

plete a distance of ten miles within four years, and the balance of the road from the Bay of Superior to Little Falls within seven years from the passage of this act, and shall complete at least twenty miles of the remaining portion of said road each year thereafter, until the whole extent of said road is finished.

Carry mail

SEC. 27. The said company shall carry and transport the mail of the United States on such terms as may be agreed upon and all such freight and passengers as may be offered, if required so to do, on the terms usual with like railroad companies.

To be in force

SEC. 28. This act shall be and remain in force for the full term of fifty years from and after the passage of this act, providing all of the terms and conditions required by this act shall be complied with by said company.

Resulting interest

SEC. 29. In case the aforesaid company should receive an appropriation of lands for the construction of said road, then in that case the said company shall pay annually into the Territorial Treasury and one per cent. of the net proceeds of said road.

Take effect.

SEC. 30. This act shall take effect and be in force from and after its passage.

CHARLES GARDNER,

Speaker of the House of Representatives.

JOHN B. BRISBIN,

President of the Council.

APPROVED—March first, one thousand eight hundred and fifty-six.

W. A. GORMAN.

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

J. TRAVIS ROSSER,

Secretary of Minnesota Territory.

CHAPTER CLXIII.

An act to incorporate the Mississippi and Missouri Railroad Company.

- SECTION 1. Names of corporators; body corporate.
2. Authorized to locate and construct Railroad: route of road.
 3. Amount of capital stock.
 4. Right of way.
 5. Take and hold lands; compensation. how ascertained.
 6. Time and place of meeting; accept or reject charter; appoint agents to receive subscriptions.
 7. Elect directors; directors to elect officers; classification and term of office.
 8. Assess instalment.
 9. Work to be commenced in five years.
 10. Construct railroad and bridges; not to impede navigation.
 11. Track, of what to be made.
 12. Punishment for obstructing road.
 13. Servants to wear badge.
 14. Alarm bell or whistle.
 15. Legislature may amend.
 16. Forfeit in case of failure.

Be it enacted by the Legislative Assembly of the Territory of Minnesota:

SECTION 1. That E. A. Goodell, Job Brown, Charles Brown, John

R. Bennett, D. N. Gates, L. D. Selbridge, Edward Thompson, Samuel McPhail, John J. Dunbar, James A. McCarr, Eugene Marshall, James J. Belden, Edward Pickett, Henry C. Butler, A. D. Sprague, W. F. Ross, C. G. Wykoff, Simon Waller, Harvey Bell, and all such persons as shall hereafter become stockholders in the Company hereby incorporated, shall be, and hereby are made a body politic and corporate, by the name and style of "The Mississippi and Missouri Railroad Company," and by and under that name and style shall be capable of suing and being sued, impleading and being impleaded, defending and being defended against in law and equity, in any and all Courts and places whatsoever, as fully as natural persons; and the said corporation may make and use a common seal, and alter or renew the same at pleasure, and by their corporate style and name be capable of contracting and being contracted with, and of acquiring by purchase, gift, grant, devise or otherwise, and of holding and conveying all such estate and property real and personal as may be necessary or convenient to carry into effect the objects and purposes of this act and of the said corporation.

Names of corporators.

SEC. 2. The said corporation is hereby authorized and empowered, and it is hereby declared that the objects and purposes thereof, are to survey, locate, construct, complete, maintain, use and operate, and at pleasure to alter the line thereof, without changing the eastern terminus, a railroad with one or more tracks or lines of rails from the village of Brownsville, in the county of Houston, and Territory of Minnesota, running westwardly by the way of Caledonia, to the Iowa line, crossing the said line at some point east of range eighteen (18), from thence to the Missouri river, terminating at the mouth of Big Sioux river, or at some point not more than sixty miles above the junction of the said River with the Missouri, with the privilege of a branch from Caledonia to Hokah; together with all necessary and proper stations, depots, turn-outs, engines, cars and other appurtenances, and furniture of a railroad; Provided, however, that the necessary consent and permission of the Legislature of Iowa be obtained previous to the laying out and construction of that part of the road running through the said State.

