

CHAPTER XCIII.

*A Bill for an Act Entitled an Act to Incorporate the
Nebraska and Lake Superior Railroad Company*

- SECTION 1 Incorporators—Privileges and Franchise.
 2 Objects and powers of the Corporation.
 3 Capital Stock and Shares.
 4 Books to be opened—Public notice—Choose Directors—Officers.
 5 Assessment upon Stock.
 6 Survey and locate Road.
 7 May construct across any public or private road, &c.
 8 Right of Way—Acquirement of Lands.
 9 May take additional Lands.
 10 Power to consolidate its Capital Stock.
 11 Borrow Money.
 12 Grant of Lands.
 13 Right to enter upon and cross the track of any other Company.
 14 Mail to be transported.
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 16 Wear badges.
 17 Every engine to have bell or whistle.
 18 Declared a Public Act.
 19 Company to give notice of their intention to proceed under the provisions of this Act.

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

SECTION 1. That Erastus Corning and Edward C. Delavan of Albany; John F. Seymour, and Ward Hunt of Utica; Sam. F. Butterworth, Guillaume Merle, and John F. Butterworth of New York; Daniel Tyler of Connecticut; Benjamin W. Raymond, Chicago; Edward Martindale, New Jersey; Lowell Holbrook and Anson Blake, of Brooklyn, and William B. Jackson, Remsiz, New York; Sumner J. Smith and Edmund F. Ely, Minnesota Territory; Edmund Rice, Alexander Wilkin, Franklin Steele, Reuben H. Carleton, W. W. Kingsbury, Thomas Clark, 2nd, Benjamin Thompson, S. B. Abbe, S. B. Lowry, Joseph R. Brown, and J. S. Watrous, and their associates, successors and assigns, be, and they hereby are, constituted a body corporate and politic, by the name and style of "The Nebraska and Lake Superior Railroad Company," and by that name and style shall be capable in law of taking, purchasing, holding, leasing, selling, mortgaging, and conveying real estate, and property, whether real, personal, or mixed, so far as may be necessary or convenient for the purposes hereinafter mentioned, and in their corporate name may sue and be sued, plead and be impleaded, contract and be contracted with, and may 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 or convenient to carry into effect the purposes and objects of this Act, and of the said Corporation.

Incorporators:

Name

Powers

SEC. 2. The Said corporation is hereby authorized and empowered, to survey, locate, construct, maintain, use and operate at pleasure, to alter the line thereof without changing the Eastern terminus, a Railroad with one or more tracks or lines of rails to commence at some convenient point or place (within the Territory of Minnesota) at the west end of Lake Superior, or on Superior Bay, in said Territory, or on the Bay of Saint Louis, in the Territory of Minnesota, and running thence westerly within said Territory, via Sheyenne City to the Nebraska Line or such route as the Corporators may deem most expedient, with a branch from some point east of the Mississippi to the Wisconsin State Line at Taylor's Falls, together with all proper Stations, Depots, Turn-outs, Engines, Cars, and other appurtenances and furniture of a Railroad.

Capital stock

SEC. 3. The Capital stock of Said Corporation shall be Ten Millions of Dollars, and shall be divided into shares of One Hundred Dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation, and the Directors may increase the Capital Stock thereof to such amount as may be necessary or convenient to carry into effect all the rights and privileges hereby granted, not exceeding the whole cost of the road and its appurtenances, and the shares of any increase of stock shall be the same and transferrable in the same manner as the of the shares original stock.

Open Books
Public notice

SEC. 4. The above named persons, or one-fourth of them, are hereby authorized to open books for receiving subscriptions to the capital stock of said Company, which books may be opened at such times and places as a majority of said Corporators may determine, by giving twenty days' notice in two of the daily newspapers published in St. Paul, of said Territory, and also in the State Paper at the city of Albany, New York, of the times and places where said books will be opened; said books may be kept open thirty days or until the sum of three hundred thousand dollars of the Capital Stock of said Company shall be subscribed. And as soon as said sum of 300,000 dollars shall have been subscribed to the capital stock of said Company, and five per cent of the amount so subscribed paid in to such person or persons as may have been appointed to receive the same by the persons named in the first section of this Act, who are hereby authorized to make such appointment, the above named persons, or a majority of them, may give like notice of a meeting of the Stockholders at such time and place as they may deem expedient, to choose Directors; and if at such time and place the holders of one-half or more of the said stock shall attend either by person or by lawful proxy, they shall proceed to choose from the Stockholders by ballot, thirteen Directors, at least three of whom shall reside in the Territory of Minnesota, each share of the capital stock entitling the owner to one vote; and at such election the persons nam-

Choose Direc-
tors

ed in the first section of this Act, or those appointed by them (which power is hereby conferred upon them) or any three of them, if no more be present, shall be Inspectors of said election, and shall certify in writing, signed by them or a majority of them, what persons are elected Directors; and such Inspectors shall appoint the time and place of holding the first meeting of Directors, at which meeting a majority of Directors so chosen shall be competent to transact all business of the Company; and thereafter all elections of Directors shall be made annually at such time and place, and in such manner as may be determined upon by the Board.

