

said company, are hereby declared to be the board of directors of this company, and shall hold their office for the term of one year from the time they were so elected, and until others shall be duly elected, and all their acts and doings shall be as binding upon said company as they would be if they had been elected according to the provisions of this act.

Public act.

SEC. 17. This act shall be favorably construed to effect the purposes thereby intended in all courts of justice, 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 of the provisions herein contained, and shall be binding upon the said company from and after the time when the president and directors of said company, chosen under their former organization, shall have filed their certificate of the acceptance of this act, in the office of the secretary of state.

J. McM. SILAFTER,
Speaker of the Assembly.
TIMOTHY BURNS,

Lt. Governor and President of the Senate.

Approved, March 11, 1852.

LEONARD J. FARWELL.

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Chap 107

An Act to incorporate the Fort Winnebago and Stevens Point Turnpike and Plank Road Company.

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

Commissioners.

SECTION 1. That William Ewen, Jr, Ira R. Rood, Edward D. Pattengell, Robert Cochran, Henry Merrill, Joseph B. Philips, and George W. Mitchell, be and are hereby appointed commissioners, under the direction of a majority of whom subscriptions may be received to the capital stock of the Fort Winnebago, Pakwankee, and Stevens Point Turnpike and Plank Road Company; and they may cause books to be opened at such times and places as they may direct, for the purpose of receiving subscriptions, by publishing in a newspaper printed in the counties of Columbia or Marquette, at least thirty days previous to the opening of the books of said company, for the purpose of receiving subscriptions to the capital stock of said company, giving notice of the times and places of receiving subscriptions.

SEC. 2. All persons who shall become stockholders pursuant to the provisions of this act, are hereby created

a body corporate, in law, with continual succession, by the name and style of the Fort Winnebago, Pakwaukee, and Stevens Point Turnpike and Plank Road Company, for the purpose of constructing a turnpike and plank road from Fort Winnebago, in Columbia County, via Pakwaukee, in Marquette, to Stevens Point, on the Wisconsin River, in the county of Portage; which company shall have power to sue and be sued, in all courts, to receive, by gift or purchase, and to hold all such real and personal estate as may be necessary for the construction and management of said road, to have and to use a common seal, and to pass all by-laws necessary for the government of said company.

Created a body corporate.

SEC. 3. The capital stock of said company shall not exceed one hundred and fifty thousand dollars, to be divided into shares of twenty dollars each, and shall be assignable and transferable in such manner as shall be prescribed in the by-laws of said company.

Capital stock.

SEC. 4. Whenever ten thousand dollars of the capital stock shall be subscribed for and distributed, and ten per cent. paid thereon to said commissioners, for the use of said company, it shall be the duty of the commissioners named in this act, to call a meeting of the stockholders, at such time and place as they shall designate, by giving public notice thereof, in a newspaper published in Columbia county, for the purpose of choosing five directors of said company, and the persons then chosen shall be the first directors of said company, and shall hold their office for one year and until others are chosen in their stead. The board of directors shall choose one of their number as president of the company, who shall hold his office for one year, and until his successor is elected. At every election of said company, each stockholder shall be entitled to one vote for every share of capital stock he shall hold, and may vote in person or by proxy.

To give notice.

SEC. 5. The company, when so organized, shall have the right to locate and construct a single or double track turnpike or plank road, between the points mentioned in section second of this act, or any part of the distance, and may connect the same with any other turnpike or other road. The track of said road shall be constructed of timber and plank, charcoal, stone, or gravel, or partly of each, so as to have a hard, smooth, and even surface. The particular manner of building said road to be determined by the said board of directors.

Route.

SEC. 6. The location of the route of said road shall be determined by the board of directors of said company;

May construct road on highway and if the same be located on any public highway, they shall have power to contract with the proper authorities of the town in which said road may be, for the right to use said highway, for the purpose of said road; and the said proper authorities are hereby authorized to grant to such company the right to use any highway in the town as aforesaid, on such terms as they may agree upon.

How charter forfeited. SEC. 7. If said company shall not, within five years from the passage of this act, commence the construction of said road, and shall not, within that time construct a single or double track, for a distance of five miles, then and in that case, it shall be considered a violation of this charter, and all the rights, powers, and privileges, of said company, under this act, may be resumed by the state of Wisconsin, and such disposition made with regard to any portion of said road which may have been constructed as the legislature thereof may deem meet and proper, consistent with law and justice.

May enter upon lands. SEC. 8. It shall and may be lawful for said commissioners, their officers, their engineers, and agents to enter upon any land for the purpose of exploring, surveying, and locating the route of said road, doing thereto no unnecessary, damage, nor locating any such route through any orchard or garden, without the consent of the owner thereof, nor through any building, or any fixture, for the purpose of trade or manufactures, or any yard or enclosure necessary to the use and enjoyment thereof, without permission of the owner; and when said route shall be determined by said company, it shall be lawful for their agents, officers, engineers, contractors, and servants, at any time, to enter upon, take possession of, and use such lands to the width of four rods; and also to take from any land adjoining said road, gravel, stone, or earth, for the purpose of constructing or repairing said road, 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 the case of land.

