

but such appeal shall not prevent the promotion of the work on said road; provided, further, the said company shall first have paid or tendered, the amount adjudged by said jury, and in no case when the appeal shall be taken by the owner, his agent or guardian shall the company be liable for costs unless [161] such appellant recover a larger amount of damages than was first awarded.

SEC. 9. Purposes. The right of way acquired by this act may be retained for any of the purposes contemplated in the articles of incorporation of said company, but for no other.

SEC. 10. Agent. Any of the notices aforesaid if served on an known agent of the proprietor of the land are to have the same effect as if served on the principal.

SEC. 11. Fees—paid by company. The sheriff and jurors are entitled to the same compensation as is provided for in similar cases for like service; and all the expenses caused by the proceedings above authorized must be paid by the company.

SEC. 12. Take effect. This act shall take effect and be in full force from and after its publication in the Iowa Statesman at Fort Madison and the Iowa True Democrat at Mount Pleasant, Henry county. The costs of said publication to be paid by said company.

Approved, February 5th, 1851.

CHAPTER 65.

RIGHT OF WAY.

AN ACT granting the Port Louisa, Wapello and Virginia Grove Plank Road and Bridge Company the right of way.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Right of way—bridge the Iowa river—must not obstruct. That the Port Louisa, Wapello and Virginia Grove plank road and bridge company, is hereby authorized to lay out and construct a plank road from Port Louisa in Louisa county, through Wapello to Virginia Grove in said county, on such ground as may be deemed suitable for that purpose including any portion of the public highway; provided, the traveling on such highway is not thereby interrupted; and erect a bridge across the Iowa river at Wapello; provided, said bridge is so erected as not to interrupt materially the navigation of said Iowa river.

SEC. 2. Width—private property. The quantity of ground to be thus taken shall not [162] exceed sixty feet in width, and when private property is thus taken a fair equivalent must be paid therefor, before the property can be appropriated by the company.

SEC. 3. Damages how obtained. When the proprietor of any land thus taken is legally competent to act for himself and has received personal notice of the laying out of the road through his land, he must within ten days after receiving such notice, apply to the sheriff of said county for a jury to assess the amount of damages he may sustain, or he shall be held to have accepted of the largest amount of damages offered, and on the payment or tender of which sum the company is entitled to a deed for the right of way.

SEC. 4. Minors, etc. If the proprietor of the land is a minor or otherwise incompetent to act for himself, or if he has not been personally served with notice of the laying out of the road as aforesaid, the jury aforesaid must be called for by the company.

SEC. 5. Jury. When called upon in either of the above methods the sheriff must as soon as practicable summons seven persons competent to act as jurors between the parties and not interested in a similar question, to meet at a suitable time and place of which time and place notice must be given to the parties or their agents or guardians unless they are already acquainted with the facts.

SEC. 6. Panel. At the time appointed if the requisite number of qualified jurors do not appear the sheriff must complete that number; the parties then (commencing with the agents of the company) shall in turn proceed to strike off one juror each until only three remain.

SEC. 7. Agree. If either party fails to strike off jurors in the manner aforesaid the sheriff shall do the same in his place; but nothing herein contained is intended to prevent the parties from agreeing upon any modification of the proceedings herein prescribed.

SEC. 8. Jury assess—payment—deed—appeal—not delay. The three jurors so elected must then proceed to examine the ground and decide upon the amount of damages that should be paid by the company for the right of way aforesaid, and upon the payment of which amount the company is entitled to a deed for the right of way: provided, that either party dissatisfied with the decision of the jury shall [163] have the right to appeal to the district court of the county wherein said land is situated at any time within thirty days from the making of said decision, but such appeal shall not prevent the prosecution of the construction of said road: provided, the company shall first have paid or tendered the amount adjudged by said jury, and in no case shall the company be liable for costs on an appeal unless the appellant recover a greater amount of damages than first awarded.

SEC. 9. Purposes. The right of way acquired by virtue of this act may be retained for any of the purposes contemplated in the articles of incorporation of the company, but no other.

SEC. 10. Agent. Any of the notices aforesaid if served on an agent of the proprietor of the land, are to have the same effect as if served upon the principal.

SEC. 11. Fees—how paid. The sheriff and jurors are entitled to the same compensation as is provided for in similar cases for similar services, and all the expenses caused by the proceedings above mentioned must be borne by the company.

SEC. 12. Ground for bridge—ferry landing. That for the purpose of erecting said bridge; said company is authorized at the place of erecting said bridge, to take additional ground to the above not to exceed six hundred feet back on, and the same distance up and down the banks of said river; provided that the land so taken shall not interfere with the landings of any authorized ferry.

SEC. 13. Toll. That so soon as said bridge is completed, said company is authorized to take toll for passage over the same, not to exceed the amount which ferries at the said town of Wapello are authorized now to take.

SEC. 14. Fast driving. That persons passing over said bridge at a faster gait than authorized by said company, shall be liable to said com-

pany in damages in accordance with notices put up in conspicuous places on said bridge.

SEC. 15. Take effect—proviso. This act shall take effect from and after its publication in the Louisa county times; provided said company pays for the publication.

Approved, February 5th, 1851.

[164] CHAPTER 66.

RIGHT OF WAY.

AN ACT to grant to the Junction Rail Road Company the right of way.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Right of way. That there is hereby granted to the Junction Rail Road Company, and to their assigns, the right of way, one hundred feet wide, for their rail road from Dubuque, to intersect the Camanche and Council Bluffs rail road, at or near Cedar river, in Cedar county.

SEC. 2. May be obtained in writing—if owner refuse, judge to appoint three freeholders—damages—company pay to clerk—appeal. That in obtaining the right of way for their said rail road over and across the lands of individual proprietors, the said company and their representatives, may provide in the manner following, that is to say, the grant of such right of way from individual owners, resident of the county in which such land is situated, or who has agents or guardians resident as aforesaid, may be obtained in writing over their hands and seal of such proprietors, or of his agent or guardian resident as aforesaid, and neither acknowledging or recording shall be necessary to the validity of such grant; and if the owner of any land on which said road may be located, shall refuse to grant the right of way for said road through his premises, the judge of the district court of said county in which said premises may be situated, shall, on application of either party, appoint three disinterested freeholders of the county, whose duty it shall be to inspect said premises, and assess the damages, if any, which said owner will sustain by the construction of said road, and make report in writing to the clerk of said court, who shall file and preserve the same, and if said company or their representatives, shall at any time before the actual entering upon said lands for the purpose of constructing said road, pay to said clerk, for the use of said proprietor, the sum so assessed and returned to him as aforesaid, they shall thereby be fully justified in constructing and maintaining said road on and across said premises, doing no unnecessary injuries to said lands; provided, that either party dissatisfied with the decision of said freeholders, shall have the right to appeal to the district court wherein said lands are situated, at any time within thirty days after said decision; but such appeal shall not delay the prosecution of the work upon said road; provided, the company shall first have paid or tendered the amount adjudged by said freeholders; and in no case shall the company be liable for costs on appeal, unless the appellant recover a greater amount of damages than first awarded; but the company shall in all cases pay costs of suit previous to the appeal.

SEC. 3. Non-residents—four weeks notice in newspaper—owner not applying proceedings same as sec. two. That if upon the location of said road it shall be found to run through the lands of any non-resident proprietor, the