Construct road

SEC. 3. The capital stock of the Corporation hereby created, shall be five millions of dollars, and shall be divided into shares of fifty dollars each, which shall be deemed personal property, and shall be transferrable in such manner as the Corporation by its regulations or by-laws shall prescribe, but no share of said stock shall be transferred while there shall be any instalment assessed thereon unpaid, and the Directors of said Corporation may, with the consent of the holders of a majority of the stock thereof, increase the capital stock thereof, to such sum as may be necessary or convenient to carry into effect all the rights and privileges hereby granted thereto, not exceeding twenty millions of dollars. The shares of any increase of stock shall be the same and transferrable in the same manner as the shares of the original stock.

Capital stock

SEC. 4. The said Corporation shall have the right of way upon, and may appropriate to its own use and control, for the purpose of the said Railroad and its appurtenances, land not exceeding two hundred feet in width throughout its entire length, and may by its engineers, agents and contractors, enter upon and take possession of, and use all and singular, any lands, timber, streams and materials of any and every kind, for the purposes of making the survey and locating of said Railroad; and of all stations, depots, turn-outs, and other things necessary, proper or convenient for the same, and the full use and protection thereof, and of all its

Right of way

appendages and appurtenances. All such lands within the limits of the line of said Railroad, and which may now belong to this Territory, or hereafter be acquired thereby, or by the State in which the said line may be, is hereby granted to the said Corporation for such purposes, to be by them held and possessed so long as the same shall be used for such purposes, and no longer; Provided, that in case any of the lands, which have been reserved or shall hereafter be reserved or granted for the use of schools, shall be included within the limits of said line, the said corporation shall pay therefor, such sum not less than one dollar and twenty-five cents per acre, as the Governor of the Territory, or such State shall fix, which sum shall be paid to such Governor and shall belong to the school fund of said Territory or State.

Held lands

SEC. 5. The said corporation may take and hold for the said purposes or any of them, such additional lands as may be requisite or convenient therefor; but unless such lands taken by said corporation for any of said purposes, shall be purchased of or voluntarily given by the owners thereof, full and proper compensation therefor shall be made by said corporation to the owner or owners thereof, which compensation shall be ascertained and determined in the manner following: The said corporation may present to a court in the county in which the lands or real estate proposed to be taken shall be situate, having jurisdiction competent to entertain, adjudicate and determine questions of title to real estate, a petition signed by some authorized agent or attorney thereof, describing with reasonable certainty and accuracy, by map, plat, survey or otherwise, the lands or real estate so proposed or required to be taken, and setting forth the name of each and every owner, incumbrancer and other persons interested in the same or any part thereof, so far as the same can be ascertained by the legal records affecting the same, and by view of the premises or other inquiry touching the occupation thereof, and praying the appointing of three competent disinterested persons as commissioners to ascertain and determine the compensation to be made to the said owner or owners respectively, and to all tenants, incumbrancers, and others interested for the taking or injuriously affecting such land or real estate. A copy of such petition, with a notice of the time and place when and where the same will be presented to the court, shall be served on each and every person named therein as owner, incumbrancer, tenant or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering such copy of the petition and notice to each of the persons so named therein, if a resident of this Territory, or in case of the absence of such person, by leaving such copy of petition and notice at his or her usual place of abode, with some person of sufficient age and understanding to comprehend the object thereof, which shall be communicated to such person, with a request to deliver the same to the individual for whom it is thus left at the earliest opportunity. In case there shall be any persons named in any such petition who are not residents of this Territory, and upon whom service cannot be made in the manner above prescribed, a notice stating briefly the objects of the petition, a description of the lands proposed to be taken, and the time and place of the presenting the petition to the court and directed to such person or persons, shall be published in the newspaper published nearest the location of such lands, and in a newspaper published at the seat of government of the Territory or State in which the lands shall be situate, once in each week for six consecutive weeks previous to the time designated for presenting such petition. The court to whom such

