

ural father should have the care of maintaining and educating her.

J. McM. SHAFER.

Speaker of the Assembly.

TIMOTHY BURNS,

Lt. Governor and President of the Senate.

Approved, February 5, 1852,

LEONARD J. FARWELL.

Chap. 15

An Act to incorporate the Berlin, Wantoma, and Plover Turnpike and Plank Road Company.

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

Company.

SECTION 1. That Charles A. Sweet, Luther Forsyth, Ira O. Seeley, Nathan H. Strong, Lewis D. Phelps, Horace Merriam, Ezra Wheeler, George M. Mitchell, and J. Volney Swetting, be, and are hereby, appointed commissioners, under the direction of a majority of whom, subscriptions may be received to the capital stock of the Berlin, Wantoma, and Plover Turnpike and Plank Road Company; and they may cause books to be opened at such times and places as they shall direct, for the purpose of receiving subscriptions, by publishing in a newspaper printed in the county of Marquette, at least thirty days previous to opening the books of said company for the purpose of receiving subscriptions to the capital stock of the company, giving notice of the times and places of receiving subscriptions.

To open books.

Created body corporate.

SEC. 2. All persons who shall become stockholders pursuant of the provisions of this act, are hereby created a body corporate in law, with continued succession, by the name and style of the Berlin, Wantoma, and Plover Turnpike and Plank Road Company, for the purpose of constructing a turnpike and plank road from the village of Berlin in Marquette county, by way of Wantoma in Waushara county, thence to the village of Plover in the county of Portage; also, to establish and construct a branch of said road from any point on the line of said road to Waupacca Falls, in the county of Waupacca, or to any other point on Waupacca River as shall be deemed most advantageous to said corporation; which company shall have power to sue and be sued in all courts, to receive by gift or purchase, and hold all such real estate 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.

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

SEC. 4. Whenever five thousand dollars of the capital stock shall be subscribed for and distributed, and five per cent. thereon paid to the said commissioners for the use of said company, in such manner as shall be directed by said commissioners, it shall be the duty of the said commissioners to call a meeting of the stockholders at such time and place as they shall designate, by giving public notice thereof in a newspaper printed in the county of Marquette, and by posting up written or printed notices at three public places in each of the towns through which said road will pass in which any subscriber to the capital stock of said company may reside, for the purpose of choosing five directors for said company, and the persons thus chosen shall be the first directors of said company, and shall hold their offices 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 one year, and until his successor is elected; subsequent meetings for the election of directors of said company may be provided for in the by-laws of said company. 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. Commissioners to call meeting.

SEC. 5. The company when so organized, shall have the right to locate and construct a single or double track turnpike and plank road, between the points mentioned in section second of this act, or any part of the distance, and may connect the same or a branch thereof with any other turnpike, plank, or other road. The track of said road shall be constructed of timber, plank, stone, gravel, or other hard and durable substance, 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. May elect directors.

SEC. 6. The location of the route of said road shall be determined by the board of directors of said company, 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 purposes of said road, and the said proper Commissioners to locate track.

authorities are hereby authorized to grant to said company the right to use any highway in the town as aforesaid, on such terms as they may agree upon. And if the whole or any portion of said road shall be located on the state road heretofore laid out between Berlin and Plover aforesaid, by Thomas Noyes, Ira O. Seely, and Gerge W. Mitchell, commissioners appointed for that purpose, the said company are hereby authorized to enter upon, take, use and occupy the said state road, or such portions thereof as they may deem necessary, for the building, repairing, locating and constructing said turnpike and plank road in the same manner and to the same extent as if said company were the owners of said state road.

Charter how 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 ten miles, then and in that case, it shall be considered a violation of this charter, and all the rights, privileges and powers 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 company, their officers, engineers and agents, to enter upon any lands 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 fixtures for the purposes of trade or manufactures, or any yard or enclosures necessary to the use and enjoyment thereof without the consent of the owners; and when the said route shall be determined by said company, it shall be lawful for them, their officers, agents, engineers, contractors and servants, at any time, to enter upon, take possession of, and use such lands to the width of four rods, and to the width of six rods if the said company shall obtain a grant for that purpose and to that effect from the United States; 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.

Disputes how settled.

