

## CHAPTER LXXV.

*An Act to incorporate the Minnesota Point Ship Canal Company.*

- SECTION 1 Incorporation--Privileges.  
 2 Capital Stock and shares.  
 3 Authority to construct a Ship Canal.  
 4 Authority to borrow Money and issue Bonds therefor.  
 5 Authority to construct said Canal in sections or parts of sections.  
 6 Right of way--Acquirement of Lands.  
 7 Additional Lands-- Compensation therefor.  
 8 Appoint Agents or Commissioners.  
 9 Elect Directors--Officers--Annual Election.  
 10 Assessments upon Stock.  
 11 Right across Public Highways, and maintain ferries.  
 12 Completion within a specified time.  
 13 Obstruction--Injuries--Penalties.  
 14 Declared a Public Act.  
 15 Shall take effect on passage.

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

SECTION 1. That Erastus Corning, Hiram Walbridge, O. W. Rice, Geo. E. Nettleton, Edmund F. Ely, W. W. Kingsbury, Daniel Shaw, J. S. Watrous, J. D. Ray, R. B. Carlton and their associates, and all such other persons as shall hereafter become members in said Company hereby incorporated, and their successors and their assigns, be, and are hereby created and constituted a body politic and corporate, by the name and style of the Minnesota Point Ship Canal Company, with perpetual succession, and by that name and style shall be capable in law of receiving, taking, purchasing, holding, leasing, selling, granting and conveying Real Estate; and any property whatever, whether real, personal, or mixed, so far as the same may be necessary for the purposes hereinafter mentioned and indicated, and in said corporate name may sue and be sued, plead and be impleaded, in all the courts of law and equity, and all tribunals whatever, within the limits of the United States; and may have a common seal, which they may alter or renew at pleasure, and may and shall have all power, authority, right, privileges and immunities, which are, or may be necessary and requisite to carry into effect the purposes and objects of this Act.

Sec 2. That the capital stock of this said Company, or body politic, or corporate, shall be one million dollars, with the privilege of increasing to five millions, and shall be divided into shares of one hundred dollars each. Twenty dollars on each subscription shall be paid at the time of subscribing for the same.

Sec. 3. The said Corporation is hereby authorized and empowered, and it is hereby declared, that the objects and

**Construct Canal.** purposes thereof, are to survey, locate, construct, complete, maintain, use and control at their pleasure, a Ship Canal, through Minnesota Point, in the county of St. Louis, and Territory of Minnesota, by the most feasible and practicable route through said point, in the Town of Duluth, with all necessary locks, culverts, bridges, basins and other appurtenances, and all other things necessary to carry out the objects of this Corporation.

**Borrow Money** Sec. 4. The said Corporation is hereby authorized and empowered to borrow money to be expended on the location, construction and equipment of the said Ship Canal, and issue bonds for the payment thereof in the usual form, such bonds not to exceed in the aggregate, at the period of the completion of said Ship Canal, three-fourths ( $\frac{3}{4}$ ) of the whole amount actually expended on said Ship Canal and its appurtenances, and are hereby authorized and fully empowered to make, execute, acknowledge and deliver, in the corporate name of said Company, all necessary mortgages, notes, bonds, writings or other papers necessary and requisite to secure any liability which said Corporation may incur in the location, construction and equipment of said Ship Canal.

**Empowered to construct in Sections or parts** Sec. 5. That said Corporation is hereby authorized and fully empowered to construct said Ship Canal in sections or parts as fast as they may acquire or obtain the means for so doing ; and the franchise of the portions so completed and put in operation, shall vest in said Corporation the same as though the whole was completed and finished.

**Right of way** Sec. 6. The said Corporation shall have the right of way upon and through, and may appropriate to its own use and control, for the purposes and use of said Ship Canal and its appurtenances, land not exceeding three hundred feet in width through its entire length, and may by its Engineers, Surveyors, Agents and Contractors, enter into and upon, and take possession of and use all and singular, any lands, for the uses and purposes of making and completing the survey and location of said Ship Canal.

