

CHAPTER XII.

An Act to amend an act entitled an act to incorporate the Hastings, Minnesota River and Red River Railroad Company, approved Feb. 20th, 1857. March 3, 1866.

- SECTION 1.** Amends an act in reference to the Hastings, Minnesota River and Red River Railroad Company. Names corporators.
2. Authorizes corporators to locate a railroad from Hastings to Glencoe.
 3. Defines the amount of capital stock and how it shall be divided.
 4. Authorizes certain persons to open books and receive subscriptions.
 5. When road to be built.
 6. Board of Directors may assess stock.
 7. Said corporation may take and hold such lands as they may require, if the owner be compensated therefor. Defines how compensation may be ascertained and determined.
 8. Company may construct railroad and necessary bridges over highways and rivers.
 9. Material to be used in construction of road.
 10. Penalty for obstructing or injuring said railroad.
 11. Officers of the road to be designated by badges.
 12. Engines to be furnished with bell or whistle. Penalty for non-compliance with this section. Company to erect suitable fences, &c.
 13. Company may consolidate with other companies under certain conditions.
 14. Authorizes company to borrow money.
 15. Fee simple of all lands granted by Congress to aid in building said road to be transferred to company when certain conditions are complied with.
 16. Company to have power to enter and pass over any other railroad.
 17. Company to carry mails, freight and passengers upon reasonable rates.
 18. Company may contract or provide a contract with any railroad in Wisconsin, terminating near Preston, on certain conditions; also may build bridges across St. Croix and Mississippi rivers.
 19. When company's lands are sold or leased to be subject to taxation, same as other real estate.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That the act entitled an act to incorporate the Hastings, Minnesota and Red River of the North Railroad Company, approved February 20th, 1857, be and the same is hereby amended and continued so that it shall read as follows:

Amends Act of
Incorporation.

That W. G. LeDuc, Samuel Rogers, jun., L. Vanslike,

Seymour G. Renick, Stephen Gardiner, H. H. Pringle, Sam. McPhaill, W. L. Sumner, T. J. Duffy, D. L. How, O. C. Martin, and their associates, successors and assigns, be and they are hereby constituted a body corporate and politic, by the name and style of the Hastings, Minnesota and Red River of the North Railroad.

Locates Railroad from Hastings to other points.

SEC. 2. The said corporators are hereby authorized and empowered to survey, locate, construct, complete, maintain, use and operate a railroad with one or more lines of rails from a point not distant more than half a mile from the levee at the foot of Ramsey street, in the city of Hastings, county of Dakota, and State of Minnesota, by the most feasible and practical route towards Glencoe, in McLeod county, and in the direction of Redwood Falls, in Redwood county, on the Minnesota River, as shall be deemed most expedient by said company, thence westwardly to the western boundary of the State of Minnesota, through Redwood county, in the direction of the junction of the Big Shayenne River with the Missouri River, with power to build a branch road, diverging from any point on the main trunk road to the Red River of the North, near the head of navigation of that River, at such point as the said company may deem most expedient, and also to Stillwater, in Washington county, together with all necessary stations, depots, turnouts, engine or car houses, and all other appurtenances belonging to a railroad.

Capital Stock.

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 rights and privileges hereby granted thereto, not exceeding twenty millions of dollars.

Corporation may receive subscriptions.

SEC. 4. The above named persons, or any 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 papers published in

the city of Hastings, and wheresoever else the said company may think it advisable. Said books may be kept open thirty days, or until the sum of fifty thousand 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 think proper, to choose a board of directors; and if at such time and place the holders of one half or more of the said stock shall attend either in person or by lawful proxy, they shall proceed to choose from the stockholders by ballot seven directors, at least three of whom shall reside in the State of Minnesota, each share of capital stock entitling the owner to one vote; and at such election the persons named 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 such 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 all elections of directors shall be made annually, at such time and place and in such manner as may be determined upon by the said board. Said board of directors shall at their first meeting elect one of their members President, and shall appoint a Treasurer, Secretary, and such engineers and other officers as they may think necessary, and shall fix their compensation for the services to be rendered, and may require adequate securities for the performance of their respective trusts.

How long books
to be kept open.

