

SEC. 4. The legislature may at any time alter or amend this Who may amend act.
act.

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

Approved, March 15, 1851,
NELSON DEWEY.

An Act to incorporate the Omro and Waupun Plank Road Company.

Chap. 384

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

SECTION 1. That Wm. P. McAlister, Hiram Johnson, Marcus Commissioners appointed to receive subscriptions on notice.
Terwilliger, Nathaniel Frank, W. W. Wilcox, Benj. C. Sawyer, Charles Hammond N. F. Beckwith, Seymour Wilcox, J. K. Smith, are hereby appointed commissioners, under the direction of a majority of whom, subscriptions may be received to the capital stock of the Omro and Waupun 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 subscriptions, by publishing the same in one or more newspapers printed in the counties of Winnebago and Fond du Lac.

SEC. 2. The capital stock of said company shall be seventy Capital stock—now divided.
thousand dollars, in shares of ten dollars each ; and as soon as five hundred shares of the capital stock shall be subscribed, and five per cent. of the amount thereof actually paid in, or secured to the said company, the subscribers to said stock, with such other persons as shall thereafter associate with them for that purpose, their successors and assigns, shall be, and they are hereby created and declared a body corporate and politic, by the name and style of the "Omro and Waupun Plank Road Company," with perpetual succession ; and by that name shall be capable in law of purchasing, holding, selling, bargaining and conveying estate, real, 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 an incorporated company may by law do. Conditional Corporate powers

SEC. 3. The said commissioners, or a majority of them, Commissioners to give notice of election of directors.
after said five hundred shares of stock shall have been subscribed, as aforesaid, shall give at least twenty days' notice, in one or more of the newspapers of the said counties of Winnebago and Fond du Lac, of the time and place of the meeting

of the stockholders, for the purpose of electing five directors, who shall hold their offices until their successors are elected, and annually thereafter upon the anniversary of the first election, upon notice of the place of meeting being given by the directors then in being, published in one or more of the newspapers in the counties aforesaid, to be designated by the said directors, the said stockholders shall meet to elect directors: Provided, that until the first election of directors, the said commissioners above named, upon the subscription of five hundred shares of stock, and the organising of said commissioners by the election by them of one of their number President, shall have all the powers and perform all the duties of a board of directors for said company; and the corporate existence of said company shall be taken and held to have begun and be as complete as if a regular election of directors had taken place; and in case of a vacancy at any time happening in the board of directors, or in the said board of commissioners acting in the capacity of directors, the board shall have power to fill such vacancy.

Proviso

Powers and duties of Commissioners:

Affairs how managed.

Stock to vote, &c.

General powers of Directors.

SEC. 4. The affairs of said company shall be managed by the said directors, who shall be stockholders, and be chosen by ballot by the stockholders in person, or by their proxies duly authorised; and in all elections, and in the discussion of all questions acted upon at any meeting of the stockholders, each share of stock shall be entitled to one vote; and a majority of the votes cast shall govern, except in elections where the five persons having the greatest number of votes cast for directors shall be declared duly elected.

SEC. 5. A majority of said directors shall form a quorum for the transaction of all business, and shall organise by choosing one of their number President, and they shall have power to appoint a Secretary and Treasurer, and such other officers and agents as they may deem fit, and may fix their compensation, and may demand adequate security for the performance of their respective trusts, and may remove said officers and revoke the powers of such agents at pleasure; they shall also have power to make all necessary and proper by-laws, rules and regulations, for the management of said company, the subscription of stock, the payment of instalments thereon, the assignment and transfer of stock certificates, and prescribing the duties of officers, all of which by-laws, not inconsistent with the constitution and laws of this State, when duly recorded in the books of the company, shall be effectual and binding upon the members of said company, and all persons interested therein, as if the same formed a part of this act of incorporation.

SEC. 6. The said board of directors shall also have power

to decide the time and manner in which said stockholders shall pay instalments upon their stock, and to declare the forfeiture of said stock, and all prior payments thereon, for failure to pay such instalments as may be called for, and also to adopt, in behalf of the company, a relinquishment of any stock subscribed, and execute to the person or persons relinquishing the same, valid releases, discharging them from all liabilities thereafter, for or on account of the acts of said company or its officers.

