

days notice of the time and place of sale, by advertisement in some newspaper of general circulation in the county, where such sale is to be made; and the residue of the money arising from such sale after paying such instalments and costs, shall be paid over to the former owner.

Sec. 17. That the said directors are hereby authorized to borrow any amount of money not exceeding two hundred thousand dollars, upon the faith and credit of said company, upon such terms and rates of interest as they may deem proper, and for that purpose they are authorized to issue their bonds in convenient amounts of not less than one hundred dollars each, and to make the principal and interest payable at such times and places as may be agreed upon between the parties, and to mortgage the road, franchises, equipments, buildings, engine shops, machinery, and fixtures of every kind whatsoever, for the payment of the same.

May borrow money, etc.

Sec. 18. This act shall take effect from and after its passage.

Sec. 19. The legislature may at any time alter, amend or repeal this act.

Legislature may alter, amend or repeal.

Approved March 2, 1853.

CHAPTER 66.

An Act to incorporate the Minnesota Western Railroad Company.

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March 3, 1853.

SECTION.

1. Corporators; object and name of corporation.
2. Location of road.
3. Capital stock; amount of.
4. Books to be opened; notice of how given.
5. Directors, how elected; annual meetings.
6. Subscriptions to capital stock.
7. Rules, regulations and by-laws.
8. Highways, etc., how crossed.
9. Dividends, how paid.
10. Damaging or obstructing road, how punished.
11. Company to provide wagon ways, etc.

SECTION.

12. Capital stock may be increased.
13. Right of way, etc.; commissioner to be appointed; duty of appeal from decision of how taken.
15. May borrow money and dispose of bonds.
16. Company to construct road, etc.
17. Power to unite with other roads.
18. Lands granted by congress.
19. May pass over other railroads.
20. When road must be commenced.
21. Act how construed.
22. Legislature may alter or amend act.

Be it enacted by the Legislative Assembly of the Territory of Minnesota, Robert J. Walker, A. Hyatt Smith, Joseph B. Doe, Otis Hoyt, Benjamin Allen, H. M. Rice, Franklin Steele, Socrates Nelson, H. Z. Hayner, Martin McLeod, Alexander Wilkin, M. S. Wilkinson and N. Greene Wilcox, together with such other persons as may hereafter become associated with them in the manner hereinafter prescribed, their successors and assigns, are hereby created a body corporate, by the name of the Minnesota Western Railroad Company, and by that name shall be and are hereby made

Corporators.

Object and name
of corporation.

capable in law, to purchase, hold and enjoy and retain to them and their successors, lands, tenements and hereditaments so far as may be necessary for the purpose of said Railroad, and the same to sell, grant, rent, or in any manner dispose of, to contract and be contracted with, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, and also to make, have and use a common seal, the same to alter, break or renew at their pleasure; and if either of the persons named in this section shall die, refuse, or neglect to execute the powers and discharge the duties hereby created, it shall be the duty of the remaining persons hereinbefore named, or a majority of them, to appoint a suitable person or persons, to fill such vacancy or vacancies, so often as the same shall occur.

Location of road.

SEC. 2. The said corporation are empowered to cause such examination or surveys to be made as shall be necessary to ascertain the most advantageous route whereon to construct a Railroad, and shall cause an estimate to be made of the probable cost thereof. And the said corporation shall be, and they are hereby invested with the right to construct a railroad, with one or more railways or tracks, from some convenient point to be selected on Lake Saint Croix, or Saint Croix River, thence running to the town of Saint Paul and the Falls of Saint Anthony, on the Mississippi River; thence across said river, by the most feasible route, to the western boundary of said Territory, at such point as shall be deemed most expedient by said company, with a branch to the Red River, to a point to be selected on said river, and also a branch running to a point to be selected on the St. Louis River, if deemed advisable by said company.

Capital stock.

SEC. 3. The capital stock of said corporation shall be Two Million of Dollars, and shall be divided into shares of one hundred dollars each, and five dollars on each share shall be paid at the time of subscribing.

Books to be opened

SEC. 4. The above named persons, or a majority of them, are authorized to open books for receiving subscriptions to the capital stock of said company, and shall prescribe the form of such subscription, which books shall be opened at such place or places as they may deem expedient, by giving thirty days notice in some newspaper printed in the Territory of Minnesota, and in such other place or places as may be thought advisable, of the time and place, or times and places of opening; said books to be kept open thirty days.

Directors, how
elected.

