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THE  
REVISED STATUTES,  
OF THE  
TERRITORY OF MINNESOTA,

PASSED AT THE SECOND SESSION OF THE  
LEGISLATIVE ASSEMBLY,

COMMENCING JANUARY 1, 1851.

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who shall be entitled to receive seventy-five cents for recording the same.

SEC. 3. When such proprietors shall be organized as a corporation in the manner hereinbefore provided, they shall have all the powers and privileges, and be subject to all the duties of a corporation agreeably to the provisions of law regulating corporations, so far as such provisions shall be applicable in such case, and not inconsistent with the provisions of this chapter.

Powers of proprietors.

SEC. 4. The treasurer and collector shall give bond to such corporation, with sufficient sureties to the satisfaction of the president, for the faithful discharge of their duties.

Treasurer and collector to give bond.

SEC. 5. The said proprietors may raise such sums of money by assessment on the shares, as they shall judge necessary for the purpose of preserving, enlarging and using the library; and the shares may be transferred according to such regulations as they may prescribe; and such corporation may hold real and personal estate to any amount not exceeding five thousand dollars, in addition to the value of their books.

Proprietors may raise money, shares transferable.

LYCEUM.

SEC. 6. Any fifteen or more persons in any town or county within this territory, who shall by writing associate for the purpose of mental improvement and the promotion of education, may form themselves into a corporation by the name of the lyceum of (the name of the place where the meetings of the corporation are to be holden,) by calling their first meeting, and being organized in like manner as is provided in this chapter, in the case of library corporations; and every lyceum upon becoming a corporation as aforesaid, shall have, during the pleasure of the legislature, all the like rights, powers, and privileges as the proprietors of such libraries, and may hold real and personal estate, not exceeding six thousand dollars.

How lyceums formed and their powers.

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CHAPTER 39.

OF THE INCORPORATION OF PLANK AND TURNPIKE ROAD COMPANIES.

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How companies formed.

SEC. 1. Any number of persons not less than five, may be formed into a corporation for the purpose of constructing and owning a plank road or a turnpike road, by complying with the following requirements: Notice shall be given in at least one newspaper printed in each county, through which said road is intended to be constructed, of the time and place or places where the books for subscribing to the stock of such road, will be opened; if there be no newspaper printed in the county, then such notice shall be printed in a newspaper at the seat of government; and when stock to the amount of at least five hundred dollars for every mile of the road so intended to be built, shall be in good faith subscribed, and five per cent. paid thereon, as hereinafter required; then the said subscribers may, upon due and proper notice, elect directors for the said corporation, and thereupon they shall severally subscribe articles of association, in which shall be set forth the name of the company, the number of years that the same is to continue, which shall not exceed twenty-five years from the date of said articles, whether it is a plank road or a turnpike which the company is formed to construct; the amount of the capital stock of the company, the number of shares of which the said stock shall consist, the number of the directors and their names, who shall manage the concerns of the company for the first year, and shall hold their offices until others are elected; the place from and to which the proposed road is to be constructed, and each town, city and village into or through which it is intended to pass, and its length as near as practicable.

Subscriptions: to be a body corporate and their powers.

SEC. 2. Each subscriber to such articles of association, shall subscribe thereto his name and place of residence, and the number of shares of stock taken by him in such company; the said articles of association

may, after the provisions of the succeeding section have been complied with, be filed in the office of the secretary of the territory, and thereupon the persons who have so subscribed, and all persons who shall from time to time become stockholders in such company, shall be a body corporate by the name specified in such articles, and shall possess the powers and privileges, and be subject to the provisions contained in the chapter entitled "general provisions relating to corporations."

SEC. 3. Such articles of association shall not be filed in the office of the secretary of the territory, until five per cent. on the amount of the stock subscribed thereto, shall have been actually and in good faith paid in cash to the directors named in such articles, nor until there is indorsed thereon or annexed thereto, an affidavit, made by at least three of the directors named in such articles, that the amount of the capital stock required by the first section of this chapter has been subscribed, and that five per cent. on the amount has actually been paid in; and no stockholder shall be entitled to vote for directors of any company of which he may be a member, or for any other purpose unless all assessments due on his stock, shall be paid before such election.

Five per cent. to be paid in, &c.

No stockholder to vote till all assessments paid.

SEC. 4. A copy of any articles of association, filed in pursuance of this chapter, with a copy of the affidavit aforesaid indorsed thereon, or annexed thereto, and certified by the secretary of the territory, shall, in all courts and places, be presumptive evidence of the incorporation of such company, and of the facts therein stated.

Copy of articles of association to be evidence.

