

RAIL ROADS

CHAPTER LXVII.

AN ACT TO INCORPORATE THE MINNESOTA AND
DAKOTA RAILROAD COMPANY.

*Be it enacted by the Legislative Assembly of the Territory of
Dakota :*

Section 1. That the persons hereinafter named, to wit:—Who are constituted company.
 Newton Edmunds, H. D. Huff, J. O. Taylor, Charles E. Hedges, F. O. J. Smith, Walter A. Burleigh, St. A. D. Balcombe, J. Shaw Gregory, John M. Wood, Charles F. Picotte, Wilmot W. Brookings, J. M. Allen, G. D. Hill, Thomas Wilson, William Frisbie, A. K. Muir, Geo. M. Pinney, Amos Cogswell, John W. Boyle, J. H. Baker, William Mathers, Charles Elandreau, M. M. Rich, J. N. Arnold, Enos Stutsman, A. P. Mapes, John Lawrence, John De Graf, Hugh Compton, James Tufts, William Shriner, Geo. W. Mitchell, John J. Thompson, John Hutchinson, John Pattee, L. H. Litchfield, B. A. Hill, Knud Larson, L. B. Bothun, G. W. Kingsbury, Albert Gore, William Jayne, A. W. Hubbard, Preston Hotchkiss, John Mathers and G. W. Pratt, be and the same are hereby made and constituted a body corporate and politic, by the name and style of the Minnesota and Dakota Railroad Company, with perpetual succession, and by that name and style, shall be capable, in law, of taking, purchasing, holding, leasing, selling, and conveying real and personal estate and property, so far as the same may be necessary for the purposes hereinafter mentioned; and in their said corporate name to sue and be sued, to have a common seal, which they may alter or renew at pleasure, to have a capital stock of one million of

dollars, to be divided into shares of ——— dollars each, which said capital may be increased from time to time by a vote of a majority of the directors of the corporation, the sum of six millions of dollars: *Provided*, That the sum be requisite to the completion and fulfillment of the objects and purposes of the corporation hereby created; and the aforementioned persons shall be, and constitute the first board of directors, and may have and exercise all the powers, rights, privileges, and immunities which are or may be necessary to carry into effect the purposes and objects of this act as hereinafter set forth.

How board to be organized.

Sec. 2. Said directors shall organize the board as soon as practicable after the passage of this act, by electing one of their number president, and by appointing a secretary and treasurer, which organization shall be certified by said directors, or a majority of them, and such certificate shall be recorded in the record book of said company; and said record shall be sufficient evidence of the facts therein stated, and said directors shall hold their offices until the first Monday of January, 1865, and until their successors shall be elected and qualified, as hereinafter provided. All vacancies in said board may be filled by a vote of a majority of the directors present at any regular meeting of the board, or at a special meeting called for that purpose.

Powers of company

Sec. 3. The said company are hereby authorized and empowered to locate, and, from time to time, to alter, change, re-locate, construct, re-construct, and fully to finish, perfect, and maintain a railroad, with one or more tracks, commencing at a point on the boundary line between the State of Minnesota and the Territory of Dakota, where said line shall or may be intersected by a railroad running west from the State line of Minnesota; thence to Sioux Falls; thence to some practicable point on the Missouri river, between the town of Vermilion and Fort Randall, inclusive of said town of Vermilion and Fort Randall; and said company are further authorized to use and operate said railroad, and shall have power and authority to regulate the time and manner in which persons, goods, and effects shall be transported on the same, and to prescribe the manner in which said railroad shall be used, and the rate of toll for the transportation of persons and property under their

charge, and shall have power to provide all necessary stock and materials for the operation of said railroad, and shall have power to erect and maintain all necessary depots, stations, shops, and other buildings, and machinery for the accommodation, management and operation of said road.

Sec. 4. Said directors shall, as soon after the passage of this act as practicable, open ^{Subscription books opened} books for the purpose of receiving subscriptions to the capital stock of said company, at such places along the line of said road and elsewhere, as said directors shall determine, under the direction of such agents as said directors shall appoint; and said books shall be kept open, from time to time, until the amount of said capital stock shall be subscribed, or until said directors shall determine to close the same.

