

Chap 148

An Act to appropriate to Samuel W. Beall the sum therein named.

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

SECTION 1. There is hereby appropriated to Samuel W. Beall out of any money in the state treasury not otherwise appropriated, the sum of forty-nine dollars and seventy-five cents, in full for costs in the following entitled suits, to wit: State vs. John Gauthay, Joseph R. Moore vs. the State, State vs. Wisconsin Marine and Fire Insurance Company, State vs. Wm. T. Richmond, and State vs. Blossom, Alton, & Chandler, to March 1, 1852.

J. McM. SHAFTER,
Speaker of the Assembly.
E. B. DEAN, Jr.,
President pro tem. of the Senate.

Approved March 24, 1852.

LEONARD J. FARWELL.

Chap 149

An Act to incorporate the Madison and Prairie du Chien Rail Road Company.

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

SECTION 1. That H. L. Dousman, E. W. Pelton, S. A. Clark, B. W. Brisbois, John Thomas, and Wiram Knowlton, of the county of Crawford, and E. B. Dean, Jr., Archibald Treadway, Elisha Burdick, A. A. Bird, and Simeon Mills, of the county of Dane, 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 Madison and Prairie du Chien Railroad Company, hereby incorporated; and they may cause books to be opened at such times and places as they may 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 weekly in a public newspaper printed in the county of Dane, and also in one printed in the county of Crawford.

SEC. 2. The capital stock of said company shall be five hundred thousand dollars, in shares of one hundred dollars each; and as soon as one thousand shares of stock shall be subscribed, and five dollars on 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 cre-

Created a body
corporate.

ated a body corporate and politic, by the name and style of the "Madison and Prairie du Chien Rail Road Company," with perpetual succession, and by that name shall have all the privileges, franchises, and immunities incident to a corporation. They shall be capable in law of purchasing, holding, selling, leasing, and conveying estate, either real, personal or mixed, as far as the same may be necessary for the purposes hereinafter mentioned and no further; and in their corporate name may sue and be sued, may have a common seal, which they may alter and renew at pleasure, and generally may do all and singular the matters and things which to them it shall lawfully appertain to do for the well being of the said corporation.

SEC. 3. The said commissioners, or a majority of them, after the said one thousand shares of stock shall have been subscribed as aforesaid, shall give at least thirty days' notice in the newspapers hereinbefore mentioned, of the time and place by them appointed for the subscribers or stockholders to meet, for the purpose of electing nine directors; 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 as aforesaid: *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.

Commissioners
to call meeting.

SEC. 4. The affairs of said corporation shall be managed by a board of nine directors, who shall be chosen annually by ballot, on the days hereinbefore prescribed, by the stockholders of said company, the votes to be delivered in person or by proxy duly authorized; which directors shall appoint one of their own number to be president, and shall respectively serve for one year, or until other directors be elected; they shall have power to 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.

Board of directors.

SEC. 5. None but stockholders shall be elected directors, and at every election and in all other cases upon which

Each share entitled to one vote stockholders shall be called upon to vote, each share of stock shall be entitled to one vote, and in all cases of elections of directors, the nine stockholders having the greatest number of votes shall be declared duly elected.

When directors to meet.

SEC. 6. The said directors shall meet at such times and places and be convened in such manner as they may hereafter decide upon. Five directors shall be a quorum for the transaction of business, who, in the absence of the president, shall appoint a president *pro tem*. The said directors shall appoint a secretary, treasurer, and such engineers and other officers as they may find necessary. They shall have the full power to fix the compensation of all the officers and may demand adequate security for the performance of their respective trusts. They shall decide the time and manner and proportions in which the said stockholders shall pay the money due on their respective shares, and forfeit to the use of the company the share or shares of every person or persons failing to pay any installment so required, at a reasonable period not less than thirty days after the time by them appointed for the payment thereof; they shall have full power to regulate tolls, to make such covenants, contracts, and agreements with any person, co-partnership, or body politic whatsoever, as the construction and management of the works, and 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: *Provided*, That no installment called in at any one time, shall exceed twenty dollars per share, and that no installment shall be called by the directors, without at least sixty days' notice thereof in the newspapers hereinbefore mentioned.

Provide.

Directors to issue certificates.

SEC. 7. The directors chosen as aforesaid shall issue a certificate to each stockholder for the number of shares he or she may subscribe for or hold in said corporation, signed by the president, countersigned by the secretary, and sealed with the common seal.

To exhibit statement.

