

APPROVED—March seventh one thousand eight hundred and fifty-seven.

W. A. GORMAN.

SECRETARY'S OFFICE, Minnesota, }
SAINT PAUL, March 10th, 1857. }

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

J. J. McCULLOUGH.
Acting Secretary.

CHAPTER XXXIX.

An Act to Incorporate the Hastings, Minnesota River and Red River of the North Railroad Company.

- SECTION** 1 Incorporation—Powers and Privileges.
2 Locate and construct Road—Branch.
3 Capital Stock—Transferable.
4 Accept or Reject—Open Books—Assessment.
5 Election of Directors and Officers.
6 Assessments to be made on the stock.
7 Time of Location and Completion of the Road.
8 Right of Way—Lands Granted.
9 May take Lands—Compensation—Commissioners.
10 Construct over Highways and Rivers.
11 Rail, Kind and Quality to be used.
12 Willful obstruction—Penalty.
13 Officers to wear Badges.
14 Locomotive to have Bell and Whistle.
15 Power to Consolidate.
16 Authorized to borrow money.
17 The Title to Lands may be granted directly to the Company
18 Company to build Culverts and Bridges on Farms.
19 Power to enter upon and cross other Railroad tracks.
20 Carry the Mail, &c.
21 Providing for a further grant.
22 May connect with Railroad in Wisconsin.

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

Corporators

SECTION 1. That J. D. North, Robert P. Allison, C. P. Adams, Thos. Foster, Michael Marsh, G. P. Winslow, Alexis P. Bailly, W. G. Le Duc, J. L. Belden, H. B. Plant, W. P. Hillary, J. D. Archibald, John J. McVay, F. B. Curtis, Alex. Ramsey, H. H. Sibley, John C. Maloy, Jas. Shields, M. B. Stone, S. L. Wheeler, W. Dodd, W. A. Gorman, F. Baasen, A. Farribault, associates, successors and assigns, be and are hereby constituted a body corporate and politic, by the name, style and title of the Hastings, Minnesota River and Red River of the North Railroad Company, and by that name and style shall be capable in law of taking, purchasing, holding, leasing, selling and conveying real estate and property, whether real or personal, or mixed, so far as the same may be necessary, for the purposes hereinafter mentioned, and in

Powers and Privileges

their corporate name may sue and be sued, plead and be impleaded, and to have a common seal which they may alter or renew at pleasure, and may have and exercise all powers, rights, privileges and immunities, which are or may be necessary to carry into effect the purposes and objects of this act.

SEC. 2. The said corporation is hereby authorized and empowered to survey, locate, construct, complete, maintain, use and operate a railroad, with one or more tracks, or lines of rails **Locate Road** from a point not distant more than half a mile from the Levee at the foot of Ramsey street, in the town of Hastings, county of Dakota, and Territory of Minnesota, by the most feasible and practicable route to some point on the Minnesota river between the towns of Henderson, in Sibley county, and Saint Peter, in Nicollet county, as shall be deemed most expedient by said company; and thence westerly or southwesterly to the Missouri river, via New Ulm, opposite the mouth of White Earth river, or as near thereto as may be practicable, with power to build a branch road diverging from any point on **Branch** the main trunk road, to the Red River of the North near the head of navigation thereof, at such point as the company may deem most expedient, and also to Stillwater; together with all necessary stations, depots, turn-outs, engine or car houses and other appurtenances belonging to a railroad.

SEC. 3. The capital stock of the corporation hereby created shall be five hundred thousand dollars, and shall be divided into shares of one hundred dollars each, and shall be transferable in such manner as the company by its by-laws shall determine, and the holders of a majority of stock may from time to time vote an increase to the capital stock of said company to such sums as may be necessary or required to carry into effect all the rights and privileges hereby granted thereto, not exceeding twenty millions of dollars. **Capital Stock**

SEC. 4. The incorporators named in the first section of this act shall meet at the town of Hastings aforesaid on the first **Shall Meet** Wednesday of May next, between the hours of ten o'clock, A. M., and two o'clock, P. M., to determine whether they will accept or reject the charter. If a majority thereof shall not then and there meet, he or they who may be present shall adjourn the meeting to some future day, between the same hours, 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 incorporators shall have met, they shall, by resolution, determine to accept or reject this charter, and notify the Secretary of the Territory or State thereof. And 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 open books and receive subscriptions to **Open Books** the stock of said company, and direct the times and places for the opening of said books. Such books may be opened

by different agents or persons, at different places, at the same time. Every person who shall subscribe for any stock of said company shall at the time of subscribing, pay to the agents or commissioners ten per cent. on the amount of stock so subscribed.

Stock subscribed Sec. 5. Whenever one hundred thousand dollars shall have been subscribed, and ten per cent. therein 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 holders thereof, which shall be cast in

Elect Directors person or by proxy. The directors shall elect one of their number to be President of the Board of Directors, and shall preside at all meetings thereof at which he shall be President. The Directors shall also elect one of their number a Vice President, who shall preside in the absence of the President.

