

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 cause on its docket, in which the claimant of damages shall be plaintiff, and shall proceed to ascertain the amount of damages by a jury; and if the amount be found for such plaintiff shall exceed the amount of the award, judgment shall be rendered for the plaintiff, with costs; and if the amount shall not exceed the amount of the award, judgment shall be rendered against such plaintiff for costs, and the award shall remain in force; and when the amount so found by such award or judgment shall be paid or tendered to the party entitled thereto, the same shall be a bar to any action or proceeding at law or in equity, for such damages: *provided*, that nothing in this act contained shall be construed to vest the said corporation or their associates with power to divert the waters of said White river to the prejudice of any proprietor thereon, or so to use said waters as to effect [affect] injuriously prior rights of proprietors, on either the said White river or Fox river.

Not to divert waters of river to prejudice of others.

SECTION 4. This act is declared to be a public act, and shall be in force from and after its passage.

Approved April 2, 1863.

---

## CHAPTER 306.

[*Published May 11, 1863.*]

AN ACT to incorporate the Penokee iron-mining and railroad company.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

Corporators.

SECTION 1. That J. B. D. Cogswell, William K. Wilson, of the city of Milwaukee, Andrew E. Elmore, of Waukesha county, Henry D. Barron, of Polk county, Moses M. Strong, John Bracken and John J. Ross, of Iowa county, Wisconsin, and such other persons as shall become stockholders in the corporation hereby created, in accordance with the provisions of this act,

shall be and they are hereby created a body corporate and politic, by the name and style of the "Penokee iron-mining and railroad company," and by that name shall have perpetual succession, be competent to contract and be contracted with, sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in any court whatever. The said corporation may make, have and use a common seal, which it may alter or renew at pleasure; it shall be capable of acquiring by deed, lease or other conveyance, a fee simple or any less estate in lands, tenements or easements in the same, and of conveying any such estate or interest by deed, lease or other conveyance, or of holding such estate or interest, or any other estate, either real, personal or mixed, as shall be necessary for the legitimate business of the company; and shall have and enjoy all the privileges, franchises and immunities incident to a corporation, and may do and perform all and singular the acts and matters which to any corporation it shall lawfully appertain to do and perform for the well being of said corporation.

Name and powers.

SECTION 2. The capital stock of said corporation shall be two millions of dollars, and shall be divided into twenty thousand shares of one hundred dollars each, and shall be subscribed in the manner hereinafter prescribed.

Capital stock.

SECTION 3. The said J. B. D. Cogswell, William K. Wilson, Andrew E. Elmore, Moses M. Strong, Henry D. Barron, John Bracken and John J. Ross, are hereby appointed commissioners to receive subscriptions to the capital stock of said company, a majority of whom shall constitute a quorum, and shall have authority and power, and are hereby authorized and empowered, to do any act or thing which the commissioners, by virtue of this act, may do or perform. The said commissioners shall give notice by publication for three successive weeks, in some newspaper printed in the city of Milwaukee, of the time and place when and where they will meet to receive subscriptions to the capital stock of said corporation; and at such meeting, shall prescribe rules as to the manner in which subscriptions to the capital stock of the company shall be made, the amount to be paid upon each share, and the time and place of payment, which rules shall be entered at length on the

Commissioners to receive subscriptions.

Notice of meeting to receive subscriptions.

Rules relating to subscriptions.

When books to  
be closed.

books of subscription. The books of subscription shall be kept open until one thousand shares of the stock shall be subscribed, and the amount specified in the rules prescribed by the commissioners to be paid upon each share, shall be paid, when they shall be closed, and no more subscriptions [shall] be received by the commissioners.

First election of  
directors.

SECTION 4. Whenever one thousand shares of the capital stock shall be subscribed in conformity with the rules prescribed by the commissioners, and the amount prescribed by such rules paid upon each share so subscribed, the commissioners shall give notice to the stockholders, by publication for three weeks in such newspaper printed in the city of Milwaukee as they shall determine, to meet at a time and place to be specified in such notice, to elect seven directors of said corporation, who shall hold their offices until other directors are elected in pursuance of the by-laws of said corporation.

