

ship twenty seven, north of range twenty-four west; thence east on town line to the corner of sections thirty three and thirty-four of said township twenty seven, north of range twenty-four west; thence north on section line to the middle of the channel of the Minnesota River.

Sec. 2. All acts or parts of acts to the contrary are hereby repealed. Repeal of conflicting acts

Sec. 3. This Act shall take effect, *Provided*, That a majority of the legal voters of Scott and Dakota Counties shall vote in favor of the same at the next general election, according to the provisions of the Constitution. And it is hereby made the duty of the Registers of Deeds in said counties to canvass and declare the result of said vote, and to send a copy of the same to the other county within fifty days thereafter. Change in lines to be submitted to vote

GEORGE BRADLEY,
Speaker of the House of Representatives.

RICHARD G. MURPHY,
President *pro tem.* of the Senate.

APPROVED—June the eleventh, one thousand eight hundred and fifty eight.

HENRY H. SIBLEY.

SECRETARY'S OFFICE, Minnesota, }
June 11, 1858.

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

FRANCIS BAASEN, Secretary of State.

CHAPTER CCV.

An Act to amend "An Act to Incorporate the Minneapolis and Cedar Valley Railroad Company."

- SECTION 1. Amendment to Chapter 166 of the Regular Session Laws of 1856, relating to change of location.
2. Amendment to Sec. 10 of said Chapter, relating to right of way and land damages.
3. Amendment to Sec. 11 of said Act relating to crossing and right of way in streets, &c., &c..

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

SECTION 1. That Section two (2) of an Act entitled "An Act to incorporate the Minneapolis and Cedar Valley Railroad Company," be and the same is hereby amended so as to read as follows :

Provides for a
branch to Hast-
ings upon cer-
tain conditions

SEC. 2. The said company is hereby authorized and empowered to locate, re-locate, alter, construct and re-construct a Railroad from the Iowa line, at or near the crossing of said line, by the Cedar River, through the valley of Straight River to Minneapolis, in the county of Hennepin, with a branch from some point on the line of said road to Hastings, in the county of Dakota, and in consideration of the powers, privileges and franchises in this Act, to the said company granted, extended or amended, the said company is hereby required to survey and locate within ninety days from the passage of this Act, the said branch, and within one year from the date aforesaid, to commence the construction of the same, and to complete, equip and put in operation the same, within four years from said date, and said company is further hereby required, within thirty days from said date, to notify the Governor of the State in writing under its corporate seal, of its acceptance of the powers, privileges and franchises by this Act conferred, together with the requirements aforesaid, and if the said company shall fail or neglect to comply with any or all of the said requirements, then each and every privilege, power and authority by this Act conferred, extended or amended, shall be void and of no effect: *Provided, nevertheless,* That whenever and as often as the said company shall have expended in the construction of the said branch the sum of ten thousand dollars (\$10,000), the Council of the city of Hastings, aforesaid, shall deliver to the said company, the bonds of the said city equal to the sum aforesaid, to be applied to the further construction of said branch, until the amount of seventy thousand dollars (\$70,000), shall have been delivered as aforesaid. And the said city shall be entitled to the certificates of shares in the capital stock of said company, equivalent to the amount of bonds from time to time delivered as aforesaid.

SEC. 3. Section ten (10) of said act is hereby repealed and the following Section substituted to wit:

Rights of the
company to en-
ter upon lands
for right of way
&c

SEC. 10. It shall and may be lawful for said company, their officers, engineers, agents and servants, to enter upon any land for the purpose of exploring, surveying and locating the route of said railroad, doing thereto no unnecessary damage; and when the said route shall be determined by said company, it shall be lawful for them, their agents, officers, engineers, contractors and servants, to enter upon, take possession and use such land, not exceeding two hundred feet in width along the line of said route, subject however, to the payment of such compensation as the company may agree to pay therefor, or as shall be ascertained in the manner hereinafter directed and provided in such cases, and said company are further authorized, by their officers, engineers, agents and servants to enter upon land adjacent to the railroad within or beyond the limits of two hundred feet, in the manner provided in this Act, when necessary for the pur-

