

Full compensa-
tion.
No allowances or
perquisites.

SEC. 2. That the above shall be the only and full compensation to such members, officers, and employees, and no allowance of stationery, postage, newspapers, or other perquisites shall be made, except the stationery necessary for the clerks aforesaid.

Approved, April 24th, 1872.

CH. 219.]

CHAPTER CXIX.

[H. F. 176.]

RIGHT OF WAY.

APRIL 24.

AN ACT to Amend Section 1317, of Chapter 55, of the Revision.

Rev.: § 1317.

Costs in cases of
appeal from
award of free-
holders.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa*, That the following part of section 1317, of chapter 55, of the Revision of 1860, be and the same is hereby repealed, viz.: "In no case shall said corporation be liable for the costs on appeal, unless the owner of such real estate shall be adjudged, and entitled upon the appeal to a greater amount of damages than was awarded by said freeholders," and in lieu thereof the following be substituted, viz.: In cases of appeal, the appellant shall pay the costs of the appeal, unless such appellant recover a more favorable judgment than the appraisement of such freeholders.

Approved, April 24th, 1872.

CH. 220.]

CHAPTER CXX.

[S. F. 160.]

DITCHES, DRAINS, AND WATER COURSES.

APRIL 24.

AN ACT to Provide for locating, establishing, and constructing Ditches, Drains, and Water-courses.

County supervi-
sors in larger
counties, may
construct ditch-
es, drains, or
water-courses,
when.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa*, That the county supervisors of any county, having not less than ten thousand population, shall have power at any regular session, whenever, in their opinion, the same is demanded by, or will be conducive to, the public health, convenience, or welfare, to

cause to be established, located, and constructed, as hereinafter provided, any ditch, drain, or water-course within such county.

SEC. 2. That, before the county supervisors of any county shall take any steps toward locating or establishing any ditch, drain, or water-course, there shall be filed, with the county auditor, a petition from a majority of the resident persons owning land adjacent to the line of such proposed ditch, drain, or water-course, setting forth the necessity of the same, with a description of its proposed starting-point, route, and terminus, and shall at the same time file a bond, with good and sufficient sureties, to the acceptance of the county auditor, conditioned to pay all costs and expenses incurred, in case the supervisors shall refuse to grant the prayer of the petition, and it shall be the duty of the county auditor, immediately thereafter, to place a correct copy of said petition in the hands of the county surveyor, or a competent engineer, who shall thereupon, taking with him the necessary assistance, proceed to make an accurate survey of the route of such proposed ditch, drain, or water-course, and, on completion thereof, shall return a plat or profile of the same to said county auditor, and shall also set forth in his return a description of the proposed route, its availability and necessity, with a description of each separate tract of land through which the same is proposed to be located, how it will be affected thereby, and its situation, and level, as compared with that of adjoining lands, together with such facts as he may deem material. It shall be the duty of the county auditor, immediately on said report being filed, to cause notice in writing to be given to the owner, or one of the owners, of each tract of land along the route of such proposed ditch, drain, or water-course, of the pendency and prayer of said petition, and of the session of the county supervisors at which the same will be heard, which notice shall be served at least ten days prior to said session, and an affidavit of service filed with the county auditor, and in case such owner is not a resident of the county, or should any party or parties in interest die, during the pendency of said proceeding, such death shall not work an abatement of such proceeding, but the county supervisors, on being notified thereof, shall make such order as they may deem proper for giving notice to the person or persons succeeding to the right of such deceased party or parties, and notice of the pendency and prayer of said petition, and the time of hearing the same, shall be given to such owner or persons, by publication for two

Petition.

Bond.

Duty of county auditor.

Survey to be made.

Return.

Auditor to give notice of petition and hearing to owners.

Service of same.

Death of owner not to work abatement.

Notice in such case.

consecutive weeks in some newspaper published and of general circulation in said county.

Sec. 3. That any person or persons claiming compensation for land appropriated for the purpose of constructing any ditch, drain, or water-course, under the provisions of this act, shall make his, her, or their application in writing therefor to the county supervisors on or before the third day of the session, at which the petition has been set for hearing, and on failure to make such application shall be deemed and held to have waived his, her, or their right to such compensation.

Sec. 4. That said county supervisors, at the session set for the hearing of said petition, shall, if they find the requirement of the second section of this act to have been complied with, proceed to hear and determine said petition; and, if they deem it necessary, shall view the premises, and if they find such ditch, drain, or water-course to be necessary, and that the same is demanded by, or will be conducive to, the public health, convenience, or welfare, and no application shall have been made for compensation, as provided in the third section of this act, they shall proceed to locate and establish such ditch, drain, or water-course, on the route specified in the plat and return of said county surveyor, or engineer. But, if any application or applications for compensation, as aforesaid, shall have been made, further proceedings by the county supervisors shall be adjourned till the next regular session; and the county auditor shall forthwith proceed to appoint appraisers to assess and determine the damages and compensation of such claimant, or claimants, who shall proceed in the same manner as is now or hereafter may be provided by law, for the assessment of damages, in the opening of roads and highways; and the compensation so found and assessed, in favor of said claimant or claimants, shall be paid in the first instance by the parties benefited by such improvement, or secured to be paid upon such terms and conditions as the county auditor may deem just and proper; and the said county supervisors shall, at the next regular session after such compensation shall have been assessed, and paid, or secured as aforesaid, proceed to locate and establish such ditch, drain, or water-course, as hereinbefore provided.

