

CHAPTER XXIV.

A Bill for an Act to incorporate the Root River Valley and Southern Minnesota Railroad Company.

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

SECTION 1. That Edward Thompson, Samuel McPhail, James Smith, Edward Bell, Ole Knudson, T. B. Twiford, W. B. Gear, Benjamin Thompson, John Looney, Joseph Soyars, William F. Dunbar, B. Pringle, James McCann, H. N. Farnham, W. W. Bennett, Robert H. Shankland, J. S. McCuen, David Olmsted, Benjamin F. Brown, Joseph P. Hamelin, H. D. Huff, Thomas Foster, Jacob McCrary, William Bross, and all such persons as shall hereafter become stockholders in the company hereby incorporated, shall be and are made hereby a body politic and corporate by the name and style of "The Root River Valley and Southern Minnesota Rail Road Company," and by and under that name and style shall be capable of suing and being sued, impleading and being impleaded, defending and being defended against in law and equity, in any and all courts and places whatsoever as fully as natural persons; and the said corporation may make and use a common seal, and alter or renew the same at pleasure; and by their corporate name and style shall be capable of contracting and being contracted with, and of acquiring by purchase, gift, grant, devise or otherwise, and of holding and conveying all such estate and property, real and personal, as may be necessary or convenient to carry into effect the object and purposes of this act and of the said corporation.

Stockholders and their capabilities in law.

Object and purposes of the corporation.

SEC. 2. The said corporation is hereby authorized and empowered, and it is hereby declared that the objects and purposes thereof are to survey, locate, construct, maintain, use and operate, and at their pleasure to alter the line thereof, without changing the eastern terminus, a railroad with one or more tracks or lines of rails from the village of Hokah, in the county of Houston, and Territory of Minnesota, westwardly by the most feasible or practicable route to some point between the south bend of the Minnesota river and the southern line of the Territory of Minnesota; thence westwardly by the most direct and practicable route to the great bend of the Missouri river, with the privilege of a branch starting from Hokah and running up the west bank of the Mississippi river by the way of Target lake to Eagle Bluffs, in Winona county, in the Territory of Minnesota, together with all necessary and proper stations, depots, turnouts, engines, cars and other appurtenances and furniture of a railroad; and the said company is also authorized and empowered to extend the line of their railroad to such point as they may deem proper on the line which may be adopted and established by the Lake Superior, Puget's Sound and Pacific railroad company, and the said company is also authorized and empowered to excavate, construct and complete a steamboat canal from the main channel of the Mississippi river through Target lake to the most feasible point on Root river, in section twenty-eight, (28) in township one hundred and four (104) north, range number four (4) west of the fifth principal meridian; and to remove all obstructions to the free navigation of Root river from said point to the village of Hokah, and said company may build, construct and operate boats for the conveyance of passengers and freight to and from the eastern terminus of said railroad.

Capital stock.

SEC. 3. The capital stock of the corporation hereby created shall be five millions of dollars, and shall be divided into shares of fifty dollars each, and shall be transferable in such manner as the corporation by its regulations or by-laws shall prescribe; but no share of said stock shall be transferred while there shall be any instalment-assessed thereon unpaid, and the directors of the said corporation may, with the consent of the holders of a majority of the stock thereof, increase the capital stock thereof to such sum as may be necessary or convenient to carry into effect all the rights and privileges hereby granted thereto, not exceeding twenty millions of dollars. The shares of any increase of stock shall be the same and transferable in the same manner as the shares of the original stock.

Right of way as guaranteed.

SEC. 4. The said corporation shall have the right of way upon and may appropriate to its own use and control for the purposes of the said railroad and canal, their appurtenances, land not exceeding two hundred feet in width, throughout their entire length, and may by its engineers, agents and contractors, enter upon, take possession of, and use all and singular, any lands, streams, timber and materials of any and every kind, for the purposes of making the survey and location of said railroad and canal, of all stations, depots, turnouts and other appurtenances thereto, and for the purpose of constructing the said railroad and canal, all bridges, depots, stations, turnouts and other things necessary, proper or convenient for the same, and the full use and protection of, and of all their appendages or appurtenances. All such lands within the limits of the line of said railroad and canal which may now belong to this Territory, or hereafter be acquired thereby, or by the State in which the said line may be, is 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, and no longer; *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

within the limits of the 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 such Territory or State.

SEC. 5. 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 taken by the said corporation for any of said purposes, shall be purchased of, or voluntarily given by the owner or owners thereof, full and proper compensation therefor shall be made by the said corporation to the owner or owners thereof, which compensation shall be ascertained and determined in the manner following:

Right to hold additional lands.