Business of com-  
pany—addition-  
al powers.

SECTION 5. The said corporation shall have authority and power, and it is hereby authorized and empowered, to conduct the business of mining for iron or other ores on any land in the county of Ashland, owned or which shall hereafter be owned by the said corporation, or in which it has or may hereafter acquire any interest or easement; and for that purpose, may sink shafts, run adits or levels and drifts; construct, maintain, operate and use tram or other roads; may erect, maintain, operate and use pumps, steam engines, horse or other animal powers or water-powers, and may have, own and use any and all tools, implements and devices for the purpose of mining, as aforesaid, which it shall think proper. The said corporation shall also have authority and power, and it is hereby authorized and empowered, to conduct the business of smelting, forging and founding iron or other ores or minerals into pigs, blooms, bars or any other shapes or forms, and of converting such ores, and also metallic iron, into pigs or castings of any form, shape or kind whatever, or into blooms, bars or any other form or shape into which wrought iron or steel can be converted; and may erect, lease, hire, maintain, rebuild, renew and keep in repair, or cause the same to be done, smelting, blast, airpot or cupola furnaces, also forges, foundries, rolling mills,

boiler, machine and other shops, and spike and nail machinery, and the same to furnish and equip with tools, implements and devices; and may manufacture, make, build and use any description, kind and style of tools, implements, devices, machines or parts of machines used or to be used or employed in or about any of the business or purposes which, by this act, the said corporation is authorized or empowered to engage in. For the purpose of conducting said business of smelting, forging or founding, said corporation may construct or create and maintain, any or all steam-powers or water-powers which shall be proper and necessary, and have and hold the same. It may also employ such superintendents, managers, artisans, chemists, clerks, conductors, agents, mechanics, founders, smelters, engineers, laborers, servants and assistants to carry on, conduct and manage its business of mining, smelting, forging or founding, as it shall think proper.

SECTION 6. The said corporation shall have authority and power, and they are hereby authorized and empowered, to survey, locate, construct, complete, alter, change the location of, reconstruct, maintain and operate a railroad, with one or more tracks or lines of rails, on such route and with such allignment and graduation as said company shall think proper, from any point in the county of Ashland that the directors may determine, to any other point that the directors may determine in the county of Ashland or the county of La Pointe, in this state; and the said company shall have authority and power to take, transport and carry persons and property upon said railroad, by the power and force of steam, of animals, or of any mechanical or other power, or of any combination of them, and to make, construct and put in operation all such turnouts, side tracks and connecting tracks as it shall think will promote the interests of said company; to erect and construct all depots, station-houses, warehouses, car-houses and shops, engine-houses and shops, machine-shops and other fixtures useful for the accommodation of said road, and of those using it; to manufacture or purchase all necessary engines, tenders, cars or other conveniences for running said road; and said company shall have authority and power, and it is hereby authorized and empowered, to extend its said railroad so as to intersect

May survey and  
locate railroad,  
&c.

some other railroad within the said counties [county] of Ashland or La Pointe, running northerly from the southern or central part of this state, towards Lake Superior, and to connect its railroad with any such railroad, and to operate it with the same.

May purchase or build vessels, boats, &c., and construct piers, docks, &c.

