

CHAPTER 71.

[Published March 16, 1861.]

AN ACT to incorporate the Platteville and Calamine Railroad Company.

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

SECTION 1. Montgomery M. Cothren, David W. Jones, John Kemler, Isaac Hodges, Hamner Robbins, Leonard Coates, Elijah Bayley, Samuel Moore, John H. Rountree, Noah H. Virgin and Nelson Dewey, and such other persons as may become associated with them as subscribed [subscribers] to the capital stock of this corporation, in the manner hereinafter prescribed, and their successors and assignees, are hereby created a body corporate, by the name of the "Platteville and Calamine Railroad company," and by that name shall be and are hereby made capable in law to purchase, hold and enjoy and to retain to them and their successors, lands, tenements and hereditaments as far as may be necessary for the purpose of said railroad, and the same to sell, grant, rent, or in any manner to dispose of; to contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered, defend and be defended; and also to make and use a common seal, and the same to alter, break or renew at their pleasure; and if either of the persons named in the first section of this act should die or refuse or neglect to execute the powers and discharge the duties hereby created and enjoined, it shall be the duty of the remaining persons hereinbefore named, or a majority of them, to perform the duties required by this act.

Corporators.

Style.

Powers.

Capital stock.

First directors.

SECTION 2. The capital stock of said corporation shall be five hundred thousand dollars, and shall be divided into shares of one hundred dollars each, and five dollars shall be paid on each share at the time of subscribing said stock.

SECTION 3. The persons named in the first section of this act shall be and are hereby made, constituted, appointed and declared the first directors of said company, and shall hold their offices until other directors are elected by the stockholders, and shall possess all the powers conferred by this act upon the board of

directors elected by the stockholders, as hereinafter provided.

To open books.

SECTION 4. The board of directors, or a majority of them, are hereby authorized to open books for receiving subscriptions to the capital stock of said company, at such times and places as they may designate, giving at least thirty days' notice of such times and places, by publishing the same in some newspaper printed in Grant county.

Meeting to choose directors.

SECTION 5. As soon as said stock, or the sum of ten thousand dollars thereof, shall have been subscribed, the above named persons, or a majority of them, shall give like notices of the time and place for the meeting of the stockholders, to choose not less than seven nor more than thirteen directors, which number can be determined by a vote of the stockholders there present; and the directors thus elected shall hold their offices until the next annual meeting of stockholders for the election of directors, and until others are elected.

Management.

SECTION 6. All the affairs of said corporation shall be managed by the board of directors, who shall be stockholders, and the board of directors is hereby invested with all the powers of the corporation. They shall be chosen by the stockholders annually by ballot, at the annual meeting of the stockholders, which shall be held at such time and place as the directors shall from time to time prescribe; and the same notice of every such election shall be given as is herein required to be given of the first election of directors. At all meetings of the stockholders the votes of stockholders may be cast in person, or by proxy duly authorized, and every stockholder shall be entitled to one vote for each and every share of stock held by him; and in all elections for directors, those stockholders equal to the number of directors to be elected, having the greatest number of votes, shall be declared duly elected. The election shall be conducted in such manner as shall be prescribed by the by-laws, or by resolution of the company. If for any cause an election of directors should not be had at the time when, by provisions of this act it should be held, the same may be had [at] any other time, on notice being given as aforesaid, and until such election be had, the directors of the preceding year shall continue to act, and the corporation shall not forfeit or lose any of its privileges, franchises or immuni-

Elections—how conducted.

ties by reason of irregularity or want of any such election.

SECTION 7. A majority of the board of directors Quorum.

shall constitute a quorum for the transaction of any business. They shall meet at such times and places, and be convened in such manner, as they shall prescribe. They may fill any vacancy which may occur in their own board. They shall appoint one of their own number president and one vice-president, who shall serve one year, or until a new election of directors. The president, when present, shall preside at all meetings of the directors and stockholders, and in his absence the vice-president shall discharge the duties of president; and in case of the absence of the president and vice-president, the directors may appoint a president *pro tem.*, who shall discharge all the duties of president during the absence of the president and vice-president. The board of directors may appoint a secretary, treasurer, chief engineer, superintendent, attorney, and such other officers and agents as they may find necessary, fix their compensation and define their duties, and demand adequate security for the faithful discharge of their respective duties and trusts. The directors shall have power to determine the amount of each installment to be paid from time to time on stock subscriptions, and to forfeit to the use of the company, or to sell the share or shares of any person failing to pay any installment which may be required of them by the directors; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in the notice, and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company; which notice shall be served as aforesaid, at least thirty days previous to the day on which such payment is required to be made. They may receive, take any hold, in payment for the stock of said company, any land or other estate, either real, personal or mixed; and they may convey in fee simple, (*in*) any estate so received, taken or held, and they may also mortgage or pledge any of their estate, real, personal or mixed, in such manner and on such terms as the