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 appointing 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 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. In case there shall be any persons named in any such petition who are not residents of this Territory, and upon whom service cannot be made 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 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 made to any owner or person interested who shall not appear in person or by attorney or counsel, 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 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 interests may be affected thereby.

Duties of Courts.

SEC. 6. 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 or estate of each and every party in the same, the court may make in 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 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 Root River and Southern Minnesota 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 commissioner shall become vacant, the court may upon such notice to the parties as he may prescribe, and by like order supply the place by the appointment of an other person as such commissioner, who shall be in like manner served with a copy of the order appointing him, and take the like oath. The commissioners shall meet at the time and place specified in the order appointing them, and in the order supplying any vacancy in such commission. When met and all present they may proceed to the hearing of the proofs and allegations of the parties present, or reasonably notified by the company to be present, and authorized to administer oaths to witnesses before them; and before making any report they shall, if requested by any party interested or by either of their number, view the premises for which compensation is to be made, and the amount of which they are to determine. The commissioners may, as the exigency of any case or the convenience of the parties or themselves may require, adjourn from time to time and to such places as may in their judgment be most conducive to the purposes of their investigations. No proceedings shall be had by the 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 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 to lands or interests in lands so proposed to be taken, 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 recoupment against the damages which such claimant may sustain thereby, and report only the balance of damages which shall remain after applying such benefits in recoupment thereof, but no balance shall be in any case

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 plat, of each separate parcel of land proposed to be taken by the said company for its use, and 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 the 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, any time within twenty days after the service of notice of filing of said 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 judge of the same court shall prescribe, conditioned to prosecute the appeal without unnecessary delay, to abide the order the court may make on such appeal, and to pay the costs of the appeal if he shall fail to sustain the grounds of error or injustice prescribed in his notice of appeal. Upon the filing of the notice and bond for appeal with proof by affidavit of the 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 justice 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 the 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 an appeal from any report of commissioners, such appeal shall not stay the work on the said road and canal or other structure 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 part or portion of the report appealed from, to abide the order to be made by the court on the appeal.

Sec. 7. An appeal from any report or 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 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 the said appeal. Whenever any report or part of report of commissioners shall have become final, and whenever any appeal from such a report or part of report shall have finally determined, the said corporation shall, upon the payment to each party interested, the sum thereby determined to be due to him or her as compensation for property taken, or deposit the same in the court for his or her use, become invested, seized of the title to the lands or real estate for which such payment or deposit shall have been made, and be entitled to the full, free and perfect use and occupation of the same for the purposes aforesaid, which are, for all the objects of this act, hereby declared to be the public purposes. The said commissioners shall be entitled to reserve three dollars per day for their services, and their compensation and all the fees of officers previous to and including the filing of

Appeals from reports.

the report of the commissioners, shall be paid by the said company. In case the title thus acquired to any lands by the said company for their use in the manner thereinbefore 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.

Where corporations shall meet.

SEC. 8. The corporators named in the first section of this act shall meet at Hokah aforesaid on the first Wednesday of July next, to determine whether they will accept or reject this charter. If a majority thereof shall not then and there meet, he or they who may be present, may adjourn the meeting to some future day, and to such place as he or they may deem proper, and notify the absentees of such adjournment; and the same proceedings may be had at any meeting until a majority of such persons shall be present. Whenever a majority of such persons shall have met, they shall by resolution determine to accept or reject this charter and notify the secretary of the territory thereof. If they shall determine to accept this charter, they shall appoint three or more of their number and such other person or persons as they may deem proper, as agents or commissioners, to receive subscriptions to the stock of this corporation and direct the times and places when and where the books for receiving such subscriptions will be opened, and such books may be opened by different agents or commissioners, at different places, at the same time. Every person who shall subscribe for any stock of this corporation shall at the time of subscribing pay to the agent or commissioners two per cent. on the amount of stock so subscribed.

Assessments upon stock subscribed.

SEC. 9. The board of directors may at such time as they may deem necessary or proper, assess upon the stock subscribed an installment of not less than five or more than twenty per cent., and require payment of such installment within a reasonable time, not less than thirty days from notice thereof, under the penalty of a forfeiture of the stock upon which the assessment was made.

Location of the canal and railroad.

SEC. 10. The said corporation shall locate said canal and at least twenty-five miles of the said railroad, and commence work thereon within five years from the time when this act shall take effect, and shall fully complete and equip at least one track from Hokah to the Blue Earth River, with suitable and safe switches and turnouts, within ten years of the same time.

Authorized to construct the road and necessary bridges across public highways.

SEC. 11. For the purpose of constructing and using said railroad, the said corporation is authorized to construct their said railroad and the necessary bridges across and over public highways and navigable streams. *Provided*, That it be so done as not to 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 those whose road their road may come in contact, for the crossing or connection of such roads, and for the joint use thereof.