Directors to be
elected by ballot.

Directors to elect
officers.

SEC. 5. The said company shall locate at least fifteen miles of said road and commence work thereon within four years from the time this act shall take effect, and shall complete at least one track with all its equipments, from Hastings to some point on the Min-

When road to be
completed.

nesota River, with suitable switches and turnouts, within ten years from the same time.

Directors may
make assessments.

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 instalment within a reasonable time, not less than thirty days from notice thereof, under penalty of a forfeiture of the stock upon which such assessment was made.

Corporation may
take lands under
certain conditions.

SEC. 7. The said corporation may take and hold for the purposes required by their road such lands as may be required or convenient therefor; but unless such lands taken by said corporation shall be purchased or given voluntarily by the owners thereof, full and proper compensation therefor shall be made by said corporation to the owner or owners thereof, which said compensation shall be ascertained and determined in the manner following:

The said corporation may present to a court in the county in which the lands or real estate proposed to be taken shall be 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, 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 or other person 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

Owners of land to
be served with
notice.

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 State, 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 persons named in such petition who are not residents of this State, 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 by proof on 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

Description of
lands taken to be
published.

Commissioners
to be appointed
to determine val-
ue of land.

Commissioners
to be sworn.

Report of com-
missioners to be
final unless ap-
pealed from.

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 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) 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 the 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 fees of officers previous to and including the filing of commissioners' 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.

When appeal determined, company to be invested with title of land.

Sec. 8. 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 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.

Bridges may be constructed.

Sec. 9. Every track of said railroad shall be laid with rail of approved form and kind, and all the engines, cars and other furniture shall be well made of good material, and equal in quality to those in common use upon railroads in the United States.

How track to be laid.

Sec. 10. If any person shall wilfully obstruct, or in any way injure, spoil or destroy the railroad, or anything affixed or appurtenant thereto, and necessa-

Penalty for injuring track.

ry 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 damages occasioned thereby. And in case the death of any person shall be produced by or in consequence of any willful 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.

Officers of road
to wear badges.

SEC. 11. Every conductor, baggage master, or other agent or servant of the said company, and who shall be engaged in the ticket office, or in the cars on such railroad, shall wear upon his hat or cap a plain badge, which shall indicate his office or station, and no conductor or collector shall demand or be entitled to receive any fare or toll from any freighter or passenger, or exercise any control or direction in his station, or be authorized or allowed to interfere with any passenger, baggage or freight, without wearing such badge.

Engines to have
bell or whistle—
Penalty for not
sounding at cer-
tain points.

SEC. 12. 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.

Fences to be built.

SEC. 13. 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 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.

Company may consolidate with other companies.

Powers of Company.

SEC. 14. 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. 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 may be incurred in the construction or equipment of said road.

May borrow money.

SEC. 15. The fee simple of all the lands along the line of said route, or elsewhere, granted by Congress

Lands to vest in
Company on per-
formance of cer-
tain conditions.

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 said lands, from time to time, and to convey in fee simple, or otherwise, as soon as and as often as ten 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. *Provided*, That if any lands should be granted by the Congress of the United States to the State of Minnesota, or the aforesaid company, for the construction of the line of road contemplated in this renewed charter, the Legislature of the said State of Minnesota, shall have the right to make such restrictions as they may deem expedient, concerning the time of sale of such lands.

Mutual powers
of connecting
Companies.

SEC. 16. This company shall have power to enter upon and pass over the railroad of any corporation whose railway 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 State, whose duty it shall be to fix such terms for their respective parties as the equity of the case may demand.

Company to carry
mails and pas-
sengers at usual
rates.

SEC. 17. 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 same terms usual with like railroad companies: *Provided*, That said company shall be bound to carry freight and passengers upon reasonable rates.

SEC. 18. 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 an arrangement for such a connection shall be completed, this corporation are hereby authorized and empowered to extend the road by a bridge across the Mississippi river, and to further extend and construct and use their road, with all its appurtenances, to the mouth of the Saint 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 Saint Croix rivers, shall be so constructed as not to obstruct the navigation of said river, and the bridge across the Saint Croix Lake, or outlet, shall be built of sufficient height to admit the passage under it, of boats in the highest stage of water, with an open space in the channel of at least two hundred feet; 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 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.