SEC. 8. At each annual meeting of the stockholders for the purpose of electing directors, the directors of the preceding year shall exhibit to them a complete statement of the affairs and proceedings of the company for such year; and special meetings of the stockholders may be called by order of the directors, or by stockholders holding one-fourth in amount of the capital stock, on like notice as that required for annual meetings, specifying, moreover, the objects of the meeting; but no business shall be trans-

acted at such special meeting unless a majority in value of the stockholders shall attend in person or by proxy.

SEC. 9. The said company shall have power to locate and construct a single or double track railroad from such eligible point in the town of Madison, in Dane county, to such eligible point in the town of Prairie du Chien, in Crawford county, as shall be determined on by a vote of the stockholders holding a majority of the stock of said company, at a special meeting called for the purpose of fixing the location or termination of said road, and shall have power to transport, take, and carry property and persons upon the same, by the power and force of steam, of animals, or of any mechanical or other power, or of a combination of them, and they shall also have power to make, construct, and erect all such side tracks, turn-outs, and connecting tracks, and all such ware houses, toll houses, machine shops, carriages, cars, and other works and appendages, as may be necessary for the convenience of the company, to the use of said railroad, and also to connect said rail road and operate the same with other rail roads and branch rail roads in the state of Wisconsin, at any point within the limits of the counties of Dane and Crawford, or of any counties intermediate.

SEC. 10. If said corporation shall not within five years from the passage of this act commence the construction of said rail road, then the rights, privileges, and powers of said corporation under this act, shall be null and void.

SEC. 11. It shall and may 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 rail road, doing thereto no unnecessary damage, and when the 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, not exceeding five 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 shall be ascertained in the manner hereinafter directed and provided in such cases respectively.

SEC. 12. When the said corporation cannot agree with the owner or owners of such required land for the purchase thereof, or as to the compensation to be paid to the owner or owners of any land for the purpose aforesaid, or when by reason of the legal incapacity or absence of any such owner or owners, no such agreement or purchase can be made, then and in any such case it shall be lawful for the

judge of the circuit court of the county in which such lands are situated, on application of either party, and at the cost and charge of such corporation, to appoint three disinterested persons in such county, whose duty it shall be to view and examine or survey said lands, with the buildings and improvements if any thereon, and to estimate the value of the land so taken or required by the said company, and all damages which the owner or owners thereof shall sustain or may have sustained by reason of the taking of the same for the construction and use of said rail road or works appertaining thereto, taking into consideration the advantages and disadvantages of the same to the said owner or owners; and the persons so appointed before entering upon the discharge of such duties, shall take an oath before some justice of the peace or other person competent to administer oaths, faithfully, and according to the best of their ability to examine the land so taken or required by said company, and impartially to estimate and appraise the value of the same, and the damage or injury which the owner or owners thereof shall have sustained or may sustain by reason of the taking and using thereof by the said company, over and above all benefits and advantages which such owner or owners shall derive from the construction of said rail road; whereupon such commissioners shall proceed to examine the premises and estimate the value of such land, and the amount of damages, if any, over and above the benefits and advantages which may accrue to such owners, as aforesaid, and shall make a report of such valuation in writing, under their hands and seals, to said judge, and shall return the same within thirty days after their appointment to the clerk of the circuit court of the county in which they reside, and it shall be the duty of the clerk to file the same, and in case no appeal shall be made within thirty days after the filing of said reports as hereinafter provided, then the said clerk shall record the same at the expense of said company, and judgment of the said court shall be entered thereon, on motion of either party, at any term of said court: *Provided*, That either party may appeal to said court within thirty days after said report shall have been filed in the clerk's office; and such appeal shall be tried in the same manner as other issues are tried in said court, and the jury empannelled to try the same shall find the value of the land so taken or required by said company, and the damages which the owner or owners thereof shall have sustained, or may sustain by the taking of the same, over and above the benefits which will accrue to such

Proviso.

owner or owners from the construction of such rail road, and judgment of the court shall be entered accordingly: *Provided also*, That it shall not be lawful for the said commissioners or the said court to proceed in the assessment of damages, or in the valuation of any lands or materials, as aforesaid, in the absence of the owner or owners thereof, his, her, or their agents or attorneys, unless it shall be shown to them by competent testimony that the said owner or owners have had at least five days' notice of the time and place at which such assessment or valuation was to be made or that the said owner or owners are absent from the state of Wisconsin; and if the said owner or owners shall be minors, or *non compos mentis*, or absent from the state, the service of notice may be made on their guardian or trustee, if any there be, in such manner as the court may direct: *Provided also*, That upon the making and filing of any report as aforesaid, and payment or legal tender of the amount of any valuation or appraisal specified therein to the owner or owners of any such lands, his, her, or their legal representatives, the said company, their agents, or the contractors for making or repairing said rail road, may immediately take and use the same without awaiting the issue of any appeal brought thereon.

