

## CHAPTER 200.

## AN ACT CONFIRMING CERTAIN RIGHTS UPON THE DULUTH STREET RAILWAY COMPANY.

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

SECTION 1. That the Duluth Street Railway Company, a corporation organized and existing under the general railroad law of this state, be and is hereby granted during the term of its charter, the exclusive right and privilege of constructing and operating a single or double track for a passenger railway line with all necessary tracks for turn outs, side tracks and switches in any of the streets of the village of Duluth and its suburbs, including New London and Oneota, and in the roads connecting the same subject to the terms, conditions and forfeitures hereinafter contained, *Provided*, That there is reserved to the council of said village the right within its limits, to restrict the said company to the construction of a single track upon such street or streets as it may deem proper.

SEC. 2. The aforesaid grant is upon the express condition that if the said Duluth Street Railway Company shall fail to construct, equip and have in full operation one (1) mile of said Street Railway within one (1) year after the passage of this act, then and in that case the said Duluth Street Railway Company shall without any act on the part of the state or the village of Duluth, forfeit to the village of Duluth all of the rights, privileges and immunities granted by this act, and is upon the further express condition, that said company shall build and operate a line connecting Rice's point with the central parts of said village, as soon as there shall be an improved street available for that purpose.

SEC. 3. The village council may at any time after the first (1st) day of May, A. D. one thousand eight hundred and eighty-four (1884), designate any line of railway in the said village as a line demanded by the public necessities, and may also designate an extension of any line or lines then existing, and in case said company upon being notified of such designation shall not within such reasonable time as shall be fixed by the village council, construct and put in operation such line, then the village council may charter to any other company the exclusive right to construct and operate a street railway upon the streets or lines of extension so designated.

*Provided*, The foregoing provisions of this section shall apply only to such streets or parts of streets as are suitably improved for street railway purposes, nor shall the rights of said Duluth Street Railway Company, be prejudiced by their failure to construct any such designated lines or extensions within the specified time, unless within two (2) years after such default on their part, the lines or extensions so designated shall have been constructed and put in

operation by some other company duly authorized thereto by said village council.

In case the said Duluth Street Railway Company shall at any time neglect to keep in operation any line of railway which it may have constructed, then upon such reasonable notice as the village council may prescribe, said company shall forfeit the exclusive right herein granted so far as the same pertains to such neglected line; and the village council may grant the exclusive right to any other person or company to build and operate a street railway upon such neglected line, and thereupon the said first named company shall if required by the village council after being notified in writing by the village attorney, remove or cause to be removed the track and other materials of such neglected line within ten (10) days after service of such notice upon the president or secretary of said company.

SEC. 4. The cars to be used upon such tracks shall be propelled either with animal, pneumatic or other power as the said company shall deem most advisable, *Provided*, That no propelling power or machinery of any sort shall be used after it shall prove to be a public nuisance; and said company may connect with any other railway upon which power is used similar to that authorized to be used by the provisions of this section; but no locomotive such as are usually run over the general railways of this state for the transportation of freight or passengers shall be used upon any of said tracks unless authorized by the village council; *Provided*, That the said Duluth Street Railway Company and other street railway company which the council may charter under section three (3) of this act, shall each allow the other to connect with and jointly use such portions of their respective tracks as the convenience of the traveling public may require, upon such equitable terms as may be agreed upon by such companies or as may be determined by the District Court of St. Louis county.

SEC. 5. Said tracks and railway shall be used for the purpose of transporting passengers; and the cars and carriages for that purpose shall be of the best style and class used on such railways in other cities, *Provided*, Said company shall at all times have the right to use their track for transporting iron, ties and other material for constructing their road and keeping the same in repair, and such other purposes as from time to time may be necessary in carrying out any contract or engagement that may be hereafter entered into by and between the village of Duluth and said company.

SEC. 6. The tracks of such railway shall be laid so as to conform to the established grades of the streets on which the same shall be laid, whenever the same may have been granted by the village; but whenever the village shall change the grade of any street or streets or any portion thereof, the said company shall raise or lower the track so as to conform to such change of grade, where the streets are not graded to an established grade, said company shall lay their tracks so as to conform to the grade of such streets.

*Provided*, That they raise or lower the same to the grade when the village shall grade the same or any part thereof; and in case

said village shall at any time pave or otherwise improve the surface of any street along which said railway may run, said company shall pave or otherwise improve the space between the rails of their tracks unless otherwise provided by the village council, so that it shall substantially correspond with the improvement of the street outside said tracks, except that in case other than animal power is used; the company shall be required to pay only so much of the expense of paving the street as is made extra by reason of said railway; *Provided*, Said company shall plank the space between the tracks and on both sides thereof at street crossings whenever required by the street commissioner; and one (1) plank shall be laid on the outside of each rail, and on the inside when it shall be ordered by the village council; and *provided further*, that there is reserved to the city council the right to designate the style of rail to be laid by said company through the streets of the village.

SEC. 7. The said village of Duluth shall not be held liable to said company for any damage that may be occasioned by the breakage of any gas or water pipes or from any delays that may be occasioned by the construction of sewers, laying of water or gas pipes or from the improvement or repair of any street, unless there be unreasonable delay in making such repairs. There is reserved to said village the right to take up and remove the rails of the said road whenever it shall be necessary for the repair or improvement of the streets, or for laying water or gas pipes or sewers, or for other public purposes on the streets on which such rails may be laid, and such repairs or improvements shall be made by the village without unnecessary delay, and the track of said road shall be taken up and relaid by and at the cost of said company whenever the council may require the same to be done.