SEC. 9. Whenever it shall be necessary for said company, to enter upon, and occupy, for the purpose of making

said road, any land upon which the same may be located, and the owner or owners of said land shall refuse to permit such entry or occupation, and the parties cannot agree upon the compensation to be made for injury that may be done to said land 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 appraisers 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 refuse or neglect to join in such appointment, within twenty days after 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 or county court in which such land lies, on application of either party, 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 it shall be the duty of said appraisers in estimating such damages to take into consideration the advantages that may accrue to the owner of said lands from the construction of said road, and report the same, under oath or affirmation, to the circuit or county 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 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 any legal disability, then the costs of such assessment shall be paid by said company: *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 owner or owners of said land, or a deposit of the same, for his or their benefit, with the clerk of said court

Judges may appoint appraisers

Provide

Provide

in which the land is situated, the said company may immediately take and use the same without waiting the issue of said appeal.

Directors to appoint officers.

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 decide the time, manner and proportions in which stockholders shall pay money due on the share or shares held by them, and to declare forfeited to the use of said company the share or shares; any person or persons failing to pay any installment so required to be paid, after notice of the same in the manner to be provided therefor in the by-laws of said company, for a period of not less than sixty days: *Provided*, That no installment called in at any one time shall exceed five dollars per share, and no installment shall be called in by the directors without giving at least thirty day's notice, in the manner to be provided for in said by-laws, or in their discretion sue for and collect the same from such delinquent stockholders, in any court of competent jurisdiction, in the name of said company.

Their powers and duties.

To issue certificates.

SEC. 11. The directors elected as aforesaid, shall issue a certificate to each stockholder for the number of shares he or they may subscribe for or hold in the said company, signed by the president and countersigned by the secretary, and sealed with the common seal of said 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 for in the by-laws of said company.

Exhibit to be made.

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 capital stock of said company on like notice as 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 five 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 think reasonable, not exceeding two cents per mile for any car-

riage or 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; and for every score of sheep or swine, one cent per mile; and for every score of neat cattle, two cents per mile.

SEC. 14. If any person shall wilfully and knowingly obstruct, break, injure or destroy, the road so constructed by said company or any part thereof, or any work 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 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 of such offence shall be punished by fine and imprisonment, or either, at the discretion of the court. Penalty.

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 their debts, in such manner as is or may be provided by law: *Provided*, That all debts due said company from such individuals shall be first paid. Property liable for debts.
Proviso.

SEC. 16. The debts and liabilities of said corporation shall not exceed in amount, at any one time, seventy-five per cent. of its capital actually paid in, and if debts and liabilities shall at any time be in arrear 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. Debt.

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 said stockholders, provide for such increase of the capital stock of said company to complete said road as shall be deemed necessary, but in no case shall it exceed the amount limited in the third section of this act. May increase capital stock.

SEC. 18. Said company is hereby authorized to borrow money to be expended in the construction and equipment of their said road and its appendages, and to issue bonds for the payment thereof in the usual form, said bonds not to exceed in the aggregate at the period of the completion of said road, three-fourths of the whole amount actually expended in said road, and its appendages as aforesaid, and may make and execute in the corporate name of said company, all necessary writings, notes, bonds or other paper for any liability that it may incur in the construction of said road. May borrow money.

Directors, their duties. SEC. 19. The directors of said company shall audit and pay all accounts, give and receive all such receipts and discharges of debts as shall be deemed best for the interests of said company, fix the compensation of all officers and agents they appoint, establish such by-laws respecting the duties of such officers and agents, regulate the travel on said road, declare and pay the dividends of the surplus profits of the company which may accrue on the shares of said stock, to the stockholders of said company, at least twice in each year.

Passing toll gate, &c. SEC. 20. Any person who shall forcibly or fraudulently pass any toll-gate erected on said road, without having paid the legal toll, and any person who, to avoid the payment of legal tolls, shall, with any carriage or horse or other vehicle or animal liable to toll, turn out of such road, or pass any gate thereon on ground adjacent thereto, and enter again on such road, or in any manner avoid the payment of the toll to which he may be liable, shall for each offence be liable to a fine not exceeding ten dollars, to be prosecuted for in any court having competent jurisdiction thereof, by any officer, agent, servant or stockholder of said company, in the name and for the use of said company, and every carriage, horse, animal or vehicle so offending against the provisions of this section shall be liable to be taken in attachment or in execution for the payment of such fine.

Keeper may stop persons refusing to pay. SEC. 21. Each toll gatherer duly authorized by the directors of said company, may detain and prevent from passing through his gate all persons riding, leading or driving animals, carriages or vehicles, subject to toll, until they shall have paid respectively the tolls authorized by law.

Legislature may resume powers SEC. 22. 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.

LIABLE FOR DAMAGE. SEC. 23. 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.

J. McM. SHAFER,
Speaker of the Assembly.

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