SEC. 5. The business and property of such company shall be managed and conducted by a board of seven directors, who, after the first year, shall be elected annually at such time and place as shall be directed by the by-laws of such corporation; and public notice shall be given of the time and place of holding such election, not less than twenty days previous thereto, in such manner as shall be prescribed by the by-laws of the company; the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy. All elections shall be by ballot; and each stockholder shall be entitled to as many votes as he shall own shares of stock; and the persons having the greatest number of votes, shall be directors. Whenever any vacancy shall happen in the board of directors, such vacancy shall be filled for the remainder of the term, by the remaining directors. The directors shall hold their office for one year, and until others are elected in their places; and no person shall be a director unless he is a stockholder in the company.

Business to be managed by board of directors; how elected.

Vacancies how filled.

SEC. 6. In case it shall happen that an election for directors shall not be held on the day fixed for such election, by the by-laws of such company, such corporation for that reason shall not be dissolved, but it shall be lawful on any other day to hold an election for directors, as shall be provided in the said by-laws; or if there be no such provision, then on some early day to be appointed by the directors then in office; and in all such cases, the same notice of the time and place of holding the election, shall be given as is provided in the preceding section, and all the acts of the directors shall be binding as against such corporation, until their successors shall be elected.

Corporation not dissolved if directors not elected on the day fixed.

SEC. 7. Five directors shall be a board for the transaction of business, and the acts of a majority of the board shall bind the corporation.

Quorum.

SEC. 8. The directors at the first meeting after their election, shall choose by ballot one of their number as president, and they shall supply any vacancy in the office of president, whenever the same shall occur.

Choice of president.

SEC. 9. The president and directors shall have power to make and prescribe such by-laws, rules, and regulations; respecting the transfer of the stock and the management and control of the property, business, and affairs of such corporation, as they may deem proper, and not incon-

Powers of directors and president.

sistent with the constitution and laws of the United States, or of this territory; and shall have power to appoint and employ officers, clerks, agents, and servants, for conducting and carrying on the business of such corporation, and determine their duties, and the salaries and wages to be paid them.

May enter upon and take lands, &c.

SEC. 10. It shall be lawful for such company, their officers, engineers and agents, to enter upon any lands for the purpose of exploring, surveying and locating the route of such road, doing thereto no unnecessary damage, nor locating any such road through any orchard or garden, without the consent of the owner thereof, nor through any buildings or any fixtures or erections for the purposes of trade or manufactures, or any yards or inclosures necessary to the use and enjoyment thereof, without permission from the owners; and when the said route shall be determined by the said company, it shall be lawful for them, their officers, agents, engineers, contractors, and servants, to enter upon, take possession of, and use such lands to the width of four rods, upon their first making payment, at the time and in the manner hereinafter specified, of such compensation as the company may have agreed to pay therefor, or as shall be ascertained in the manner hereinafter directed: *Provided*, That the said corporation shall not in their corporate capacity, hold, purchase, or deal in any lands within this territory, other than the lands on which the said road shall run, or which may be actually necessary for the construction or maintenance thereof, and of the gates, toll houses, and other fixtures connected therewith.

May take lands by purchase or gift, &c.

SEC. 11. Such company so formed may procure, by purchase, or gift, from the owners thereof, any lands necessary for the construction of such road, or for the erection of gates, toll houses, and other fixtures; and may also procure, by agreement, with the county commissioners of any county, the right to take and use any part of any public highway in such county, for the construction of such proposed road, and agree with such commissioners upon the amount of compensation and damages to be paid by such company to such commissioners therefor; every such agreement with the commissioners shall be in writing, and shall be filed in the office of the register of deeds of the county; and such compensation and damages, when paid to the county commissioners, shall be expended by them in improving the highways of such county.

Survey of roads to be made and recorded.

SEC. 12. When any such company shall have procured all the lands necessary to be used for the construction of its road in any county, and the right to take and use such parts of the public highway in such county, as shall be necessary for that purpose, it shall cause an accurate survey of such road to be signed by its president and secretary, and acknowledged by them, as conveyances of real estate are required to be acknowledged, and recorded in the office of the register of deeds of such county; and whenever such company shall have so procured the land, and the right to take and use the parts of public highways necessary to construct its road in any such county, and shall have caused such survey thereof to be made and recorded, said company may construct so much of its road as shall be intended to be constructed in any such county; and so much of any such road as shall be situated in any county, may be embraced in one survey, and recorded as aforesaid.

When parties may appoint appraisers, appraisements how made.