Officers—their duties.

Stock and its forfeiture.

Receipt and conveyance of real estate.

Other powers
conferred.

directors may think proper. The directors shall have power to establish and regulate their tolls and charges for the transportation of freight and passengers and the storage of freight, and to collect all such tolls and charges, and to make such covenants and agreements with any person or persons, copartnership or corporation whatever, as the construction and management of the road and the convenience and interests of the company may require; to make any contract or agreement which they may think proper, with any other railroad company for the leasing or purchasing of the whole or any part of any railroad constructed or to be constructed by such railroad company; and to lease or sell to any other railroad company the whole or any part of the railroad of this company, or to consolidate the capital stock of this company with the capital stock of any other railroad company in this state, on such terms as shall be agreed upon by the directors of such companies respectively. The directors shall have power and authority to make and establish such by-laws as they may think proper respecting the property, business, stock, government and powers of said corporation, and may exercise all the powers which may be prescribed by such by-laws, and make such other rules, regulations and orders as they may think proper; but no such by-laws, rules, regulations or orders shall be inconsistent with this act, or with the constitution or laws of this state. And they shall have power in general to superintend and direct all the operations, receipts, disbursements, and all other affairs of said company.

Stock deemed
personal prop-
erty.

SECTION 8. All shares of stock in said company, owned by any person, shall be deemed personal property, and certificates for the same shall be issued in such manner and form as shall be prescribed by the by-laws, and the same shall be transferable in the manner and form provided by the by-laws of said company.

Special meetings.

SECTION 9. Special meetings of the stockholders may be called by order of the board of directors, or by stockholders owning one-fourth of the capital stock of said company, and the same notice shall be given as is required to be given for annual meetings of the stockholders; and such notice shall specify the object of the meeting.

May locate sin-
gle or double
track

SECTION 10. The said company shall have power to locate and construct, and perpetually to have, use and enjoy, a railroad, with one or more railways or tracks,

from the village of Platteville, in the county of Grant, to Calamine, in the township of Willow Springs, in the county of Lafayette; and said company shall have the perpetual right, power and authority to transport, take and carry property and persons upon said road by the power and force of steam, or by animals or any mechanical or other power, or any combination of power; and from time to time to receive and store any property in any of the depots, store-houses or ware-houses of said company; and to make and construct all such turnouts, side tracks and connecting tracks, as they shall think will promote the interests of said company; and to erect, construct and use all such depots, station-houses, ware-houses, car-houses and shops, and all other fixtures useful for the accommodation of said company, and its roads, and those using it; to purchase and own rail, chairs, spikes, engines, cars, and all things necessary or useful for the construction and operation of a railroad.

SECTION 11. The said company is authorized and fully empowered in its corporate capacity, to borrow any sum or sums of money, from any person or persons, corporation or body politic of any kind, and for any rate of interest which may be agreed upon by and between said company and any party of whom such money may be obtained, any law on the subject of usury to the contrary notwithstanding; and to make, execute and deliver in or out of the state, all necessary writings, notes, bonds, mortgages, or other papers and securities in amount or kind as may be deemed expedient by said corporation, in consideration of any such loan, or in discharge of any liabilities they may incur in construction, repair, equipment or running said road; and to make, execute, sell and deliver at private or public sale, in or out of this state, bonds in such sums and in such amounts, payable at such times and bearing such rate of interest, as shall be deemed expedient by said company; secured by a mortgage upon the whole or any part of the railroad of said company with its equipments, fixtures and appurtenances; and the powers of said corporation for the purposes aforesaid and for all purposes necessary to carry out the objects of said company, are hereby ratified and confirmed, and the contracts and official acts of said company declared binding in law

May borrow money, sell bonds and execute mortgages.

and equity upon said corporation and upon all other parties in such contract.

