

vested, may be removed to the Supreme Court of this State, at any time prior to the December term thereof, in the year 1851.

Papers, &c., declared to be records of Supreme Court of State.

SEC. 2. All and singular, the papers and records of the said Territorial Supreme Court appertaining to cases removed to the Supreme Court of this State, under the provisions of the first section of this act, shall be and are hereby declared to be papers and records of the Supreme Court of this State.

Cases—how heard and granted

SEC. 3. Cases at law (coming within the provisions of this act) shall be heard by the Supreme Court on motion for re-argument, which shall be granted as of course, and cases in chancery shall be heard on motion for re-hearing, which shall also be granted as of course. Such motion may be made by the party, his, her or their attorney, solicitor or counsel, according to the rules and practice of the Supreme Court.

Powers and jurisdiction of Supreme Court.

SEC. 4. The Supreme Court shall have the same powers to reverse, set aside, annul, alter or revise any decree, order or judgment made or entered by said Supreme Court of the Territory, in the cases removed to said Court under the provisions of this act; and, also, to award new trials, hearings and *venires de novo* in such cases as is by said Supreme Court now possessed over cases brought to said Court from the Circuit Courts of the State.

Supreme Court to control judgments, &c.

SEC. 5. The Supreme Court shall have the same control over the judgments, decrees and records of the late Territorial Supreme Court as it has over its own.

FREDERICK W. HORN,

Speaker of the Assembly.

DUNCAN C. REED,

President pro tempore of the Senate.

Approved March 15, 1851.

NELSON DEWEY.

[NOTE. The preceding law was published March 21st, 1851.

WM. A. BARSTOW,

Secretary of State.

Chap. 297.

An Act to incorporate the Milwaukee and Wauwatosa Plank Road Company.

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

Commissioners appointed to receive subscriptions.

SECTION 1. That A. O. T. Breed, Hiram T. Rose, S. P. Beecher, George D. Donoman, Garret Olet, George Albert, Francis Randal, T. A. Phelps, F. W. Hohaellner, and Martin Schuetz, 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 Wauwatosa

Plank Road Company, are 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 city of Milwaukee.

SEC. 2. The capital stock of said company shall be twelve thousand dollars, and shall be divided into shares of twenty dollars each; and as soon as four 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 corporate and politic, by the name and style of "The Milwaukee and Wauwatosa 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, 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.

SEC. 3. The said commissioners, or a majority of them, after the said four hundred shares of stock shall have been subscribed as aforesaid, shall give at least twenty days' notice in the newspapers 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 July, for the purpose of electing directors as aforesaid, upon 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 the irregularity or want of such election, and in case of any vacancy in the

Division of Capital Stock.

Name of Corporation.

Corporate Powers.

Commissioners to give notice of election of Directors.

Proviso.

Vacancies—how filled.

board of directors, the same shall be filled by the other directors or by a majority of them.

Management of affairs.

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 the stockholders of said company, the vote to be given in person or by proxy duly authorized; 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 and 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 elections for directors the seven stockholders having the greatest number of votes shall be declared duly elected.

Stock to vote.

General powers of Directors.

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, and they shall have 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 whatever, 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 the 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 transferable.

Route.

SEC. 6. The said company shall have power to locate and construct a single or double track plank road from Olict street, in the city of Milwaukee, on or near the Madison road, to Wauwatosa in the county of Milwaukee, from thence to inter-

sect at such a point with the Milwaukee and Watertown plank-road, 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 the purpose of fixing the location or termination of said road, and 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 prescribe in the by-laws to be enacted by them. They may appoint and remove all officers at pleasure; prescribe the meeting of the stockholders, and declare and pay the dividends, or so much of the surplus profits of the company as they shall deem advisable, which may accrue on the shares of the said stock to the stockholders of said company on the first Monday of July and January of each year.

Stockholders to fix location at a special meeting.

Duties of Directors.

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 thereunto 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 for the purposes 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.

Appropriation of Lands—when lawful.

Compensation to be made

SEC. 8. When the said corporation cannot agree with the owner or owners of any land, gravel, stone or other material 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 said warrant named, not less than five nor more than ten days from the date of said warrant; and if at

When Justice may issue warrant summoning jury to assess damages.

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 advantage the same will be to the owner or owners, according to the best of his skill and judgment, whereupon the said jurors shall proceed to view the said land or material 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 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 when such valuation shall be 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, 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 such 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 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 further, that in case of such disagreement, the company shall not take possession of any land or

Jury to act under oath.

Officer to transmit report to Clerk of Court.

Perfection of title to Land.

Proviso.

Upon whom notice to be served

Proviso. § 202

material until such jury shall have first decided that the taking thereof is necessary, and in 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 company 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 the 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 owners in such manner as is or may be provided by law: Provided, that all debts due said company shall first be paid. Whenever the route of said road follows the line of any public highway, the 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 their written consent, which shall be recorded in the Town Clerk's office, or if the said commissioners shall refuse to give their consent, then the damages to the town shall be appraised or ascertained as in the case of private property, and the amount so appraised for such 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.

SEC. 10. The directors may erect toll gates and exact toll from persons traveling on their road, whenever three consecutive miles are finished, or when the whole road is completed, not exceeding two cents a mile for every vehicle, sled, sleigh or carriage drawn by two animals; and if drawn by more than two animals, one cent a mile for every additional animal. For every vehicle, sled, sleigh or carriage drawn by one animal, one cent a mile; and for every horse and rider, or led animal, one cent a mile. For every score of sheep or swine, 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 of any person or persons while actually going to or returning from any religious meeting on Sunday.

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 an action of

Stock deemed personal estate, and subject to execution.

Proviso.

Public Highways—how appropriated.

Rates of Toll.

Proviso.

Who to be exempt.

Penalty for wilful obstruction, &c.

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 the consent of a majority of amount of such stockholders, 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.

Reservation.

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.

When Company
liable.

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.

SEC. 15. This act may be altered or amended by any future legislature.

FREDERICK W. HORN,

Speaker of the Assembly.

DUNCAN C. REED,

President pro tempore of the Senate.

Approved, March 15th, 1851. NELSON DEWEY.

Chap. 298

An Act for the relief of the several counties of this State.

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

Secretary of
State to certify
Revenue and
Proof,

SECTION 1. The Secretary of State is hereby authorized and required on his being furnished with satisfactory proof by the boards of Supervisors of the several counties of this State, under the seal thereof, to certify to the amount of all Territorial and State revenue which has accrued from double assessment and taxation of property in said counties.

When State
Treasurer to
credit to County

SEC 2. The State Treasurer upon such certificate of the Secretary of State, shall credit the amount therein stated, to the proper county mentioned in said certificate.

SEC. 3. This act shall take effect from and after the passage thereof.

FREDERICK W. HORN,

Speaker of the Assembly.

DUNCAN C. REED,

President pro tempore of the Senate.

Approved, March 15th, 1851. NELSON DEWEY.

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. A. A. D 1861.

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, 1861* read "Approved February 4th, 1861."
 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 *Zelotee*: 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. Hultz*, 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 *Beloit*, 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 3, 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.]