank Road Company. Chap. 141

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

SECTION 1. That F. Rosenthal, George Schmidt, Erust Salomon, Joachim Grauhagen, F. W. Allerdury, D. Richards, John Link, Rich Carlisle, L. Marke, John Bertsdry and H. G. Post 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 Milwaukee and Green Bay plank 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 thirty days' notice of the times and places of taking such subscription by publishing the same in one or more newspapers printed in the city of Milwaukee.

Commissioners  
to receive sub-  
scriptions.

SEC. 2. The capital stock of said company shall be twenty-five thousand dollars, and shall be divided into shares of twenty dollars each, and as soon as two hundred shares of the capital stock shall be subscribed and one dollar of each share actually paid in, the subscribers of such 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 politic and corporate by the name and style of

Constitutional  
corporate pow-  
ers.

the "Milwaukee and Green Bay Plank Road Company," with perpetual succession, and by that name shall have all the privileges, franchises and immunities incident to a corporation, to wit: They shall be capable in law of purchasing, holding, leasing and conveying estate either real or personal or mixed, and in their corporate name may sue and be sued, may have a common seal which they may alter or renew at pleasure, and generally may do all and singular the matters and things which they are authorised by law to do for the interest and well-being of said company.

Commissioners  
to give notice of  
election.

SEC. 3. The said commissioners, or a majority of them, after the said two hundred shares of stock shall have been subscribed as aforesaid, shall give at least twenty days' notice in the newspaper hereinbefore mentioned, of the time and place of meeting of the stockholders, for the purpose of electing seven directors, who shall elect one of their number President, and annually thereafter the said stockholders shall meet on the first Monday in May for the purpose of electing directors as aforesaid, on a like previous notice to be given by a majority of the directors for the time being, in such newspapers as they may think proper. 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 this charter shall not be avoided by reason of irregularity or want of such election; and in case of any vacancy in the board of directors the same shall be filled by the other directors or a majority of them.

Proviso

Vacancies, how  
filled

Powers of Di-  
rectors.

SEC. 4. The affairs of said company shall be managed by a board of seven directors who shall be stockholders, and be chosen annually by ballot, by stockholders of said company; the vote to be given in person or by proxy duly authorised; which directors shall appoint one of their number President, and shall serve until others are elected in their stead. They shall make and establish such by-laws, rules, orders and regulations not inconsistent with the constitution or the laws of the United States and of the State of Wisconsin as may be necessary for the well ordering of the affairs of said company. Each share of stock shall be entitled to one vote, and in all cases of election for directors the seven stockholders having the greatest number of votes shall be declared duly elected.

SEC. 5. Five directors shall constitute 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, such engineers and other officers as they may find necessary, and fix their compensation, and may demand adequate security for the performance of their respective trusts; they shall have the full power to decide the time and manner in which the said stockholders shall pay the money due on their respective shares, not exceeding twenty-five per cent in any one instalment; and to forfeit to the use of said company the share or shares of every person or persons failing to pay any instalment at a reasonable period, not less than thirty days after the time appointed for the payment thereof, they shall have power to regulate tolls, to make such covenants, contracts and agreements with any person or persons 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 operations, receipts, disbursements and other proceedings of the company; the commissioners, until the directors are chosen, shall issue certificates to each stockholder for the number of shares he or she shall subscribe for or hold in said corporation, signed by the President, and countersigned by the Secretary, subject 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 said company.

Certificates of Stock to be transferable.

SEC. 6. The said company shall have power to locate and construct a single or double track, plank or gravel road from Third street in the second ward of the city of Milwaukee, to Good Hope in the town and county of Milwaukee, on or as near as practicable to the Green Bay road, to some point in the northern part of the town of Granville as shall be determined upon by a vote of the stockholders having a majority of the stock of said company, and who shall be represented in person or by proxy at a special meeting called for that purpose. They shall have power to erect all such toll-houses, bridges, and other works and appendages as may be necessary for the convenience of said company in the use of said road. The directors shall exercise all powers conferred on them by law, shall audit and pay all accounts, give and receive all such receipts and discharges of debt, as shall be deemed best for the interest of said company. fix the compensation and salary of the officers they may appoint, and meet at such times and places as they may provide in the by-laws to be enacted by them. They may appoint and remove all officers at pleasure, prescribe the meetings of the stockholders, and declare and pay the dividends, or as much

Location and construction to be decided at a special meeting.

When dividends may be declared

of the surplus profits of the company as they shall deem advisable, which may accrue on the shares of said stock to the stockholders of said company, on the first Monday of May and December in each year.

Appropriation  
of Lands—how  
made.

SEC. 7. 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 plank road, doing thereto no unnecessary damage; and when said route shall be determined by 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 land for the purpose of said road, 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 for.

When jury may  
be summoned to  
assess damages.

