

road, and expend three thousand dollars or more thereon, and shall not within five years from the passage of this act, construct, finish, and put in operation, a single or double track plank road from St. Paul to Little Canada, then the rights, privileges and powers of said corporation under this act, shall be null and void.

How to be construed.

SEC. 16. 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 Territory shall be received as evidence thereof.

The legislature may amend.

SEC. 17. This act may be altered or amended by any future legislature of the Territory or State of Minnesota.

N. C. D. TAYLOR,  
*Speaker of the House of Representatives.*  
S. B. OLMSTEAD,  
*President of the Council.*

APPROVED—March fourth, one thousand eight hundred and fifty-four.

W. A. GORMAN,  
SECRETARY'S OFFICE,  
St. Paul, March 15, 1854. }

I hereby certify the foregoing to be a true copy of the original act on file in this office.

J. TRAVIS ROSSER,

*Secretary of Minnesota Territory.*

CHAPTER 50.

*An Act to Incorporate the Red Wing and Henderson Plank Road Company.*

SECTION

- 1. Corporators names.
- 2. Capital stock.
- 3. Notice of meeting.
- 4. Directors—how chosen.
- 5. Number to constitute a quorum.
- 6. Powers of company.
- 7. To take possession of lands.
- 8. Mode of compensation.
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SECTION

- 10. Toll-gates—by whom erected.
- 11. Penalty for injury to the road.
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- 13. Increase of stock.
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- 16. How construed.
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Corporate name and powers.

*Be it enacted by the Legislative Assembly of the Territory of Minnesota:* That Wm. W. Finch, Alex. Farribault, Charles Blair, William H. Forbes, Nath. Merrick, Wm. Freeborn and W. W. Sweeney 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 Red Wing and Henderson Plank Road Company, hereby incorporated; and they may cause books to be

opened at such times and places as they shall direct, for the purpose of receiving subscriptions to the capital stock of said company, first giving thirty days' notice of the time and places of taking such subscriptions, by publishing the same in one or more newspapers printed in this Territory

**SEC. 2.** The capital stock of said company shall be twenty-five thousand dollars, in shares of ten dollars each; and as soon as one thousand dollars of the capital stock shall be subscribed, and one dollar 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 created a body corporate and politic, by the name and style of "The Red Wing and Henderson Plank Road Company," with perpetual succession; and by that name, shall be capable in law of purchasing, holding, selling, leasing, and conveying estate, real, personal or mixed; and in their corporate name may sue and be sued, may have a common seal, which they may alter or renew at pleasure, and generally may do all and singular the matters and things which are authorized by law for the interest and well being of said company.

Capital stock.

**SEC. 3.** The said commissioners, or a majority of them, after the said one thousand dollars of stock shall have been subscribed as aforesaid, shall give at least twenty days' notice in the newspapers hereinbefore mentioned, of the time and place of a meeting of the stockholders for the purpose of electing seven 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 by a majority of the directors for the time being, in such newspapers as they may think proper: *Provided*, That previous to the first election, the commissioners hereinbefore mentioned, shall elect one of their number president, and they shall perform all the duties and be invested with all the powers of directors: *Provided, further*, 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 any irregularity or want of such election; and in case of any vacancy in the board of directors, the same shall be filled by the other directors, or a majority of them.

Notice of meeting.

**SEC. 4.** The affairs of said company shall be managed by a board of seven directors, who shall be stockholders, and be chosen annually by ballot, by the stockholders of said company, the votes to be given in person or by proxy duly authorized; which directors shall appoint one of their number president; and shall serve until others are elected in their stead. They shall make and establish such by-laws, rules, orders and regulations, not inconsistent with the Constitution and laws of the United States and of the Territory or State of Minnesota, as may be necessary for the well ordering of the affairs of said company. Each share of stock shall be entitled to one vote, and in all cases of elections for directors, the seven stockholders having the greatest number of votes shall be declared duly elected.

Directors—how chosen.

