

Governor to appoint commissioners.

SEC. 2. The Governor shall have authority to appoint one or more commissioners not exceeding three, to superintend and to take charge of the state prison; and that the offices created by chapter 287 of the session laws of 1851, are hereby abolished.

J. McM. SHAFER,

Speaker of the Assembly.

E. B. DEAN, JR.

President pro tem. of the Senate.

Approved, April 1, 1852.

LEONARD J. FARWELL.

[*Published, April 13, 1852.*]

An Act to amend an act entitled "An act to amend the charter of the Rock River Valley Union Rail Road Company," approved March 11, 1851, and to authorize said company to extend their road.

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

How damages settled.

SECTION 1. The said company shall have the right to enter upon any lands to survey and lay down their road of the width provided in the act to which this [is] amendatory, and also to enter upon any lands adjoining said road and obtain therefrom earth, gravel, stone and other materials, necessary for the construction of said road, and whenever any land or materials shall be required for the construction of said road, and the same shall not be given or granted to the said company, the compensation to paid therefor shall be ascertained as follows: the commissioners, George H. Williston, Charles Billingham, and Orrin Densmore, heretofore appointed by the judge of the circuit court of the first circuit, and their successors shall proceed, at the request of the said company, to assess the damages which may be sustained by the several owners or claimants of the lands through which the road of the said company is located, and shall give, or cause to be given, to the owner or occupant claiming damages, four days' notice of their meeting to appraise and assess the damages for taking of lands through which the said road may run to the person or persons entitled to the same.

To make fence.

SEC. 2. The said company before opening their road through enclosed ground shall erect such fencing as shall preserve such enclosure entire, and shall before they commence to use their road as a railroad, erect a good and sufficient fence on both sides of the said road, through all such enclosed ground, and shall maintain the same.

SEC. 3. The notice mentioned in the first section of this

act may be served upon the owner or occupant of the land, by delivering a copy to him or leaving the same at the dwelling house or place of business of the said owner or occupant with some person of suitable age and discretion.

How notice served.

SEC. 4. In case that the owner shall be a minor, insane person, or married woman, then it shall be sufficient to serve the said notice on the guardian of said minor, committee of said insane person, said married woman and her husband.

Proceedings in case owner is incompetent.

SEC. 5. If there shall be incumbrances upon the land taken for the said road, it shall be sufficient for the said company to deposit the amount of the award with the clerk of the court of the county where the land lies, and the written receipt of the said clerk upon the duplicate award in the possession of the company, shall be legal evidence of the payment of the said award.

Proceedings in case land is encumbered.

SEC. 6. The said clerk shall pay over to the said owner the said amount so deposited, upon the said owner producing to him the certificates of the register of deeds, and the clerk of the board of supervisors and clerk of the court of the county where the land lies, that the title to the said land is in the said claimant or owner, and that there are no incumbrances upon the same.

Clerk to pay over award.

SEC. 7. It shall be the duty of the said commissioners to make out duplicate statements of their award, and deliver or cause to be delivered, one to the owner or occupant, the other to the said company, and shall acknowledge the said statements and deliver the same to said company, which said statement shall be recorded in the office of the register of deeds of the county in which the land lies.

Commissioners to make duplicate statements of award.

SEC. 8. The recording of the said statement of award and the payment or tender of the amount thereof to the owner, and in case of incumbrances, the deposit with the clerk as provided in the sixth section, shall vest in the said company the easement of the said land so taken for the construction of the said road, and the said company shall have the exclusive right to the perpetual use of the same for the purpose of erecting, maintaining, running and using the said road for all the purposes of a rail road.

How easement vested in company.

SEC. 9. When an assessment shall have been made to a minor, or insane person, it shall be sufficient for the said company to pay the amount of the said award into the probate court, by said court to be disposed of according to law.

Proceedings in case of incompetency of owner.

SEC. 10. If there shall be no occupant upon the land through which the said road is located, and in case the owner does not reside in the county where the land lies, then it shall be sufficient for the said commissioners to give

Commissioners to give notice.

four weeks notice of their meeting to assess the said damages, in a newspaper published in said county, and in case there is no newspaper published in said county, then in a newspaper at the seat of government.

How vacancy filled.

SEC. 11. In case any, or all of the said commissioners, shall at any time die, resign, or for any other cause fail to execute the duties required of them, it shall be the duty of any judge of the supreme court of this state to appoint other persons as commissioners to perform the said duties:

Proviso.

Provided, That the judge appointing such commissioners shall have no stock in said company, nor be in any manner interested in the same, and that the said commissioners shall hold no stock in the said company nor be in any wise interested in the same.

To give notice of application to fill vacancy.

SEC. 12. Said company shall apply to any of the said judges for the supplying the said vacancies in the said commission, and shall give four weeks notice of their application, in one or more newspapers in each of the counties through which the said road is located, and in case no newspaper is published in any of the said counties, the said notice shall be published in one of the newspapers at the seat of government.

Certificate of judge to be *prima facie* evidence of notice.