Annual Election

Said Directors shall at their first meeting elect one of their number President, and shall appoint a Treasurer, Secretary and such Engineers, and other officers as they may think necessary, and shall fix their compensation for services to be rendered, and may require adequate security for the performance of their respective trusts.

Elect officers

SEC. 5. The Board of Directors may at such times as they may deem proper assess upon the stock subscribed an instalment of not less than two and not more than ten per cent. and require payment of such instalment within a reasonable time, not less than thirty days from notice thereof, under penalty of forfeiture of the stock on which the assessment was made, or otherwise ordered. They may also make all needful rules, regulations and by-laws, touching the business of said Company, determine the number of tracks and railways upon said road, and the width thereof, and the description of carriages to be used thereon, regulate the amount of tolls and the manner of collecting the same, and fix the penalties for the breach of such rules, regulations and by-laws; direct the mode and condition of transferring the stocks of said Company or the books thereof; and the penalties provided for by the said by-laws may be sued for by any person authorized thereby in the name of said Company, and be recovered in any action of debt, before any Court having jurisdiction of the amount.

Assess Tax

SEC. 6. The said Corporation are hereby authorized and empowered to cause such surveys and examination to be made as shall be necessary to ascertain the most advantageous route whereon to construct the Railroad; and to cause estimates to be made of the probable cost thereof; said road shall be surveyed and located to Nebraska in three years; work shall be commenced or at least one hundred miles of the Easterly section thereof in three years, and shall be completed to the Mississippi River and to Taylor's Falls in not exceeding eight years from the passage of this Act.

Locate Route

SEC. 7. The said Company may construct the said Railroad across any public or private road, highway, stream of water or water course if the same be necessary: *Provided*, that the same shall not interfere with navigation; but said

Build across public or private road

Company shall return the same to their primitive state, or in a sufficient manner so as not to impair the usefulness of such road, highway, stream of water, or water course, to the owner or to the public.

Right of way Sec. 8. The said Company shall have the right of way upon and may appropriate to its own use and control for the purposes of the said road and its appurtenances, land not exceeding two hundred feet in width throughout its entire length, except in cases where a borrowing pit or waste bank is necessary for the construction thereof; in which cases such additional land may be appropriated by said Company as may be necessary, and said Corporation 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 purpose of making the survey and fixing the location 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 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 may be acquired thereby or by the State in which said line may be, are 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: *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 in 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 this Territory or State.

Additional 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 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.

Procedure The said corporation may present to a Court in the County in which the lands or real estate proposed to be taken shall be situated, 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, plot, 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 in 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 shall 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, and if an infant or person of infirm mind, then by delivering the same to the guardian of such person. In case there shall be any persons named in said petition who are not residents of this Territory, upon whom service cannot be had 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 printed 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 situated, once in each week for six weeks successively 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, 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 upon such proof of service in the absence of a party. The Court may upon the application of the said Corporation 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 effected thereby. When the Court shall have satisfactory proof 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,

Serve notice

Non-residents

Appoint Com-
missioners

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 lands and specifying the time and place of the first meeting of such Commissioners.

Oath

The said Corporation shall without delay procure and deliver to each of said 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, discharge their duties as Commissioners, to ascertain and determine the compensation to be paid by the said Corporation to the respective claimants 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 such vacancy by the appointment another person as such Commissioner, who shall be in like manner served with a copy of the order appointing him, and take the oath. The Commissioners shall meet at the time and place specified in the said order, and when met, and all present, may proceed to the hearing of the proofs and allegations of the parties and are hereby authorized to administer oaths to witnesses before them.

Vacancy

The Commissioners may, as the exigency or convenience of any case shall 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 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, and whether in person or by attorney; the substance of the testimony of witnesses sworn and examined before them, and all disputed questions which shall be submitted to them, and their decisions thereon. In estimating damages or compensations to be paid to any claimants, the said Commissioners shall take into consideration the benefits to accrue to the claimant by the construction of the said Railroad, and allow such benefits by way of a reduction of the damages which such claimant may sustain thereby, and report only the balance of the damage but no balance shall in any case be 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 plot

Keep Minutes

of each separate parcels of land proposed to be taken by the said company for its use, 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 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 such 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 said Court shall prescribe, conditioned to prosecute the appeal without delay, to abide the order the Court may make on such appeal, and to pay the costs if he shall fail therein. Upon the filing of the notice and bond for appeal with proof by affidavit of 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 Courts 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 a 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 appeal from any report of Commissioners, such appeal shall not stay the work on the road or other structure on the lands involved in the appeal: *Provided*, the Company shall deposit in Court the amount awarded by the report appealed from, to abide the order to be made by the Court on appeal. An appeal from any 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 of Commissioners shall have become final, and whenever any appeal from such report or part of report shall have been finally determined, the said Corporation shall upon the payment to each party interested, of the sum determined thereby to be due him, or her, as a compensation for property taken, or

Appeal

deposit the same in 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 full, free and perfect use and occupation of the same for the purpose aforesaid. The said Commissioners shall be entitled to receive two 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.