SEC. 13. Whenever it shall be necessary for such company to enter upon and occupy, for the purpose of making said road, any lands, the owners of which shall refuse to permit such entry, or occupation, and such company cannot agree with such owners upon the compensation and damages to be paid for the use of such land, it shall be lawful for the parties to appoint three disinterested persons, residents of the county, to estimate and appraise such compensation and damages; every

such appraisement shall be reduced to writing, and signed by the appraisers, or a majority of them, and a duplicate copy thereof shall be furnished to each of the parties; the expense of said appraisement shall be paid by said company.

Sec. 14. In case such company and the owners of such lands, cannot agree upon the persons to make such appraisement, or if the persons agreed upon shall not decide upon the matter, or if the owners of such land shall refuse, or neglect, within twenty days after being notified thereof, to join in such appointment; or if such owner shall be a married woman, under age, an idiot, non-resident of the territory, or unknown, then the said company shall make application to the judge of the district court of the district in which such lands are situated, specifying the route of the proposed road, and asking for the appointment of three commissioners to appraise damages which any person, or corporation, may sustain, by reason of the construction of such road; and such application shall be signed by a majority of the directors of such company.

When judge to appoint commissioners.

Sec. 15. Upon such application being presented to such judge, he shall fix a time and place when and where he will appoint such commissioners, and shall order a notice thereof to be given to the persons interested in such lands, in such manner as he shall deem proper; and upon satisfactory proof, by affidavit, that such notice has been duly given, he shall appoint three disinterested persons who are residents of the county where such lands are situated, and not owners of real estate in any township through which said road is proposed to be constructed, to act as commissioners for the appraisal of all such damages to their county.

How to appoint same.

Sec. 16. Such commissioners shall, before proceeding to make such appraisal, be furnished with a map and a description of the lands to be appraised, together with the names and residences of the persons or corporations owning or having any interest therein, so far as the same can be ascertained; and such commissioners, shall by an order under their hands, appoint a time and place for the ascertaining and determining the amount of damages to which any owner of the land may be justly entitled; notice whereof shall be served not less than twelve days previously on the party interested in the lands, or damages to be appraised, in such manner as the commissioners shall in, and by their order direct; and on the day so appointed, the said commissioners shall meet in pursuance of said order, and having organized by taking and subscribing an oath or affirmation to be administered by any officer, authorized to administer oaths, justly and impartially, to appraise the lands required for the use of said company for such road in their county, and to award the compensation and damages which ought justly to be paid for the same to the owners thereof, and faithfully to perform their duty as such commissioners according to law and the best of their judgment and ability; they shall proceed to hear the parties and view the lands to be appraised in each case, and after hearing the proof and allegations of the parties, they or a majority of them agreeing, shall make up and sign their awards of the damages, embracing therein a description of the land in respect to which it is found, and such award may include assessment of damages to one or more persons, and shall be acknowledged by the commissioners before some officer authorized to take the acknowledgment of deeds, and filed in the office of register of deeds of the county in which the damages were assessed, or the land appraised shall be situated: *Provided*, That the said commissioners shall in no case make an award of damages, or other determination until said company shall have produced satisfactory proof by affidavit, that the notice of the meeting of the commissioners has been given as prescribed in this section, and such

Proceedings of commissioners in assessing damages.

affidavit shall be attached to and filed with the award or determination of such commissioners.

When commissioners to appoint for others in certain cases.

SEC. 17. If any person interested in lands, or damages to be appraised by such commissioners, shall be a married woman, under age, an idiot, insane person, non-resident of this territory, or shall be unknown, and there shall be no one duly authorized by law to act instead of any such person; the said commissioners on being applied to for that purpose by the said company, shall be authorized and required to appoint, and by an order in writing to be made and signed by them, some competent and suitable person who will consent to act, to take care of the interests of such interested person in respect to the proceedings to ascertain such damages; and all such notices as are required to be served on any owner or interested person residing in such county, shall be served upon the person so appointed in like manner, and with the like effect, as if served on the owner or person interested; but any person so appointed to take care of the interests of any non-resident or unknown person, may be superseded by him.

Persons appointed, how to be regarded.

SEC. 18. In all cases of the appraisal of lands authorized by this chapter, or of damages and every proceeding in relation thereto, in which the appointment of a person shall have been made in accordance with the provisions of the preceding section, the person so appointed shall be regarded and treated in all respects as a party representing the interests of the person persons owning or interested in the land; or damages appraised; and all proceedings in such cases shall be effectual and conclusive upon the party represented, by the person so appointed.

Powers and duties of commissioners.