Elect Officers The Directors shall also elect some suitable and competent person to be Secretary. All covenant and conveyance 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 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 constitute a quorum for the transaction of business, and all

Quorum the affairs and business of said company shall be conducted by or under order of said 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

Division by Lot act. The Directors first elected shall by lot divide into three classes. The first class shall hold their office one year, and until their successors have been elected and enter upon their duties. Class No. two shall hold their offices two years and until their successors shall have been elected and enter upon their duties; and class No. three shall hold their offices three years and until their successors shall have been elected and enter upon their duties; and annually thereafter there shall be elected, in the manner hereinafter specified, four Directors of the said company who shall hold their offices three years and until their successors shall have been 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 election 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 votes and make

Vacancies how filled

and sign certificate of election, and the Secretary shall immediately notify the person of their election.

SEC. 6. The Board of Directors may, at such time 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 installment within a reasonable time, not less than thirty days from notice thereof, under the penalty of a forfeiture of the stock upon which such assessment was made.

Assessments upon Stock

SEC. 7. The said company shall locate at least twenty miles of said road and commence work thereon within five years from the time this act shall take effect, and shall complete at least one track with all its equipment from Hastings to some point on the Minnesota river with suitable switches and and turn-outs, within ten years from the same time.

Locate and commence work

To be Completed

SEC. 8. 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, stream and materials of any and every kind, for the purposes of making the survey and location of said railroad; and of all stations, depots, turnouts, and other things necessary, proper or convenient for the same, and the full use and protection thereof of all 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 by 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 Legislature of the Territory, or such State shall fix, which sum shall be paid to the Governor thereof, and shall belong to the school fund of said Territory or State.

Right of Way

Enter upon Lands

Proviso relating to School Lands

SEC. 9. 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:

May take lands

Compensation

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, adju-

Commissioners

dicating 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 appointment 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 said 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 persons, by leaving such copy of petition and notice at his or her usual place of abode, with some person of sufficient age or 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 person named in 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 object of the petition, a description of the lands proposed to be taken, and the time and place of presenting the petition to the court, and directed to such person or persons, shall be published in the newspapers 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 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 interest 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 said corporation to each of said 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 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 commissioners shall become vacant, the court may, upon such notice to the parties as he may prescribe, and by appeal shall be entered, proceeded in and determined in the same manner as cases on appeal from a justice of the peace; and in case the appeal shall involve the determination of fact, the same shall be tried by jury, unless the jury shall be named 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, such an appeal shall not stay the work on the road or other structures 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 any part thereof, appealed from, to abide the order of the court in the appeal. An appeal from any report, or a 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 in 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, to abide the order of the court in said appeal. When any report, or part of report of commissioners shall become final, and whenever any appeal from such report, or any part thereof, shall have finally been determined, the said company shall (upon payment to each party interested, the sum thereby determined to be due to him or her, or any corporation, for property taken, or on depositing the same in the court for his or her use)

Report of commissioners to be filed

Appeal

Fees of commissioners become invested and seized with all the right and title of the land or real estate for which such payment or deposit shall have been made, and entitled to full, free and perfect use and occupation of the same, for the purposes of this act hereinbefore described. 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 commissioner's report, shall be made by said company. In case the title thus acquired to any land by said company, for their use, in the manner hereinbefore 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 or owners.

Defective title

Bridges Sec. 10. For the purpose of constructing and using said Railroad the said corporation is authorized to construct the 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.

Railroad crossing

Rail to be used Sec. 11. Every track of said railroad shall be laid with 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.

Obstructions Sec. 12. If any person shall wilfully obstruct or in any way injure, spoil or destroy 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 thrice the amount of the damages 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 first degree.

Penalty

Badges to be worn 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 on 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 be authorized or allowed to interfere with any

passengers, baggage or freight, without wearing such 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 for every neglect, and to be liable for all damages which shall be sustained by any person by reason of such neglect. Said corporation to cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each public road or street where the same is crossed by the railroad, on such elevation as not to obstruct travel, and to be easily seen by travelers; and on each side of said board shall be painted in capital letters of at least the size of nine inches each, the words "Railroad Crossing, look out for the Cars." Said company shall construct and maintain a good, substantial board or rail fence, five and one-half feet high along said railroad, in the line of the lands by this act granted them, and shall construct and maintain cattle guards, so as to keep sheep, horses and hogs from and off the track of said railroad, and shall be liable for all damages sustained by any person by reason of any neglect to keep and maintain such fence and cattle guards in good repair.