**Additional Lands** Sec. 7. That the Corporation may take possession of and hold for the purposes aforesaid, or for any of said purposes, such other and additional lands as may be necessary, requisite or convenient therefor : but unless such lands taken by said corporation for the purposes aforesaid, or any of said purposes shall be purchased of, or be voluntarily given by the owner or owners thereof, full, ample and proper compensation therefor shall be made by said Corporation to said owner or owners thereof, which compensation shall be ascertained and determined in the following manner, to-wit : The said party or parties interested, whose lands may be necessary or requisite, as last aforesaid, for the use and purposes of said Ship Canal, may present, to a court of record in the county wherein the lands or Real Estate proposed, as aforesaid to be taken, shall be situated ; said court having competent jurisdiction to entertain, adjudicate, and determine

**Compensation—how ascertained**

questions of title to Real Estate, a complaint signed by such person or persons, in the nature of a petition, describing with reasonable certainty and accuracy, by map, plat, survey or otherwise, the lands or Real Estate proposed or required to be taken as aforesaid, and setting forth the name of each and every owner, incumbrancer, and other person or persons, interested in some, or any part thereof, so far as the same can be ascertained by the legal records affecting the same, or by view of the said premises or other means of inquiry touching the occupation thereof; and praying and demanding the appointment by said court of three competent disinterested male freeholders, in said county, Commissioners to view and examine said lands and ascertain and determine the compensation in gross to be made to said owner or owners respectively, and to all tenants, and incumbrancers, and others interested, for the taking or injuriously affecting said lands or real estate. A copy of such complaint, with a notice of the time and place, when and where the same will be offered and presented to the said Court, shall be served on each and every person named in said complaint as owner, incumbrancer, tenant or as otherwise interested therein, and on said Corporation, 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 a true and full copy of such complaint, and notice to each and every of the persons aforesaid, if a resident within this Territory, or in case of the absence of such person, by leaving a copy of such complaint and notice at his or her usual last place of abode, with some person of sufficient age and understanding to comprehend the purpose thereof, which purpose must be communicated to such person with a request that he or she deliver the copy aforesaid, to the person for whom the same is intended at the earliest opportunity. In case of the non-residence of any person or persons named in such complaint, upon whom service cannot be made in the manner above prescribed, a notice stating briefly the substance of the complaint, a description of the lands or real estate proposed to be taken, and the time and place of the presentation of said complaint to the said Court, and directed to such residents or non-residents, shall be published in the newspaper published nearest the place where such property, or real estate is located, and in a newspaper published at the seat of government of this Territory or State, once in each week for six successive weeks previous to the time designated for presenting such complaint. The Court to whom such complaint 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 who shall not appear in presence, by agent or attorney, except upon proof by affidavit, or otherwise to the satisfaction of the Court of the service of the complaint and notice in the manner hereinbefore prescribed; but may do so upon the appearance of the party or parties, or upon

Appointment  
of Disinter-  
ested Com-  
missioners

Serve copy of  
Complaint

Non-Residence

proof of service as last aforesaid. And the said Court may upon the application of said Corporation, or any owner aforesaid, or party in interest, for sufficient reasonable cause should adjourn the proceedings from time to time, and may order further notice to be given to any whose interest may be effected thereby. When the Court shall have proof satisfactory that all parties interested in any parcel of land have been duly served with a copy of the complaint and notice in the manner as aforesaid, and of the nature and extent of the interest or estate of each and every party in the same, the Court may make an order to be recorded in the minutes thereof, appointing three disinterested male competent persons, Commissioners, to view the said lands or real estate, 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 tract of land or real estate, and specifying the time and place of the first meeting of such Commissioners. Said Corporation shall without delay procure, and deliver to each Commissioner appointed as aforesaid, a copy of said order. Before the said Commissioners shall enter upon their duties, they shall respectively take and subscribe an oath that they will faithfully and impartially, without fear, favor, or reward, hope or promise of reward, discharge their duties as Commissioners, to ascertain and determine the compensation to be paid by the said Corporation. (Here insert the names of the persons whose property is to be appraised.) Such oath may be administered by, and 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 occasioned by such vacancy, by the appointment of another person as said Commissioner, who shall be in like manner, as aforesaid, served with a copy of the order appointing him, and take the same oath. The said Commissioners shall meet at the time and place specified in the said order appointing them, and in said order supplying any vacancy in such commission. When the said Commissioners are met, and all are present, they may proceed to the hearing of the proofs and allegations of the parties present, or those reasonably notified, as aforesaid, to be present, and are hereby authorized to administer oaths to witnesses before them. The said 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 convenient and conducive to the purposes of their investigation. No proceedings shall be had by the said Commissioners unless all of them are present, except to adjourn, but any and all questions submitted to them shall be decided by a majority vote, and such decision shall be valid, and the said Commissioners shall keep minutes in writing of all other proceedings in which they shall en-

