

## CHAPTER LXXIV.

*An Act to incorporate the Lake Superior and Crow Wing Railroad Company.*

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

SECTION 1. That Edmund Rice, Alex. Ramsey, Hiram Waldbridge, Henry B. Stanton, J. W. Lynde, Samuel B. Abbe, W. W. Kingsbury, J. S. Watrous, Clinton Markell, and R. B. Carlton, be, and they are hereby appointed Commissioners under a majority, of whom subscriptions may be received to the capital stock of the Lake Superior and Crow Wing Railroad Company, hereby incorporated, and for that purpose they may cause books to be opened at such times and places as they may deem proper, for the purpose of receiving subscription to the Capital Stock of said Company, first giving twenty days notice of the times and places of taking such subscriptions, by publishing the same in at least three newspapers printed in the Territory, and one of which shall be published in the City of St. Paul.

Sec. 2. The Capital Stock of said Company shall be Two Millions of Dollars, in shares of One Hundred Dollars each, and as soon as five hundred shares shall be subscribed, and five dollars on each share actually paid in, the subscribers of such stock, with such other persons as may subsequently become associated with them for such purpose, their successors and assigns, shall be, and they are hereby declared and created a body politic and corporate, by the name and style of "The Lake Superior and Crow Wing Railroad Company," with perpetual succession, and by that name shall have the privileges, franchises and immunities incident to a corporation. They shall be capable in law of purchasing,

Capital Stock

Incorporation

holding, selling, leasing and conveying estate, either real, personal or mixed, as far as the same may be deemed necessary for the purposes hereinafter mentioned; and in their corporate name may sue and be sued, plead and be impleaded in all courts of law and equity. They may have a common seal which they may alter and renew at pleasure, and generally may do all and singular the matters and things which to them it shall lawfully appertain to do for the well being of said corporation.

**Election of Directors.**  
**Failure to Elect —vacancy.**  
 SEC. 3. Said Commissioners, or a majority of them, shall after the said five hundred shares of stock shall have been subscribed as aforesaid, give at least thirty days notice in the newspapers hereinbefore mentioned, of the time and place by them appointed for the subscribers or stockholders to meet for the purpose of electing nine Directors, and annually thereafter, the stockholders of said company shall meet on the first Monday in January, for the purpose of electing Directors as aforesaid, like previous notices to be given by the President of the Board: *Provided*, That if from any cause no election shall be held at the time herein specified, then the Board of Directors previously elected shall continue to act until the next annual election of Directors, or an election may be held at any time, thirty days notice being previously given as aforesaid, by the President of the Board, for the election of Directors or other officers, when any vacancy may occur and the interests of the Company requires an election, and this chapter shall not be annulled by reason of the irregularity of any election for officers of the Company. A vacancy in the Board from death, resignation or otherwise, may be filled by the Board of Directors, if in their opinion they should do so.

**By-Laws**  
 SEC. 4. The affairs of Said Company shall be managed by a Board of nine Directors, who shall be chosen annually as hereinbefore prescribed by the stockholders of said company, the votes to be delivered by proxy duly authorized, or in person, which Directors shall appoint one of their own number to be President and shall respectively serve one year or until other Directors are elected. They shall have power to establish and make such by-laws, rules and regulations not inconsistent with this act or laws and Constitution of the United States and of the Territory of Minnesota, as may be necessary for the well ordering of the affairs of said Company.

**Elections**  
 SEC. 5. None but stockholders shall be elected Directors, and at every election, and in all cases upon which stockholders shall be called upon to vote, each share of stock shall be entitled to one vote, and in all cases for election of Directors, the nine stockholders having the greatest number of votes shall be declared duly elected.

**Directors meet**  
 SEC. 6. The said Directors shall meet at such times and places and be convened in such manner as they may hereafter decide upon; a majority of Directors shall be a quorum.

for the transaction of business, who, in the absence of the President, shall appoint a President pro tem. The by-laws of the company may provide for the election, or the Directors may appoint a Secretary, Treasurer, and such Engineers and other officers as they may deem necessary. The Directors shall have power to fix the Compensation of all officers, and may demand adequate security for the proper performance of their respective trusts; they shall decide the time, manner and proportions in which the said stockholders shall pay the moneys due on their respective shares, and forfeit to the use of the company the share or shares of every person or persons failing to pay instalments as required by the by-laws, at a reasonable period not less than thirty days after the time by them appointed for the payment thereof. They shall have full power to regulate tolls, to make such covenants, contracts or agreements with any persons, copartnerships or body politic whatsoever, as the execution and management of the works, and the convenience and interest of the company may require, and in general to superintend and direct all the operations, receipts, disbursements, and other proceedings of the company; *Provided*, That no instalments called at any time, exceed ten dollars per share, and that no instalments shall be called by the Directors without at least thirty days notice thereof in the newspapers as hereinbefore mentioned.

Their powers

Instalments

Sec. 7. The Directors chosen as aforesaid, shall issue a certificate to each stockholder, for the number of shares he or they may subscribe for or hold in said corporation, signed by the President, countersigned by the Secretary, and sealed with the common seal; subject, however, to all payments due or to become due thereon, which stock shall be transferable in person or by Attorneys, Executors, Administrators, Guardians or Trustees, under such regulation as may be provided for in the by-laws of the company.

