

hundred and thirty feet in length, and thirty-five feet in width, and so constructed as to allow the passage of all boats and water crafts navigating said river.

**SEC. 3. If the river is improved compensation to be allowed.** *Be it further enacted,* That in case the said river shall hereafter be improved by authority of law, the general assembly shall provide for a compensation to the said William Green, his heirs and assigns, to be paid by the state, or any company that may have the benefit of any improvement of the navigation of said river: *provided,* that said compensation shall only be to the extent of the benefit derived from said dam and lock.

**SEC. 4. Persons injuring said dam liable to damages.** Any person or persons who shall injure said dam or lock, or any part thereof, in navigating said river, or otherwise, shall be liable in any sum not exceeding double the amount of damages assessed.

**SEC. 5. Not to impede navigation.** Nothing in this act shall allow the said Green, his heirs or assigns, to impede the navigation of said river, or otherwise interfere with the rights and privileges of any person, without the consent of such person.

**SEC. 6. Take effect.** This act shall take effect from and after its passage.

Approved, Jan. 5, 1848.

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[52] CHAPTER 32.

LIBRARY.

AN ACT to amend an act, entitled "An act to provide for the management of the state library, and the election of a librarian," approved Feb. 15, 1847.

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

**SECTION 1. Judges of the district court to remove books from library.** That the judges of the district courts of this state shall have the same privilege to remove books from the library, as is allowed judges of the supreme court, by the second section of the act of which this is amendatory, and under all the restrictions in said act specified.

**SEC. 2. Take effect.** This act to take effect and be in force from and after its passage.

Approved January 5, 1849.

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CHAPTER 33.

GRADED ROAD.

AN ACT granting to James Weed and his associates, the right of way and the privilege of constructing a road from Bloomington, in Muscatine county, via Tipton, in Cedar county, to the county seat of Benton county.

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

**SECTION 1. Names of the incorporators—proviso—time when work to commence.** That James Weed, of Muscatine county, John Culbertson, of Cedar

county, William Abbey, of Linn county, and Thomas Way, of Benton county, and their associates, be, and they are hereby, authorized to construct a **graded** road from Bloomington, in Muscatine county, by way of Tipton, in Cedar county, to the county seat of Benton county, on the most practicable route, to be ascertained by survey: *provided*, the grade of said road shall not be less than thirty feet wide: *and provided further*, that the said James Weed and his associates, shall commence the construction of said road within six months from the taking effect of this act.

**SEC. 2. Owner of land refusing consent, not to prevent the construction—owner aggrieved to notify—each party to choose disinterested freeholder—report in writing to the clerk of the district court—clerk to receive and file report—damages to be paid to the clerk—report to be final.** That if the owner or proprietor of any land through which the said road may be laid out, shall refuse his or her consent to the location of said road through his or her premises, such refusal shall not [53] prevent the construction of said road through said land; and if the owner of said land should consider himself or herself aggrieved, he or she may notify the said James Weed, or any of his associates, that he or she claims damages in consequence of the construction of said road through his or her premises, and thereupon each party may choose a disinterested freeholder, resident of the county where said land is situated, and the two thus chosen shall choose a third, who, or a majority of whom, shall proceed to view the premises, by personal inspection, and after taking into consideration the benefits and disadvantages of said road to the said land, shall assess the damages (if any) sustained by the owner of said land, and report the same in writing to the clerk of the district court of the county wherein said land may be situated; and the clerk shall receive and file said report in his office; and if the said James Weed and his associates shall, within thirty days thereafter, pay the amount of the said damages, so assessed, into the hands of said clerk, or to the owner of said land, then and in that case the said James Weed and his associates shall have the right to construct said road through said land; and the report made by the said freeholders as aforesaid, shall be considered as a final adjudication between the parties, from which there shall be no appeal.