SEC. 5. So soon as said stock, or one hundred thousand dollars thereof, shall have been subscribed, the above named persons, or the same number thereof as shall have given the notice above required, shall give like notice for the meeting of the stockholders, to choose directors at some time at least thirty days thereafter, and at some place within said Territory of Minnesota. And if at such time and place the holders of one half or more of said stock subscribed, shall attend either in person or by lawful proxy, they shall proceed to choose from the stockholders, by ballot, nine directors, 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 its provisions to fill vacancies which may have occurred, 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 if two or more have an equal number of votes, such inspectors

shall determine by lot which of them shall be directors, to complete the number required, and shall certify the same in like manner; and such inspectors shall appoint the time and place of holding the first meeting of directors, at which meeting, five shall form a board competent to transact all business of the company, and thereafter a new election of directors shall be made annually, at such time and places as the stockholders at their first meeting shall appoint, and if the stockholders at their first meeting shall fail to appoint the day of such election, then it shall be holden in the succeeding year, on the same day of the same month on which said first election was holden, unless the same shall be on the first day of the week, in which case, it shall be holden on the day next succeeding; and if no election be made on the day appointed, said company shall not be dissolved; but said election may be made at any time appointed by the by-laws of said company; the said directors shall elect one of their number president, and shall appoint a secretary, treasurer, such engineers and other officers as they may find necessary, shall fix their compensation, and may require adequate security for the performance of their respective trusts.

Annual meetings.

SEC. 6. The directors may receive payment to the subscriptions to the capital stock at such time, in such proportion, not exceeding twenty-five per cent. at any one instalment, under such conditions as they shall deem fit, under the penalty of forfeiture of all previous payments thereon, or otherwise: *Provided*, They shall never require the payment to be made at any place out of the counties through which said road shall pass. And such directors shall, at least thirty days previous to the appointed time of such required payment, give notice thereof in the manner required in the fourth section of this act for giving notice of the opening of the books of subscription for the stock of said company.

Subscriptions to capital stock.

SEC. 7. The directors of said company shall have power to make from time to time, all needful rules, regulations and by-laws touching the business of said company, and to determine the number of tracks and railways upon such road, and the width thereof, and the description of carriages which may be used thereon, to regulate the amount of tolls and the manner of collecting the same for such transportation, and to fix penalties for the breach of any such rules, regulations or by-laws, and to direct the mode and condition of transferring the stock of said company; and penalties provided for by the said by-laws, may be sued for by any person authorized thereby, in the name of said company, and recover in a civil action before any court having jurisdiction of the amount, and the said company may erect and maintain toll houses and such other buildings and fixtures as the accommodation of those using said road may require.

Rules and by-laws.

SEC. 8. The said company may construct the said railroad across any public or private road, highway, stream of water, or water course, if the same shall be necessary; but the said company shall restore such road, highway, stream of water or water course, to its former state, or in a sufficient manner not to impair its usefulness to the owner or to the public.

Highways, &c., how crossed.

SEC. 9. So soon as the amount of tolls accruing and received from the use of said road or part thereof, according to the provisions of this act, shall exceed six per cent. on the amount of said capital stock paid in, after deducting therefrom the expenses and liabilities of said company, the directors of said company shall

Dividends.

make a dividend of such nett profits among the stockholders, in proportion to their respective shares, and no accumulative fund exceeding one per cent. of the profits of said company shall remain undivided for more than six months.

Damaging or obstructing.

SEC. 10. If any person or persons shall wilfully obstruct or in any way spoil, injure or destroy said road or any of its depots, cars, store houses, buildings, machine shops or other fixtures, or anything belonging or incidental thereto, or any materials to be used in the construction thereof, or any building, fixture or carriage erected or constructed for the use and convenience thereof, such person or persons shall each be liable for every such offence to treble the damages sustained thereby, to be recovered in a civil action in any court having jurisdiction of the amount.

Duty of company.

SEC. 11. Whenever it shall become necessary in the location or construction of said road to pass through the land of any individual, it shall be the duty of said company to provide for said individual proper wagon ways, and all necessary roads and passages across the track of said railroad, or otherwise the company shall be liable to such individual in treble the amount of damages occasioned by such neglect.

Capital stock may be increased.

SEC. 12. Said company shall have power to increase its capital stock six millions of dollars.

Directors, number, etc.

SEC. 13. Said company shall have power to increase its number of directors to any number not exceeding fifteen.

Right of way.

SEC. 14. The said company shall have the right to enter upon any lands, to survey and lay down said road, not exceeding one hundred and thirty feet in width, except where it is necessary to leave room for turn-outs, sites for water, buildings, conduits and tank sites, for depots and store-houses, machine and other shops, and the extra tracks necessary therefor, and whenever it is necessary to have such lands, they shall have the right to enter upon, take, hold and occupy such lands, and also to enter upon any lands adjoining said road, and obtain therefrom sand, gravel, stone and other materials as may be necessary for the construction of said road, and whenever any lands or materials shall be required for the construction of said road, and the same shall not be given or granted to said company, the compensation to be paid therefor by said company shall be ascertained in the manner following, to wit: Said company shall apply to the judge of the district court of the Territory of Minnesota, for the appointment of three commissioners, whose duty it shall be at the earliest practicable time after their appointment, to proceed to examine and assess the damages which may be sustained by the several owners or claimants of the lands through which the road of said company is located, and the said commissioners in assessing said damages shall deduct therefrom the benefit which said lands receive by the construction of said road. It shall be the duty of said company to give thirty days' notice of their application for the appointment of said commissioners in one or more newspapers published in each of the counties through which said road is laid out, and in case no newspaper is published in any one of said counties, then by posting up such notice on the door of the court house in said county, thirty days before the time of making such application, and it shall be the duty of said commissioners to cause ten days' notice of their meeting to appraise the damages of any lands through which said road may run, to be given to the owner or claimant thereof, and in case said owner or claim-