pose of erecting depot buildings, station houses, and necessary fixtures for the operation and business of said road, and for the purpose of making drains, and giving proper direction to water-courses, across or along said road, and to remove all substances and things which may endanger, obstruct or interfere with the free use of said road, and to deposit gravel or earth, taken from deep cuts, and to obtain earth, gravel and other materials for embankments and structures necessary for the construction and repairs of said road, doing no unnecessary damage, and all lands so acquired, and all damage which may be done to any lands or property under the provisions of this Act, shall be ascertained and paid for in the manner, and agreeably to the provisions hereinafter provided, and when such damages shall have been paid for, or tendered, the title to the land so entered upon as aforesaid, shall vest in fee simple in said company. Whenever the line of said railroad or any part thereof shall be located, and its route determined, the said company may apply to the Supreme Court in session, or any Judge thereof in vacation, or the District Court of the district in which the required land is situated, in session, or the Judge thereof in vacation, for the appointment of three Commissioners to estimate the value of any and all lands which have not been, or shall not be granted or given to said company, and which are the private property of any person, and situated on or adjacent to the line of said Railroad, or any part thereof, and designated in such application, and which the said company shall have entered upon, possessed, occupied or used, or which it may thereafter enter upon, take, possess, occupy, or use for any of the purposes for which by this Act the said company is authorized to enter upon, take, possess, occupy or use lands, and also to estimate all damages which the owner or owners of said lands may have sustained, or shall sustain by reason of the taking of the same for the construction and use of said Railroad, or works appertaining thereto, deducting from such damages the benefits and advantages which said lands have received, or will receive from the construction of said road and works. The said company shall give notice of its intention to apply for the appointment of such Commissioners, by publishing the same at least ten days before the time of hearing such application, in at least one newspaper published in every county in which such land shall be; but in case no newspaper be published in any such county, then in a newspaper published in the city of St. Paul, and upon an affidavit of the publication of the same, the Court or Judge to whom the application shall be made, shall appoint three Commissioners who shall have cognizance of all cases, on or adjacent to the line or route of said Railroad or any division or part thereof, which shall be designated by said company in such application. In case either of said Commissioners shall die, resign or decline to act, another Commissioner shall be appointed in his stead

Rights of the company to enter upon lands for right of way &c

Appointment of commissioners authorized to assess damages

**Duties of the
commissioners
with reference
to assessing
damages**

in like manner, and on like notice as aforesaid. The said Commissioners may as the exigencies of any case, or the convenience of the parties, or of themselves may require, adjourn from time to time, and to such place as they may deem advisable. No proceedings shall be had by the said Commissioners, unless two-thirds of them be present, except to adjourn; but all questions coming before them shall be decided by a majority, and a report of a majority shall be valid. Said Commissioners shall proceed to examine the premises in each case separately, having first given such notice as they may deem reasonable to the owner of such lands, or the guardian or husband of such owner, and at least five days notice to such owner, guardian or husband, resident in the county, and whenever it shall appear to said company or its officers, that the title of such land is in dispute, or that several parties claim interest therein by tax sales, tax titles, incumbrances, liens or equitable claims, the said Commissioners shall, upon request of said company, or its officers or agents, give notice to all persons claiming any interest in said land, whether as owners, incumbrancers or otherwise, and where the person so to be notified has no known residence in this State, within the knowledge of such Commissioners, the notice may be by publication in a newspaper for such length of time as the Commissioners shall deem reasonable, and after making such examination, the said Commissioners or a majority of them shall in each case make a separate appraisalment, and award of the value of the lands so entered upon, taken, possessed, occupied or used by said company, for any of the purposes aforesaid, at the time when the same was so entered upon and taken, and of the damages aforesaid, and shall deliver one copy of their award in each case to said company, and shall file another in the office of the Clerk of the District Court of the county in which such lands may lie, or of the county to which such county shall be attached for judicial purposes, with the cost of the award taxed upon each of said copies, and if neither party shall appeal from said award in the manner hereinafter provided, the said District Court, on motion of the party in whose favor the award shall be made, for such value and damages as aforesaid, (unless such award shall have been previously paid), shall enter up judgment in conformity with such award, and the said company or any party interested receiving notice from said Commissioners as aforesaid, may (within thirty days after such award shall have been filed with the Clerk as aforesaid), appeal from the same to the District Court for the county where such award shall be filed, by filing with the Clerk of said Court, a written notice of such appeal, and upon receiving such notice, the Clerk shall enter the appeal as a case, upon the docket of said Court, setting down the owner or owners and person or persons claiming any interest in said lands, embracing all persons so having received such notice from such Commis-

**Proceeding in
case of appeal
from award of
commissioners**

stioners, as plaintiffs, and the said company as defendants, and said Court shall proceed to hear and determine such case, in the same manner that other cases are heard and determined in such Court, and all issues of fact arising therein shall be tried by a jury, unless a jury be expressly waived by both parties, but the appellants shall not be entitled to have the case tried at any term of said Court, unless he or they shall have given notice to the appellees or their attorney, at least ten days before the first day of the term, that they will demand a trial at such term, but in case the appellee has no known residence in this State, or attorney of record residing therein, no such notice need be given, but in all such cases the appellee may waive such notice, in which case the same rule for trial shall be applicable as to other cases in said Court. After the hearing of such case, the jury, or if the jury be waived, the Court shall assess the value of the lands so entered upon, taken, possessed, occupied and used by the said company, at the time when the same was entered upon and taken, together with the damages as aforesaid, deducting from such damages the benefits and advantages which such lands have received, or will receive from the construction of said road and works, and after such assessment the Court shall proceed to render judgment against said company, for the amount of said assessment in favor of the Plaintiff or Plaintiffs, and if such amount shall exceed the amount awarded by said Commissioners, with interest at the rate of twelve per cent per annum from the time of such award until the time of assessment by the jury or Court, then judgment shall be rendered against said company for costs, and when the appeal shall be taken by the claimant, and it shall not exceed such amount and interest as aforesaid, then judgment shall be rendered in favor of said company for costs, and against the said Plaintiff or Plaintiffs, and execution may issue accordingly. Said company shall not be delayed in the construction of their road by any appeal, but may proceed immediately with such construction, on paying into the office of the Clerk of the Court in which the appeal is taken the amount of money awarded to the owner or owners of the lands to which the appeal relates.