SEC. 19. Whenever such commissioners shall have met together to make an appraisal of damages, agreeably to the provisions of this chapter, and shall have taken the oath in such case required, they shall have authority to adjourn their meetings from time to time, as deemed proper, and to issue subpoenas requiring the attendance of necessary witnesses; and each of the said commissioners is authorized to administer the proper oath or affirmation to such witnesses as may be examined before them, and to take any affidavit relating to the proceedings in any appraisal of damages which they may be called upon to make; and it shall be the duty of such commissioners to keep minutes of their proceedings, in making any appraisals, and to deposit the same, together with their awards of damages, and all papers used before them relating thereto, in the office of the register of deeds of the county where the lands appraised shall be situated, or the damages shall be awarded. The said commissioners shall be entitled to two dollars a day for their services while attending to the duties required of them in this chapter, which shall be paid by the company.

Their fees.

Subpoenas may be issued.

SEC. 20. On application of any party interested, any judge, or justice of the peace, may issue a subpoena, requiring witnesses to attend before such commissioners; and such subpoena shall have the same force and effect, and the witnesses duly subpoenaed by virtue thereof, and refusing or neglecting to obey the same, shall be subject to the same penalties and liabilities, as if such subpoena were issued from a court of record in a suit pending therein.

Appeal allowed.

SEC. 21. Either party feeling aggrieved by any such appraisal of land, or damages, is authorized to appeal therefrom, within thirty days from the time of being notified of such appraisal, to the district court of the county in which the said appraisal is made, by a notice in writing to that effect, to be served upon the opposite party.

When company shall pay the damages appraised and take the land.

SEC. 22. Within forty days after the making of any award, by the commissioners appointed to appraise damages, if an appeal from such award shall not have been taken, the company shall pay to the person entitled to receive the same, the amount thereof, or shall make a

legal tender thereof to him; if he shall refuse to receive the same, the company may thereupon enter upon the land, in respect to which such award was made, and take and hold the same, to it, and its assigns, so long as it shall be used for the purposes of such a road as such company was formed to construct.

SEC. 23. If any person entitled to receive the amount of any such award, be not a resident of this territory, or cannot be found therein, the company may furnish to the judge of the district court for the county in which such award shall be made, satisfactory proof of such fact, and he shall thereupon make an order that the amount of such award shall be paid to the treasurer of the county in which the lands lie, in respect to which such award was made, for the use of such owner; and that notice of such payment shall be given by publishing the same once in each week for six successive weeks, in a newspaper published in the county, if there be one published therein, if not, then such publication shall be made in some newspaper published at the seat of government; on satisfactory proof being made to the said judge, within three months from the time of making the last mentioned order, of such payment and publication, he shall make an order authorizing the company to take and hold the land in respect to which said award was made; which shall have the same effect as if such payment had been made to the owner personally. The affidavits and orders mentioned in this section, and all other affidavits and orders made, and precepts issued, in the course of the proceedings under this chapter, in relation to the acquisition of the land to be used for such roads, shall be filed in the office of the register of deeds of the county; and all such orders, and the awards of the commissioners, shall be recorded by such register in the records of deeds, at the expense of such company.

When award may be paid county treasurer.

Affidavits and orders to be filed and recorded.

SEC. 24. If any owner shall appeal to the district court, from the decision of the commissioners, the company, upon depositing the amount of the award sought to be set aside, in such manner as the judge of the said district court shall, upon hearing the parties, direct, in trust that the same, or so much thereof as the said owner shall be entitled to receive, shall be paid to him on demand, and on giving such security by bond as the said judge shall approve for the payment to such owners of any sum which he may be entitled to receive from the company, in respect to the land in question, by reason of any verdict, or the judgment of any court for such compensation, damages, and costs, the company may enter upon and use such lands for the purpose of such roads; but the title of the owners thereof shall not be divested until the payment or legal tender to him of the whole amount, which he shall be entitled to receive from the company for such compensation, damages and costs; and on such payment or tender being made, the said company shall be entitled to take and hold such land, to it and its assigns, so long as the same shall be used for the purposes of such a road as such company was formed to construct.

When and how in cases of appeal, company may take lands.

SEC. 25. Every plank road made by virtue of this chapter, shall be laid out at least four rods wide, and shall be so constructed as to make, secure and maintain a smooth and permanent road, the track of which shall be made of timber, plank, or other hard material; so that the same shall form a hard and even surface, and be so constructed as to permit carriages and other vehicles conveniently and easily to pass each other; and also, so as to permit all carriages to pass on and off, where such road is intersected by other roads.

How plank roads to be constructed.