SECTION 7. The said corporation shall have authority and power, and it is hereby authorized and empowered, to purchase or build and own or to charter vessels, boats, propellers, barges or other water craft, to be propelled by wind, steam or other power, and by means thereof to transport any ores, metals or other property or persons, and to collect and receive reasonable remuneration therefor; and also to construct, erect and build, or procure to be constructed, erected and built, in the waters of Lake Superior, or any bay, estuary, river, creek or other water connected therewith, or on the shore or bank of such lake, bay, estuary, river, creek or other water, at or near a terminus of any railroad constructed or to be constructed by said corporation, any and all piers, docks, wharves, breakwaters, harbor piers and harbors which the said corporation or its directors shall think necessary for the safe and profitable conducting of the business of said corporation, and also to excavate and dredge or remove from such lake, bay, estuary, river, creek or other water any earth, gravel, stone, sand, sediment or alluvial deposit or other substance or thing which shall or may obstruct, impair or in any manner injuriously affect the navigation thereof; and may charter, purchase, build or own dredge boats or other machinery for such purpose; and may collect and receive reasonable dockage, wharfage and harbor dues for the use and occupation of any such improvement so constructed, erected or built by it. And the said corporation shall have authority and power, and it is hereby authorized and empowered, to acquire by purchase or lease, and to take, receive, have and hold a fee simple or any less estate in any lands, tenements, hereditaments or easements in the same, and any estate, real, personal or mixed which may be necessary or convenient for the proper and profitable conduct of any of the business or construction of any of the works authorized and empowered by any of the provisions of this act; and to purchase and own any patent or patent right for any discovery or invention

that may be necessary or useful in connection with any of its lawful business; and also to have and exercise all such incidental powers as may be necessary to carry into full effect any of the express powers granted by this act.

SECTION 8. All the affairs of said corporation shall be managed by a board of directors, who shall be stockholders, and who are hereby invested with all the powers of the corporation. The board of directors shall consist of seven members, until the number shall be increased or diminished, as provided by this act. The directors shall be chosen annually by ballot, by the stockholders, at the annual meeting of the company, which shall be held on such notice and at such time as shall be prescribed by the by-laws, and at such place as shall be prescribed by the board of directors, and stated in such notice. At all meetings of the stockholders, every stockholder shall be entitled to one vote for each share of stock held by him or her, and may vote in person or by proxy duly authorized; and no business shall be transacted at any meeting of the stockholders, unless a majority of the stock is represented. In all elections of directors, those stockholders equal to the number to be elected, having the greatest number of votes, shall be deemed and declared duly elected. The election shall be conducted in such manner as shall be prescribed by the by-laws of the company; and if, from any cause, an election of directors shall not be had at the time when by the provisions of this act or of the by-laws it should be had, the same may be held at any other time on notice to be given as aforesaid; and until such election be had, the directors of the preceding year shall continue to act, and the corporation hereby created shall not forfeit or lose any of its privileges, franchise or immunities by reason of the irregularity or want of such election, nor by reason of any abandonment or non-user of such privileges, franchises or immunities, for a less period than ten consecutive years. The board of directors may at any time increase or diminish the number of directors to be elected at the next annual meeting of the stockholders, and the number to be elected shall be specified in the notice of election, but shall never be less than five nor more than eleven.

Board of directors.

Failure to elect, not a loss of franchises.

Number of directors.



First board of directors.

SECTION 9. The said William K. Wilson, J. B. D. Coggswell, Andrew E. Elmore, Henry D. Barron, Moses M. Strong, John Bracken and John J. Ross, shall constitute the first board of directors. They shall have all the authority and power conferred by this act upon the directors elected by the stockholders. Their duties and powers shall commence and be in force at and from the passage of this act, and their term of office shall continue until an election shall be held by the stockholders, and their successors duly elected as provided in this act.

Quorum, meetings, officers, stock, transfer, agencies, &c.

SECTION 10. A majority of the board of directors 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 decide upon. They shall elect one of their own number to be president, and one to be vice-president. The president shall, when present, preside at all meetings of the board and of the stockholders, and when absent, the vice-president shall discharge the duties of president, and when both are absent, the directors may appoint a president *pro tem*. The board of directors shall have power to appoint an executive committee and prescribe its powers and duties, to appoint a secretary, treasurer, and such engineers, superintendents, agents and other officers as they may deem necessary, and remove them at pleasure, prescribe their duties and compensation, and may demand adequate security for the discharge of their respective duties and trusts. The directors shall have power to fill any vacancy which may occur in their own board. The directors shall issue a certificate or certificates to the stockholders for the number of shares held by them, respectively, signed by the president and secretary, which shall be transferable in such manner and at such place or places as shall be prescribed by the by-laws, and for the purpose of such transfer, they may establish transfer agencies out of this state; and they may receive in payment for any such stock, any real or personal estate, or any easement, on such terms as may be agreed upon between the directors and any other party. The directors shall have authority and power, and they are hereby authorized and empowered, to make such covenants, contracts and agreements with any person or persons,