Issue certificate

Sec. 8. The said company shall have power to locate and construct a single or double track railroad from such eligible point at or near the head of the Bay of Superior, in the Territory of Minnesota, and shall have power to transport, take and carry property and persons upon the same by the power of steam, of animals, and of any mechanical or other power, or of any combination of them, and they shall have power to make, construct and erect all such sidetracks, turnouts, and connecting tracks, and also such warehouses, toll-houses, machine-shops, carriages, cars, and other works and appendages as may be necessary for the conveniences of the company for use of said railroad, and Directors may connect said Railroad, and operate the same with other railroads or branch railroads in the Territory or future State of Minnesota, or in any adjoining State or Territory, as they may deem advantageous to the interests of said Company.

Location

May locate road

Tracks, Houses Cars, &amp;c.

Sec. 9. If said company shall not within two years from

**Commence and Complete** the passage of this act commence the construction of said railroad, and within five years thereafter complete fifty miles of the same, then the rights, privileges and powers of said corporation under this act shall be null and void.

**Right of way** **Pay therefor** **Enter upon lands** **Management**

SEC. 10. It shall be lawful for said Company, their officers, engineers and agents, to enter upon any land for the purpose of exploring, surveying and locating the route of said Railroad, doing no unnecessary damage thereto; and when the 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 one hundred feet in width along the line of said road, subject, however, to the payment of such compensation as the Company shall have agreed to pay therefor, or shall be ascertained in the manner hereafter directed and provided in such cases respectively. All such lines within the limits of the line of said Railroad and which may now belong to this Territory of Minnesota, or hereafter be acquired thereby, or the future State of Minnesota, 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 may 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 future State of Minnesota shall fix, which sum shall be paid in such manner as may be prescribed and shall belong to the School Fund of the County in which said land is situated, by the Legislature: and said Company is authorized further by their officers, engineers and agents, to enter upon lands adjacent to the railroad, beyond the limits of one hundred feet, in the manner provided in this act, when necessary, for the purpose of erecting depot buildings, station houses, and necessary fixtures, for the operation and business of said Railroad, and giving proper direction to water-courses across or along said road, and to remove all substances and things which might endanger, obstruct or interfere with the free use of said road, and to deposit earth and gravel taken from the deep cuts, and to obtain earth, gravel and other material for embankment and structures necessary to the construction and repairs of said road, doing, however, no unnecessary damage, and all lands so occupied, and all damages which shall be done to any lands or property under the provisions of this Section, which may not be amicably ascertained and adjusted, shall be ascertained and paid for in the manner, and agreeably to the provisions hereinafter provided.

SEC. 11. When the Corporation cannot agree with the owner or owners of such required land for the purchase thereof, or as to the compensation to be paid to said owner

or owners of any lands taken for the purposes aforesaid, or when by reason of the legal incapacity or absence of any such owner or owners, no such agreement or purchase can be made, then and in such case the compensation for said lands taken shall be ascertained and determined in the manner following: The said Company may present to a Court in the judicial district in which the lands or real estate proposed to be taken shall be situated, having complete jurisdiction in the premises, a petition signed by some authorized agent or attorney thereof, setting forth the names of each and every owner, or other persons interested in the same, or any parts thereof so far as can be ascertained by the legal records affecting the same, and praying the appointment of three disinterested persons residing in said County, as Commissioners to ascertain and determine the compensation to be made to the said owner or owners respectively, 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 or as otherwise interested, 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 said 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 such petition who are not residents of this Territory, and upon whom service cannot be made in the manner above specified, a notice stating briefly the object of such petition, a description of the land 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 newspaper published nearest to the location of such lands, and in a newspaper published at the seat of government of this Territory, 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 the aforementioned Commissioners, 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, or upon the appearance of the party or parties upon whom such service was made. The court may upon application of said Company, or of any party interested, for reasonable cause, adjourn the proceedings from time to time, and may order new and further notice to be given to any party, whose interests may be