SEC. 13. In any suit in any court in this state, either in law or equity, in which the said appointment of the said commissioners, George H. Williston, Charles Billinghamurst, and Orrin Densmore, or their successors, shall come in question, the written order or certificate of the judge of the circuit court of the first circuit, or of any other judge of the supreme court of this state, shall be *prima facie* evidence that the requisite notice has been given, and that the said appointment is in all respects legal and regular.

Appeal may be taken.

SEC. 14. After any assessment has been made, and the written statement of the award delivered by the commissioners, either party feeling himself aggrieved may appeal to the circuit court of the county where the land lies, within twenty days after the delivery of the said statement.

Company to execute bond.

SEC. 15. In case either party shall appeal from the award of the said commissioners, the said company shall within ten days after notice of the appeal, to be served according to the rules and practice of the courts, cause to be executed a bond, signed on behalf of the company by an authorized agent or attorney of said company, and also by one or more persons as sureties, who shall justify their responsibility on oath, before some officer authorized to administer oaths, in three times the amount of the said award.

Condition of bond.

SEC. 16. The condition of the said bond shall be, to pay any sum that may be found on the trial of the said appeal

in favor of the said claimant, together with the costs of said appeal.

SEC. 17. In case of appeals by a claimant, if the judgment shall be for a less sum than the said award, the said company shall be entitled to receive the surplus in the hands of the said clerk, and if the said appellant shall not recover more than five dollars on the trial of the said appeal against the said company, the said company shall recover full costs against the said appellant.

SEC. 18. If the said company shall comply with the requisitions in case of appeal, and shall have recorded the duplicate statement of award, the land taken for the construction of the said road, shall vest in the said company as provided by this act.

SEC. 19. On the trial of any appeal case, from the award of the said commissioners, or hereafter to be made, the jury of the court, as the case may be, shall in assessing the damages, be governed by the provisions of the act relating to benefits, and shall in all cases exclude from their consideration the fencing of the road through the land taken for the construction of the said road where said road runs through enclosed grounds.

SEC. 20. No injunction shall be allowed to issue against the said company without the complainant shall give ten days' notice of application for the same.

SEC. 21. The circuit courts in and for the counties through which said road is located shall have full power to make such rules as they shall see fit, touching appeals taken under the provisions of this act.

SEC. 22. Said company shall have power to extend their road from its point of intersection on the Wisconsin river to the village of LaCrosse in the county of LaCrosse, and from thence to Willow River and St. Croix Falls, in the county of St. Croix: *Provided*, That any other road may intersect with and enter upon said road, and run trains of cars and transport passengers and merchandize, and all other property of any and all kinds whatsoever, upon such terms as may be agreed upon by the companies making the connection, or by three commissioners to be appointed by the supreme court upon application of either party, and upon such notice as said court may direct.

SEC. 23. The said company shall commence the construction of the said extension from the Wisconsin river to LaCrosse, within two years, and shall complete the same within ten years from the passage of this act, or shall forfeit the right to make such extension.

SEC. 24. Said company shall have power and authority

in their discretion to increase its capital stock three millions of dollars.

When act to
take effect.

SEC. 25. This act shall take effect so soon as the board of directors, by a resolution shall assent to the same, a copy of which resolution certified under the seal of the said company shall be deposited with the secretary of state.

J. McM. SHAFER,

Speaker of the Assembly.

E. B. DEAN, JR.,

President pro tem. of the Senate.

Approved, April 1, 1852.

LEONARD J. FARWELL.

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Chap 197 An Act to authorise town clerks to administer oaths, and to require them to give security for the faithful performance of their official duties.

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

Clerks authorized to administer oaths.

SECTION 1. Whenever any oath or affidavit is or may be required or authorized by law, (except oaths to jurors and witnesses in the trial of a cause, and such other oaths as are required by law to be taken before particular officers,) the same may be taken before a town clerk, and when certified by said clerk to have been taken before him, may be read and used in any court of law or equity, of record, or not of record in this state, and before any officer of this state.

To give surety for faithful performance of duty.

SEC. 2. Every person hereafter elected or appointed to the office of town clerk in any of the towns of this state, shall before he enters upon the duties of his office, and within the time prescribed by law for filing his oath of office, execute an instrument in writing with two or more sufficient sureties, to be approved by the town treasurer, which writing shall be in substance as follows: A. B. chosen (or appointed) town clerk in the town of _____ and C. D. and E. F., his sureties, do hereby agree to pay to the said town, or to each and every person who may be entitled thereto, all damages which said town or person or persons may sustain by reason of the loss of any chattel mortgage or other paper required by law to be filed and kept in the office of said clerk or by reason or neglect to perform, or unfaithful performance of official duty by said clerk.

Treasurer to endorse his approval, &c.

Sec. 3.

SEC. 3. The town treasurer shall endorse on such instrument his approval of the sureties therein named, and file the same in his office, and a copy of such instrument certified by the town treasurer, shall be *prima facie* evidence