**Compensation
to be ascer-
tained**

petition shall be presented shall not make any order for the appointment of commissioners to ascertain and determine the compensation to be paid to any owner or person interested who shall not appear in person or by attorney or counsel except upon proof by affidavit and to the satisfaction of the court, of the service of the petition and notice in the manner hereinbefore prescribed, but may do so upon the appearance of the party or parties or upon such proof of service in the absence of a party or parties. The court may upon the application of the said corporation or of any owner or party interested, for reasonable cause adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interests may be affected thereby. When the court shall have proof satisfactory that all parties interested in any parcel of land have been duly served with the petition and notice in the manner herein prescribed, and of the nature and extent of the interest of each and every party in the same, the court may make an order to be recorded in the minutes thereof, appointing three disinterested competent persons commissioners to ascertain and determine the amount to be paid by the said corporation to each of such persons, as compensation for his interest or estate in such parcel or parcels of land, and specifying the time and place of the first meeting of such commissioners. The said corporation shall without delay procure and deliver to each of such commissioners a copy of such order. Before the said commissioners shall enter upon the discharge of their duties, they shall respectively take and subscribe an oath that they will faithfully and impartially, and without fear, favor, reward or the hope or promise of reward, discharge their duties as commissioners, to ascertain and determine the compensation to be paid by the Mississippi and Missouri Railroad Company to [Here insert the names of the persons whose property is to be appraised] for lands or interest in lands to be taken for the use of said Company. Such oath may be taken before any officer authorized by law to administer oaths. Whenever the place of any commissioner shall become vacant the court may, upon such notice to the parties as he may prescribe, and by like order supply the place by the appointment of another person as such commissioner, who shall be in like manner served with a copy of the order appointing him, and take the like oath. The commissioners shall meet at the time and place specified in the order appointing them, and the order supplying any vacancy in such commission. When met and all present may proceed to the hearing of the proofs and allegations of the parties present, or reasonably notified to be present, and authorized to administer oaths to witness before them, and before making any report they shall if requested by any party interested, or by either of their number, view the premises for which compensation is to be made and the amount of which they are to determine. The commissioners may, as the exigency of any case or the convenience of the parties or themselves may require, adjourn from time to time and to such places as may in their judgment be most conducive to the purposes of their investigation. No proceedings shall be had by the said commissioners unless all of them be present, except to adjourn, but any and every question submitted to them may be decided by a majority, and a report by a majority shall be valid. The said commissioners shall keep minutes in writing of all their proceedings, in which they shall enter the time and place of their meetings and adjournments, the names of parties appearing before them in person or by attorney, the substance of the testimony of witnesses sworn and examined before them, find all disputed questions which shall be submitted to them, and their decisions thereon. In estimating damages or compensations to be paid to any claimants to

Commissioners
take oath

Make report

lands or interest in lands so proposed to be taken, the said commissioners shall take into consideration the benefits to accrue to the claimant by the construction of the said railroads, and allow such benefits by way of recoupment against the damages which such claimant may sustain thereby, and report only the balance of the damage, which shall remain after applying such benefits in recoupment thereof, but no balance shall be in any case reported in favor of the company. They shall make and sign a report which shall contain a description by metes and bounds, survey, map, or plat of each separate parcel of land proposed to be taken by the said company for its use, and the compensation for which they shall ascertain and determine, and the amount (if anything) to be paid by said company to each person whose interests are to be affected thereby. They shall as soon as their report shall be made, attach thereto their minutes and oaths of office, and file the same in the office of the clerk of the court appointing the said commissioners, and notify the parties interested in such report, that the same is made and filed. In case the said company or any person interested in such report shall deem the same unjust, in any matter affecting the amount of the compensation to be paid, the company or such party may appeal therefrom, at any time within twenty days after the service of notice of filing said report. The party appealing shall file a notice of such appeal with the clerk of the court with whom the report shall have been filed, stating the grounds of the appeal and serve a copy thereof on the opposite party, within the time above prescribed for taking appeal, and by giving a bond in such penalty as the judges of the same court shall prescribe, conditioned to prosecute the appeal without unnecessary delay, to abide the order the court may make on such appeal, and pay the costs of appeal if he shall fail to sustain the grounds of error or injustice prescribed in his notice of appeal. Upon the filing of the notice and bond for appeal with proof by affidavit of the service of such appeal as above prescribed, all further proceedings on the report shall be stayed until the further order of the court, and the cause upon such appeal shall be entered, proceeded in and determined in the same manner as cases on appeal from court of Justices of the Peace; and in case the appeal shall involve the determination of any question of fact, the same shall be tried by a jury, unless the jury shall be waived by both parties. The report of the commissioners shall be final and conclusive unless appealed from in the manner above prescribed. Whenever the company shall take an appeal from any report of commissioners, such appeal shall not stay the work on the road or other structure on the premises or lands involved in the appeal, provided the company shall deposit in court the amount awarded or assessed by the report or part or portion of the report appealed from, to abide the order to be made by the court on the appeal. An appeal from any report or part or portion of a report of commissioners by or on the part of any person interested in any parcel of land or real estate proposed to be taken by the company, shall stay all work on the road or other structure on the premises in question, unless the company shall deposit in court the amount of money claimed by such appellant, before the commissioners, to abide the order of the court on said appeal. Whenever any report or part of report of commissioners shall have become final, and whenever any appeal from such a report or part of report shall have been finally determined, the said corporation shall upon the payment to each party interested, the sum thereby determined to be due to him or her as a compensation for property taken, or deposit the same in the court for his or her use, become invested and seized of the title of the lands or real estate, for