SEC. 13. Whenever any judgment shall have been entered as hereinbefore provided, for the value of any lands or for any damages for taking and using the same, and the amount specified in such judgment shall have been paid or tendered to the owner or owners of such lands, his, her, or their legal representatives, the said company shall be entitled to the estate and interest in the same so long as the lands so valued and taken shall be used as the track of said rail road; and if such valuation be not received when tendered, it may at any time thereafter be received, or may be collected from said company by action at law, at the cost and expense of the person or persons entitled to the same.

Company entitled to estate in lands.

SEC. 14. The said rail road shall be so constructed as not to impede or obstruct the free use and passage of any public road or roads which may cross the same; and in all places where such rail road may cross, or in any way interfere with any public road, it shall be the duty of said company to make or cause to be made a sufficient cross-way or passage-way to enable all persons traveling such public road, to pass over or under such rail road without inconvenience.

Rail road not to impede highway.

SEC. 15. For the convenience of persons owning or possessing lands through which said rail road shall pass, it

To make passage way for farms.

shall be the duty of said company when required, to make good and sufficient passage-way over or under said rail road, whenever the same may be necessary to enable the occupants of said lands to pass over or under the same with wagons, carts, and implements of husbandry, as occasion may require: *Provided*, That said company shall in no case be required to make more than one such passage-way for each farm; and when any public road shall cross such rail road in any farm, the person owning or possessing such farm shall not be entitled to require said company to make any additional causeway.

Proviso.

May demand toll.

SEC. 16. On the completion of said rail road or any portion of the track not less than ten miles, it shall and may be lawful for the company to demand and receive such sum or sums of money for passage or freight of persons and property as they shall from time to time think reasonable.

Penalty for damage to road.

SEC. 17. If any person shall willfully and knowingly break, injure, or destroy the rail road 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, 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 damages caused by such offence, which may be recovered in the name of the said company, by action of debt in any court having competent jurisdiction in the county wherein the offence shall be committed, and shall 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.

Property liable for debts.

SEC. 18. The property of every individual invested in said corporation, shall be liable to be taken in execution for the payment of his or her debts; in such manner as is or may be provided by law: *Provided*, That all debts due said company shall be first paid.

May provide for increase of capital stock.

SEC. 19. The stockholders holding a majority in value of the stock may, at any annual or special meeting, increase the capital stock of this company to an amount not exceeding eight hundred thousand dollars.

Public act.

SEC. 20. This act shall be favorably construed to effect the purposes thereby intended, and the same is hereby declared to be a public act, and copies thereof printed by authority of the state shall be received in evidence thereof.

How charter forfeited.

SEC. 21. In case of a violation by the company of any of the provisions of this act, the legislature of the state of

Wisconsin may resume all and singular the rights and privileges hereby granted to said company.

SEC. 22. The said company shall have power to connect said rail road, and operate the same with other rail roads in the state of Wisconsin, and consolidate the capital stock of the said company with the capital stock of any rail road company with which the roads of said companies shall intersect, and shall have full power to place the road of the company and its capital stock so consolidated under the direction of a joint board of directors of not less than nine nor more than fifteen, to be chosen on such terms as the directors of the companies consolidating their capital stock shall agree upon. May connect road.

SEC. 23. This act shall be in force from and after its passage.

J. McM. SHAFTER,
Speaker of the Assembly.

E. B. DEAN, JR.
President pro tem. of the Senate.

Approved, March 24, 1852.

LEONARD J. FARWELL.

[*Published April 9, 1852.*]

An Act to incorporate the Wisconsin River Plank Road Company.

Chap 150

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

SECTION 1. That E. W. Pelton, John Thomas, H. L. Dousman, B. W. Brisbois, Thomas A. Savage, E. P. Wood, Peter Borette, and Alonzo Pelton, be and are hereby appointed commissioners, under the direction of a majority of whom subscriptions may be received to the capital stock of the "Wisconsin River 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 to the capital stock of said company, first giving thirty days' notice of the times and places of receiving subscriptions, by publishing in a newspaper printed either in the county of Crawford or Grant. Commissioners

SEC. 2. All persons who shall become stockholders pursuant to the provisions of this act, are hereby created a body corporate in law, with continual succession, by the name and style of the Wisconsin River Plank Road Company, for the purpose of constructing a plank road from the Created a body corporate.