

[159] CHAPTER 131.

PLANK ROAD.

AN ACT granting to Wm. F. Coolbaugh and his associates, the right of way and the privilege of constructing a road from Burlington, Des Moines county, to Mt. Pleasant, in Henry county.

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

SECTION 1. Coolbaugh and others authorized to construct plank road.—grade of road. That Wm. F. Coolbaugh, of Des Moines county, and Alvin Sanders, of Henry county, and their associates, be, and they are hereby authorized to construct a graded road from Burlington, in Des Moines county to Mt. Pleasant, in Henry county, by the way of Middletown, in Des Moines county, and New London, in Henry county, on the present road leading from Burlington to Mt. Pleasant, or as near as practicable, to be ascertained by survey; *provided*, the width of the grade of said road shall not be less than thirty feet; *and provided further*, that said Wm. F. Coolbaugh and his associates shall commence the construction of said road within two years from the taking effect of this act.

SEC. 2. Refusal of right of way not to prevent the construction of the road—freeholders to assess damages—report to clerk district court. That if the owner or proprietor of any land on 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 prevent the construction of said road through said land; and if the owner of said land shall consider himself or herself aggrieved he or she may notify the said W. F. Coolbaugh 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 benefit and disadvantage of said road to the said land, shall assess the damage (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 said clerk shall receive and file said report in his office; and if the said Wm. F. Coolbaugh 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 Wm. F. Coolbaugh and his associates shall have the right to construct said road through said land, and the report made by the said [160] freeholders as aforesaid shall be considered as a final adjudication between the parties, from which there shall be no appeal.

SEC. 3. Proceedings when road runs through lands of non-resident. That if after the survey of a route for said road, the same shall be found to run through the lands of any non-resident proprietor, the said Wm. F. Coolbaugh and his associates shall give thirty days notice, in some newspaper printed at Burlington notifying the owners thereof by name if they be 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 will be considered as granted, and the said William F. Coolbaugh and his associates shall be authorized to construct said road through said land.

SEC. 4. Erect toll gates, houses, etc. That as soon as said road shall be constructed, the said Wm. F. Coolbaugh 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 run 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 Wm. F. Coolbaugh and his associates a reasonable interest on the amount of funds invested in said road and protect mutually the said Wm. F. Coolbaugh and his associates and the public from imposition.

SEC. 5. To be a graded road—board of commissioners to extend charter 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 Wm. F. Coolbaugh and his associates in the construction of said road, and for that purpose the right of way is hereby granted to the said Wm. F. Coolbaugh and his associates for the term of twenty years, and if at the expiration of that time a joint convention of the board 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 expense of building and keeping said road in repair and the incidental expenses thereto pertaining and a reasonable interest on the amount invested, then the board of commissioners may grant to the said Wm. F. Coolbaugh and his associates the right to exact toll upon said road for such further and longer time 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 Wm. F. Coolbaugh or his associates shall post up in a conspicuous place at each toll house or gate the rates of toll established by the board of commissioners as herein before 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 of debt, and shall pay double the amount of toll required in the first instance, and all costs of suit.

SEC. 7. Persons injuring property liable to fine and imprisonment. That any person or persons obstructing, injuring or defacing said road, gates, 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 damages or injuries, and shall be subject to a fine and imprisonment at the discretion of the court.

SEC. 8. To incorporate themselves. The said Wm. F. Coolbaugh and his associates shall form themselves into a company under the provisions of an act to authorize general incorporations, approved February 22nd, 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 60 feet wide—plank road 8 feet wide. The right of way hereby granted shall not be less than sixty feet in width, and if the said Wm. F. Coolbaugh and his associates shall at any time deem it necessary

for the interest of the public, they may construct on said grade a plank track not less than eight feet in width, in which case they shall receive such additional toll to be established as herein before provided, as the boards of commissioners of the proper counties may direct.

SEC. 10. **Said road to be a public highway.** That when the term of right of way herein granted to the said Wm. F. Coolbaugh and his associates shall expire, the said road shall thereafter be deemed a public highway, and under the immediate control of the board of commissioners, who 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 according to law.

Approved, Jan. 15, 1849.

[162] CHAPTER 132.

APPROPRIATION.

AN ACT making an appropriation for the public buildings at Iowa City.

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

SECTION 1. **Appropriation.** That there be and is hereby appropriated towards the completion of the public buildings at Iowa City, the sum of three thousand dollars, to be expended in the course of the ensuing two years, out of any money in the treasury not otherwise appropriated.

SEC. 2. **J. T. Fales superintendent.** That said appropriation shall be expended under the superintendence of Joseph T. Fales, who is hereby allowed the sum of two hundred dollars as a compensation for said services.

SEC. 3. **Duty of superintendent.** It is hereby made the duty of said superintendent to complete, in a plain and substantial manner, the cupola, the four rooms on the first floor occupied by the state officers and supreme court, and the room occupied by the library; also, to complete and fit up for committees, four rooms in the basement of said building; also to complete the halls leading to the several rooms, with the stairway to the second floor, according to the original plan of the building, with such other work as said superintendent may deem proper to be done upon said building.

SEC. 4. **Take effect.** This act to take effect and be in force from and after its publication in the newspapers at Iowa City.

Approved, January 15th, 1849.

Published in Republican, Jan. 24th, and Reporter Jan. 31st, 1849.