which such payment or deposit shall have been made, and entitled to the full, free and perfect use and occupation of the same for the purpose aforesaid, which are for all the objects of this act, hereby declared to be public purposes. The said commissioners shall be entitled to receive three dollars per day for their services, and their compensation and all the fees of officers previous to and including the filing of the report of the commissioners shall be paid by the said company. In case the title thus acquired to any lands by the said company for their use in the manner herebefore mentioned or otherwise, shall prove defective, they are hereby authorized to take the proceedings prescribed in this section to procure the title from the real owner.

SEC. 6. The corporators, named in the first section of this act, shall meet at Brownsville aforesaid, on the first Wednesday of July next, to determine whether they will accept or reject this charter. If a majority thereof shall not then and there meet, he or they who may be present, may adjourn the meeting to some future day, and to such place as he or they may deem proper, and notify the absentees of such adjournment, and the same proceedings may be had until a majority shall be present. Whenever a majority of such persons shall have met, they shall by resolution determine to accept or reject this charter, and notify the Secretary of the Territory thereof. If they shall determine to accept this charter, they shall appoint three or more of their number, and such other person or persons as they may deem proper, as agents or commissioners, to receive subscriptions to the stock of this corporation, and direct the times and places when and where the books for receiving such subscription will be opened, and such books may be opened by different agents or commissioners, at different places at the same time. Every person who shall subscribe for any stock of this corporation, shall, at the time of subscribing, pay to the agents or commissioners two per cent. on the amount of stock so subscribed. Elect Directors

SEC. 7. Whenever a hundred thousand dollars shall have been subscribed to the stock of this corporation, and two per cent. thereon paid as aforesaid, the stockholders shall meet in person or by proxy at such time and place as the holders of a majority of the stock shall prescribe, and proceed to elect twelve directors from among the stockholders, each share of stock being entitled to one vote by the holder thereof, which shall be cast in person or by proxy. The directors shall elect one of their number to be President of the Board of directors, and he shall preside at all meetings thereof at which he shall be present. The directors shall also elect one of their number a Vice President, who shall preside in the absence of the President. The directors shall also elect some suitable and competent person to be Secretary. All covenants and conveyances of real estate made by the company shall be signed by the President or Vice President, and attested by the Secretary, and sealed with the seal of the company. They shall also elect a Treasurer, who shall give such security for the safe keeping and payment of the moneys of the company as the directors shall require. At a meeting of the directors, seven shall form a quorum for the transaction of business; and all the affairs and business of the said company shall be conducted by or under the directions of the board of directors, and they are authorized for the purposes specified in this act, to make and establish regulations and by-laws, and to do all things necessary to be done and not inconsistent with the Constitution and laws of the United States, or the laws of this Territory, or this act. The directors first elected shall by lot divide into three classes. The first class shall hold Officers