Contracts.

copartnership or corporation whatsoever, as in their judgment the management and prosecution of their mining, smelting, founding or forging operations may require, or as the construction of their railroad or its management, or as the construction, erection or building of any piers, docks, wharves, breakwaters, harbor-piers or harbors, or as the purchasing, building or chartering of any vessels, boats, propellers, barges or other water-craft, or the convenience and interests of the company and the conduct of its affairs may, in the judgment of the directors, require. The directors shall also have authority and power, and they are hereby authorized and empowered, to make, prescribe and establish such by-laws, rules, orders and regulations, not in conflict with or repugnant to the constitution or laws of this state or of the United States, as they shall think best for the well ordering of the affairs of said company, and, in general, to superintend and direct all of the operations, receipts, disbursements and all other affairs and proceedings of said company.

By-laws, &amp;c.

SECTION 11. At each annual meeting of the stockholders for the election of directors, the directors of the preceding year shall exhibit to the stockholders a complete statement of the affairs and proceedings of the company for such year. Special meetings of the stockholders may be called by order of the board of directors, or by stockholders holding one-fourth in amount of the subscribed capital stock, on like notice as that required for annual meetings, which notice shall specify the object of the meeting.

Annual exhibit of affairs of company.

SECTION 12. The said company shall have authority and power, and it is hereby authorized and empowered in its corporate capacity, to borrow any sums of money from any person or persons, corporation or body politic of any kind, and to make, execute and deliver all necessary writings, notes, bonds, mortgages or other papers and securities, in amount and kind, as may be deemed expedient by said corporation, in consideration of any such loan, or in discharge of any liabilities that it may incur in the prosecution of its business of mining, smelting, founding and forging, or in the construction, repair, equipment or running of said railroad, or in the construction, erection or building of piers, docks, wharves, breakwaters, harbor-piers or harbors, or in the

May borrow money, and execute notes, bonds, mortgages, &amp;c.



purchase, building or chartering of vessels, boats, propellers, barges or other water-craft; and the powers of the said corporation, for the purposes aforesaid, and for all purposes necessary to carrying out the objects of said company, are hereby ratified and confirmed, and the official acts of said company declared binding in law and equity upon said corporation, and upon all other parties to such contracts. Said company shall also have authority and power, and it is hereby authorized and empowered, in its corporate capacity, to make, execute, issue and deliver its bonds or obligations, from time to time, and at any time, in such an amount that all the bonds of said company outstanding at any one time will not exceed the amount of the authorized capital stock of said company. The directors of said company are hereby authorized and empowered to prescribe by resolution to be by them adopted, the sum or sums for which each of such bonds shall be issued, the time or times and place or places when and where the principal and interest shall be payable, the person or persons, trustees or corporation to whom the same shall be payable, and whether payable to order or to bearer, or how otherwise negotiable, the rate of interest which such bonds shall bear, not to exceed the legal rate, and the manner and form in which the interest coupons annexed to them shall be executed; and to secure the payment of any or all of such bonds, the said corporation is hereby authorized and empowered, in its corporate capacity, to make, execute and deliver a mortgage or deed of trust upon the whole or any part of its lands, buildings, tenements and fixtures of every name and kind, its railroad, constructed or authorized to be constructed, with all buildings, tenements and fixtures of every name and kind appertaining thereto, as well, also, as all rolling stock for the use of said railroad, acquired or to be acquired, and all piers, docks, wharves, breakwaters, harbor-piers or harbors, and all vessels, boats, propellers, barges or other water-craft owned or to be owned by said corporation, and upon any or all of its estate, real, personal or mixed, in possession or expectancy, owned and acquired or to be thereafter owned and acquired by said corporation; and the said company is also hereby authorized and empowered, in and

Mortgage or deed  
of trust to secure  
payment of  
bonds.