Sec. 5. Said company may at any time, take voluntary ^{Right of way} relinquishments for the right of way for said road, the necessary depots, water stations, wood yards and out buildings, and may receive, and are hereby authorized to receive, any grant or grants of land which may hereafter be made by the Congress of the United States to this Territory, to encourage and aid in the building and equipment of this line of road, and such connections as may be provided by said Territory or future State; and if the land through which the road shall pass belongs to a minor, in whole or in part, the guardian of such minor shall have power to convey to said company on fair and equitable terms; but every such conveyance by the guardian shall be subject to the approval of the court having probate jurisdiction in the county in which said lands are situated.

Sec. 6. If any owner of a tract of land through which said ^{Proceedings in case of right of way} road may pass, refuses to relinquish the right of way for said road to said company, or if the owner be an infant or person of unsound mind, or a non-resident of the Territory, the facts of the case shall be clearly stated in writing to the judge of the district court of the county in which said land is situated, either in vacation or term time, and the judge shall appoint three disinterested citizens of the county, as commissioners, to view such lands, who shall take into consideration the value of the lands and the advantages and disadvantages of the road to the same, and shall report, under oath, what damage shall be done to said land, or any improvements thereon, stating the amount

of damages assessed, and shall return a plat of the land thus condensed. Written notice of such application to the judge shall be given to the owner of such land five days before making such application, if such owner resides within the county where-said land is situated. If such owner is a non-resident of said county, he may be served by actual notice, or by publication for four weeks in some newspaper published nearest to said land; provided, such newspaper shall be a paper published within the territorial limits of the Territory of Dakota.

Same

Sec. 7. The persons to view and value such lands, shall file their report in the office of the clerk of the district court of the county where such lands are situated, and if no valid objection be made to said report within ten days, the court shall enter judgment against said company for the amount of damages assessed, and shall make an order vesting in said company the fee simple title to the lands described in said plat and report, as given to the use of the road. Objections to such report must be filed within ten days from the time the same was filed, which objections may be examined by said judge in term time or vacation; and he may hear testimony, and by judgment confirm said report, or may set aside the same and appoint three other viewers, who shall proceed in the same manner and make their report, until the same shall be confirmed. In all such cases the court shall adjudge the costs of the proceedings according to the equity of the cases; and the said court shall have power to make such orders, and take such other steps as will promote the ends of justice between the owner of said lands and said company.

Company may
occupy right of
way in certain
cases

Sec. 8. In case of refusal of said right of way, by the owner of land, the said company may occupy the same for the purpose of constructing the said road, upon filing good and sufficient bonds, conditioned to pay all damages that may be adjudged against them, with the judge of the district court of the county where the land is situated, and upon his approval of the same.

Empowered to
borrow money

Sec. 9. The said company are authorized and empowered to borrow, from time to time, such sums of money, not exceeding at any one time, double the amount of stock subscribed, and upon which not less than five per cent. shall have been paid in:

as may be necessary for constructing, completing, and furnishing or operating said railroad, and to issue and dispose of their bonds in denominations of not less than one hundred dollars for any amount so borrowed, and to pay a rate of interest therefor, not exceeding ten per cent. per annum, and to pledge and mortgage the said road and its appendages, or any part thereof, or any other property or effects, rights, credits, or franchise of the said company, as security for any loan of money and interest thereon, and to dispose of the bonds issued for said loan at such rates and on such terms as a majority of the directors may determine, and may make such bonds convertible into the capital stock of said company at the option of the holders.