SEC. 26. Every turnpike road that shall be constructed by virtue of this chapter, shall be laid out at least four rods wide, and shall be bedded with stone, gravel, or such other material as may be formed on the line thereof, and faced with broken stone or gravel, so as to form a hard

Turnpike roads how to be constructed.

and even surface, with good and sufficient ditch on each side whenever the same are practicable; the arch or bed of such road shall be at least eighteen feet wide, and shall be so constructed as to permit carriages and other vehicles conveniently to pass each other, and to pass on and off such turnpike where it may be intersected by other roads.

When toll gates may be erected on plank roads; rates of toll.

SEC. 27. Whenever any plank road company shall have completed the road, or any five consecutive miles thereof, the said company may erect one or more toll gates upon their road, but not within three miles of each other, and may demand and receive toll not exceeding two cents per mile for any vehicle drawn by two animals; and for any vehicle drawn by more than two animals, one cent per mile for every additional animal; for every vehicle drawn by one animal, one cent per mile; for every score of sheep or swine, and for every score of neat cattle, one cent per mile, and in the same proportion for any greater or less number of cattle, sheep or swine, for every horse and rider, or led horse, three fourths of a cent per mile.

Same of turnpike roads.

SEC. 28. Whenever any turnpike road company shall have completed their road, or any five consecutive miles thereof, the said company may erect one or more toll gates upon their road, but not within three miles of each other, and may demand and receive toll not exceeding the following rates: For every vehicle drawn by one animal, three quarters of a cent per mile; for every vehicle drawn by two animals, one and a half cents per mile; for every vehicle drawn by more than two animals, one quarter cent additional a mile, for every animal more than two; for every score of neat cattle, one cent a mile; for every score of sheep or swine, one-half cent a mile, and in the same proportion for any greater or less number of neat cattle, sheep or swine; for every horse and rider, or led horse, one-half cent a mile.

Who exempt from paying toll.

SEC. 29. No tolls shall be collected at any gate of any company incorporated under this chapter, from any person passing to or from public worship, or a funeral, or from any person going for a physician, or returning from such errand, or from any person going to or returning from any court, when legally summoned as a juror or witness, or from any person going to a town meeting or election, at which he is entitled to vote, for the purpose of giving such vote, and returning therefrom; or from farmers going to and from their work on their farms; and no more than half the rate of toll provided for in this chapter, shall be taken from persons living within one mile of the gate at which the toll is taken.

When and how location of gate may be changed.

SEC. 30. The commissioners of any county in which a toll gate may be located, on any such road, whenever they or a majority of them, shall be of opinion that the location of such gate is unjust to the public interests, by reason of the proximity of diverging roads, or for other reasons, may, by giving at least fifteen days written notice to the president or secretary of said company, apply to the district judge of the county in which such gate is located, for an order to alter or change the location of such gate, the said judge on such application being made, and on hearing the respective parties, and on viewing the premises, if he shall deem such view necessary, shall make such orders in the matter as to him may seem just and proper; and either party may, within fifteen days thereafter, appeal from such order to the district court of the county, on giving such security as the district judge shall require; such order, unless appealed from, shall be observed by the respective parties, and may be enforced by attachment or otherwise, as the said court shall direct; and if appealed from, the decision of the district court, shall be final in the matter, and the said district court may direct the payment of costs in the premises, as shall be deemed just and equitable.

Appeal allowed.

When and how instalment required to be paid.

SEC. 31. The directors of any company incorporated under this chapter, may require payment of the sums subscribed to the capital

stock at such times, and in such proportion, and on such conditions as they shall see fit, under the penalty of the forfeiture of the stock and all previous payments thereon; and they shall give notice of the payment thus required, and of the place and time where and when the same are to be made, at least thirty days previous to the payment of the same, in one newspaper printed in each county, in or through which the said road is located, or by sending such notice to each stockholder by mail directed to him at his usual place of residence.

SEC. 32. The shares of any company formed under this chapter shall be deemed personal property, and may be transferred as shall be prescribed by the by-laws of such company. The directors of any such company may, at any time, with the consent of a majority in amount of the stockholders in such company, provide for such increase of the capital stock of such company as may be necessary to finish the making of a road actually commenced and partially constructed.

Shares to be personal property; capital stock may be increased.

SEC. 33. Within thirty days after the formation of any company, by virtue of this chapter, the directors thereof shall designate some place within a county, in which, according to the articles of association of such company, its road, or some part thereof, is to be constructed, as the office of such company, and shall give public notice thereof by publishing the same in a newspaper published in such county, if any there be, if not then in a paper published at the seat of government; which publication shall be continued once in each week for three successive weeks; and shall file a copy of such notice in the office of the clerk of the district court of every county in which any part of such road is constructed, or is to be constructed; and if the place of such office shall be changed, like notice of such change shall be published, and filed as aforesaid, before it shall take place, in which notice the time of making the change shall be specified; and every notice, summons, declaration, or other paper, required by law to be served on such company, may be served by leaving the same at such office, with any person having charge thereof, at any time between nine o'clock in the forenoon and noon, and between two and five o'clock in the afternoon of any day except Sunday.