**SEC. 5.** Four directors shall be a quorum for the transaction of business, who, in the absence of the president, may appoint a president pro tempore; the said directors shall appoint a secretary, treasurer, and such engineers and other officers as they may find

Number to constitute a quorum.

necessary; shall fix their compensation, and may demand adequate security for the performance of their respective trusts: they shall have full power to decide the time and manner in which the said stockholders shall pay the money due on their respective shares, may declare forfeited to the use of said company the share or shares of every person or persons failing to pay any instalment, at a reasonable period, not less than thirty days after the time appointed for the payment thereof. *Provided*, No instalment shall be demanded of the stockholders, exceeding one dollar, at any one time, on each share, nor while a sum exceeding three thousand dollars remains in the hands of the treasurer, unappropriated to such portion of the work, as may at the time be completed. They shall have power to regulate tolls, to make such covenants, contracts and agreements with any person or persons, or body politic whatsoever as the execution and management of the works, and the convenience and interests of the company may require, and in general, to superintend and direct all the operations, receipts, disbursements, and other proceedings of the company. The commissioners, until the directors are chosen, shall issue certificates to each stockholder for the number of shares he or she shall subscribe for or hold in said corporation, signed by the president, and countersigned by the secretary, subject to all the payments due, and to become due thereon, which stock shall be transferrable in person, or by attorney, executors, administrators, guardians or trustees, under such regulations as may be provided by the by-laws of said company.

Powers of company.

Sec. 6. The said company shall have power to locate and construct a single or double track plank road, from the Court House in Red Wing, to a point to be selected by the Directors of said company, on the Minnesota river opposite Henderson, and they shall have power to erect all such toll houses, bridges, and other works and appendages as may be necessary for the convenience of said company in the use of said road, and also to connect the said road with other plank roads in the Territory or State of Minnesota; and to unite and consolidate stock with any such plank road company. The track of said road shall be constructed of plank, stone, gravel, or charcoal, in all, or in part, at the option of the directors, so that the same shall constitute a firm and smooth surface, for the passage of wagons and carriages. The directors shall exercise all powers conferred on them by law: shall audit and pay all accounts against said company: fix the compensation and salary of the officers they may appoint; and meet at such times and places as they may prescribe in the by-laws to be enacted by them. They may appoint and remove all officers at pleasure; prescribe the meeting of the stockholders, and declare and pay dividends, or so much of the surplus profits of the company, as they shall deem advisable, which may accrue on the shares of said stock to the stockholders of said company, on the first Monday of July and January, of each year.

To take possession of lands.

Sec. 7. It shall and may be lawful for said company, their officers, engineers and agents, to enter upon any lands for the purpose of exploring, surveying and locating the route of said plank road, doing thereto no unnecessary damage; and when said route shall be determined by the said company, it shall be lawful for them, their agents, officers and 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 shall be ascertained in the man-

ner hereinafter directed: *Provided*, That in such places as may be necessary for the company to obtain gravel and 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.

SEC. 8. When the said corporation cannot agree with the owner or owners of any land, gravel, stone or other material required for the construction of said road, for the purchase thereof or for the compensation to be paid therefor, or when by reason of the absence or legal incapacity of the owner or owners, no such agreement or purchase can be made, then and in any such case it shall be lawful for any justice of the peace of the town in which the property may lie, to issue a warrant directed to the sheriff or any constable of said county, not directly interested, requiring him to summon a jury of nine freeholders of said county not interested in said property, to meet the said justice at some convenient place at or near the property to be valued, on a day in said warrant named, not less than ten days from the date of said warrant; and if at the time and place named, any of the persons summoned do not attend, the said sheriff or constable shall immediately summons as many as may be necessary with the persons in attendance as jurors, to furnish a panel of nine jurors, and from them, the said company and the owner or owners of the property to be valued, their agent or attorney, or either of them, and if they are not present in person or by attorney, the sheriff or constable shall for him, her or them, strike off each two of said jurors, and the remaining five shall act as a jury of inquest or damages. Before they act as such, the said justice of the peace shall administer to each of them an oath or affirmation, that he will faithfully and impartially value the land or material required for said road, and all damages which the owner or owners shall sustain by reason of the construction of said road, taking into consideration the advantages the same will be to the owner or owners, according to the best of his skill and judgment; whereupon the said justice and jurors shall proceed to view 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 the said justice, and the verdict of the jurors thereon, shall be signed by the said jurors or a majority of them, and by the justice of the peace; and the said justice shall, within five days thereafter transmit the same to the clerk of the district court of the proper county, who shall file the same. Such inquisition shall describe the property taken or to be taken, or the boundaries of 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 plank road: *Provided*, That it shall not be lawful for any justice and jury of inquest to proceed in the valuation of any such property or material in the absence of the owner or owners thereof, his, her, or their legal representatives, unless it be made to appear, by affidavit, that such owner or owners have had at least five day's notice of the time and place of the meeting, for the purpose of making such valuation, or unless it shall in like manner be shown that such owner or owners are ab-

Mode of compensation.

sent from the county; and if such owner or owners are under age, or *non compos mentis*, such service or notice may be made upon the guardian or trustee, under the same restrictions as in case of owners; or if there be no guardian or trustee, the same shall be established by affidavit. *Provided*, That no such materials shall be taken, if the jury shall decide that the same are essential to the owner or owners thereof.