Jury to settle damages. SEC. 9. Whenever it shall be necessary for said company to enter upon and occupy, for the purpose of making said road, any lands upon which the same may be located, and the owner or owners of the said lands shall refuse to permit such entry or occupation, and the parties cannot agree upon the compensation to be paid for the injury that may be done to such lands, by such entry or occupation, it shall and may be lawful for the parties to appoint three disinterested persons to estimate such damage, who shall

take an oath or affirmation, fairly and impartially to estimate the same, and who shall reside in the county where the land lies. The expenses incurred by said appraisal shall be defrayed by said company. But if the parties cannot agree upon such persons, or if the persons so chosen cannot decide upon the matter, or if the owner of such land shall neglect or refuse to join in such appointment, within twenty days after the requisition for that purpose upon him made, or if such owner shall be under legal disability, or out of the state, then it shall be lawful for the judge of the circuit court of the county in which such land lies, on application of either party, and at the cost and charge of said company, to appoint three disinterested persons of the said county, to view and examine said lands, and estimate the injury or damage, if any in their judgment will be sustained as aforesaid, by reason of the location and construction of said road, and report the same, under oath or affirmation, to the circuit court of said county; which report, being confirmed by said court, judgment shall be entered thereon. The said viewers shall be entitled to two dollars per day each, for their services, to be paid by the said company in all cases where the damages shall be assessed to a greater amount than the sum that may have been tendered by said company for the use of said land, or be paid by the owner or owners in all cases where the assessed damages shall not be greater than the sum thus tendered: *Provided*, That in case the owner of such land be under legal disability, the cost of such assessment shall be paid by said company, and it shall be the duty of the appraisers estimating such damages, to take into consideration the advantage that may accrue to the owners of said land from the construction of said road: *Provided, further*, That either party may appeal to the said court, within thirty days after such report may have been filed in the clerk's office; and such appeal shall be tried as other issues arising in said court: *And provided also*, That upon payment of the sum specified in the report of said viewers or appraisers, to the owners of said land, or a deposit of the same for their benefit, with the clerk of the county in which the said land is situated, the said company may immediately take and use the same without waiting the issue of said appeal.

Proviso.

SEC. 10. The directors of said company may appoint a secretary, treasurer, and such other officers as they may deem necessary; and shall have power to fix the time and manner and proportion in which stockholders shall pay money due on their respective shares, and forfeit to the us

To choose officers.

of the company any share or shares held by any person or persons failing to pay any installment so required to be paid, after advertisement of the same for a period not less than sixty days, in a newspaper, as herein provided: *Provided*, That no installment called in at any one time, shall exceed five dollars per share, and no installment be called in by the directors without giving at least thirty days' notice thereof, in a newspaper, as aforesaid.

Proviso.

To issue certificate.

SEC. 11. The directors, elected as aforesaid, shall issue a certificate of each stockholder for the number of shares he or they shall subscribe for or hold in said company, signed by the president and countersigned by the secretary, and sealed with the common seal of the company; subject, however, to all payments due and to become due thereon: which stock may be transferable in person or by attorney, executors, administrators, guardians, or trustees, under such regulations as may be provided in the by-laws of the company.

Directors to make exhibit.

SEC. 12. At each annual meeting of the stockholders, for the purpose of choosing directors, the directors of the preceding year shall exhibit to the meeting a complete statement of the affairs and proceedings of said company for such year, and special meetings of the stockholders may be called by the directors, or by any number of the stockholders holding one-fourth in amount of the capital stock of said company, on like notice as is required for annual meetings; but no business shall be transacted at such special meeting unless a majority in value of all the stock shall be then and there represented.

May erect toll gates.

SEC. 13. On the completion of said road, or any portion of the track not less than three miles, the company may erect one or more toll gates upon their road, but not at a less distance than three miles apart, and may demand and receive such tolls as from time to time they may deem reasonable, not exceeding two cents per mile for any vehicle drawn by one or two animals, and one cent for every additional animal; for every horse and rider or led horse, one cent per mile; for every score of sheep or swine, one cent per mile; and for every score of neat cattle, two cents per mile.

Damage to road how punished.

SEC. 14. If any person shall knowingly or wilfully obstruct, break, injure, or destroy the road so constructed by said company, or any part thereof, or any work, 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, in any court

having competent jurisdiction in the county and shall also be subject to indictment, and upon conviction for such offence shall be punished by fine and imprisonment, or either, at the discretion of the court.

SEC. 15. The property of every individual which may be invested in said corporation, shall be liable to be taken in execution for the payment of his or her debts, in such a manner as is or may be provided by law: *Provided*, That debts due said company, from such individuals be first paid. Property liable for debts.

SEC. 16. The debts and liabilities of said corporation shall not exceed in amount, at any one time, fifty per cent. on its capital stock actually paid in, and if debts and liabilities shall, at any time, be incurred to a greater amount than by this [section] is provided for, the directors of said company shall be jointly and severally individually liable for such excess, in addition to their other liabilities in law as provided for in this act. Debts Limited.

SEC. 17. The directors of said company may, at any annual or special meeting of the stockholders, with the consent of a majority in amount of the stockholders, provide for an increase of the capital stock of said company to complete said road. May increase capital stock.

SEC. 18. If said company shall abuse the privileges hereby granted, the legislature may resume all and singular the rights and privileges vested in said company by this act, and may establish rules and regulations for the government of said company, in relation to said road and the use of the same. How charter forfeited.

SEC. 19. The said company shall be liable for all injury or damage which any person may sustain in his person or property by reason of the said road being out of repair, or any defect in said road. Liable for damage.

SEC. 20. This act may be altered or amended by any future legislature of the state of Wisconsin.

J. McM. SHAFER,

Speaker of the Assembly.

TIMOTHY BURNS,

Lt. Governor and President of the Senate.

Approved, March 11, 1852.

LEONARD J. FARWELL.

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