SEC. 8. The said company may regulate and establish from time to time such rates of fare for the transportation of passengers and freight over its lines of railway as it may deem proper; *Provided*, That the charge for carrying a person including hand baggage from one point to another within the village limits, whether by one or more lines operated by the same company shall not exceed five (5) cents on any one (1) line; *provided further* that there is hereby reserved to the village of Duluth, the right to alter and regulate the rate to be charged by the said company, their successors and assigns, for the transportation of passengers in said village at the expiration of five (5) years from the passage of this act, and every five (5) years thereafter, fixing the same at such rates as the village council may deem just and reasonable, *provided further* that the said council shall not reduce the passenger fare below five (5) cents over any one (1) continuous line, and what shall be considered a continuous line may be designated by the said village council, but that the said council shall not designate any such continuous line of more than three (3) miles in length.

SEC. 9. There is hereby reserved to the village council of Duluth, the right to make all necessary and usual police regulations concerning the operation and management of said street roads, including the cleaning of the tracks of said roads and removal of snow during the continuance of the rights and privileges hereby granted.

SEC. 10. Said tracks shall be laid in the center of the street in all cases where it is practicable to so lay them, and said tracks shall not be laid within twelve (12) feet of the sidewalk upon any street where it is practicable to be avoided; and said company shall keep the space between the rails in proper repair so as not to interfere with travel over the same, and shall keep the same in proper order as to cleanliness at its own cost and expense.

SEC. 11. The cars of said company shall be entitled to the track and in all cases where any team or vehicle shall meet or be overtaken by them upon any of the street railways of said company, such team or vehicle shall give way to such car; nor shall any person wilfully obstruct, hinder or interfere with any of said cars by placing, driving or stopping or causing to be placed or driven or stopped, any team, vehicle or other obstacle in, upon, across, along or near said tracks, or any of them after being notified by the driver or conductor, by the ringing of the car bell or otherwise, and whosoever shall wilfully violate any of the provisions of this section shall upon conviction thereof before any court of competent jurisdiction, be punished by a fine of not more than fifty (50) nor less than five (\$5) dollars and cost of prosecution, and may be imprisoned until such fine and costs are paid, not exceeding thirty (30) days.

SEC. 12. It shall be the duty of the company to furnish and run a sufficient number of cars to accommodate the traveling public on all streets which they shall use and occupy for railroad purposes.

SEC. 13. It shall be the duty of said company to repair any and all damages done to the streets, curbs, sidewalks, gutters or other public property, by the construction or repairing of the tracks along the streets as herein provided for; and further to protect and save harmless the said village of Duluth, against claims or damages arising from the construction or management of the tracks and roads provided for herein.

SEC. 14. Authority is hereby conferred on and said company is hereby required to lay double tracks over and across such bridges as they may cross with any of their lines, when so required by the city council; and such tracks on such bridges, shall be laid in such manner as the said council may direct.

SEC. 15. The cars or carriages of the company shall be run upon and along the tracks of said railway company, in conformity with the following rules and regulations; *Provided*, That nothing herein contained shall be construed as limiting the police powers of the common council of the village, as granted in section nine (9) of this act, to-wit:

(1). No car shall be run within the limits of said village at a greater rate of speed than six (6) miles per hour.

(2). While cars are turning corners or crossing bridges the horses or mules attached thereto, shall not be driven faster than a walk.

(3). Cars driven in the same direction shall not approach each other nearer than a distance of two hundred (200) feet, except in cases of unavoidable necessity or accident, or when cars are near or at stations.

(4). No car shall be left to remain standing on any street at any time unless the same is waiting for passengers, or is unavoidably detained.

(5). No car shall be allowed to stop on a cross-walk or in front of any intersecting street, except to avoid collision or to prevent danger to persons in the street, or to take in or leave off passengers.

(6). The conductors and employees of said company, shall reasonable care and diligence to prevent injury to persons, and on the appearance of danger to any one on or near the track, the car shall be stopped, when by so doing injury may be averted.

(7). All proper care shall be used by conductors and employees to prevent injury to teams, wagons, carriages and other vehicles.

(8). The conductor shall use proper diligence to prevent ladies or children under twelve years of age, from leaving or entering the car while in motion.

(9). Conductors shall announce to passengers in distinct tone the names of all streets crossed as the cars approach the same, and they shall observe the same rule when nearing the track of any other railway company.

(10). No cars shall remain standing on any of the stations more than ten (10) minutes except at each end of the lines, and the stations nearest the passenger depots of any other railway companies, at which excepted stations they may stay a longer time.

SEC. 16. Within thirty (30) days from the passage of this act, said company shall file with the Secretary of state of Minnesota, and with the recorder of the village of Duluth, a written acceptance of the grants hereinbefore made, with the conditions, regulations and limitations above expressed, signed by the president and secretary of said company, and when so accepted the same shall operate as a contract between the state and the village and said company, and upon failure to file such acceptances as aforesaid, then the above grant shall not become operative to vest any rights, privileges and franchises whatever.

SEC. 17. Nothing in the second (2d) paragraph of sub-division eleven (11.) of chapter five (5), of the act entitled an act to define the boundaries of, and establish a municipal government for the village of Duluth, approved March eight (8th), A. D. one thousand eight hundred and eighty-one (1881), shall be construed to authorize the making of any contract or the granting of any rights or franchises inconsistent with the provisions of this act.

SEC. 18. This act shall take effect and be in force from and after its passage.

Approved November 17, 1881.