

CHAPTER LII.

March 5, 1849.

An Act to facilitate the construction of a railroad from the Village of Brownsville, in the county of Houston, by way of Caledonia to Iowa State line.

- SECTION 1.** All rights, benefits and powers granted to the Louisiana and Minnesota Railroad Company transferred to the Brownsville, Caledonia and State Line Railroad Company—authorized to locate and construct a road from Brownsville to the Iowa State line.
2. Capital stock of said Company—to be divided into shares—shares transferable—may increase stock, to what amount.
 3. Repeal of former Sections.
 4. May have right of way and appropriate to its own use land not exceeding two hundred feet in width the entire length of the State—said land granted by the State to said corporation.
 5. If necessary may take additional lands—if land belongs to private individuals, company to give full and proper compensation—how amount of compensation to be ascertained—commissioners to take oath conditioned for the faithful performance of duties—vacancy in Board of Commissioners how filled—right of either party to appeal if deemed an unjust decision—parties appealing to serve a copy thereof on the opposite party—party appealing to give bond—for what purpose—report of Commissioners to be final and conclusive unless appealed from—how to proceed in case of defective title.
 6. When and where corporators to meet for acceptance or rejection of said charter.
 7. Whenever fifty thousand dollars shall have been subscribed to the capital stock, stockholders to meet and elect directors—duties of directors—term of office.
 8. When deemed necessary the Board of Directors may assess an installment upon the capital stock—in what amount.
 9. When work to commence and when to terminate.
 10. Authorized to construct their road across and over public highways and navigable streams.
 11. Kind and quality of rail to be used—quality of other equipments.
 12. Penalty for placing obstructions upon the track, or doing other damage to property wilfully.

13. Conductors and other officers to wear badge to indicate position.
14. Every engine to be furnished with an alarm bell or whistle—for what purpose used.
15. Declared a public act.
16. When act to take effect.

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

SECTION 1. That all the rights, benefits, privileges, franchises and powers, which were granted by an act of the legislative assembly of the territory of Minnesota, entitled "an act to incorporate the Louisiana and Minnesota Railroad Company," approved March fifth, one thousand eight hundred and fifty-three, to certain persons therein named, under the name and style of the Louisiana and Minnesota Railroad Company, be and they are hereby transferred and granted to, and vested in John Craig, A. D. Sprague, D. L. Buell, Samuel Eakins, Charles H. Brown, John Blake, A. M. Fridley, John J. Moreland, Joseph Betts, Winthrop Young, D. M. Demmon, O. C. Merriman, Edwin Parker, John Parker, J. P. Wilson, Solon Armstrong and Wm. Lochren, and the persons last above named, and their associates, successors and assigns, by the name and style of the Brownsville, Caledonia and State Line Railroad Company, shall henceforth have, hold and enjoy all such rights, benefits, privileges, franchises and powers, except as hereinafter provided, and are hereby authorized and empowered to locate, construct and finally complete a railroad, with single or double track from the village of Brownsville, in the county of Houston, in the state of Minnesota, westwardly, by way of the village of Caledonia, in said county, to the Iowa state line, at any point to be selected by said company (instead of the lines of road provided for in said act,) with the right to connect with any railroad or railroads which cross said line, and to construct, keep and maintain all necessary and proper stations, depots, turn-outs, engines, cars and other appurtenances, and furniture of a railroad, and to receive, hold and convey any real estate.

SEC. 2. The capital stock of said company shall be two millions of dollars, and shall be divided into shares of fifty dollars each, which shall be deemed personal property, and shall be transferrable in such manner as the said company by its regulations or by-laws shall prescribe, but no share of said stock shall be transferred while there

All rights, privileges, etc., transferred—authorized to locate and construct road.

Capital stock—divided into shares—shares transferrable—may increase stock, to what amount.

shall be any installment assessed thereon unpaid; and the directors of said company may, with the consent of the holders of a majority of the stock thereof, increase the capital stock thereof to such sum not exceeding four millions of dollars as may be necessary and convenient to carry into effect all the rights and privileges hereby granted.

Repeal of former sections.

SEC. 3. That sections two to eighteen, inclusive, of said act incorporating the Louisiana and Minnesota Railroad Company, are hereby stricken out, and all the sections of this act following this section, shall stand instead of the sections so stricken out.

May have right of way—may appropriate land to its own use—land granted to said corporation.

SEC. 4. The said corporation shall have the right of way open, and may appropriate to its own use and control, for the purpose of 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 and take possession of, and use all and singular, any lands, timber, streams, and materials of any and every kind, for the purposes of making the survey and locating of said railroad; and of all stations, depots, turn-outs, 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 said railroad, and which may now belong to the state, 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 school, shall be included within the limits of said line, the said corporation shall pay therefor such sum not less than one dollar and twenty-five cents per acre, or such sum as the laws of the state shall fix.

May take additional lands.

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

Company to give full compensation for lands belonging to private individuals.

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 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 and other persons interested in the same or any part 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 respectfully, 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 state, or in case of the absence of such person, by leaving such copy of petition and notice at his or her 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 person named in any such petition who are not residents of this state, and upon whom service cannot be made in the manner above described, 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 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 paid to any owner or person interested

Amount of compensation how ascertained.

