

mitted to the voters of said city, and a majority of the votes cast are in favor of the same; but they shall be exempt from the three days work on the streets, side-walks and highways herein provided for, and be eligible to act as judges and clerks of elections under this charter.

**SEC. 15. Failing to hold election—failure to work no forfeiture.** Any failure to hold any election or expression of opinion provided for under this charter, shall not operate as a forfeiture thereof, but in case the mayor and aldermen of the town of Davenport failing to provide for the election or vote to be had (here in provided for) by them, the same may be holden on any day thereafter, and the said mayor and aldermen of said town shall see that due notice is given, and the [127] election or vote had which may have been neglected or omitted to be held or had, in this act required of them. And in case of the failure or neglect after this charter shall take effect of the city council, at any time, to hold or cause to be held an election or vote to be had which may be required of them, the same shall work no forfeiture of this charter; but such election or vote may be had at some future time thereafter as may be provided for by said city council, nor shall the office of mayor, alderman nor any other office become vacant by such failure; but the incumbent of such office, if otherwise qualified, shall continue and be entitled to all the rights and privileges of said office, and exercise the same until his successor shall be duly elected or appointed and qualified.

Approved, February 5, 1851.

## CHAPTER 56.

### RIGHT OF WAY.

AN ACT to grant the right of way to the "Iowa Western Rail Road Company."

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

**SECTION 1. Right of way.** That there is hereby granted to the "Iowa Western Rail Road Company," and to their representatives, the right of way, one hundred feet wide, for their rail road from Davenport, in Scott county, by the way of Muscatine, in Muscatine county, to Oskaloosa, in Mahaska county.

**SEC. 2. How obtained—proprietor may give consent in writing—refusal; sheriff to summon jury—time and place—panel—damages—report—appeal—shall not delay work.** 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 proceed in the manner following: that is to say, the grant of such right of way from individual owners resident of the county in which the land is situated, or who have agents or guardians resident as aforesaid, may be obtained in writing over the hand and seal of such proprietor, or of his agent or guardian, resi- [128] dent as aforesaid, and neither acknowledgement nor recording shall be necessary to the validity of such grant: and if the owner of any land over which said road may be located, shall refuse to grant the right of way for said road through his premises, notice may be given by either party, to the sheriff of the county in which said land may be situated, whose duty it shall be, within ten days thereafter, to summon eighteen freeholders of his county, who are not interested in a like question, to appear on the premises, and he shall give the parties notice of the time and place of the meeting. When so assembled, if the said freeholders do not all appear the sheriff shall summon others to make up the num-

ber, the parties shall then proceed, commencing with the company, alternately to strike off the names so returned until but six of said freeholders are left who being sworn, shall proceed to inspect the premises and assess the damages if any which such owner will sustain by the construction of said road, and make report thereof to the clerk of the district court for said county, and the same shall be filed by him, and if the said company shall at any time before they actually enter upon said lands for the purpose of constructing said road, pay to said clerk or proprietor the sum so assessed they shall be fully authorized to construct and maintain said road over and across said premises, doing no unnecessary injury to said lands; provided, that either party dissatisfied with the decision of said freeholders, shall have the right of appeal to the district court wherein said land is situated, at any time within thirty days after such decision, but such appeal shall not delay the prosecution of 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 made previously to an appeal.

SEC. 3. **Non-residents—proceedings.** That if upon the location of said road, it shall be found to run through the lands of any non-resident proprietor, the said company or their representatives, shall give four weeks notice to each proprietor, if known, and if not known by a description of such lands by publication in some news- [129] paper printed in Muscatine and Oskaloosa, that said road has been located through his lands, and if such proprietors shall not apply to such sheriff within thirty days thereafter, to have their damages assessed in the mode prescribed in the preceding section, said company, or their representatives, shall proceed in the same manner to have the damages assessed as in section second, subject to the same right of appeal; and upon the payment of the damages so assessed, the said company thereby shall acquire all rights, privileges and immunities mentioned in said second section.

SEC. 4. **Take effect.** This act to be in force from and after its publication according to law.

Approved February 5th. 1851.

## CHAPTER 57.

### RIGHT OF WAY.

AN ACT granting the right of way to the Dubuque and Keokuk Railroad Company, north.

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

SECTION 1. **Right of way.** That there be, and is hereby granted, to the Dubuque and Keokuk rail road company north, and to their successors and assigns, the right of way for a rail road from the city of Dubuque in Dubuque county, *via* Cascade, Anamosa in Jones county, Marion and Cedar Rapids in Linn county, to Iowa City in Johnson county, embracing a strip of land one hundred feet wide through sections sixteen, and other lands which may be owned by the state of Iowa, on which said road may be located and constructed.