Sec. 19. That whenever any lands heretofore or hereafter granted to the Hastings, Minnesota River and Red River of the North Railroad Company, to aid in the construction and completion of its road or branches, shall be contracted to be sold, conveyed or leased, by said company, the same shall be placed upon the tax list by the proper officer, for taxation, as other real estate, for the year succeeding that in

May connect
with certain
Wisconsin rail-
roads.

May construct
bridges.

May establish
ferry.

Lands when sold
to be placed on
tax list.

Percentage to be paid after certain time on gross earnings.

Accurate accounts to be kept

which such contract for a sale, conveyance or lease thereof shall have been made, but in enforcing a collection of the taxes thereon, the title or interest of the said company, or of any trustee or mortgagee thereof, shall be in no wise impaired or affected thereby; but the improvements thereon, and all the interest of the purchaser or lessee therein may, and shall, in case of default of the payment of taxes upon such land, be sold to satisfy the same; and it shall be the duty of the proper officers to assess and collect such taxes in accordance with the general laws relating to the assessment and collection of taxes: *Provided*, That the said company shall, during the first three years, after thirty miles of said road shall be completed and in operation, on or before the first day of March in each and every year, pay into the treasury of the State one per cent. on the gross earnings of said road, the first payment to be made on the first day of March next after thirty miles of the said railroad shall be completed and in operation, and shall, during the seven years next ensuing after the expiration of the three years aforesaid, pay into the treasury of this State, on or before the first day of March of each and every year, two per cent. of the gross earnings of said railroad, and the payment of such per centum annually, as aforesaid, shall be, and is in full of all taxation and assessment whatever. And for the purpose of ascertaining the gross earnings aforesaid, an accurate account of such earnings shall be kept by said company, an abstract whereof shall be furnished by said company to the Treasurer of this State, on or before the first day of February in each year, the truth of which abstract shall be verified by the affidavits of the treasurer and secretary of said company, and for the purpose of ascertaining the truth of such affidavits, and the correctness of such abstract, full power is hereby vested in the Governor of this State, or any other person appointed by law to examine under oath the officers and employees of said company, or other persons; and, if any person so examined by the Governor or other authorized person, shall knowingly or willingly swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury. And for securing to the State the payment

of the aforesaid per centum, it is hereby declared that the State shall have a lien upon the railroad of the said company, and upon all the property, estate and effects of said company, whatever real, personal or mixed, and the lien hereby secured to the State shall take and have precedence of all demands, decrees and judgments against said company.

State to have
lien on road.

Approved March 3, 1866.

CHAPTER XIII.

An act to incorporate the Village of Shakopee.

March 1, 1866.

- SECTION 1.** Designates the tract of land composing the Village of Shakopee. Creates the residents thereof a body corporate for municipal purposes, with perpetual succession, and right of suing and being sued. Constitutes the village of Shakopee a School District, and appoints the Trustees of said village to be Trustees of school district.
2. Municipal concerns to be vested in five Trustees. Gives right of appointment of officers to Trustees. All officers to be residents of village. Officers to give bonds.
 3. Village Justice to be elected biennially. Defines powers of Justice; must be a resident of the village, and give bonds.
 4. Trustees, Clerk, Treasurer and Marshal to be elected annually. How notice of election to be given, and how election to be conducted.
 5. Defines who shall be Inspectors of Election at first election. Defines how vacancy in inspectors shall be filled.
 6. What officers to receive compensation. Compensation to be fixed by by-laws.
 7. Majority of Trustees to constitute a quorum. Defines the powers and duties of Marshal.
 8. Penalty for outgoing officers neglecting or refusing to surrender books, papers, &c., to their successors in office.
 9. Trustees to enact ordinances and by-laws, and fix penalties for violation thereof. Publication of ordinances in newspaper necessary. Also defines powers of the Trustees.
 10. Trustees may purchase fire engines and organize fire companies—also appoint engineers and fire wardens, who shall have certain powers.
 11. Exempts firemen from performing certain duties.
 12. May appoint special constables and a village police.