Proceeding in case of appeal from awards of commissioners

Whenever the Commissioners shall make an award as aforesaid, and no appeal shall be taken from the same, or whenever in case of appeal a final judgment shall be rendered, it shall be the duty of the company, and not before, to pay to the party entitled to the same the amount of said award or judgment, and in any case when there shall be any lien, incumbrance, tax sale, tax title, or equitable claim to or upon the land or any part thereof, which is the subject matter of such award or judgment, or when more than one person shall be entitled to, or shall set up any claim to the amount of such award or judgment, or any part of it, or when the person entitled to receive the same shall be un-

Upon award of damages company to deposit amount subject to order of claimant

known, or shall refuse to receive the amount of the award, or shall not have any known residence within this State, the said company may deposit the amount of such award, when there is no appeal, with the Clerk of the Court, with whom the award in the case shall have been filed, and in case of an appeal, and judgment thereon, the company may deposit the amount of such judgment with the Clerk of the Court in which such judgment shall have been rendered, and the money so deposited in either case, shall be paid over by the order of the Court to the person or persons who shall be adjudged by the Court to be entitled to receive the same; and whenever the amount of such award or judgment shall have been paid, or tendered, or deposited as aforesaid, an absolute estate in fee simple in such lands shall be, and become vested in said company, as against all persons so receiving notice from the said Commissioners as aforesaid, and all such persons so having received such notice, shall be forever concluded from questioning such titles so acquired by the said company, and the said company, shall have full power and authority, after entering upon and taking such lands, to have, hold, possess, use, occupy and enjoy the same, for any of the lawful purposes of said company from the time of such entry and taking, until the proceedings contemplated by this Act shall have been finally determined, and until said company shall have refused (after demand made,) to pay the value of said land, and the damages, so ascertained as aforesaid, they shall not during such time, and until such refusal be disturbed in possession, occupancy, use or enjoyment by any proceedings either in law or equity. Said Commissioners shall receive three dollars a day for their services, and ten cents a mile for actual travel; *It is further provided, That* said company may, before the time of a hearing in any case by the Commissioners, tender to the person or persons entitled to receive the same, such amount as they may deem reasonable, as compensation for the value of the land and damages as aforesaid estimated, with a deduction as aforesaid, and if such tender shall not be received, then the costs of all subsequent proceedings (in case the award or judgment exclusive of costs does not exceed the amount so tendered) shall be chargeable upon the person or persons aforesaid.

Company may
tender amount
of damages be-
fore hearing by
commissioners

Sec. 8. Section eleven (11), of said Act is hereby amended so as to read as follows:

Sec. 11. The said company shall have the right and authority to construct their said railroad upon and along, across, under, or over any public or private highway, square, road, street, alley, plank road, or railroad, if the same shall be necessary; but the said company shall put such highway, square, road, street, alley, plank road, or railroad in such condition as not to prevent its proper use, and the said company shall have the right and authority to erect and main-

Right of way
upon streets
&c and to cross
the same

tain all the necessary bridges for the use of their said railroad, over any stream of water, water courses or lakes at such points of crossing the same, as they may locate the said road, with all necessary abutments, piers or other foundations.

Sec. 4. This Act shall take effect and be in force from and after its passage.

GEORGE BRADLEY,
Speaker of the House of Representatives.

WILLIAM HOLOOMBE,
President of the Senate.

APPROVED—August eleventh, one thousand eight hundred and fifty-eight.

HENRY H. SIBLEY.

SECRETARY'S OFFICE, Minnesota, }

August, 11, 1858. }

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

FRANCIS BAASEN, Secretary of State.

CHAPTER COVL

An Act to Legalize the Record of the Town of Richmond.

SECTION 1. Survey and plat of town legalized.

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

SECTION 1. That survey and plat of the town of Richmond, in the county of Stearns, as recorded in the office of Register of Deeds in the year A. D. 1857, be and the same is hereby legalized, and all records made prior to A. D. 1857, are declared to be void. Survey and plat of town legalized

Sec. 2. This Act shall take effect and be in force from and after its passage.

GEORGE BRADLEY,
Speaker of the House of Representatives.

RICHARD G. MURPHY,
President pro tem. of the Senate.

APPROVED—March twentieth, one thousand eight hundred and fifty-eight.

CHAS. L. CHASE, Acting Governor.