Notice to be given; where office to be kept.

SEC. 34. It shall be the duty of the directors of any such company, to cause a book to be kept by the secretary, treasurer, or clerk thereof, containing the names of all persons, alphabetically arranged, who are, or shall within six years, have been stockholders of such company, and showing their places of residence, the number of shares of stock held by them respectively, and the time when they respectively became the holders of such shares, and every transfer of stock actually paid in; which book shall, from nine o'clock in the forenoon until noon, and from two o'clock in the afternoon until five, on every day except Sunday, be open for the inspection of all persons who may desire to examine the same, at the office of such company; and any and every person shall have the right to make extracts from such book; and no transfer of stock shall be valid for any purpose whatever, except to render the person to whom it shall be transferred, liable for the debts of the company, according to the provisions of this chapter, until it shall have been entered therein, as required by this section, by an entry showing to and from whom transferred; such book shall be presumptive evidence of the facts therein stated, in favor of the plaintiff, in any suit or proceeding against such company, or against any one or more stockholders, or against such company and one or more stockholders jointly. Every officer, or agent, of such company, who shall neglect to make any proper entry in such book, or shall refuse, or neglect, to exhibit the same, or allow the same to be inspected, and extracts to be taken therefrom, as provided by this section, shall be deemed guilty of a mis-

When papers may be served on company.

Book to be kept by secretary; what to contain and to be kept open.

Book to be evidence.

Penalty for neglect.

demeanor; and the company shall forfeit and pay to the party injured, a penalty of fifty dollars for every such neglect, or refusal, and all the damages resulting therefrom; and every company that shall neglect to keep such a book open for inspection, as aforesaid, shall forfeit and pay the sum of fifty dollars for every day it shall so neglect; to be sued for and recovered in the name of the United States, by the district attorney of any county in or through which the road of such company shall be constructed, for the use of such county.

Individual liability of stockholders.

SEC. 35. The stockholders of every company incorporated under this chapter, shall be liable in their individual capacity, for the payment of the debts of such company, for an amount equal to the amount of the stock they have severally subscribed, or hold in said company, over and above such stock to be recovered of the stockholder, who is such, when the debt is contracted, or of any subsequent stockholder; and any such stockholder who may have paid any demand against such company, either voluntarily or by compulsion, shall have a right to resort to the rest of the stockholders, who were liable to contribution; and the dissolution of any company, shall not release or affect the liability of any stockholder, which may have been incurred before such dissolution.

Contribution may be compelled.

Debts of company not to exceed certain sum.

SEC. 36. The debts and liabilities of any company formed under this chapter, shall not exceed in amount at any one time, fifty per cent of the amount of its capital actually paid in; and if such debts and liabilities shall at any time exceed such amount, the stockholders who were such at the time, any excess of debts or liabilities shall be created or incurred, shall be jointly, and severally, individually liable for such excess, in addition to their other individual liability, as provided in this chapter.

Stockholders may be made joint defendants with company.

SEC. 37. In any action against any company formed under the provisions of this chapter, the plaintiff may include as defendants any one or more of the stockholders of such company, who shall by virtue of the provisions of this chapter, be claimed to be liable to contribute to the payment of the plaintiff's claim, and if judgment be given against such company in favor of the plaintiff for his claim or any part thereof, and one or more of the stockholders, so made defendants, shall be found to be liable as aforesaid, judgment shall also be given against him or them, and shall show the extent of his or their liability; and the execution upon such judgment shall direct the collection of the sum for which it may be issued, of the property of such company liable to be levied upon by virtue thereof; and in case such property sufficient to satisfy the same cannot be found in the county of the officer to whom the same shall be directed, that the deficiency, or so much thereof as the stockholders who shall be defendants in such judgment shall be liable to pay, shall be collected of the property of such stockholders respectively; and if in any such action any one or more of such stockholders shall be found not to be liable for the demand of the plaintiff or any part thereof, judgment shall be given for the stockholders so found not to be liable; but, no verdict or judgment in favor of any such stockholders, shall prevent the plaintiff in such action from proceeding therein, against the company alone, or against it, and such defendants, who are stockholders, as shall be liable for such demands, or some portion thereof. Suits may be brought against one or more stockholders who are claimed to be liable for any debt owing by the company or any part of such debt, without joining the company in such suit; but no such suit shall be so brought until judgment upon the demand shall have been obtained against the company, and execution thereon returned unsatisfied, in whole or in part, or until the company shall have been dissolved, but it shall not be necessary that such dissolution shall have been declared by

How execution to be issued.

