

CHAPTER 41.

RIGHT OF WAY.

AN ACT granting the Burlington and Louisa county plank road company the right of way.

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

SECTION 1. **Right of way—proviso.** That the Burlington and Louisa county plank road company, is hereby authorized to lay out their road 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.

SEC. 2. **Road way—private property.** The quantity of ground to be thus taken shall be merely a road way, not exceeding sixty feet in breadth; and [79] when private property is thus taken, a fair equivalent must be paid therefor, before the property can be appropriated by the company.

SEC. 3. **Owner must apply—jury—deed.** 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 the county in which the land lies, for a jury to assess the amount of damages he may sustain, or he shall be held to have accepted of the highest amount of damages offered him by the company, 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. **Sheriff to summon jurors—time and place of meeting.** When called upon in either of the above methods, the sheriff must as soon as practicable summon nine persons qualified to act as ordinary jurors, as between the parties, and who are not interested in a similar question, a time and place must be appointed for the meeting, and reasonable notice thereof 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 the number, the parties then shall in turn (commencing with the agents of the company.) proceed to strike off one juror each, until only three remain.

SEC. 7. **Party failing sheriff to strike—party may agree.** If either party fails to strike off jurors in the manner as 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. **Jurors to assess the damages—deed—appeal—work not delay—proviso.** The three jurors so selected 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 as aforesaid, 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, [80] shall have the right of appeal to the district court of the county wherein said land is situated, at any time within thirty days from the making of such decision: but such appeal shall not prevent the prosecution of work upon 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 appeal, unless the appellant recover a greater amount of damages than first awarded.

SEC. 9. **Right of way limited.** 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—company to pay.** 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 authorized must be borne by the company.

SEC. 12. **Take effect—expense of company.** This act shall take effect and be in full force from and after its publication in the Iowa State Gazette and Burlington Hawk-Eye, the expenses of said publication, however to be paid by the company.

Approved, February 4th, 1851.

CHAPTER 42.

BURLINGTON CITY.

AN ACT to amend the charter of the city of Burlington.

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

SECTION 1. **Boundaries.** That the boundaries of the city of Burlington shall hereafter be as follows; commencing in the middle of the channel of the Mississippi river, at a point eighty rods due south of the line dividing sections four and nine, township sixty-nine, north of range two west; thence west and parallel with the line dividing said sections, to the west line of section eight of same township, thence north along the west line of sections eight and five of said township, and along the west line of section thirty-two of township seventy, north of range two west, for the distance of two and a quarter miles from the south-west corner of said boundary; thence east with the north line of said section thirty-two, to the middle of the channel of the Mississippi river; thence down the middle of the main channel of said river to the place of beginning.

SEC. 2. **Council not to lay out streets or alleys, nor tax addition without owners consent.** The city council shall have no power, without the consent of the owners of two-thirds of the property through which the right of way may be asked, to lay out through the tract of land thus brought within the city limits, any streets or alleys, which have not been previously laid out. Nor shall any land, not laid out into town lots, or out lots, be taxed, otherwise than by the acre, and according to its value, for agricultural or horticultural purposes; except that all improvements thereon may be taxed at their full value.

SEC. 3. **Recorder to assess—oath—bond.** That in making annual assessments of real estate in said city, for the purposes of collecting revenue, the city recorder shall be and he is hereby appointed *ex officio* assessor of real estate for said city, and it shall be and is hereby made his duty to have said