Where road may be constructed.

SECTION 12. The said company shall have the right and authority to construct their said railroad upon and along, across, under or over, any public or private highway, road, street, plank road or railroad, if the same shall be necessary; but the said company shall restore such highway, road, street, plank road or railroad to its former state, so as not to impair the usefulness of the same, so far as it can be done consistently with the rights and privileges hereby granted to said company, or make compensation for the same as provided for in section fourteen (14) of this act; and the said company shall have the right and authority to erect and maintain all the necessary bridges for the use of their railroad over any stream of water or water-course at such points of crossing the stream as they may locate the said road, with all necessary abutments, piers or other foundations; but nothing in this act contained shall be construed to authorize the erection of any bridge or any other obstruction across, in or over any stream or lake, navigated by steam or sail boats, at the place where any bridge or other obstruction may be proposed to be placed; nor to authorize the construction of any railroad not already located in, upon or across any streets in any city or village, without the assent of the corporation of the same, and shall restore such stream which may be obstructed or diverted in the progress of construction of said railroad, to its usual channel.

Bridges.

May enter on lands for certain purposes.

SECTION 18. It shall be lawful for said company, their officers, engineers and agents, to enter upon any land for the purpose of exploring, surveying and locating the route of said railroad, doing thereto no unnecessary damage, and when the route of said railroad shall be determined by said company, it shall be lawful for them, their agents, officers, engineers, contractors, employees and servants, at any time to enter upon, take possession of and use any such land, not exceeding one hundred feet in width along the line of said road, and also such lands adjacent to the line of said route, beyond the said limits of one hundred feet, as the chief engineer of said company shall declare to be necessary in building said road, or for the purpose of erecting depot buildings, station-houses or other fix-

tures and grounds about the same for the operation and business of said road, or for making drains, and giving a proper direction to water courses, or for diverting or changing the channel of water courses across or along said road; or for the purpose of removing such substances and things as may endanger, obstruct or interfere with the free use of said road, or for the purpose of making deep cuts or excavations, or for the purpose of obtaining earth, gravel, timber, stone or materials for embankments, structures or superstructures, necessary to the construction or repair of said road, subject, however, to the payment of such compensation as the company may have agreed upon to pay therefor, or as shall be ascertained in the manner hereinafter provided. And when such compensation shall have been paid or tendered, the title to such land shall vest in said company in fee simple, and the said company shall have the right to hold the same; and whenever, in the opinion of the company, the same or any part thereof shall be no longer necessary for the purposes for which the same was taken, the said company is hereby authorized to lease or sell the same, or any part thereof, in fee simple.

Compensation.

SECTION 14. The said company shall have the right to enter upon any lands required for their use, as provided in the thirteenth section of this act, and to survey and lay out said road not exceeding one hundred feet in width; and the said company shall, if possible, agree with the owner of said lands as to the amount of compensation to be paid for such lands, whether such persons shall own or possess the legal or equitable title to the same, or any lien or incumbrance on the same; and if the person or persons owning or possessing such legal or equitable title, lien or incumbrance, shall be a minor, non-compos mentis, insane or under any legal disabilities, then with the guardian of such person; and if said company cannot agree with, or ascertain who are such guardian or owner, then the question of compensation shall be submitted to an arbitration in the manner following, to wit: The said company shall select a disinterested arbitrator, and such owner or guardian shall select another, who shall be disinterested and not akin to the owner or agents of such land; and should the persons so selected as arbitrators refuse or neglect, or should such owner or guardian neglect

Arbitrators.

How appointed.

Their duties—
how costs paid.

Appeal.