Sec. 5. That said county supervisors, whenever they shall have established any such ditch, drain, or water-course, shall divide the same into suitable sections, not less in number than the number of owners of land through which the same may be located, and shall also pre-

Claimants for compensation, when to make application.

Failure to do so a waiver of right.

Hearing.

Determination.

Location of the water-course.

Proceedings to be postponed in case of application for compensation.

Appraisers to assess damages.

Compensation, by whom to be paid.

Board to establish.

Ditch to be divided into sections.

Time for completion of work.

scribe the time within which the work upon such section shall be completed.

SEC. 6. That the county auditor shall cause notice to be given of the time and place of letting, and of the kind and amount of work to be done upon said section, and the time fixed by the supervisors for its completion, by publication for thirty days, in some newspaper printed and of general circulation in said county, and shall let the work upon sections respectively to the lowest bidder therefor; and the person or persons taking such work at such letting shall on the completion thereof, to the satisfaction of the county supervisors, be paid for such work, out of the county treasury, upon the order of the county auditor, as provided in section eight hereof: *Provided*, That, if any person, or persons, to whom any portion of said work shall be let as aforesaid, shall fail to perform said work, the same shall be relet by the county auditor, in manner hereinbefore provided: *Provided, further*, That no water-course shall be so changed as to deprive the owner of any adjacent lands of the benefit thereof, unless the owner shall consent thereto.

Advertisement of letting.

Work to be let to lowest bidder.

Payment of contractors.

Re-letting of work.

Change of water-course.

SEC. 7. The county auditor shall keep a full and complete record of all proceedings had in each case under this act.

Co. auditor to keep record.

SEC. 8. That the auditor and surveyor or engineers shall be allowed such fees for services under this act as the county supervisors shall in each case deem reasonable and allow; and all other fees and costs accruing under this act shall be the same as provided by law for like services in other cases; and all costs, expenses, costs of construction, fees and compensation for property appropriated, which shall accrue and be assessed and be determined under this act, shall be paid out of the county treasury, from the fund collected for that purpose, on the order of the county auditor.

Fees and costs.

How paid.

SEC. 9. The county supervisors shall make an equitable apportionment of the costs, expenses, costs of construction, fees, and compensation for property appropriated, which shall accrue and be assessed and determined under this act, among the owners of the land benefited by the location and construction of such ditch, drain, or water-course, in proportion to the benefit to each of them through, along the line [of], or in the vicinity of, whose lands the same may be located and constructed, respectively. And the same may be levied upon the lands of the owners so benefited, in said proportions, and collected, in the same manner that other taxes are levied and collected for county purposes.

Assessment of expenses of work upon owners benefited.

How collected.

SEC. 10. This act, being deemed of immediate importance, shall take effect from and after its publication in the Iowa State Register, and Iowa State Leader, newspapers printed and published at Des Moines, Iowa.

Approved, April 24th, 1872.

I hereby certify that the foregoing act was published in the *Daily Iowa State Register*, and in the *Daily State Leader*, May 2, 1872.

ED WRIGHT, *Secretary of State.*

CH. 221.] CHAPTER CXXI. [H. F. 302.

SPECIAL ELECTION.

APRIL 24. AN ACT to Amend Section Four hundred and ninety-eight, of the Revision of 1860, in Relation to Special Elections.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That section four hundred and ninety-eight, of the Revision of 1860, be, and the same is hereby, amended to read as follows: If the ballots of any officer are found to exceed the number of the voters in the poll-lists, that fact shall be certified with the number of the excess in the return, and if it be found that the vote of the township where the error occurred would change the result in relation to a county officer, if the person elected were deprived of so many votes, then the election shall be set aside as to him in the township where such excess occurs, and a new election ordered therein, providing that no person or persons residing in another township of the county at the time of the general election shall be allowed to vote at such special election; but, if the error occur in relation to a township officer, the trustees may order a new election or not, in their discretion. If the error be in relation to a district or State officer, the error and the number of the excess are to be certified to the canvassers, and if it be found that the error would affect the result, as above, a new vote shall be ordered in the county where the error happened, and the canvass be suspended until such new vote is taken and returned. When there is a tie vote and such an excess, there shall be a new election as above directed.

Approved, April 24th, 1872.