

CHAPTER XVII.

An Act to amend an Act entitled an act to incorporate the Minnesota and Northwestern Railroad Company, approved May 23, A. D., 1857.

March 9, 1867

Section 1.—Amends Sec. 1 of Incorporation Act.

2.—Sec. 9 of said act amended.

3.—Corporation to give notice, through newspaper, of time and place of subscribing for capital stock.

4.—When Company to commence construction of road.

5.—Provisions of original act not amended to remain in force.

6.—Company may construct telegraph line.

7.—To pay into State Treasury certain per centage on gross earnings.

8.—Provides for filing notification of acceptance.

9.—When act to take effect.

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

SECTION 1. That section one of the act of the Legislative Assembly of the Territory of Minnesota, entitled "An act to incorporate the Minnesota and Northwestern Railroad Company," approved May 23, 1857, creating a railroad corporation under the name of "The Minnesota and Northwestern Railroad Company," be amended so as to read as follows: *Section*

1. That H. O. Balcomb, J. B. Fabis, George Ackley, W. R. McMahan, Bazil Moreland, John McLean, J. Mathew Thompson, F. E. Bissell, Francis Bassen, Jacob Bruss, William Pfaender, James F. Jones, John L. Gibbs, H. D. Baldwin, J. C. Hunter, B. A. Lowell, P. C. Bailey, J. W. Johnson, George La Dow, David Whipple, their successors and assigns and such other persons as may become associated with them as stockholders, shall be, and are hereby created and continued a body corporate, by the name of the "Minnesota and Northwestern Railroad Company," and as such corporation, under and by said corporate name, shall have power to make and use a common seal, to sue and be sued in all the courts of law and equity,

Amendment of
Territorial act

may contract and be contracted with, may purchase, acquire, hold and sell and convey any property, real or personal, that may be necessary or convenient for the purposes of said corporation, and shall have, possess, and exercise all power usual and necessary for the business of a railroad corporation.

Company em-
powered to lo-
cate road, and
prescribes route

SEC. 2. That section two of said act be amended so as to read as follows: *Section 2.* That said corporation is hereby empowered to locate and construct a railway with one or more lines or tracks of rail, from some point on the line of the State of Iowa, to be selected by said company, west of range thirteen, via Austin, Geneva, Wilton, Mankato, and South Bend to New Ulm, and thence by the most eligible route, (to be selected by said company), to Big Stone Lake, so as to connect with the line of railroad to be constructed from Minneapolis to a point between the foot of Big Stone Lake and the mouth of Siouxwood river.

Notice to be pub-
lished in news-
papers

SEC. 3. That section four of said act be amended so as to read as follows: *Section 4.* That the corporators named in section three of this act (as amended) or any three of them, may give notice by causing the same to be published in some newspaper printed in the city of Saint Paul, of the time and place for taking subscriptions to the capital stock of said company, and said corporators, or such of them as may attend at the time and place specified in such notice, shall be commissioners, and as such have authority to open books and receive subscriptions to said capital stock in such form and upon such conditions as they may deem advisable, and upon subscriptions being made to the amount of one hundred thousand dollars or more, in the aggregate, an election of the board of directors may be ordered. Notice of the time and place of holding said election shall be given to each subscriber of stock at least ten days prior to the day so appointed.

When road to be
commenced and
when finished

SEC. 4. That section sixteen of said act be so amended as to read as follows: *Section 16.* That said company shall commence the construction of said railroad within ——— years from the time of the passage of this act, and complete the same within ten years thereafter; and in case the same shall not be completed within the time limited, then the said company, its successors and assigns, shall forfeit to the state the

uncompleted portions of said line of road, together with the right to construct the same. But said company shall not be dissolved upon the non-completion of said line of road, or any portion thereof, but shall continue, and may operate and use any completed portion thereof, and shall continue to exist and be valid to that extent to all intents and purposes.

SEC. 5. That all the provisions of said act, to which this is amendatory, shall continue to exist, and are hereby declared to be in full force, and hereby reenacted to the same effect as if herein repeated and copied at length, except only such portions thereof as are repealed by this act; and the organization authorized under the provisions of this act is hereby declared to be a continuation of, and substitute for the organization authorized under said amended act, and the same corporation continued and perpetuated.

Unamended portions of Territorial act to remain in force

SEC. 6. Said corporation shall have authority to construct and maintain telegraph lines upon the line of its road and charge fees for the transmission of messages thereon.

May construct telegraphs

SEC. 7. That said company shall, during the first three years, after thirty miles of said railroad 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 railroad, 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. on the gross earnings of said railroad, and shall, from and after the expiration of said seven years, on or before the first day of March, of each and every year, pay into the treasury of this state three 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

To pay into State Treasury a percentage on earnings

Verified accounts to be furnished

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 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.

When act to become obligatory

SEC. 8. That upon the filing by said company in the office of the Secretary of State of a notification of its acceptance of this act, the same shall become obligatory upon the state, and upon said company: *Provided*, That said notification shall be given within sixty (60) days.

SEC. 9. This act shall take effect and be in force from and after its passage.

Approved March 9, 1867.