

CHAPTER 308.

[Published May 1, 1863.]

AN ACT to incorporate the Oconto pier and plankroad company.

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

SECTION 1. George E. Hart, Wm. M. Whitcomb, J. B. Ideson, Edwin Hart and George C. Ginty, are hereby appointed commissioners, under the directions of a majority of whom subscriptions may be received to the capital stock of the "Oconto pier and plankroad company," hereby incorporated, and they may cause books to be opened at such times and places as they shall direct, for the purposes of receiving subscriptions to the capital stock of said company, first giving twenty days' notice of the time and places of receiving such subscriptions, by publishing the same in the "Oconto Pioneer," a newspaper printed in the village of Oconto, Oconto county.

Commissioners to receive subscriptions, &c.

SECTION 2. The capital stock of said company shall be twenty thousand dollars, in shares of twenty-five dollars each, and as soon as fifty shares of the capital stock shall be subscribed, and five per cent. of the amount thereon actually paid in, or secured to said company, the subscribers of said stock, with such other persons as they shall thereafter associate with them for that purpose, their successors and assigns, shall be, and they are hereby created and declared a body corporate and politic, by the name and style of the "Oconto pier and plankroad company," with perpetual succession; and by that name shall be capable of purchasing, holding, selling, bargaining and conveying estate, real, personal and mixed, in their corporation [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 an incorporated company may by law do.

Capital stock.

Name and powers.

SECTION 3. The said commissioners, or a majority of them, after said fifty shares of stock shall have been subscribed as aforesaid, shall give at least ten days' notice in the newspaper printed in the village of Oconto, of

Election of directors.

the time and place of the meeting of the stockholders for the election of five directors, who shall hold their office until their successors are elected; and annually thereafter, upon the anniversary of the first election, upon notice and place of meeting being given by the directors, then being published in the newspaper printed in the village of Oconto, the said stockholders shall meet to elect directors: *provided*, that until the first election of directors, the said commissioners above named, upon the subscription of fifty shares of stock, and the organizing of said commissioners by the election by them of one of their number president, shall have all the powers and perform all the duties of a board of directors for said company, and the corporate existence of said company shall be taken to have began and be complete as if a regular election of directors had taken place; and in case of a vacancy at any time happening in the board of directors, the board shall have power to fill such vacancy.

Powers of commissioners.

Management.

SECTION 4. The affairs of said company shall be managed by the said directors, who shall be stockholders, and be chosen by ballot by the stockholders in person, or by proxies duly authorized, and in all elections and in the discussion of all questions asked [passed] upon at any meeting of the stockholders, each share of stock shall be entitled to one vote, and the majority of votes cast shall govern, except in election [of directors,] when the five persons having the greatest number of votes cast for directors shall be declared elected.

Quorum, and officers.

SECTION 5. A majority of said directors shall form a quorum for the transaction of all business, and shall organize by choosing one of their number president, and they shall have power to appoint a secretary and treasurer, and such other officers or agents as they may see fit, and may fix their compensation, and may demand adequate security for the performance of their respective trusts, and may remove said officers and revoke the power of such agents at pleasure. They shall also have power

Further powers.

to make all necessary and proper by-laws, rules and regulations for the management of said company, the subscription of stock, the payment of installments thereon, the assignment and transfer of stock certificates, and prescribing the duties of officers; all of which by-laws not inconsistent with the constitution of

this state and the United States, when duly recorded in the books of the company, shall be effectual and binding upon the members of said company and all persons interested therein, as if the same formed a part of this act of incorporation.

SECTION 6. The said board of directors shall also have power to decide the time and manner in which said stockholders shall pay installments upon their stock, and to declare the forfeiture of said stock and all payments thereon, or [on] failure to pay such installments as may be called for, and also to adopt, in behalf of the company, a relinquishment of any stock subscribed, and to execute to the person or persons relinquishing the same, valid releases, discharging them from all liabilities thereafter for or on account of the acts of said company or its officers. Installments.

SECTION 7. The said directors shall have power to regulate tolls and charges, and make such covenants and contracts, in the name and under seal of said company, with any person or persons, as the execution and management of the work and the convenience and interest of the company may require, and may issue to each stockholder a certificate or certificates of the amount paid on such share at the time of issuing such certificate or certificates, which certificate or certificates shall be signed by the president and countersigned by the secretary of said company, and such certificate or certificates shall be transferable in the manner prescribed by the by-laws of said company. Tolls, certificates, &c.

SECTION 8. The said company shall have power to locate and construct and maintain a pier extending into Green Bay, opposite lot four, section twenty-nine, or lot one, in section thirty-two, (*same town and range*), township twenty-eight, range twenty-two, in Oconto county; also, shall have power to locate and construct a single or double track road from said pier to the mill known as Jones' water mill, in the town of Oconto, with side tracks to intersect the steam mills in the village of Oconto, Oconto county, by the most eligible and practicable route, as the directors shall decide. The track of said road shall be constructed of plank, stone, gravel, charcoal, or either, in whole or in part, each at the option of the directors, so that the same, when completed, shall constitute a firm, regular and Location of road.

proper surface for the passage of wagons and carriages.

May enter upon lands, &c.

SECTION 9. It shall be lawful for said company, their officers, engineers or agents, to enter upon any lands for the purpose of surveying and locating the route of said plankroad, doing thereto no damage unnecessarily, and when said route shall be determined by 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 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 will be ascertained in the manner hereinafter directed: *provided*, that in such cases as may be necessary for the company to obtain gravel or stone, or to make excavations and embankments for the construction of said road, the company may locate the route of said road not to exceed six rods in width, and they may also cut down such trees on each side of said road as may endanger said road by falling or otherwise.