by such mortgage or deed of trust, to confer upon the mortgagee or trustee full and ample powers to enter into and upon, and to take possession of, have, use and enjoy, or to sell and dispose of, the whole or any part of the estate described in such mortgage or deed of trust, together with the functions appertaining to said company, and all corporate and other franchises, rights and privileges of said corporation. And the directors of said company are hereby authorized and empowered to prescribe, by resolution to be by them adopted, all matters relating to the form and terms of any such mortgage or deed of trust, and of its execution and delivery; and they are authorized to provide for the periodical payment to such trustee or receiver as they shall appoint, a certain sum, to create a sinking fund with which to pay off or discharge at or before maturity any and all of the bonds by them authorized to be issued, and also to provide the manner in which such trustee or receiver shall pay out or dispose of said sinking fund, and to authorize him to designate by lot, or in any other suitable manner, the bond or bonds to the payment of which such sinking fund, or any part of it, shall be applied; and said company is hereby fully authorized and empowered, by its treasurer, agents or brokers, or otherwise, at any place to sell, pledge, hypothecate or otherwise dispose of any or all of the aforesaid bonds hereby authorized to be issued, at par or at any price less than par, and for such sum or sums, and on such terms, as to the said company or its treasurer, agents or brokers shall appear most for the interest of said company; and the said company and its directors, officers, agents and brokers are hereby authorized and empowered to have, exercise and enjoy all the rights, privileges and powers hereby conferred upon them, respectively, any law of this state to the contrary notwithstanding. And any such mortgage or deed of trust, and every discharge or satisfaction thereof, may be recorded in the office of the secretary of state, in a proper book kept for that purpose, and the certificate of such recording, endorsed on such mortgage or deed of trust, shall have the same effect as if such mortgage or deed of trust was recorded in the several counties through which such road may run, or such estate may be, and such record in the office of the secretary shall be sufficient notice to all persons.

May enter upon lands, survey and locate road, and use lands on line of same, &c.

SECTION 13. The said corporation shall have authority and power, and is hereby authorized and empowered, by its officers, engineers and agents, to enter upon any land for the purpose of exploring, surveying, locating or determining the route of its railroad; and when the route of said railroad shall be determined by said company by resolution adopted by the board of directors, the company shall have authority and power, and it is hereby authorized and empowered, by its agents, officers, engineers, contractors, employees and servants, to enter upon, take, possess, occupy and use any land along and including the line of said route, not exceeding one hundred feet in width; and said company shall also have authority and power, and it is hereby authorized and empowered, at any time to enter upon, take, occupy and use any other lands beyond the limits of one hundred feet, which shall by resolution adopted by the board of directors, be declared to be necessary for the use of said company, for the purpose of erecting depot building, stopping-stages, station-houses, freight-houses, warehouses, engine-houses, machine-shops, or for buildings or fixtures of any kind, or grounds about any such buildings, houses or fixtures, for the convenient operation of the business of the road, or for the purpose of giving a proper direction to water-courses, or of diverting or changing the channel of water-courses, 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 depositing earth, gravel or stone, or for the purpose of obtaining earth, gravel, stone or other materials for embankments, structures or superstructures necessary to or for the construction, completion, alteration, maintenance, preservation and complete operation of said railroad, or for the purpose of the construction of any piers, docks, wharves, breakwaters, harbor piers or harbors authorized by this act; and a copy of said resolution, duly certified by the secretary of said company, shall be recorded in the office of the register of deeds of the county in which the lands described in the resolution shall lie. And all private property which the said corporation is by this act authorized to take, is hereby declared to be taken for public use. Said company

shall, at such time and in such manner as is prescribed by this act, pay the full value of all lands so taken, possessed, occupied or used, which value shall be ascertained in the manner hereinafter provided, and whenever the same shall have been paid, tendered or deposited, as provided in this act, the title in and to any and all such lands shall become vested in said company; and whenever the company shall deem that the same or any part thereof shall be no longer necessary for the purpose for which the same were taken, the said company is hereby authorized and empowered to lease or sell the same, or any part thereof.