SEC. 15. The aforesaid company shall have power to consolidate the capital stock of said company with the road of any other company, upon such terms and conditions as the two companies may agree upon, and the board of directors of both companies, acting jointly, together, until the first election of said consolidated company, when the stockholders of said consolidated company shall choose, at such time and place as they may agree upon, a board of directors not exceeding twenty-one, who shall have power to change the name of said company, adopt a common seal, and said common seal, and said company shall be known by the name so selected, and shall have full power to contract and be contracted with, sue and be sued, plead and be impleaded, and shall have all the rights, privileges and franchises conferred on them by the laws of all the States and Territories through which said consolidated road shall pass, and the right of way may be taken as provided, which agreement of consolidation shall be signed by the Presidents and Secretaries of the two companies so consolidated, and a copy thereof filed in the offices of the Secretaries of the States through which said road passes, and also a like copy filed in the office of the Secretary of the Territory of Minnesota.

SEC. 16. The said company is hereby authorized to borrow money to be expended in the construction and equipment of their said road and its appendages, and to issue bonds for

the payment thereof in the in the usual form; such bonds not to exceed in the aggregate, at the period of the completion of said road, three-fourths of the whole amount actually expended on said road and its appendages aforesaid; and may make and execute in the corporate name of said company all necessary mortgages, writings, notes, bonds or other papers for any liability that it may incur in the construction or equipment of said road.

Title to lands SEC. 17. The fee simple of all lands granted along the line of said road, or otherwise, by the Congress of the United States, for the purpose of aiding in the construction of said road, may be directly granted to said company, under such regulations and conditions as may be prescribed by the legislature of the Territory or future State of Minnesota.

SEC. 18. This company shall be obliged to build one culvert-bridge or cattle-gate on each and every farm over which it crosses, when the same shall be deemed necessary by the occupants of the lands.

**Enter upon oth-
railroads** SEC. 19. This company shall have power to enter upon and pass over the railroad of any corporation whose railroad connects with that of this company, with their cars and engines, and any other company shall have like power to enter upon this railroad, whose railroad connects with this road, and pass over the same with their cars and engines; and such reciprocal use of said respective railroads shall be upon such terms and conditions as shall be agreed upon by the officers of the respective companies, and in case the two companies cannot agree upon terms, then either party may apply to the Supreme Court of this Territory, whose duty it shall be to fix such terms for their respective parties as the equity of the case may demand.

Terms

Appeal

Carry mail SEC. 20. 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.

**Proviso concern-
ing future grants** SEC. 21. *Provided*, That if any lands shall be appropriated by Congress, provision shall be made by any future Legislature for a suitable resulting interest to the Territory, in proportion to the quantity of land granted, and the length of the road in the Territory or future State of Minnesota.

**Connection
with railroad
in Wisconsin** SEC. 22. The said corporation as hereby created, is authorized and empowered, and it shall be lawful for the same to provide by contract or agreement for a connection of the railroad mentioned and provided for in this act, with any railroad in the State of Wisconsin, terminating at or within two miles of the town of Prescott, in Wisconsin, upon such terms and conditions, and in such manner as the Board of Directors of this corporation may deem practicable and advisable; and in case a contract or arrangement for such a connection shall be completed, this corporation are hereby authorized and empowered to extend the road by a bridge.

**Bridge across
the Mississippi**

across the Mississippi river; and to further extend and construct and use their road, with all its appurtenances, to the mouth of the St. Croix river, and build and construct a bridge across said river to the town of Prescott, in Wisconsin, if they shall so deem it expedient so to do: *Provided*, That said bridges across the Mississippi and St. Croix rivers shall be so constructed as not to obstruct the navigation of said river; and in case it shall be necessary so to do, the corporation hereby created may, and they are hereby authorized to establish and maintain a ferry across the Mississippi, after the expiration of any charters which have been heretofore granted by the Legislature of the Territory, or County Commissioners of Dakota or Washington counties, or which may be granted during the present session, between the terminus of the said road hereby authorized, and the railroad in Wisconsin with which the same may be connected: *Provided*, That such ferry shall be used for the purposes and in the business of the said Railroad Company only.

J. W. FURBER,
Speaker of the House of Representatives.
JOHN B. BRISBIN,
President of the Council.

APPROVED—February twenty, one thousand eight hundred and fifty-seven.

W. A. GORMAN.

SECRETARY'S OFFICE, Minnesota, }
SAINT PAUL, March 10, 1857. }

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

J. J. McCULLOUGH,
Acting Secretary.

CHAPTER XI.

An Act to Incorporate the Stillwater Cemetery Association.

- SECTION 1 Incorporation and Powers.
2 To be conducted by Directors.
3 Vacancies and Donations.
4 Duties of Directors.
5 Penalty for violation of grounds.
6 No public road to be opened.
7 Notice of elections.
8 Take effect.

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

SECTION 1. That Harvey Wilson, Mahlon Black, W. H. Mower, Robt. Simpson, L. E. Thompson, H. R. Murdock, Will-

Incorporation