

CHAPTER XXVII.

A Bill to incorporate the Transit Rail Road Company.

- SECTION 1.** The corporate Company and their corporate name.
 2. The objects and purposes of the company.
 3. Capital stock of the company.
 4. Of the right of way.
 5. Of the taking and holding of additional lands.
 6. When and where the corporators shall meet.
 7. When directors may be elected.
 8. Of the assessment of instalments upon stock subscribed.
 9. Twenty-five miles of said road to be commenced within five years.
 10. Of the construction of bridges across and over public highways.
 11. The tracks of said road to be laid with H. or T. rail.
 12. Penalty for obstructing, injuring or destroying said road.
 13. Badge to be worn by the employees on said road.
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 15. This act declared a public act.
 16. To take effect from and after its passage.

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

Corporate name
of company.

SECTION 1. That Charles W. Borup, Henry D. Huff, Orrin Smith, Abram M. Fridley, Lorenzo D. Smith, H. J. Hilbert, Henry H. Sibley, Andrew G. Chatfield, Leonard B. Hodges, Henry McKenty, O. M. Lord, David Olmsted, Benjamin Thompson, W. A. Jones, Orlando Stevens, George H. Sanborn, Byron Kilbion, E. D. Clinton, and all such persons as shall hereafter become stockholders in the company hereby incorporated, shall be and are hereby made a body politic and corporate by the name and style of "The Transit Railroad Company," and by and under that name and style shall be capable of suing and being sued, impleaded and being impleaded, defending and being defended against, in law and in equity, in any and all courts and places whatsoever, as fully as natural; 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 objects and purposes of this act and of the said corporation.

Objects and pur-
poses of com-
pany.

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, complete, maintain, use and operate, 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 Winona, in the county of Winona, and Territory of Minnesota, westwardly by the most feasible and practicable route to St. Paul, or some point on the Minnesota River, thence to intersect any Railroad that may hereafter be constructed from Lake Superior or the Mississippi River to or towards the territory of Washington, together with all necessary and proper stations, depots, turnouts, engines, cars and other appurtenances and furni-

ture of a Railroad. And the said company is also authorized and empowered to extend in like manner such Railroad from its junction with the Minnesota River to such point as they may deem proper, on the line which may be adopted and established by the "Minnesota Western Railroad Company," as the line of their Railroad, and also to such point as they may deem proper on the line which may be adopted and established by the said "Lake Superior, Puget's Sound and Pacific Railroad Company," as the line of their Railroad; provided, the point of intersection with the line of either of the said Railroads shall not be east of the meridian of the mouth of the Blue Earth River.

Sec. 3. The capital stock of the corporation hereby created shall be five millions of dollars, and shall be divided into shares of one hundred 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 installments 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. Stock of company.

Sec. 4. The said corporation shall have the right of way upon and may appropriate to its own use and control for the purpose of the said Railroad, and its appurtenances, land not exceeding two hundred feet in width throughout its 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 all stations, depots, turnouts, and other appurtenances thereto, and for the purposes of constructing the said Railroad and all bridges, depots, stations, turnouts, and other things necessary, proper or convenient for the same, and the full use and protection thereof, and of all its appendages and appurtenances. All such lands within the limits of the line of the said Railroad, and 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 be hereafter 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 Legislature of the territory or such other state shall fix, which sum shall be paid to the Governor thereof, and shall belong to the school fund of said territory or state. Right of way.

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 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: Of the holding of 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 situate, 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 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 no persons named in 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 object 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 situated once in each week for six successive 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 persons 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 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. When the court shall have the 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 an 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 lands, 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 on oath that they will faithfully and impartially, and with-

out fear, favor, or reward, or the hopes of promise of reward, discharge their duties as commissioners to ascertain and determine the compensation to be paid by the "Transit Railroad Company" to (here insert the names of the persons whose property is to be appraised) for lands or interests 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 another 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 the 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 place as may in their judgment be most conducive to the purposes of their investigations. No proceedings shall be had by the said commissioners unless two-thirds 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 Railroads, 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 thereunto 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, at 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 justices 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 road 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. 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 said appeal. Whenever any report or part of report of commissioners shall have become final, and whenever any appeal from such report or part of report shall have been 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 and 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 public purposes. The said commissioners shall be entitled to receive three dollars per day for their services, and their compensation and all the fees of officers previous to and including the filing of 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 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.

Corporators shall meet.

SEC. 6. The corporators, named in the first section of this act, shall meet at Winona aforesaid on the first Wednesday of May 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 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 agents or commissioners two per cent. on the amount of stock so subscribed.