SECTION 14. Whenever the line of said railroad shall be located and its route determined, the said company may apply, by attorney, to the circuit court of the county of Ashland, or to the judge thereof in vacation, for the appointment of three commissioners to make an appraisal and award of the value of any and all lands which are the private property of any person on the line of said railroad, and which the said company shall have entered upon, taken, possessed, occupied or used, or which it may thereafter enter upon, take, possess, occupy or use for any of the purposes for which by this act the said company is authorized to enter upon, take, possess, occupy or use lands. The said company shall give notice of its intention to apply for the appointment of such commissioners, by publishing the same at least thirty days before the time for hearing such application, in at least one newspaper published in the county in which such land shall be, (and if no newspaper shall be published in such county, then in one published in the city of Madison,) and upon an affidavit of the publication of the same, the court or judge to whom the application shall be made, shall appoint three commissioners, who shall have cognizance of all cases arising on the line or route of said railroad; and they shall proceed to examine the premises in each case separately, having first given such notice to the owner as they may deem reasonable, and at least five days' personal notice to such owner, if resident of the county; and whenever it shall appear to said company or its officers that the title of such land is in dispute, or that several parties claim interest therein by tax sales, tax titles, in-

Application for  
and appointment  
of commissioners  
to appraise  
lands.

Duties of com-  
missioners.

cumbrances, liens or equitable claims, the said commissioners shall, upon request of said company or its attorney, give notice to all persons claiming any interest in such land, whether as owners, incumbrancers or otherwise; (and when the person to be notified has no known residence in this state, within the knowledge of such commissioners, the notice may be by publication in a newspaper, for such length of time as the commissioners shall deem reasonable;) and after making such examination, the said commissioners, or a majority of them, shall, in each case, separately, make an appraisal and award of the value of the land so entered upon, taken, possessed, occupied or used by said company for any of the purposes aforesaid, at the time when the same was so entered upon and taken, and shall deliver one copy of their award, in each case, to the said company, and shall file another in the office of the clerk of the circuit court of the county in which said land shall lie, with the costs of the award taxed upon each of said copies; and if neither party shall appeal from said award in the manner hereinafter provided, the said circuit court, on motion of the party in whose favor any award shall be made for such value as aforesaid, unless such award shall have previously been paid, shall enter up judgment in conformity with such award. And in case either of said commissioners shall die, resign, or decline to act, the said court or judge shall appoint another commissioner in his stead. The said company, or any party receiving notice from the said commissioners as aforesaid, may, within thirty days after such award shall have been filed with the clerk as aforesaid, appeal from the same to the circuit court for the county in which such award shall be filed, by filing with the clerk of said court a written notice of such appeal. Upon receiving such notice, the said clerk shall enter the appeal as a case upon the docket of the court, setting down the owner or owners and person or persons claiming any interest in said land, embracing all persons so having received such notice from said commissioners as plaintiffs, and the said company as defendant; and the said court shall proceed to hear and determine such case in the same manner that other cases are heard and determined in such court; and all issues of fact arising therein

Appeal.

shall be tried by a jury, unless a jury be expressly waived by both parties. The appellant shall not be entitled to have the case tried at any term of said court, unless he shall have given notice to the appellee or his attorney at least ten days before the first day of the term, that he will demand a trial at such term; but in case the appellee has no known residence in this state, or attorney of record residing therein, no such notice need be given. In all cases the appellee may waive such notice, in which case the same rule for trial shall be applicable to it as to other cases in said court. After the hearing of such case, the jury, or if a jury be waived, the court shall assess the value of the lands so entered upon, taken, possessed, occupied and used by said company at the time when the same was entered upon and taken; and after such assessment the court shall proceed to render judgment against said company for the amount of said assessment, in favor of the plaintiff or plaintiffs in such case. If the amount so assessed in favor of the said plaintiff or plaintiffs shall exceed the amount awarded by said commissioners, then judgment shall be rendered against said company for costs; and if it shall not exceed such amount, as aforesaid, then judgment shall be rendered in favor of said company for costs, and against the said plaintiff or plaintiffs, and execution may issue accordingly. Either party shall be entitled to a change of venue for the trial of such cause, in the same manner as provided by law in civil suits. The judgment of the circuit court may be reviewed on appeal or writ of error, as other cases at law. Whenever the commissioners shall make an award as aforesaid, and no appeal shall be taken from the same, or whenever, in case of appeal, a final judgment shall be rendered, it shall be the duty of the company, and not before, to pay to the party entitled to the same, the amount of said award or judgment; and in any case where there shall be any lien, incumbrance, tax sale, tax title, or equitable claim to or upon the land, or any part thereof, which is the subject matter of such award or judgment, or when more than one person shall be entitled to or shall set up any claim to the amount of such award or judgment, or any part of it, or when the person entitled to receive the same shall not have any known residence within the state, the said