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 described, but may do so upon the appearance of the 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 proof satisfactory that all parties interested in any parcel of land have been duly served with the petition and notice herein prescribed, and of the nature and extent of the interest of each and every party in the same, the court may make an order to be recorded in the minutes thereof, appointing three competent disinterested 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 respectfully take and subscribe an oath that they will faithfully and impartially, and without fear, favor, reward, or the hope of promise of reward, discharge their duties as commissioners to ascertain and determine the compensation to be paid by the Brownsville, Caledonia and State Line 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 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 the order supplying any vacancy in such commission. When met and all present may proceed to the hearing of the proofs and allegations of the parties present, or reasonably notified to be present, and authorized to administer

For faithful performance of duties commissioners to take oath.

Vacancy how filled.

oaths to witness 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 exigencies of any case or the convenience of the parties or themselves may require, adjourn from time to time to such places as may in their judgment be most conducive to the purposes of their investigation. 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 name of the parties appearing before them in person or by attorney, the substance of the testimony of witnesses sworn and examined before them, find all disputed questions submitted to them, and their decisions thereon. In estimating damages or compensation to be paid to any claimants to lands or interest in lands so proposed to be taken, the said commissioners shall take into consideration the benefits to accrue to the claimants by the construction of 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 the damage 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, at any time within twenty days after the

Right of either party to appeal.

Party appealing
how to proceed.

Party appealing
to give bond—
for what pur-
pose.

Report of com-
missioners to be
final and conclu-
sive.

service of notice of filing such report. The party appealing shall file a notice of such appeal with the clerk of the court with whom the notice 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 judges 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 pay the costs of appeal if he shall fail to sustain the ground of error or injustice prescribed in his notice of appeal. Upon 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 for court 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 road or other structure on the premises or land involved in the appeal, provided the company shall deposite 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 deposite 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 shall have been finally determined, and whenever any appeal from such a report or part of report shall have become final, the said corporation shall upon the payment to each party interested, the sum thereby determined to be due to him or her as a compensation for property taken, or deposite the same in the court for his or her use, become invested and seized of the title of the lands, or real estate, for which such payment

or deposit shall have been made, and entitled to the full, free and perfect use and occupation of the same for the purpose 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.

In case of defective title how to proceed.

SEC. 6. The corporators named in the first section of this act, shall meet at Brownsville aforesaid, on the first Monday in June 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 a place as he or they may deem proper, and shall notify the absentees of such adjournment, and the same proceedings may be had until a majority shall be present. Whenever a majority of such persons shall be present, they shall by resolution determine to accept or reject this charter, and notify the secretary of the state 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 subscription shall be opened, and such books may be opened by different agents and 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 and one-half per cent. on the amount of stock so subscribed.

To meet for acceptance or rejection of said charter.

SEC. 7. Whenever fifty thousand dollars shall have been subscribed to the stock of this corporation, and two and a half 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 seven directors from among the stockholders, each share of stock being entitled to one vote, by the holder thereof, which shall be cast in person

When stockholders to meet and elect directors—duties of—term of office.

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 meetings thereof, at which he shall be present. The directors shall also elect one of their number as 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 by the seal of the company. They shall also elect a treasurer, who shall give such securities 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 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 state, or this act. The directors first elected shall by lot divide into three classes. The first shall hold their offices one year, and until their successors shall be elected and enter upon their duties. The second class shall hold their offices two years, and until their successors shall be elected and enter upon their duties; and the third class shall hold their offices three years, and until their successors are elected and enter upon their duties, and thereafter there shall annually be 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 occur from any cause whatever in said board of directors, may be filled by appointment by a majority of the directors in office, and such appointment shall continue until the next annual election of the 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 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 of their election.

Duties of directors—term of office.

SEC. 8. The board of directors may, at such times as they may deem necessary and proper, assess upon the stock subscribed an installment of not less than four and not more than twenty per cent., and require payment of such installment within a reasonable time, not less than thirty days from notice thereof, under a penalty of a forfeiture of the stock upon which the assessment was made.

May assess an installment upon capital stock—in what amount—when!

SEC. 9. The said corporation shall locate at least twenty-five miles of said road, and commence work thereon within five years from the time this act shall take effect, and shall complete at least one track from Brownsville to its western terminus, with suitable and safe switches, turnouts, within ten years from the same time.

When work to commence when to terminate.

SEC. 10. For the purpose of constructing and using said railroad, the said corporation is authorized to construct their 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 materially impede or obstruct 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 road may come in contact, for the crossing or connection of such roads, and for the joint use thereof.

To construct road over highways and navigable streams.

SEC. 11. 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 railroads in the United States.

Quality of rail and equipments to be used.

SEC. 12. If any person shall wilfully obstruct or in any way injure, spoil, or destroy the railroad or any part thereof, or anything affixed or appurtenant thereto, and necessary and 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 shall also be liable to pay the company twice the amount of the damage 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

Penalty for placing obstructions upon the track.

thereon, shall be deemed guilty of murder in the second degree.

Officers to wear
badges.

SEC. 13. Every conductor, baggage master or other agent or servant of the said company, 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.

Each engine to
have an alarm
bell--for what
purpose.

SEC. 14. Every locomotive engine on such railroad shall be furnished with a good and sufficient alarm bell or whistle, and be fully sounded at least eighty rods distant from any 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 fifty dollars.

Declared a pub-
lic 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.

When act to
take effect.

SEC. 16. This act shall take effect immediately after its passage.

Approved March 5, 1869.