Fee for service's

In case the title acquired to any lands by the said Company 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.

Consolidation

SEC. 10. The said Corporation shall have power to consolidate its capital stock with the road of any other company, having the same general direction or location or become merged therein by way of substitution, upon such terms and conditions as the two Companies may agree upon by the consent of a majority of the stockholders, and the two Companies when consolidated shall be managed and controlled by the Board of Directors of both Companies acting jointly until the first election of Directors of said consolidated Companies, when the stockholders of said consolidated Companies shall choose, at such time and place as they shall agree upon, a Board of Directors not to exceed twenty-one in number, who shall have power to change the name of said Company, adopt a common seal, sue and be sued, contract and be contracted with, and shall have all the rights and privileges conferred by this Act and by the laws of all the States and Territories through which the said consolidated road shall pass; and the right of way may be taken as provided for in this Act, which said agreement of consolidation shall be signed by the President, and a copy thereof filed in the office of the Secretary of the States and Territories through which said Road shall pass.

Borrow money

SEC. 11. 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 usual form, not exceeding three fourths of the actual amount expended on said road and its appendages, and may make and execute in the corporate name of said Company all necessary mortgages, writings, note, bonds, or other papers, for any liability that may be incurred in the construction or equipment of said road.

Grant of Lands

SEC. 12. The fee simple of all lands along the line of said road, or otherwise, granted 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, and said Company is hereby empowered to receive title thereto, and to transfer a proper portion of said lands from time to time,

and to convey in fee simple or otherwise, as soon as and as often as five miles of said road shall be constructed and completed, and the track thereof shall be put in running order, and the grant shall not become void, nor the Company be dissolved by the non-completion of the entire extent of said road, but shall be good and valid to all intents and purposes for the parts or portions of said road completed, and the said Company shall continue and survive to that extent and no more; but that portion of said road and the branches to Taylor's Falls shall be completed within the time specified in section six of this Act: *Provided*, That if any lands should be granted by the Congress of the United States to the Territory of Minnesota, or the aforesaid Company for the construction of the line of road contemplated in this charter, the Legislature shall have the right to make such restrictions as they may deem expedient, concerning the time, and the terms of sale of such lands.

Sec. 13. This Company shall have the power to enter upon and pass over the Railroad of any other Company, whose Railroad connects with that of this Company, with their cars and engines, and any other Company whose Railroad connects with that of this Company, shall have like power to enter upon the Railroad and pass over the same with their cars and engines, and such reciprocal use of said respective roads, shall be upon such terms and conditions as shall be agreed upon by the officers of said 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 the respective parties as may be equitable.

Power to pass
over tracks

Sec. 14. The said Company shall carry and transport the Mail of the United States upon such terms as may be agreed upon, and all such freight and passengers as may be offered, if required so to do, upon such terms as are usual, in like cases, with like Railroad Companies.

Carry Mail

Sec. 15. If any person shall wilfully obstruct or in any way injure any part of said Railroad or anything affixed or appurtenant thereto, and necessary or convenient for its use, or any materials for the construction thereof, or any building, fixture, or other structure, carriage, engine or car, thereof, such person shall be deemed guilty of a misdemeanor and shall be liable to be indicted and punished therefor, and shall also be liable to pay the Company twice the amount of the damage occasioned thereby.

Injury—Penal-
ty

Sec. 16. Every Conductor, Baggage Master, or other agent, or servant of said Company, and who shall be engaged in the ticket office or on the cars on said road 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, or exercise any control or direction in his station, or be authorized or

Wear Badge

allowed to interfere with any passenger, baggage or freight, without wearing such badge.

Bell or Whistle Sec. 17. Every locomotive engine on said Railroad shall be furnished with a good and sufficient alarm bell or whistle, which shall be fully sounded at least eighty rods distant from every highway crossing, while the engine shall be approaching the same and 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.

Public act Sec. 18. 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.

Give notice in writing Sec. 19. The said Company shall give notice, in writing, to the Governor of said Territory on or before the first day of January, 1858, of their intention to proceed under the provisions of this Act, and in case of their failure to give such notice, this Act, and all the powers herein granted, shall become null and void.

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, May 23, 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 XCIV.

An Act to incorporate the Stillwater, St. Paul and Breckenridge Telegraph Company.

SECTION 1 Incorporators—Power of Incorporation.
2 Obstruction—Penalty.

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