Commissioners  
to ascertain  
compensation

Manner of procedure

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, at the cost and charge of said Company, make an order, to be recorded in the minutes thereof, appointing three disinterested persons, residing in said County, as Commissioners, whose duty it shall be to view and examine said land with the buildings and improvements, if any thereon, and to estimate the value of the lands so taken or required by said Company, and all damage which the owner or owners thereof shall sustain or may have sustained by reason of the taking of the same for the construction and use of said Railroad, or works appertaining thereto, taking into consideration the advantage as well as the disadvantages of the same to the said owner or owners; and the persons so appointed, before entering upon the discharge of said duties, shall take an oath before some person competent to administer oaths, faithfully, and according to the best of their abilities, to examine the lands so taken or required by said Company, and impartially to estimate and appraise the value of the same, and the damages or injuries which the owner or owners thereof shall have sustained or may sustain by reason of the taking and using thereof by the said Company over and above the benefits and advantages which such owner or owner shall derive from the construction of such Railroad, whereupon the Commissioners shall proceed to examine the premises and estimate the value of such lands and the amount of damage, if any, over and above the benefits and advantages which may accrue to such owner or owners aforesaid, and shall make a report of such valuation in writing, under their hands and seals to said Judge, and shall return the same within thirty days after their appointment, to the clerk of the district court of the judicial district in which the County is situated; and it shall be the duty of such clerk to file the same, and in case no appeal shall be made within thirty days after the filing of said report as hereinafter provided, then the said clerk shall record the same at the expense of said Company, and judgment of the said court shall be entered thereon on motion of either party, at any term of said court; *Provided*, That either party may appeal to said court within thirty days after said report shall have been filed in the clerk's office, and such appeal shall be tried in the same manner as other issues are tried in said court, and the jury empaneled to try the same, shall find the value of the land so taken or required by said Company, and the damages which the owner or owners thereof shall have sustained or may sustain by the taking of the same, over and above the benefits which will accrue to such owner or owners from the construction of said Railroad, and judgment shall be entered accordingly; *Provided, also*, That upon mak

Appeal

ing and filing of any report as aforesaid and payment or legal tender of the amount of any valuation or appraisal specified therein, to the owner or owners of any such lands, his, her or their legal representatives, the said Company, their agents, or contractors for making or repairing said Railroad, may immediately take and use the same without awaiting the issue of any appeal brought thereon.

Sec. 12. Whenever any judgment shall have been entered as herein provided, for the value of any lands, or for any damages for the using or taking of the same, and the amount specified shall have been paid or tendered to the owner or owners of such lands, his, her or their legal representatives, the said Company shall be entitled to the easement of the same as long as it shall be used for the track of said Railroad or the necessary fixtures thereto, and if such valuation be not received when tendered, it may at any time thereafter be received or may be collected from said Company by action at law, at the cost and expense of the person or persons entitled to the same; *Provided*, That the cost of any proceedings or judgments specified in the last preceding Section shall be taxed by the Court and paid by said Company, except in cases where upon appeal, the verdict of the jury shall be for the same, or less sum, than that reported by the Commissioners.

Sec. 13. For the purpose of constructing said Railroad, and using the same, the said Corporation is authorized to construct the said Railroad and necessary bridges across and over any public or private road or navigable stream; *Provided*, It be done so as not to obstruct the free use and passage of any road, or to materially obstruct or impede the navigation of any navigable stream; and said Company shall keep a good and substantial fence on each side of said road, and one bridge, culvert or cattle gate for each farm through which it shall pass.

Sec. 14. On the completion of said Railroad, or any portion of the track, not less than five miles, it shall or may be lawful for the Company to demand and receive such sum or sums of money for passage or freight of persons or property as they shall from time to time think reasonable.

Sec. 15. If any person shall wilfully injure, break, or destroy said Railroad to be so constructed by said Company, or any part thereof, or any work, buildings, machinery attached to or in use upon the same, belonging to said Company, such person or persons so offending and each of them for every such offence, shall be liable in treble the damages occasioned thereby, to be recovered by an action of debt in any court having competent jurisdiction, 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.

Sec. 16. The property of every individual invested in said corporation, shall be liable to be taken in execution for the

Valuation of damages

Bridges and highways

Receive tolls on completion of road

Wilful injury—penalty

Debts

payment of his or her debts, in such manner as may be provided by law ; *Provided*, That all debts due said company shall be paid first.

**Borrow money** SEC. 17. The said Company are hereby authorized and fully empowered in their corporate name and capacity, to borrow any sum or sums of money from any person or persons, corporation or body politic of any kind, and make and create in their corporate name all necessary writings, notes, bonds, or other papers, and make, execute and deliver such securities in amount and kind as may be deemed expedient by said Corporation, and the power of said Corporation for the purposes aforesaid, and for all purposes necessary to carry out the object of said Company, and the contracts and official acts of said Company, legally made, shall be binding in law and equity upon said Corporation and upon all other parties to such contracts.

**Purchase lands** SEC. 18. It shall be lawful for said company to purchase lands adjoining the railroad, for the purpose of procuring earth, gravel, stone or other materials for embankments and structures necessary to the construction or repairs of said road, and whenever such lands shall no longer be needed for the purposes aforesaid, the said Company are hereby authorized to sell and convey the same.

**Public act** SEC. 19. This act shall be favorably construed to affect the purposes thereby intended, and the same is hereby declared to be a public act, and copies thereof printed by authority of the Territory of Minnesota, shall be received as evidence thereof.

**Violation** SEC. 20. In case of a violation by the Company of any of the provisions of this act, the Legislature of this Territory may resume all and singular the privileges hereby granted to said Company.

SEC. 21. This Act shall be in force from and after its passage.

J W. FURBER,  
Speaker of the House of Representatives.

JOHN B. BRISBIN,  
President of the Council.

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

S. MEDARY.

SECRETARY'S OFFICE, Minnesota, }  
SAINT PAUL, July 22, 1857. }

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

CHAS. L. CHASE,  
Secretary Minnesota Territory.