Stock—personal property.

Sec. 9. The shares of stock of the corporation shall be deemed personal property, and every person becoming a shareholder by transfer, purchase, or otherwise, of shares of said stock, shall succeed to all the rights and liabilities of the prior holder of said share or shares; and the said shares shall be liable to be taken in execution for the payment of the debts of the owner in such manner as is or may be provided by law. Wherever the route of said road follows the line of any public highway, the said company shall not take possession of said highway until the county commissioners of the county through which it passes, shall have given them written consent, which shall be recorded in the office of the Register of Deeds of said county.

Toll-gates—by whom erected.

Sec. 10. The said Directors may place toll-gates at any place on said road where they may determine; *Provided*, That no full toll gate shall embrace less than ten miles in length of said road, half toll gates, half that length, or five miles; and in proportion as aforesaid, until said gates shall take in the whole length of said road. Whenever four consecutive miles of said road shall be completed, it shall be lawful for the said directors to cause a half toll gate to be constructed, and said company may demand and receive for full toll, not exceeding two cents per mile for every vehicle, sled, sleigh or carriage of any description, drawn by two animals; and every vehicle drawn by more than two animals, one half cent per mile for every additional animal; for every horse and rider, or for every vehicle, drawn by one animal, one cent per mile; and for every horse, mule, or neat cattle, and half score of sheep or swine, one half cent per mile. No toll shall be exacted of any person while actually going to or returning from any military parade or review, at which their attendance shall be by law required. And the toll gatherer at any of said gates erected on said road in pursuance of this act, may detain and prevent from passing such gate, any vehicle, carriage or animal subject to toll, until the toll thereon is paid.

Penalty or injury to the road.

Sec. 11. If any person shall wilfully and knowingly obstruct, break, injure, or destroy the plank-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 offence, be liable to a civil suit for the recovery of damages by said Company, by an action of trespass, in any court having competent jurisdiction in the county wherein the offence shall have been committed, and shall also be subject to indictment, and upon conviction shall be punished by fine and imprisonment or either at the discretion of the Court.

Recovery for damage.

Sec. 12. Any person who shall wilfully break or throw down any gate on such road, which may have been erected in pursuance of this act, or shall do any damage to said road, or forcibly or fraudulently pass any such gate without having paid the legal toll, or to avoid the payment of the legal toll, shall with his team, carriage, or animal, turn out of said road, or pass any gate thereon, on ground adjacent thereto, and again return on said road, shall for each offence

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 an action of trespass.

SEC. 13. The Directors of said company, at any annual or special meeting of the stockholders, with the consent of a majority in amount of such stockholders, may provide for such increase of the capital stock of said company as may be found necessary to complete said road, in such sections as may have been actually commenced, but remain in an unfinished state for want of means for completing the same.

SEC. 14. If said company shall violate any of the privileges hereby granted, the Legislature may resume all and singular the rights and privileges vested in said company by this act.

SEC. 15. If said corporation shall not within three years from the passage of this act, commence the construction of said plank road, and expend three thousand dollars or more thereon, and shall not within five years from the passage of this act, construct, finish and put in operation, a single or double track plank road from Red Wing to Henderson, then the rights, privileges and powers of the said corporation under this act, shall be null and void.

SEC. 16. 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 Territory, shall be received as evidence thereof.

SEC. 17. This act may be altered or amended by any future legislature of the Territory or State of Minnesota.

SEC. 18. This act shall take effect and be in force from and after its passage.

N. C. D. TAYLOR,

*Speaker of the House of Representatives.*

S. B. OLMSTEAD,

*President of the Council.*

APPROVED—March fourth, one thousand eight hundred and fifty-four.

W. A. GORMAN.

SECRETARY'S OFFICE,

St. Paul, April 4, 1854. }

I hereby certify the foregoing to be a correct copy of the original act on file in this office.

J. TRAVIS ROSSER,

*Secretary of Minnesota Territory.*

Increase of stock.

Violation of charter.

Charter—when void.

How construed.

The Legislature may alter or amend.

When to take effect.