Costs.

Change of venue.

When company to pay damages, deposit of award, &amp;c.



company may deposit the amount of such award, when there is no appeal, with the clerk of the court with whom the award in the case shall have been filed; and in case of an appeal and judgment thereon, with the clerk of the circuit court in which such judgment shall have been rendered. The money so deposited shall be paid to the person or persons adjudged by the court to be entitled to receive the same. Whenever the amount of such award or judgment shall have been paid, tendered or deposited as aforesaid, an absolute estate in fee simple in such lands shall be and become vested in said company, and all persons so receiving notice from the said commissioners, and all persons claiming under them, shall be forever concluded from questioning such title so acquired by the said company. Said company shall have full power and authority, after entering upon and taking any such lands, to have, hold, possess, occupy, use and enjoy the same for any of the lawful purposes of the said company, until the proceedings provided for by this act shall have been finally determined, and until said company shall have refused after demand made, to pay the value of the land so ascertained as aforesaid; and the company shall not, during such time nor until such refusal, be disturbed in such possession or occupancy, use or enjoyment, by any proceedings either in law or equity.

May construct  
road along side  
of or across  
other roads.

SECTION 15. The said company shall have the right, authority and power, and it is hereby authorized and empowered, to construct its said railroad upon and along, across, under or over any public or private highway, road, street, plankroad or railroad, if the same shall be necessary; but the said company shall put said highway, road, street, plankroad or railroad in such condition and state of repair as not to impair or interfere with its free and proper use; and also to erect and maintain all necessary bridges for the use of their railroad over any water-course, at such point of crossing the same as said road may be located, with all necessary abutments, piers, arches and foundations.

Penalty for injury  
to road, &c.

SECTION 16. If any person shall willfully or knowingly injure or destroy any part or portion of the railroad so to be constructed, or any works, buildings 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 railroad, such person or persons so offending shall each of them, for every such offense, forfeit and pay to said company three times the amount of damages caused by such offense, which may be recovered in the name of said company in any court having competent jurisdiction. Such person or persons shall also be subject to indictment, and on conviction of any such offense, shall be punished by fine and imprisonment in the state prison, or either, at the discretion of the court; and in case any accident shall occur in consequence of any such obstruction or damage to said road or machinery, whereby the death of any person shall be caused, the person so offending shall, on conviction, be adjudged guilty of murder in the first degree, and punished in such manner as shall be prescribed by law for the punishment of that crime.

SECTION 17. It is hereby declared that in the judgment of the legislature the objects of this corporation cannot be obtained by or under general laws. Objects not otherwise attainable.

SECTION 18. This act is hereby declared to be a public act, and its provisions shall be liberally and favorably construed in all courts; and copies of the same printed by authority of law, shall be received as evidence thereof in all cases. Public act, &c.

SECTION 19. This act shall take effect and be in force from and after its passage.

Approved April 2, 1863.

## CHAPTER 307.

[Published April 27, 1863.]

AN ACT to incorporate the Appleton, St. Croix river and Superior railroad company.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. J. S. Buck, Peter White, M. B. Thompkins, T. R. Hudd, Geo. W. Spaulding, Anson Ballard, J. M. Barker, Geo. McDonald, Byron Douglas, of Ap- Corporators.