Judgment for stockholders not liable.

When suit may be brought against stockholders without,

any judicial decree, sentence or determination; and in such suit there may be a verdict and judgment in favor of any defendant not liable as aforesaid; but such verdict and judgment shall not prevent the plaintiff in such suit from proceeding thereon, against any defendant who shall be liable as aforesaid.

SEC. 38. The directors of every company formed under the provisions of this chapter, shall report annually to the secretary of the territory, under the oath of two such directors, the cost of constructing their road; the amount of all moneys expended; the amount of their capital; how much of the same is paid in; and how much is actually expended; the whole amount of tolls or earnings expended on such road, the amount received during the previous year for tolls, and from all other sources; stating each separately; the amount expended, the amount of dividends made; the amount set apart for repairs, and the amount of indebtedness of such company; specifying the object for which the indebtedness accrued.

Directors to report annually; what report to contain.

SEC. 39. The justices of the peace in each precinct in which there shall be any plank or turnpike road, shall be inspectors of roads within their precincts; and whenever a complaint in writing to any two justices of the peace of the same precinct, that any part of any such road in their precincts is out of repairs, they shall without delay view and examine the road complained of; and if they find such complaint to be just, they shall give notice in writing of the defect to the toll gatherer or person attending the gate nearest the place out of repairs, and may in their discretion order such gate to be thrown open; but such justice shall not order such gate to be thrown open unless a notice in writing shall have been served on the gate keeper nearest the place out of repair, particularly describing such place, at least three days previous to making such order.

Justices of the peace to be inspectors; when may order gate thrown open.

SEC. 40. Notice of such order shall be served on such gate keeper, and immediately thereafter, the gate ordered to be thrown open, shall be opened; nor shall it be again shut, nor shall any toll be collected thereat, until two justices of the peace of the precinct where such road shall have been out of repairs, shall grant a certificate that such road is in sufficient repairs, and that such gate ought to be closed.

When gate shall be thrown open.

SEC. 41. Whenever any part of such road shall be out of repair, and the gate nearest to the place out of repair is situated in an adjoining county, any two justices of the precinct in such adjoining county where such gate may be, upon complaint made to them in writing, shall view and examine the road complained of, and proceed thereon as provided in the thirty-ninth section of this chapter, in like manner as if the portion of road complained of, was within the precinct where such gate is situated.

When place out of repair is nearest to gate in adjoining county.

SEC. 42. Whenever any toll gate shall be ordered to be thrown open, as provided in the preceding section, or whenever such justices shall refuse to grant a certificate that the road complained of is in sufficient repairs, the company owning such gate, or the gate keeper attending the same in their behalf, may appeal from the order or decision of such justices, to the district judge of the same district where such such justices reside, by delivering a statement in writing of their order or decision, and of such appeal verified by affidavit to such judge; and thereupon such district judge shall forthwith proceed to view and examine the road complained of, and may reverse or confirm the order or decision of such justices, respecting the same; and if he shall reverse their order or decision, then such gate may be closed, but if he shall confirm the same, then such gate shall not be closed until such district judge shall grant a certificate that such road is in sufficient repair.

How and when company may appeal.

Powers and duties of Judge thereon.

Penalty on gate keeper for certain offences.

SEC. 43. Every keeper of a gate ordered to be thrown open, who shall not immediately obey such order, or who shall not keep open such gate until a certificate permitting it to be closed, shall be granted, or who, during the time such gate ought to be open, shall hinder or delay any person in passing, or take or demand any toll from any person passing, shall, for each offence, forfeit the sum of ten dollars to the party aggrieved.

Fees of justices of the peace, and by whom paid.

SEC. 44. To each justice of the peace who shall view a plank or turnpike road, upon complaint made to him, and to each district judge for the like service, shall be allowed the sum of one dollar and fifty cents for each day spent by him in the performance of such duty, and if the road viewed, shall be adjudged out of repair, such fees shall be paid by the company to which the road shall belong; otherwise they shall be paid by the party making the complaint.

How collected; when payable by company.

SEC. 45. Such fee, when payable by the company, shall be paid by the toll gatherer nearest that part of the road adjudged out of repair, on demand, and out of the tolls received, or to be received by him, and may be recovered with costs, of such toll gatherer, if he shall neglect or refuse to make such payment.