Oath

Vacancy

Meeting of  
Commissioners

ter or cause to be entered, the time and place of their meetings and of their adjournment, the names of all parties appearing before them in person or by attorneys, the substance of the testimony of each witness sworn and examined before them, and all disputed questions which shall arise before them, and be submitted to them, and their decisions thereon. The said Commissioners 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 the amount (if anything) to be paid by said Corporation. The said Commissioners shall, as soon as their reports shall be made, attach thereto minutes and oaths of office, and file the same in the office of the Clerk of the said Court which appointed said Commissioners, and shall then notify the parties in interest that the said report is made and filed as aforesaid. In case the said Corporation or any person interested in said report, deem the same unjust in any matter affecting the amount of the compensation to be paid by the Company, or such party may appeal from the decision and judgment of said Commissioners, at any time within ten days of 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 said report shall have been filed, stating the grounds of the appeal, and shall serve a copy thereof on the opposite party or parties, within the time prescribed for taking appeal, and shall give a bond in such penalty as the Judge of the said Court shall prescribe, conditioned to prosecute the said appeal without unnecessary delay, and to abide the order the Court may make in said appeal, and pay all costs and charges in such appeal if he shall fail to sustain the same. Upon the filing of said notice and bond for appeal, with proof by affidavit of the service of notice of such appeal as aforesaid, all further proceedings on the report aforesaid shall be stayed until the further order of said Court, and the cause upon such appeal shall be entered, proceeded in and determined in the same manner as cases on appeal from courts of Justice of the Peace, and in case the appeal shall involve the determination of any question of fact, the same shall be tried by jury unless the jury trial shall be waived by both parties. The report of the Commissioners shall be final and conclusive, unless appealed from in the manner above prescribed. When the said Corporation shall take an appeal from any report of the Commissioners as aforesaid, such appeal shall not stay the work on the Ship Canal, or other structure on the premises or lands involved in the appeal: *Provided*, the said Corporation 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 said Court on appeal. An appeal from any report or a portion of a report, of Commis-

File Report

Appeal

Deposit

sioners, by or on the part of any person interested in any parcel of land or real estate proposed to be taken by the said Corporation, 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 said Commissioners, to abide the order of the Court in the said appeal. Whenever a report or part of a report of said Commissioners shall have become final, and whenever any appeal from such a 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 to her as a compensation for property taken, or shall deposit the same in said court for his or her use, become invested or seized of the title to 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 one dollar per day for their services, and their compensation and all the fees as officers, previous to and including the filing of the report of the Commissioners as aforesaid, shall be paid by said Corporation. In case the title thus acquired by the said Corporation for their use in the manner aforesaid, or otherwise, shall be defective, they are hereby authorized to take the proceedings prescribed in this section, to procure the title from the real owner.

Commissioners  
— fees

Appoint Ag'ts  
or Commissioners

SEC. 8. That if the incorporators named in this Act determined to accept this charter, they shall appoint one or more of their number, and such other person or persons as they may deem proper and suitable, as Agents or Commissioners, to receive the subscription 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.