Duty of commissioners.

shall be a minor, insane person or unmarried woman, then such notice shall be given to the guardian, committee or husband of such minor, insane person or unmarried woman. Either party feeling himself aggrieved by the decision of said commissioners, may appeal to the district court of the county in which said lands may be situated, and said appeal shall be tried in the same manner as any suit commenced therein. *Provided*, that said company shall not in any manner be delayed in the construction of their road by any such appeal, but may proceed immediately with such construction on paying into the office of the clerk of said court the amount of moneys awarded to the owner or owners of such lands, and filing a bond with said clerk, to said owner or owners, binding said company to pay such further sum as may finally be awarded against said company. The notice to be given by the commissioners to the owners of lands required for the railroad shall be in writing, and delivered to said owner or owners, or left at their usual place of residence, if residents of this Territory, or if non-residents, then said notice to be given in a newspaper published in the county in which said land is situated, at least four weeks before making said appraisement.

Appeal from decision of commissioners.

SEC. 15. 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; such bonds not to exceed in the aggregate at the period of the completion of said road three-fourths of the whole amount actually expended on said road and its appendages aforesaid; 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 it may incur in the construction or equipment of said road.

May borrow money and dispose of bonds.

SEC. 16. The said company is hereby authorized and empowered to construct their said railroad and its branches in sections as fast as they may obtain the means for so doing; and the franchise of the portions so completed and put in operation, shall vest in said company the same as though the whole was completed.

May build road in sections, etc.

SEC. 17. Said company is authorized and empowered to connect its road with the road of any railroad company or companies in the Territory of Minnesota; or to become part owner or lessee of any railroad in said Territory, and any railroad company in said Territory of Minnesota, duly organized under the laws of said Territory, may connect its road with the road of said company, and may in like manner, with the consent of said company, become part owner or lessee of the road of said company, or of any of its branches, or any portion thereof, situated in this Territory.

Power to unite roads.

SEC. 18. The fee simple of all lands granted, along the line of said road or otherwise 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 shall be vested in or transferred to said company; and said company is hereby authorized to receive the title thereto, and is hereby empowered to transfer just and proper proportionate parts of said lands from time to time, and to convey in fee simple or otherwise, as soon 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 this grant shall not become void, nor this company be dissolved by the non-completion of the entire extent of said road, but shall be good and valid, to all intents and

Lands granted by congress.

purposes, for the parts or portions of said road, completed, and said company shall continue and survive to that extent.

May pass over
other railroads.

SEC. 19. This company shall have 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 shall have like power to enter upon this railroad, whose railroad connects with this railroad, and pass over the same with their cars and engines; and such reciprocal use of said respective railroads, shall be upon terms to be agreed upon by the officers of the respective companies, and in case such terms cannot be agreed upon by said officers, then an application may be made by either party to the supreme court of this Territory, whose duty it shall be to fix such terms for the respective parties as the equity of the case may demand.

Must be com-
menced.

SEC. 20. The said Minnesota Western Railroad Company shall commence and complete their said road from the St. Croix Lake or St. Croix River to St. Paul, within six years from the passage of this Act.

SEC. 21. This act shall be favorably construed in all legal and equitable proceedings for the accomplishment of the objects intended by this Act.

Legislature may
alter or amend.

SEC. 22. The Legislature may at any time amend or alter this act.

Approved March 3, 1853.

CHAPTER 67.

Feb. 26, 1853.

An Act to change the time of holding the General Election in the several precincts in the County of Pembina.

SECTION.

1. Time of election changed to second Tues-
day Sept.

SECTION.

2. Act when to take effect.

Election when
held.

Be it enacted by the Legislative Assembly of the Territory of Minnesota, That it shall hereafter be lawful for the electors at the several precincts in the county of Pembina, to hold their general elections on the second Tuesday in September: in each and every year, and the votes so polled and returned according to the provisions of law, shall be as valid to all intents and purposes as if polled and returned on the day designated by law for holding the general elections, any law to the contrary notwithstanding.

Act when to take
effect.

SEC. 2. This act shall take effect from and after its passage.
Approved February 26, 1853.