SEC. 7. Whenever one hundred thousand dollars shall have been subscribed to the stock of this corporation, and two per cent. thereon paid as aforesaid, the stockholders shall meet in person or by proxy at such time and place as the holders of a majority of the stock shall prescribe, and proceed to elect twelve directors from among the stockholders, each share of stock being entitled to one vote by the holder thereof which shall be cast in person or by proxy. The directors shall elect one of their number to be president of the board of directors, and he shall preside at all the meetings thereof at which he shall be present. The directors shall also elect one of their number a vice president, who shall preside in the absence of the president. The directors shall also elect some suitable and competent person to be secretary. All covenants and conveyances of real estate made by the company shall be signed by the president or vice president and attested by the secretary, and sealed with the seal of the company. They shall also elect a treasurer, who shall give such security for the safe keeping and payment of the moneys of the company as the directors shall require. At a meeting of the directors seven shall form a quorum for the transaction of business; and all the affairs and business of the said company shall be conducted by or under the directions of the board of directors; and they are authorized for the purposes specified in this act to make and establish regulations and by-laws, and to do all things necessary to be done and not inconsistent with the constitution and laws of the United States, or the laws of this Territory or of this act. The directors first elected shall by lot divide into three classes. The first class shall hold their office for one year, and until their successors shall be elected and enter upon their duties. The second class shall hold their offices two years, until their successors shall be elected and enter upon their duties. And the third class shall hold their office three years, and until their successors shall be elected and enter upon their duties, and there shall be annually elected in the manner hereinbefore specified four directors of the said corporation, who shall hold their offices three years, and until their successors shall be elected and enter upon their duties. Vacancies which may from any cause occur in said board of directors, may be filled by appointment by the majority of the directors in office, and such appointment shall continue until the next annual election of directors, when all vacancies shall be filled by election. The annual election shall be held at the office of the secretary of said company, and the secretary and two disinterested persons to be appointed by the board of directors shall be the inspectors of elections, and shall canvass the votes and make and sign a certificate of the result, and the secretary shall immediately notify the persons elected directors of their election.

SEC. 8. The board of directors may, at such times 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

Election of directors.

Assessment upon stock subscribed.

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.

Twenty-five miles of road to be commenced within five years. SEC. 9. The said corporation shall locate 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 Winona to Minnesota River, with suitable and safe switches and turnouts, within ten years of the same time.

Construction of bridges. SEC. 10. 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 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 whose road their Railroad may come in contact, for the crossing or connection of such roads and for the joint use thereof.

Tracks to be laid with H or T rail. SEC. 11. Every track of said Railroad shall be laid with the H or T rail, of not less than sixty pounds per yard lintal, 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.

Penalty for injuring road. SEC. 12. 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 to the company thrice the amount of the damages occasioned thereby. And in case the death of any person shall be produced by or in consequence of any wilful 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.

Badge to be worn by the employees. SEC. 13. Every conductor, baggage master or agent or servant of the said company, and who shall be engaged in the ticket office or on the cars on the 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 be authorized or allowed to interfere with any passenger, baggage or freight, without wearing such badge.

Locomotives to be furnished with alarm bells. SEC. 14. Every locomotive engine on said Railroad shall be furnished with a good and sufficient alarm bell or whistle, which 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.

Act declared a public act. SEC. 15. This act is hereby declared to be a public act, and may be

amended by any subsequent Legislative Assembly, in any manner, not destroying or impairing the vested rights of said corporation.

Sec. 15. This act shall be in force from and after its passage.

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

APPROVED—March third, eighteen hundred and fifty five.

W. A. GORMAN.

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

J. TRAVIS ROSSER,
Secretary of Minnesota Territory.

CHAPTER XXVIII.

An Act granting to O. W. Streeter the right to establish and maintain a Ferry across the Mississippi River.

- SECTION 1. To whom the right to establish a ferry across the Mississippi river, in Houston county, was granted.
2. What kind of ferry shall be kept.
 3. The rates of toll.
 4. Bonds required.
 5. Consequence of not keeping a good boat.
 6. Remedy of injured parties.
 7. Exceptions to this act.
 8. Power of Legislature over this act.

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

SECTION 1. That O. W. Streeter, his heirs, executors, administrators or assigns, shall have the exclusive right and privilege, of keeping and maintaining a ferry across the Mississippi River, in Houston county, at a point to be selected by him in Section eleven (11) Township one hundred and four, (104) N. R. four (4) west of the 5th principal Meridian, for the period of fifteen years, and no other ferry shall be established within one mile either above or below said Point.

Right to establish a ferry granted.

SEC. 2. That the said O. W. Streeter shall at all times keep a safe boat or boats, in good repair, sufficient for the accommodation of all persons wishing to cross said ferry, and shall give prompt and ready attendance on passengers and teams on all occasions, and at all hours, both at night or day; but persons wishing to cross at said ferry (at night) after 9 o'clock may be charged double the fare as hereinafter prescribed.

What kind of ferry shall be kept.

SEC. 3. The rates charged for crossing the above ferry shall not exceed the following:

The rates of toll.