Kind of rail to be used.

SEC. 12. Every track of said railroad shall be laid with the H or T rail, of not less than sixty pounds per yard lineal, and all the engines, cars, and other furniture shall be well made, of good material, and of approved form or kind, equal in quality to those of the best equipped and furnished railroads in the United States.

Obstruction or injuries wilfully done to the road declared a misdemeanor.

SEC. 13. If any person shall wilfully obstruct or in any way injure, spoil or destroy the railroad or any part of the railroad, or anything affixed or appurtenant thereto, and necessary 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 he shall also be liable to pay the company twice the amount of damages occasioned thereby. And in case the death of any person shall be produced by or in consequence of any wilful or any 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.

SEC. 14. Every conductor, baggage-master, or other agent or servant of the said company, and who shall be engaged in the ticket office or on the cars on said 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 to be authorized or allowed to interfere with any passenger, baggage or freight, without wearing such badge.

Conductors, baggage masters, agents or servants.

SEC. 15. Every locomotive engine on said railroad shall be furnished with a good and sufficient alarm bell or whistle, and shall 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 ten dollars.

Every locomotive to be furnished an alarm bell.

SEC. 16. This act is hereby declared to be a public act, and may be amended by any subsequent Legislative Assembly, in any manner.

Act declared a public act.

SEC. 17. This act shall take effect immediately after its passage.

When to take effect.

SEC. 18. *Be it further enacted,* That the county seat of Fillmore county is hereby established at Carimona—upon the south east quarter of section number four, (4) in township one hundred and two, (102) north of range eleven, (11) west of the fifth principal meridian—all laws to the contrary notwithstanding.

County seat of Fillmore county.

SEC. 19. That the county of Wright be and the same is hereby declared to be an organized county, and invested with all immunities to which all organized counties are in this Territory entitled by law.

County of Wright organized.

SEC. 20. That the governor shall appoint and commission three suitable persons, being qualified voters of said county of Wright, to be a board of county commissioners for said county, with full power and authority to do and perform all the acts and duties devolving upon the board of county commissioners of any organized county in this Territory; and the said board shall have power to appoint a clerk to execute, fulfil and perform the duties devolving by law upon the register of deeds and clerk of the board of county commissioners of any organized county, who shall hold said office until his successor shall be duly elected and qualified.

Appointment of commissioners

SEC. 21. That the commissioners appointed as aforesaid shall meet on the second Monday in April, at Monticello, in said county, which shall be the county seat for said county, and shall proceed to appoint a clerk as aforesaid, and to do and perform all other acts relative to said county, which the commissioners of any organized county can do and perform.

When commissioners shall meet.

SEC. 22. The county commissioners shall have power to appoint a suitable person, being a qualified voter of said county, sheriff of said county, who shall qualify and give bond according to the requirements of law, who shall hold said office until his successor shall be elected and qualified at the next general election.

Appointment of sheriff.

SEC. 23. The said county of Wright shall be included in the second judicial district, and the judge of said district shall fix the time for holding

County of Wright included in the second judicial district.

the terms of the district court in said county, until the same shall be fixed by law.

J. S. NORRIS,
Speaker of the House of Representatives.
 WM. P. MURRAY,
President of the Council.

APPROVED—March second eighteen hundred and fifty-five.

W. A. GORMAN.

I hereby certify the foregoing to be a correct copy of the original act on file in this office.

J. TRAVIS ROSSER,
Secretary of Minnesota Territory.

CHAPTER XXV.

A Bill granting to William H. Oliver the right to establish and maintain a Ferry across the Lake St. Croix.

- SECTION 1.** *Corporate company and location of ferry.*
2. Shall keep safe and good boats.
 3. Rates of toll.
 4. Conditions of bond required.
 5. Liabilities for failing to keep a good ferry.
 6. Redress of persons sustaining injury.
 7. Power of subsequent legislatures over this act.

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

Location of Ferry.

SECTION 1. That William H. Oliver, his heirs, executors, administrators and assigns, shall have the exclusive right and privilege for the period of fifteen years, of keeping and maintaining a ferry across Lake Saint Croix, at a point on the west shore of said lake, where the south line of lot number three (3) in section number twenty-six, (26) in township number twenty-nine, (29) north of range twenty (20) west, intersects the said lake, and no other ferry shall be established nearer than one half mile, either above or below said point.

Shall keep safe and good boat.

SEC. 2. The said William H. Oliver shall at all times keep a safe and good boat or boats, in good repair, for the accommodation of all persons wishing to cross said ferry, and shall give prompt and ready attendance on passengers, teams and merchandize on all occasions, both by night and day; but persons crossing said ferry at night, after nine o'clock, may be charged double the fare as hereinafter prescribed,