S. L.—40.

Classification	their offices one year, and until their successors shall be elected and enter upon their duties. The second class shall hold their offices two years, and until their successors be elected and enter upon their duties; and the third class shall hold their offices three years, and until their successors are elected and enter upon their duties, and thereafter there shall annually be elected in the manner hereinbefore specified, four directors of the said corporation, who shall hold their office three years, and until their successors shall be elected and enter upon their duties. Vacancies which may from any cause occur in said board of directors, may be filled by appointment by the majority of the directors in office, and such appointment shall continue until the next annual election of directors, when all vacancies shall be filled by election. The annual elections shall be held at the office of the Secretary of said company, and the Secretary and two disinterested persons, to be appointed by the board of directors, shall be the inspectors of elections, and shall canvass the votes and make and sign a certificate of the result, and the Secretary shall immediately notify the persons elected of their election.
Term of office	
Assess instalment	<p>SEC. 8. The board of directors may, at such times as they may deem necessary or proper, assess upon the stock subscribed an instalment of not less than five or more than twenty per cent., and require payment of such instalment within a reasonable time, not less than thirty days from notice thereof, under the penalty of a forfeiture of the stock upon which the assessment was made.</p>
To be commenced in five years	<p>SEC. 9. The said corporation shall locate at least twenty-five miles of said road and commence work thereon, within five years from the time this act shall take effect, and shall complete and equip at least one track from Brownsville to the Missouri river, with suitable and safe switches and turn-outs, within twenty years from the same time.</p>
Construct bridges	<p>SEC. 10. For the purpose of constructing and using said railroad, the said corporation is authorized to construct their said railroad, and the necessary bridges across and over public highways and navigable streams; Provided, That it be so done as not to obstruct the highways or to materially obstruct or impede the navigation of any navigable stream. And the said corporation is hereby authorized to contract with any other railroad company or corporation, with whose road their road may come in contact, for the crossing or connection of such roads, and for the joint use thereof.</p>
Track, of what to be made	<p>SEC. 11. Every track of said railroad shall be laid with the H or T rail, of not less than sixty pounds per yard lineal, and all the engines, cars, and other furniture shall be well made, of good material, and of approved form or kind, equal in quality to those of the best equipped and furnished railroads in the United States.</p>
Punishment for damaging	<p>SEC. 12. If any person shall wilfully obstruct or in any way injure, spoil, or destroy the railroad or any part of the railroad, or any thing affixed or appurtenant thereto, and necessary or convenient for its free and safe use, or any of the materials for the construction thereof, or any building, fixture, or other structure or carriage, engine or car, erected or kept for the use thereof, such person shall be deemed guilty of a misdemeanor, and liable to be indicted and punished therefor, and shall also be liable to pay the company twice the amount of the damage occasioned thereby. And in case the death of any person shall be produced by or in consequence of any wilful or malicious obstruction or injury to the said railroad or to any engine or car thereon, the person who shall so obstruct or injure the said railroad or car or engine thereon, shall be deemed guilty of murder in the second degree.</p>

SEC. 13. Every conductor, baggage master, or other agent or servant of the said company, and who shall be engaged in the ticket office, or on the cars on said railroad, shall wear upon his hat or cap a plain badge which shall indicate his office or station, and no conductor or collector shall demand, or be entitled to receive, any fare or toll from any freighter or passenger, or exercise any control or direction in his station, or to be authorized or allowed to interfere with any passengers, baggage or freight, without wearing such badge. Wear badge

SEC. 14. Every locomotive engine on such railroad shall be furnished with a good and sufficient alarm bell or whistle, and be fully sounded, at least eighty rods distant from every highway crossing, while the engine, either with or without a train of cars shall be passing over said road, and for every violation of this section the said company shall forfeit and pay to whomsoever shall prosecute for the same, the sum of fifty dollars. Alarm bell

SEC. 15. This act is hereby declared to be a public act and may be amended by any subsequent Legislative Assembly in any manner not destroying or impairing the vested rights of said corporation. Public act

SEC. 16. A failure to comply with any of the requirements of this charter shall be a forfeiture of the same, and the company shall be debarred from any of the rights and privileges herein granted. Forfeiture in case of failure

SEC. 17. This act shall take effect immediately after its passage. Take effect

CHARLES GARDNER,
Speaker of the House of Representatives.

JOHN B. BRISBIN,
President of the Council.

APPROVED—March first, one thousand eight hundred and fifty-six.

W. A. GORMAN.

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

J. TRAVIS ROSSER,
Secretary of Minnesota Territory.

CHAPER CLXIV.

An Act to Incorporate the Shakopee City and Chaska Plank Road Company.

- SECTION 1. Names of corporators; body corporate.
 2. Amount of capital stock.
 3. Commissioners to receive subscriptions.
 4. Elect Directors.
 5. Affairs governed by Directors.
 6. Directors to take oath of office.
 7. Intersect or cross any highway.
 8. Width of road, and of what to be constructed.
 9. When to erect gates.
 10. Power to contract debts.
 11. Company subject to taxation; Legislature may change rates of toll.
 12. When to take effect.

Be it enacted by the Legislative Assembly of the Territory of Minnesota:

SECTION 1. That Thomas A. Holmes, Robert Kenedy, Thomas B. Hunt, and such other persons as shall become associated with them, by subscribing to the capital stock of said Company, be, and they are hereby Names of Corporators