

of either party and upon such showing as the court shall deem necessary and proper, prescribe the location and the manner in which such crossing or connection shall be made so as to affect the purpose of the petitioning corporation and at the same time do the least injury to the corporation whose property is taken.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 4, 1879.

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## CHAPTER CLXXXIV.

AN ACT TO AUTHORIZE AND EMPOWER THE CHICAGO, MILWAUKEE, AND SAINT PAUL RAILWAY COMPANY TO CONSTRUCT AND OPERATE A LINE OF RAILROAD FROM SAINT PAUL TO MINNEAPOLIS AND GRANTING TO SAID COMPANY THE POWER TO EXERCISE THE RIGHT OF EMINENT DOMAIN WITHIN THIS STATE.

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

SECTION 1. The Chicago, Milwaukee and Saint Paul Railway Company, a corporation organized and existing under the laws of the state of Wisconsin, and owning and operating certain lines of railway in this state, is hereby authorized and empowered to construct, maintain and operate a line of railroad from any point within the city of Saint Paul to and into the city of Minneapolis, in this state, the terminal points of said road to be selected by said company; and in constructing said road any portions of the lines of road now owned or operated by said company may be used as part thereof. The said company may also, in connection with said road or in connection with its present road build, maintain and operate any and all extensions and branches within or between said cities that may be necessary to connect either or both of said roads with any and all railroads now built or hereafter to be built to or into said cities or either of them, and may also build, maintain and operate extensions, branches and spur tracks from either of said roads to any mills or other manufactories or other industries requiring railway facilities in said cities, or either of them, and may construct, maintain and operate said road, extensions and branches, with one or more tracks, and with all necessary side tracks, turn-outs and connections; and shall have power to acquire by purchase or by condemnation, as hereinafter provided, all necessary roadways, rights of way, depot grounds, yards, grounds for machine shops, warehouses, elevators, depots, station houses and all other

structures that may be necessary or convenient, for the full enjoyment, use and operation of said roads, branches, extensions and spur tracks; and may purchase, erect, maintain and operate all such machine shops, warehouses, elevators, depots, station houses and other structures as may be necessary or convenient for the use, operation, and enjoyment of said roads, branches, extensions, and spur tracks as aforesaid, and may make, with the consent of any other railroad company, such arrangements for the use of any portion of its track and road beds as it may deem necessary; and may wherever and whenever it may be or become necessary to the carrying out of the purposes and exercising the powers granted by this act, enter upon the tracks, road beds and lands of any other railroad corporation, or company, for the purpose of effecting a crossing upon, over or under the same, or a connection with the same; and upon, across, over, under or along any other lands, streets and highways with its own tracks upon payment of just compensation to the person or corporation injured thereby, to be ascertained as hereinafter provided.

SEC. 2. The said Chicago, Milwaukee and Saint Paul railway company is hereby authorized and empowered in its own name to acquire by purchase and to enter upon take and condemn any and all lands, rights, and privileges and easements that are now or hereafter may become necessary or convenient to the full enjoyment, use, maintenance and operation of any and all lines of railroad now or hereafter to be owned or operated by said company within this state including said road, extensions, branches, and spur tracks by this act specially authorized; and such power to condemn shall embrace all roadways, rights of way, railroad crossings, depot grounds, yards, grounds for machine shops, warehouses, elevators, station houses, water tanks, and all other buildings and structures, rights and privileges, and easements, necessary to the construction or necessary or convenient to the operation of any of said railroads; *Provided, however,* That nothing in this act contained shall authorize the said company to condemn any part of the public levee in the city of Saint Paul without the consent of the common council of said city; *and provided, further,* That the grade of the tracks of said railroad when the same shall cross any public streets in the cities of Saint Paul or Minneapolis shall be such as shall be designated and fixed by resolution of the common council of the city where such crossing shall be made, which resolution shall be passed at the next regular meeting of said council after notice of such intended crossings. And in any case any such crossings shall involve the necessity of a bridge to allow of any street passing under or over any such railroad such company shall pay the expenses of the construction and maintenance of the abutments, excavations and superstructures of such bridge, and the city shall pay the expense of the construction and maintenance of the street approaches to such bridge. The condemnation proceedings hereby authorized shall be instituted by said company and conducted in the same manner as similar proceedings are instituted and conducted by railroad companies formed under the general laws of this state as such laws exist at the date of

the institution of such proceedings, and the title acquired by said company under such proceedings shall be the same as provided in that behalf by said general laws, except that the court in its discretion, in and by the order appointing commissioners, may limit the easements to be acquired by reserving to the owner of the property over which the right of way is sought to be obtained, such rights and privileges in and to the same as shall not be incompatible with the use for which the same is to be appropriated, to be exercised and enjoyed in such manner as not to injure or interfere with the road, tracks and structures of such railway company, or the free and legitimate use of the same for railway purposes. And all property acquired by said Chicago, Milwaukee and Saint Paul railway company under and by virtue of the provisions of this act, shall be subject to taxation by payment of a percentage upon the gross earnings of said company in the manner provided by law for the payment of such percentage by railroad companies in this state, and shall not be liable for any other tax or assessment whatever.

*Provided*, that nothing in this act contained shall be construed as authorizing or empowering said railway company to condemn, appropriate, or use any lands, property, rights, or franchises of any other railroad corporation, occupied or in use, or necessary for the operation of its railroad or the transaction of its business, by such other corporation; except when the petitioning corporation shall elect to cross any such property and tracks, or either, by its tracks, and in such case the corporation electing to cross any such property and tracks, or either, may cross the same, either over, under or at grade, and then only by the construction of its tracks across the same; and in case where such election shall be made the district court to which the petition shall be presented shall at the time of the appointment of commissioners upon the request of either party, and upon such showing as the court shall deem necessary and proper, prescribe the location and the manner in which such crossing or connection shall be made so as to effect the purposes of the petitioning corporation, and at the same time do the least injury to the corporation whose property is taken.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 4, 1879.