Directors may decide when and how instalments shall be paid.

SEC. 7. The said directors shall have power to regulate tolls, and to make such covenants and contracts, in the name, and under the seal of said company, with any person or persons, as the execution and management of the work, as the convenience and interests of the company may require; and may issue to each stockholder a certificate or certificates for the shares which he, she or they shall subscribe for, stating in the body of such certificate or certificates, the amount paid on such share at the time of the issuing of such certificate or certificates, which certificate or certificates shall be signed by the President, and countersigned by the Secretary of said company; and which certificate or certificates shall be transferable in the manner prescribed by the by-laws of said company.

Directors may regulate tolls—issue certificate, &c.

Certificates transferable.

SEC. 8. The said company shall have power to locate and construct a single or double track road from such eligible point in the village of Omro, Winnebago county, to or near the village of Waupun, in the county of Fond du Lac, and by the most eligible and practicable route, through or near Utica, West Rosendale and Pulaski, as the directors shall decide. The track of said road shall be constructed of plank, stone, in whole or in part, each at the option of the directors, so that the same when completed, shall constitute a firm, regular and proper surface for the passage of wagons and carriages.

Location Route and construction.

SEC. 9. 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 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 will be ascertained in the manner hereinafter directed: Provided, That in such places as may be necessary for the company to obtain gravel and stone, or to make excavations and embankments for the construction of said road, the company may locate the route of said road, not to exceed six rods in width,

Appropriation of necessary lands how made.

Compensation thereof.

Proviso.

and they may also cut down such trees on each side of said road, as may endanger said road by falling or otherwise.

SEC. 10. When the said corporation shall not agree with the owner or owners of any land, gravel, stone, or other material required for the construction of said road, for the purpose thereof, or for 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 to issue a 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 the said justice at some convenient place, at or near the property to be valued, on a day in said warrant named, not less than five nor more than ten days from the date of said 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 pannel 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, her or them, strike off, each two of said jurors, and the remaining five shall act as a jury of inquest of damages. Before they act as such, the said justice of the peace shall administer to each of them an oath or affirmation, that they will faithfully and impartially value the land and material required for such 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 justice and jurors shall proceed to review the said land or material so required, and to hear the evidence of the respective parties, which the said justice shall reduce to writing, which shall be signed by the said justice, and the verdict of the jurors thereon shall be signed by the jurors, or a majority of them, and by the justice of the peace; and the said justice of the peace shall within five days thereafter, transmit the same to the clerk of the district 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 cost 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;

When Justices of Peace to issue warrants Summoning jury to assess damages

Justices to administer oath, &c.

Justice to transmit verdict to clerk of court.

Perfection of title by tender.

(and) [as if] it had been conveyed by the owner or owners thereof, so long as the land thus valued and taken shall be used for the track of said plank road: *Provided*, That it shall not be lawful for any justice and jury of inquest to proceed in the valuation of any such property or material, in the absence of the owner or owners thereof, his, her, or their legal representatives, unless it 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 under age, or non compos mentis. Such service of notice may be made upon the guardian or trustee, under the same restrictions as in the case of owners; or if there be no guardian or trustee, the same shall be established by affidavit: *Provided*, That no such materials shall be taken, if the jury shall decide that the same are essential to the owner or owners thereof.

SEC. 11. The directors [shall] have power in their discretion to construct said plank road along and upon any road, or highway, now or hereafter to be laid out, opened and established by the proper authorities, and of such width, and in such manner as the said directors shall determine: *Provided*, such right to use such public highway shall first be obtained from the supervisors of the proper town. And they may erect toll-gates, and exact toll from persons travelling on their road, whenever five consecutive miles are finished, or when the whole road is completed, 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 per mile for every additional animal; for every sled, sleigh or carriage drawn by one animal, one cent per mile; and for every horse and rider, or led animal, one cent per mile; for every score of sheep or swine, one cent per mile, and for every score of neat cattle, four cents per mile: *Provided*, That persons going to and 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. The toll gatherer at each gate, when erected on said road in pursuance of this act, may detain and prevent from passing such gate an animal or carriage, subject to toll, until the toll thereon is paid.