Sec. 10. The said company may, annually, or semi-annually, make such dividends among the stock holders as they may deem proper; said dividend to be declared out of the net profits, receipts, or income of said company; and after first having deducted from said net profits a reasonable amount, to be set apart for a sinking fund for the ultimate liquidation of the indebtedness of said company. The rights, privileges and immunities accruing to the following named [aforementioned] persons and their successors in office, by the provisions of this bill, are declared to be perpetual. Dividends

Sec. 11. Said company have power to make, ordain and establish all such by-laws, rules and regulations as may be deemed expedient and necessary to fulfill the purposes and carry into effect the provisions of this act, and for the well ordering and securing the affairs and interests of said company: *Provided*, That the same be not repugnant to the Constitution of the United States and the laws of this Territory. This act, and all by-laws that may be adopted by the directors of said company, and all additions thereto, and alterations thereof, shall, from time to time, be printed in a convenient form, and be distributed among the stock holders of said company. By-laws and regulations

Sec. 12. The stock of said company shall be deemed personal estate, and shall be transferable in the manner and under such restrictions and conditions as may be provided by the by-laws of said company. And it is hereby further provided, that twenty per cent. of the original capital stock of said company shall be denominated unassessible stock, which stock shall not Stock deemed personal estate

be liable, by any by-laws or rules, and regulations of said company, to be assessed for the construction, equipment or management of said road, or in any manner taxed by said corporation. The balance of said original stock, and all other stock created under the privileges of this charter, by said company, shall be chargeable and liable to be assessed, pro rata, for the expenses incurred in the construction and equipment of said road.

Majority may
call meeting of
stockholders

Sec. 13. It shall be lawful for a majority of the persons named in this act, or their successors, by giving thirty days notice, stating the objects, to call a meeting of the stockholders of said company, and the secretary of said company shall certify said call, and record the same, as well as all matters that may be transacted under said call in a suitable book provided for such purpose.

May unite with
other roads

Sec. 14. Said company shall have power to unite its road, in whole or in part, with the transit railroad of Minnesota, or any other railroads either in this Territory or in the States of Minnesota, Wisconsin, Iowa, Illinois, Indiana, Michigan, Ohio, New York, or the Territory of Nebraska, and to grant to any such company or companies the right to construct, operate or use this line of road, and to lease its right of way and franchise, together with its equipments, rolling stock, furniture and materials used in constructing or operating said road, and authorize such railroad company or companies to complete, finish, use and operate such line of roads so purchased or leased, upon such terms as may be mutually agreed between the said company or companies, or may consolidate the capital stock with the capital stock of any rail road company or companies, with which it shall intersect, and shall have power to place the road of said company and its capital stock so consolidated, under the direction of a board of directors of not less than five persons, who shall be chosen from the stockholders of the company so consolidated, not less than two of which shall have been members and stockholders of the company so consolidated previous to its consolidation as aforesaid.

Notices to be
published

Sec. 15. Notice shall be published in at least one newspaper printed in the Territory, for the election of directors and calls for instalments be made upon the capital stock, and all meet-

ings of stockholders, all matters intended for the action of stockholders by the directors or stockholders authorized to call meetings, shall be published in the notice given for the meeting before which said matters will be brought.

Sec. 16. The said corporation shall be bound to repair all public highways or bridges which may be injured in constructing said railroad, and shall restore them, as far as practicable, to as good condition as they were before they were injured.

Shall repair
highways and
bridges

Sec. 17. Said company are hereby authorized to take and receive from the several subscribers to said capital stock, money, labor, materials and locomotives, or other articles adapted to the construction or operation of said railroad, or any property that, in the opinion of the board of directors, may be exchanged or converted to such use, and upon receiving full payment in manner aforesaid, of such subscription of stock, may be issued to such subscriber or subscribers certificates therefor.

To receive sub-
scriptions

Sec. 18. The company shall be allowed five years from the passage of this act for the commencement of said road; and in case said road shall not be completed in ten years thereafter, the privileges herein granted shall be forfeited.

Time allowed
for commence-
ment and com-
pletion

Sec. 19. This act shall be construed beneficially for all purposes herein specified or intended, and shall be deemed and taken as a public act.

Sec. 20. This act shall take effect and be in force from and after its passage.

Take effect when

Approved, January 9, 1864.