Judgment of
court.

or refuse to choose such arbitrator for the space of five days after being notified by said company to do so, or in case said company cannot find such owner or guardian, then in either case, the judge of probate or the chairman of the county board of supervisors of the county in which such lands lie, shall upon application being made to either of them by the president or by a majority of the directors of said company, or by its legally organized agent or attorney, appoint three competent persons to act as arbitrators, who shall not be akin to the claimants, and who are not stockholders in said company; and the said arbitrators shall proceed to examine the premises and to make an award of the amount of compensation which shall be paid by said company to such person or persons for the lands so taken, and shall deliver a copy of their award in writing to each of the parties; and if the amount awarded by said arbitrators shall be more than said company had previously offered to pay, then said company shall pay all expenses of said arbitration; if it shall be less, then the other party shall pay such costs; and either party may, within ten days after receiving a copy of such award, appeal from the same to the court having the proper jurisdiction for the county in which such lands are situated, by giving a written notice of such appeal to some one of the arbitrators; and when the arbitrator receives such notice of appeal, it shall be the duty of the arbitrators to certify all their proceedings to said court, and the said court shall enter said case on its docket, setting down the claimant or claimants as plaintiff, and the said company as defendant, and the said court shall proceed to ascertain the amount of compensation to be paid by said company to said complainant, taking into consideration all the facts and circumstances, all the rights said company acquired by this act and all the benefits received by the complainant from said railroad, and the said court shall thereupon proceed to hear, determine and render judgment in favor of said complainant, against said company, as in other cases tried in such court; and if the amount so found for such complainant shall exceed the amount so found by said arbitrators, the judgment shall be rendered against said company for costs, and if it shall not exceed the amount so found by said arbitrators, the judgment shall be rendered in favor of said company for costs

and against said claimants; and when such compensation, so to be ascertained according to the provisions of this section, shall be paid or tendered to the party entitled to the same, the title to said lands shall vest in said company in fee simple, and a copy of such award or judgment filed and recorded in the proper deed book in the office of the register of deeds of the county in which the lands lie, shall be sufficient evidence of such title; and the said company shall have full power and authority pending all such proceedings, and until they shall refuse to pay the compensation so to be ascertained as aforesaid, to use, occupy and enjoy the peaceable and uninterrupted possession of said land or lands, for all the lawful purposes of said corporation; and they shall not, while such proceedings shall be pending, or until such refusal, be disturbed in such possession, use, occupancy and enjoyment by any proceedings at law or in equity. The said arbitrators shall before they enter upon the duties of their appointment, severally take and subscribe an oath to faithfully and honestly decide between the parties, which oath shall be taken before some person authorized to administer oaths, and shall be returned with the award.

When compensation paid, title to the land to vest in company.

Arbitrators to take oath.

SECTION 15. No person shall be incompetent to be a witness or give testimony in a suit or proceedings at law or in equity, in which the said railroad company shall be a party; but no person shall be qualified to discharge the duties of judge, justice of the peace or juror, in any suit or proceedings, who is a stockholder in said company.

SECTION 16. On the completion of said railroad, or any part thereof, not less than three miles in length, it shall and may be lawful for the company to demand and receive such sum or sums of money for passage and freight of persons and property, as they shall from time to time think reasonable.

Witness, judge, &c.,

SECTION 17. If any person shall willfully and knowingly injure or destroy the railroad so to be constructed by said company, or any part thereof, or any work, building, or machinery attached to or in use upon the same, belonging to said company, or shall willfully and maliciously place any obstruction or thing upon the track of said road, 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

Penalty for injury, &c., to road.

damages caused by such offence, which may be recovered in the name of 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 any such offence, shall be punished by fine and imprisonment, or either, at the discretion of the court.

Public act.

SECTION 18. This act is hereby declared to be a public act, and shall be favorably construed to effect the purposes hereby intended, and copies thereof printed by authority of the state shall be received as evidence thereof in all cases, and this act shall be in full force and effect from and after its passage.

Approved March 15, 1861.

CHAPTER 72.

[Published March 16, 1861.]

AN ACT to extend the time for the payment of Taxes in the city of Madison.

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

Time extended.

SECTION 1. The time limited by law, for the collection of taxes for the year 1860, in the city of Madison, and for making return of the unpaid taxes of that year to the county treasurer, is hereby extended to the 25th day of March, A. D. 1861; and upon such return being made, the county treasurer shall proceed to collect such returned taxes, and to advertise and sell the lands so returned by the city treasurer, for the non-payment of taxes thereon, in the manner now provided by law.

State tax.

SECTION 2. This act shall in no way operate to extend the time limited for the payment of the state tax by the treasurer of Dane county.

SECTION 3. This act shall take effect and be in full force from and after its passage.

Approved February 16, 1861.