SEC. 12. The said directors may receive from any stockholder in said company, in lieu of money for the stock subscribed by him, real or personal security to the approval of said board of directors, and upon the acceptance of such security from said stockholders, or any of them, the subscription of such stockholder shall be considered as paid, and certificates of stock

Proviso.

Upon whom notice to be served.

Directors may use public highways.

Proviso.

Rates of Toll.

Proviso

Who to be exempt

Directors may receive securities in payment of stock.

shall be issued to said stockholder in the same manner as if he had paid in the full amount of his subscription in money; and it shall be competent for the said stockholders paying their subscriptions to said stock in securities as aforesaid, to contract and pay to said company interest at the rate of twelve per centem, for a period not exceeding ten years, and to execute to said company, by its corporate name, bonds, mortgages, or notes, for such stock, which shall be available for the use and benefit of said company, and for all subsequent holders thereof, and be transferable by them, or any of them, in the same manner as if the same were made payable to individuals, or to their order or assigns.

Stock transfers—
&c.

Penalty for wilful obstruction
&c.

SEC. 13. If any person shall wilfully, or knowingly, obstruct, break, injure, or destroy the said road, to be constructed by said company, or any part thereof, or any work, buildings, or fixtures 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 to a civil suit for the recovery of damages by said company, by an action of trespass, 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.

Penalty for avoiding payment of toll.

SEC. 14. Any person who shall wilfully break or throw down any gate on such road, which may have been erected in pursuance of this act, or do any damage to said road, or forcibly or fraudulently pass such gate without having paid the legal toll, or shall, with his team, carriage or animal, turn out of said road, or pass any gate thereon, or ground adjacent thereto, shall, for each offence, forfeit a sum not exceeding ten dollars, to and for the use of said company, in an action of trespass.

Capital Stock—
how increased.

SEC. 15. The directors of said company, at any annual or special meeting of the stockholders, may 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 been actually commenced but remain in an unfinished state for want of means for completing the same.

Condition of
Charter.

SEC. 16. If said company shall not, within three years from the passage of this act, commence the construction of said plank road, and expend three thousand dollars or more thereon, and shall not, within ten years from the passage of this act, construct, finish, and put in operation a single or double track plank road from Omro to Waupan, in the said counties of Winnebago and Fond du Lac, Wisconsin, then the rights, privileges

and powers of the said corporation under this act shall be null and void.

SEC. 17. 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. Rule of evidence.

SEC. 18. This act may be altered or amended by any future legislature of the State of Wisconsin.

FREDERICK W. HORN,

Speaker of the Assembly.

DUNCAN C. REED,

President pro tempore of the Senate.

Approved March 17th, 1851.

NELSON DEWEY.

An Act to authorise School District Number Four in the town of Waldwic, Iowa County, to draw its proportion of School monies for eighteen hundred and fifty. Chap. 385

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

SECTION 1. It shall be lawful for school district number four in the town of Waldwic in the county of Iowa, to draw its proportion of school monies for the year eighteen hundred and fifty, in the same manner and to the same effect as is now provided by law, notwithstanding such district may not have hitherto complied with all the provisions of law to enable it to draw the same. Monies may be lawfully drawn

FREDERICK W. HORN,

Speaker of the Assembly.

SAMUEL W. BEALL,

Lt. Governor and President of the Senate.

Approved, March 17th, 1851.

NELSON DEWEY.

An Act to amend an act entitled "An Act to incorporate the Fort Winnebago and Duck Creek Plank Road Company," approved February 9th, 1850. Chap. 386

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

SECTION 1. An act entitled "an act to incorporate the Fort Winnebago and Duck Creek Plank Road Company" is hereby so amended as to allow the erection of toll gates and collection of tolls on said road whenever the same shall be com- Act amended.

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 1851.

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*, 1851 read "Approved February 4th, 1851."
 Page 29, Chap 38, for Approved *January 29th*: read "Approved February 4th"
 Page 38, Chap 54, 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 *Zeletoe*: 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. *Haltz*, 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 *Belaft*, 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. 354, 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 8, 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.]