Penalty on toll gatherer for delaying travelers.

SEC. 46. Every toll gatherer, who at any such gate shall unreasonably hinder or delay any traveler or passenger, or shall demand and receive from any person more toll than by law he is authorized to collect, shall, for each offence, forfeit the sum of five dollars to the person aggrieved.

When judgment against toll gatherer may be recovered of company.

SEC. 47. Whenever a judgment is obtained against a toll gatherer for a penalty, or for damages for acts done or omitted to be done by him in his capacity of toll gatherer, and goods and chattels of the defendant to satisfy such judgment, cannot be found, it shall be paid by the corporation whose officer he shall be; and if on demand, payment be refused by such corporation, the amount of such judgment may be recovered, with costs, of such corporation.

Rates of toll to be posted at each gate.

SEC. 48. It shall be the duty of the directors of every such company, to affix and keep up, at or over each gate, in a conspicuous place, so as to be conveniently read, a printed list of the rates of toll demandable at such gate.

When gate keeper may detain.

SEC. 49. Each toll gatherer may detain and prevent from passing through his gate, all persons riding, leading, or driving animals or carriages subject to toll, until they shall have paid respectively the tolls authorized by law.

Corporation liable for not keeping road in repair.

SEC. 50. Any such corporation shall be liable for all damages that may be sustained by any person or persons, in consequence of neglect or omission to keep such road in good condition and repair.

Penalty for injury to road, &c.

SEC. 51. If any person shall wilfully obstruct, break, injure or destroy any road constructed under the provisions of this chapter, or any work, building, fixture, or toll gate attached to, or in use upon the same, belonging to said company, such person so offending, shall, for every such offence be deemed guilty of a misdemeanor, and shall be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year.

Penalty for passing or avoiding gate without paying toll.

SEC. 52. Any person who shall forcibly or fraudulently pass any toll gate erected on such road, in pursuance of this chapter, without having paid the legal toll, and any person, who, to avoid the payment of legal toll, shall, with his carriage or horse, or other vehicle or animal liable to toll, turn out of such road or pass any gate thereon, or ground adjacent thereto, and enter again in such road, shall, for each offence, be liable to a fine not exceeding ten dollars.

When company shall cease to exist.

SEC. 53. Every company incorporated under this chapter shall cease to be a body corporate;

1. If within two years from the filing of their articles of association, they shall not have commenced the construction of their road, and actually expended thereon, at least ten per cent of the capital stock of such company, and,

2. If within five years from such filing of the articles of association, such road shall not be completed according to the provisions of this chapter.

SEC. 54. All companies formed under this chapter, shall at all times be subject to visitation and examination by the legislature or by a committee appointed by either house thereof, or by any agent or officer in pursuance of law; and the courts of this territory shall have the same jurisdiction over such corporations and their officers as over those created by special acts.

Companies liable to visitation, &c.

SEC. 55. The legislature may at any time establish rules and regulations for the government of any such corporation in relation to such road, the use of the same, and rates of tolls to be collected thereon; and may alter, amend or repeal this chapter, or may annul and disfranchise any corporation formed or created under the same.

Power of legislature over companies.

SEC. 56. No company or corporation, shall under any pretence whatever, exercise any banking powers, under a penalty of forfeiture of their rights under the provisions of this chapter.

Not to exercise banking powers.

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CHAPTER 40.

OF CORPORATIONS FOR MANUFACTURING, MINING, LUMBERING, AGRICULTURAL, MECHANICAL, AND CHEMICAL PURPOSES.

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SECTION

1. How corporation may be formed.
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3. To be a body corporate, and their powers as such; limitation of amount of land to be held by each stockholder.
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5. Notice of elections, &c.
6. Elections to be by ballot; who entitled to vote, &c., vacancies how filled.
7. Corporation not dissolved by failure to elect trustees; election may be held on any other day.
8. Power of trustees to make by-laws, appoint officers, &c.
9. Trustees may make calls of stock; proceedings in case of failure to pay same.
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SECTION

12. When stockholders personally liable for all other debts of the corporation.
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14. Who to represent stock held in trust, and who on pledge.
15. Stock to be paid in money, and same not to be loaned to stockholders.
16. Legislature may amend or repeal law of incorporation, &c.
17. Corporations may increase or diminish their capital stock; existing corporations may organize under this chapter.
18. How notice to be given in such cases.
19. Proceedings in such cases, &c.
20. Trustees to cause book to be kept; same to be kept open, and all transfers of stock to be entered therein; penalty on officers and company for neglect, &c.
21. Not to exercise banking powers.

SEC. 1. Any three or more persons, desirous of forming a corpo-