Meeting of  
stockholders  
— Elect Directors

SEC. 9. That whenever twenty thousand dollars shall have been subscribed to the stock of said Corporation, and twenty dollars paid on each subscription 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 Directors from among the stockholders, each share of stock being entitled to one vote by the holders 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 the meetings thereof, at which he shall be present. The Directors aforesaid shall also elect one of their number as Vice President, who shall preside in the absence of the President. The Directors shall also elect some suitable and competent perpetual person to be Secretary. They shall elect a Treasurer who shall give such security for the safe keeping and pay-

ment of the moneys of the Corporation, and for the further faithful discharge of all his duties, as the said Directors shall require. At a meeting of the said Directors seven of their number shall constitute a quorum for the transaction of any business, and all of the affairs and business of said Corporation shall be conducted by and under the direction of said Board of Directors, and they are hereby authorized for the purposes specified in this act to make, establish and enforce regulations and by-laws, and to do all things necessary to be done. The Directors first elected shall by lot divide themselves into three classes. The first class shall hold 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 are elected and enter upon their duties. Vacancies which may arise from any cause in said Board of Directors, may be filled by appointment by the majority of Directors in office, and such appointment shall continue until the next annual election of Directors, when all vacancies shall be filled by election. The said annual election shall be held at the office of the Secretary of said Corporation, and the said Secretary and two disinterested persons to be appointed by the Board of Directors, shall be and act as Inspectors of Elections and shall canvass the votes, and make and sign certificates of the result, and the Secretary aforesaid shall immediately notify the persons elected of their election.

Vacancies

Annual Election

Sec. 10. That the Board of Directors aforesaid, at such times as they deem necessary and proper, shall call upon the stock subscribed for, an instalment of ~~the stock~~ <sup>five</sup>, nor more than ten per cent, and require payment of said instalment within a reasonable time, not less than thirty days from notice thereof, under a penalty of forfeiture of the stock upon which the assessment was made.

Assessment

Sec. 11. That for the purposes of carrying out the object of this Corporation, the said Company are hereby authorized to construct the said Ship Canal through all public highways, and to establish and maintain Ferries at such points as may be deemed necessary.

Sec. 12. That the said Corporation shall survey and locate said Ship Canal, and commence work thereon within three years from the time this Act shall take effect, and shall complete and finish said Canal within five years from the passage of this Act.

Commence work

Sec. 13. That if any person shall wilfully or maliciously obstruct, or in any way injure, spoil or destroy the said Ship Canal, or any part or portion thereof, or anything affixed or appertaining thereto, and necessary and convenient for its free and safe uses, or any of the materials for the construction thereof or any building, fixtures or other structure made or erected or belonging to said Corporation, shall be deemed guilty of a misdemeanor, and liable to be indicted and punished therefor in the Territorial Prison, for not more than

Obstruction--  
Penalty

ten years and for not less than five years, and shall also be liable to pay the said Corporation twice the value of the damages occasioned thereby.

Public Act

SEC. 14. That 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.

Take effect

SEC. 15. This Act shall take effect from and after its passage.

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

JOHN B. BRISBIN,  
President of the Council.

APPROVED—May twenty-third, 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 on file in this office.

CHAS. L. CHASE,  
Secretary of Minnesota Territory.

## CHAPTER LXXVI.

*An Act authorizing School District Number Seven in Wright county to borrow money for the purchasing a site and erecting School buildings.*

- SECTION 1 Authority to borrow money, or by vote of the people may be raised by tax.  
2 Treasurer required to give bond.  
3 Trustees to give bonds for payment of borrowed money, and may assess tax for the payment thereof when due.  
4 Act take effect immediately.

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

Borrow money  
on credit of  
district

SECTION 1. The Trustees of School District number seven in the county of Wright, and their successors in office are authorized either to borrow on the credit of said district, such sum or sums of money not exceeding in the aggregate the sum of two thousand dollars, on such terms as they shall deem most advantageous to the interest of said district, for the purpose of purchasing such site or sites as may be lawfully designated, and erecting thereon such school house or