

CHAPTER CVII.

An Act to amend "An Act to amend an Act entitled 'An Act to Incorporate the Minnesota Central Railroad Company, approved May 23d, 1857,' approved March 9th, 1867."

February 24,
1872.

- SECTION 1. Amendment to section 2, relating to the location of the railroad.
2. Amendment to section 6, relating to the acquisition of lands by the company.
3. Amendment to section 18, relating to connections with other railroads.

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

SECTION 1. That section two (2) of said act entitled "an act to amend an act entitled 'an act to incorporate the Minnesota Central Railroad company, approved May 23d, 1857,' approved March 9th, 1867," be and the same is amended so as to read as follows, viz:

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 a railroad, from the city of Red Wing, in the state of Minnesota, via Cannon Falls, Faribault and Blue Earth City, to the southern boundary of the state; also to construct, maintain and operate a branch line of railroad from the main line of said railroad at such point on said main line as they may designate, thence by such route as they shall deem most feasible, to the southern boundary of the state; together with all necessary stations, depots, turn outs, engine or car houses, and all other necessary appurtenances belonging to or required for the complete construction, equipment and operation of such railroad and its said branch. Said corporation is, by this act, empowered to construct the said railroad and its said branch, either or both at its pleasure.

Location of the
road.

Sec. 2. That section six (6) of said act be, and the same is amended so as to read as follows, viz:

Acquisition of
lands.

Sec. 6. That said corporation may take, hold, and acquire for the purposes required by their road, such lands as may be required therefor, but unless such lands taken by said corporation shall be purchased or given voluntarily by the owners thereof, full and proper compensation therefor shall be made by said corporation to the owner or owners thereof, which said compensation shall be ascertained and determined in the manner following :

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, encumbrancer, 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 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, encumbrancers and others interested for the taking or injuriously affecting such lands or real estate. A copy of such petition shall be filed with the clerk of the district court of each county wherein any of the lands in said petition described is situated, and said company shall cause to be served a notice of the time and place, when and where the said petition will be presented to the court, and when and where said petition is filed, and may be inspected, on each and every person named therein as owner, incumbrancer, tenant or person otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of said petition. Such service shall be made by delivering such copy of the notice to each of the persons so named therein, if a resident of this state, or, in case of the absence of such persons, by leaving such copy of the 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 such petition who are not residents of this state, 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 presenting the petition to the court, and directed to such person or persons, shall be published in the newspaper nearest the location of such lands, and in a newspaper published at the seat of government of the state, once in each week for four consecutive weeks prior to the time designated for presenting such petition.

Acquisition of
lands.

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, who shall not appear in person or by attorney or counsel, except by proof on affidavit, and to the satisfaction of the court, of the service of the notice in the manner herein 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 a new or further notice to be given to any party whose interest 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 said notice in the manner 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 disinterested, competent persons, commissioners, to ascertain and determine the amount to be paid by said corporation to each of said 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 before some person competent to administer oaths, that they will faithfully and impartially discharge the duties of their appointment. Whenever the place of any commissioner shall become vacant, the court may, upon such notice to the parties as he may prescribe, appoint another commissioner in his stead; and every appeal from the report of such commissioners shall be entered, proceeded in and determined in the same manner as cases on appeal from a justice of the peace; and in case the appeal shall involve the determination of a question of fact, the same shall be tried by jury, upon the request of either party. The report of

Acquisition of
lands.

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, such an appeal shall not stay the work on the road or other structures on the premises or land involved in the appeal; *provided*, the company shall deposit in court the amount awarded or assessed by the report, or any part thereof appealed from, to abide the order of the court in the appeal. An appeal from any report, [or a] 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 awarded or assessed by the report, or any part thereof appealed from, and give a bond to the satisfaction of the court who appointed said commissioners, and to be by said court approved, conditioned to pay any additional sum which shall be finally adjudged against said corporation and to abide the order of the court in such appeal.

When any report, or part of report of commissioners shall become final, and whenever any appeal from such report, or any part thereof, shall have finally determined, the said company shall, (upon payment to each party interested, the sum thereby determined to be due to him or her, or any corporation,) become invested and seized of all the right and title of the owner, incumbrancer or other person interested in the land 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 purposes of this act as herein described. The said commissioners shall be entitled to receive three dollars per day for their services, and their compensation and all fees of officers to, and including the filing of the commissioners' report, shall be paid by said company. In case the title thus acquired to any land by said company for their use in the manner herein 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 or owners.

SEC. 3. That section eighteen (18) of said act be, and the same is amended so as to read as follows, viz :

Sec. 18. The said corporation, as hereby created, is authorized and empowered, and it shall be lawful for the same to provide by contract or agreement for a connection (of the railroad mentioned and provided for in this act) with any railroad in the state of Wisconsin, terminating upon the

Connections
with other
roads.

east bank of the Mississippi river, within two miles of the city of Red Wing, Minnesota, upon such terms and conditions, and in such manner as the board of directors of this corporation may deem practicable and advisable; and in case this corporation shall desire to construct said bridge across the Mississippi river, it is hereby authorized and empowered to extend its railroad to the said east bank of the Mississippi river; and for such purposes and object, the said company is hereby authorized and empowered to construct, maintain and use a bridge across the Mississippi river, to be built in such manner, with such suitable piers and draws as shall conform said bridge to the requirements of the several acts of congress upon that subject now in force, or to be passed relating thereto, and which shall in its construction the least obstruct the navigation of the said Mississippi river; said company using all proper skill in the location and maintenance of said bridge and draws; *provided*, in case it shall be necessary so to do, the corporation hereby created may, and is hereby authorized to establish and maintain a ferry across the Mississippi river, between the terminus of the said road hereby authorized, and the railroad in Wisconsin with which the same may be connected, *provided*, that such ferry shall be used for the purposes and in the business of the said railroad company.

Connections
with other
roads.

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

Approved February 24, 1872.