Width.

Damages may be determined by jury, if parties cannot agree.

SECTION 10. When the corporation shall not agree with the owner or owners of any sand, gravel, stone or other material required for the construction of said pier or road, for the purpose thereof, or for the compensation to be paid therefor, or by reason of the absence or legal incapacity of the owner or owners, no such agreement or purchase can be made, then in any such case it shall be lawful for any justice of the peace to issue a warrant, directed to the sheriff or any constable of said county, or to the marshal of the village of Oconto, not directly interested, requiring him to summon a jury of seven freeholders of said county, not interested in said property, to meet the said justice at some convenient place at or near the property to be valued, on a day in said warrant mentioned, not less than five days nor more than ten days from the date of said warrant; and if, at the time and place named, any of the persons so summoned do not attend, the said sheriff, constable or marshal shall immediately summon as many as may be necessary with the persons in attendance as jurors, to furnish a panel of seven jurors, and from them the said company or the owner or own-

ers of said property to be valued, by their agent or attorney, or either of them, and if they are not present in person or by attorney, the sheriff, constable or marshal shall for him, her or them, strike off each two of said jurors, and the remaining three shall act as a jury of inquest of damages. Before they act as such, the said justice of the peace shall administer to each of them an oath or affirmation, that they will faithfully and impartially value the land and materials required for such pier and road, and all damages which the owner or owners shall sustain by reason of the construction of said pier or road, according to the best of their skill and judgment; whereupon the said justice and jurors shall proceed to view the said land or material so required, and to hear the evidence of the respective parties, which the said justice shall reduce to writing, which shall be signed by said justice; and the verdict of the jurors thereon shall be signed by the jurors or a majority of them, and by the justice of the peace; and the said justice of the peace shall, within five days thereafter, transmit the same to the clerk of the circuit court of Oconto 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 such valuation, when 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, so long as the land thus valued and taken shall be used for the track of said plankroad: *provided*, that it shall not be lawful for any justice or jury of inquest to proceed in the valuation of any such property or materials in the absence [absence] of the owner or owners thereof, or his heirs or their legal representatives, unless it be made to appear by affidavit that such owner or owners have 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 under age or *non compos mentis*. Such service may be made upon the guardian or trustee, under the same restriction as in the case of owners; or if there be no guardian or trustee, the same shall be es-

Valuation not to be made in absence of owners, unless they shall have been notified.

Proviso.

established by affidavit: *provided*, that no such material shall be taken if the jury shall decide that [the] same is essential to the owner or owners thereof.

May construct road along side of or across other roads.

SECTION 11. The directors shall have power, in their discretion, to construct said plankroad along and upon any road or highway now or hereafter to be laid out, opened and established by the proper authorities, and of such width and in such manner as the directors shall determine: *provided*, that such authority shall

Proviso.

proceed from the president and trustees of the village of Oconto, or the supervisors of the town of Oconto, in which such public highway may be situated. They

Rates of toll.

may erect toll gates and exact toll from persons traveling on their road, whenever one mile is finished, or when the whole road is completed, not exceeding ten cents per mile for every vehicle, sleigh or carriage drawn by two animals, and, if drawn by more than two animals, five cents per mile for every additional animal; for every sled, sleigh or carriage drawn by one animal, five cents per mile, and for every horse and rider, or led animal, three cents per mile; for every score of sheep and swine, three cents per mile, and for every score of neat cattle, ten cents per mile. The toll-gatherer at such gate erected on said road in pursuance of this act, may detain and prevent from passing such gates, any animal or carriage subject to toll, until the toll is paid.

May receive real or personal property in payment of stock.

SECTION 12. The said directors may receive from any stockholder in said company, in lieu of money, for the stock subscribed by him, (*or his*) real or personal property, to be approved by said board of directors, and upon the acceptance of such security from said stockholders, or any of them, the subscription of such stockholders shall be considered as paid, and certificates of stock shall be issued to said stockholders in the same manner as if they had paid in full the amount of their subscription in money; and it shall be competent for the said stockholders, paying their subscription to said stock in securities as aforesaid, to contract and pay to said company interest at the rate of ten per cent. for a period not exceeding ten years, and to execute to said company, by its corporate name, bonds, mortgages or notes of such stock, which shall be available for the use and benefit of said company and for all subsequent

holders thereof, and transferable by them in the same manner as if the same were made payable to individuals or to their order or assigns.

SECTION 13. If any person shall willfully throw down any gate on such road, which may have been erected in pursuance of this act, or to [do] any damage to said pier or road, or forcibly or fraudulently pass such gate without having paid the legal toll, or to avoid the payment of legal toll, shall, with his team, carriage or animal, turn out of said road, or pass any gate thereon or ground adjacent thereto, and again return on said road, shall, for each offense, forfeit a sum not exceeding ten dollars to and for the use of said company, and also for all damages done to the profits of said company, in action at law.

Willful damage to gate—punishment.

SECTION 14. If any person shall willfully or knowingly obstruct, break or destroy the said pier or road 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 offense, be liable to a civil action for the recovery of damages by said company, by action in any court having competent jurisdiction in the county wherein the offense 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.

Willful injury to pier of road—punishment.

SECTION 15. The directors of said company, at any annual or special meeting of the stockholders, with the consent of a majority in amount of said stockholders, may provide for such increase of the capital stock of said company as may be necessary to complete said pier or road.

May increase capital stock.

SECTION 16. This act is hereby declared to be a public act, and shall be favorably construed to effect the purposes hereby intended; and copies thereof, printed by authority of the state, shall be received as evidence in all cases, and this act shall be in force and effect from and after its passage.

Public act, &c.

Approved April 2, 1863.