SEC. 8. When the said corporation cannot agree with the owner or owners of any land, gravel, stone or other materials required for the construction of said road for the purchase thereof, or the compensation to be paid therefor or when by reason of the absence or legal incapacity, of the owner or owners, no such agreement, or purchase can be made, then, and in any such case, it shall be lawful for any Justice of the Peace of the county in which the property may lie to issue his warrant directed to the sheriff or any constable of said county, not directly interested requiring him to summon a jury of nine freeholders of said county not interested in said property to meet at some convenient place at or near the property to be valued on a day in the said warrant named not less than five nor more than ten days from the date of such warrant; and if at the time and place named any of the persons so summoned do not attend, the said sheriff or constable shall immediately summon as many as may be necessary with the persons in attendance as jurors to furnish a panel of nine jurors, and from them the said company and the owner or owners of the property to be valued, their agent or attorney or either of them, and if they are not present in person or by attorney, the sheriff or constable shall for him or her, strike off each two of said jurors and the remaining five shall act as a jury of inquest of damages; and before they act as such the said sheriff or constable shall administer to each of them an oath or affirmation that he will faithfully and impartially value the lands or materials required for said road, and all damages which the owner or owners shall sustain by reason of the construction of said road, taking into consideration the advantages the same will be to the owner or owners, according to the best of his skill and judgment: Whereupon the said parties shall proceed to

view the said land and materials so required, and to hear the evidence of the respective parties, which the said jurors shall reduce to writing, which shall be signed by all or a majority of said jurors and by the sheriff or other officer in attendance, and the said officer shall within five days thereafter transmit the same to the Clerk of the Circuit Court of the proper county who shall file the same; such inquisition shall describe the property taken or to be taken, or the boundaries of the land in question, and the value thereof as aforesaid, and such valuation when paid together with the costs of such inquisition, or tendered to the owner or owners, or deposited with the said Court, shall entitle the said Company to the estate and interest in the same thus valued, as if it had been conveyed by the owner or owners thereof in fee simple: *Provided*, That it shall not be lawful for any such jury of inquest to proceed in the valuation of any such property or material in absence of the owner or owners thereof, his, her, or their legal representatives, unless it shall be made to appear by affidavit that such owner or owners have had at least five days notice of the time and place of meeting for the purpose of making such valuation, or unless it shall in like manner be shown that such owner or owners are absent from the County, and if such owner or owners are under age or non compos mentis, the service of notice upon the guardian or trustee (if there be any) or their absence from the county shall be required to be established by affidavit to the said jurors before they shall proceed to make such valuation: *Provided*. Provided further, That in case of such disagreement the company shall not take possession of any lands or materials until said jury shall have first decided that the taking thereof is necessary, and in the case of materials, that the same are not essentially necessary to the owner or owners thereof for his, her, or their private and proper use.

SEC. 9. The shares of stock of the corporation shall be deemed personal property and every person becoming a shareholder by transfer, purchase or otherwise of shares of said stock shall succeed to all rights and liabilities of the prior holder of said share or shares, and the said shares shall be liable to be taken in execution for the payment of the debts of their owner in such manner as is or may be provided by law: *Provided*, That all debts due said company shall be first paid: Whenever the route of the road follows the line of a public highway, said company shall not take possession of the said highway until the commissioners of highways for the town through which it passes shall have given a written consent, which shall be recorded in the town Clerk's office, or if the said commissioners refuse to give their consent then the damage to the town shall be appraised or ascertained as in the case of private property, and the amount

Verdict to be filed with Clerk of Circuit Court.

Perfection of title to Land.

*Provide*.

Upon whom notice may be served.

*Provide*.

Shares of Stock declared personal property.

*Provide*.

When Town Commissioners to give consent to use of Highways.

so appraised for each highway so taken shall be paid to the said commissioners of the town to which it belongs, to be by them applied in improving the roads in such town.

Collection of  
Tolls.

SEC. 10. The directors may erect toll gates and exact toll from persons travelling on their road whenever three consecutive miles are finished, or when the whole route is complete not exceeding two cents per mile for every vehicle, sled, sleigh or carriage drawn by two animals and if drawn by more than two animals, one cent a mile: and for every horse and rider or led animal one cent a mile; and for ever score of sheep three cents a mile; and for every score of neat cattle four cents a mile: Provided, That persons going to and returning from military parade at which they are required by law to attend, and persons going to or returning from funerals shall be exempt from toll, and no toll shall be exacted from any person while actually going to or returning from any religious meeting on Sunday.

Proviso.

Penalties for  
wilful obstruc-  
tion.

SEC. 11. If any person shall wilfully and knowingly obstruct, break, injure or destroy the Plank Road so to be constructed by said company, or any part thereof, or any work, building or fixture 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 be liable in a civil suit for the recovery of damages by said company by action of debt in any court having competent jurisdiction in the county wherein the offence shall have been committed and shall also be subject to indictment, and upon conviction shall be punished by fine and imprisonment, or either at the discretion of the court.

Capital Stock—  
how increased.

SEC. 12. The directors of said company may at any annual or special meeting of the stockholders, with consent of a majority of amount of such stockholders join with any other company and provide for such increase of the capital stock of said company as may be found necessary to complete said road in such sections as may have actually been commenced, but remain in an unfinished state for want of means for completing the same.

Limitation.

SEC. 13. If said company shall violate any of the privileges hereby granted the Legislature of the State of Wisconsin may resume all and singular the rights and privileges vested in said company by this act.

Liability of  
Company.

SEC. 14. Said company shall be liable for all damages that may be sustained by any person or persons in consequence of the omission or neglect to keep said road in good repair and condition.

FREDERICK W. HORN,

*Speaker of the Assembly.*

DUNCAN C. REED,

*President pro tempore of the Senate.*

Approved March 5th, 1851.

NELSON DEWEY.