**SEC. 3. Road run through the land of non-resident proprietor—notice to be given in newspapers.** That if, after the survey of a route for said road, the same shall be found to run through the land of any non-resident proprietor, the said James Weed and his associates shall give thirty day's notice in some newspaper, published in Bloomington, notifying the owners thereof by name, if known, if not, by a description of said land, that the said road is located through his or her land, and unless they shall apply within twenty days after the termination of the publication of said notice to have the damages occasioned by the construction of said road assessed according to the provisions of the second section of this act, the right of way through his or her land shall be considered as granted, and the said James Weed and his associates shall be authorized to construct said road through said land.

**SEC. 4. Erect toll-houses and gates, and exact such tolls as commissioners may allow—proviso.** That as soon as twenty-five miles of said road shall be constructed, the said James Weed and his associates may erect toll-houses and gates upon said road, and shall be authorized to exact such tolls as the county commissioners of each county through which said road may be located, may determine, for the length of said road in each county respectively: *provided*, that the said commissioners shall establish reasonable rates of toll, and such as will render to the said James Weed and his associates a reasonable interest on the amount of funds invested in said road, and protect, mutually, the said James Weed and his associates, and the public from imposition.

[54] **SEC. 5. Graded road to be established for the convenience and interest of the public—term of the incorporation—a joint convention of board of commissioners may extend the time.** It is hereby declared to be the intention of this act to establish a graded road, between the points mentioned in the first section of this act, for the convenience and interest of the public, and at the same time to protect the said James Weed and his associates in the construction of said road; and for that purpose the right of way is hereby granted to the said James Weed and his associates for the term of twenty years; and if, at the expiration of that time, a joint convention of the boards of commissioners of the several counties through which the said road may pass shall be made satisfied that the tolls received on said road have not amounted to a sum sufficient to cover the expenses of building and keeping said road in repair, and the incidental expenses thereto pertaining, and a reasonable interest on the amount invested, then the said boards of commissioners may grant to the said James Weed and his associates the right to exact tolls upon said road for such further and longer term as they may deem proper.

**SEC. 6. Rates of toll to be posted up—persons refusing to pay toll may be prosecuted.** That the said James Weed and his associates shall post up in a conspicuous place, at each toll-house, or gate, the rates of toll established by the boards of commissioners as hereinbefore provided; and any person traveling upon said road, who shall refuse to pay the rates of toll thus established, may be prosecuted before any justice of the peace of any county through which said road may pass, in an action for debt, and shall pay double the amount of toll required in the first instance, and all costs of suit.

**SEC. 7. Defacing or injuring road, etc., may be indicted.** That any person or persons obstructing, injuring, or defacing the said road, gates or toll-houses, or any of the property belonging to the same, in any manner, or shall aid or abet the same, shall be prosecuted in any court of competent jurisdiction, within the proper county, by indictment, and upon conviction shall be liable for such damage or injury, and shall be subject to a fine and imprisonment at the discretion of the court.

**SEC. 8. James Weed and associates to form themselves into a company.** The said James Weed and his associates shall form themselves into a company under the provisions of "An act to authorize general incorporation," approved Feb. 22, 1847, and may establish all needful rules and regulations, not inconsistent with said act or the constitution of this state, for the transaction of business and the government of said association.

**SEC. 9. Right of way to be 60 feet wide—may construct a plank road.** The right of way hereby granted shall not be less than sixty feet in width, and if the said James Weed and his associates shall at any time deem it necessary for the interest of the public, they may construct a plank track, not less than eight feet in width, in which case they shall receive such additional toll, to be established as hereinbefore [55] provided, as the boards of commissioners of the proper counties may direct.

**SEC. 10. Road declared a public highway.** That when the term of the right of way herein granted to the said James Weed and his associates shall expire, the said road shall thereafter be deemed a public highway, and under the immediate control of the boards of commissioners of the several counties through which the same may pass; and the said boards of commissioners, in their discretion, may thereafter levy a tax to keep said road in repair.

**SEC. 11. Take effect.** This act shall take effect from and after its publication in the Bloomington papers—the expenses of publication to be paid by the said James Weed and his associates.

Approved, Jan. 8, 1849.