

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.

SEC. 2. Proprietor may grant right in writing—owner refusing sheriff to summon freeholders—notice of time and place of meeting—assess damages and report to district court—appeal—proviso—costs. And be it further enacted, 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 assigns may procure 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 [130] guardians resident as aforesaid, may be obtained in writing over the hand and seal of such proprietor or of his or her agent or guardian resident as aforesaid; and neither acknowledgment or recording shall be necessary to the validity of such grant; and if the owner of land over which said road may be located, shall refuse to grant the right of way for said road, through his or her 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 summons eighteen freeholders of his county, and 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 so summoned do not all appear, the sheriff shall summon others to make up the number, the parties shall then proceed, commencing with the company, to alternately strike off the names so returned until but six of said freeholders are left, who after being sworn shall proceed to inspect the premises, and assess the damages, if any, which said 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 purposes of constructing said road, pay to said clerk or the 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 of the county wherein said lands are situated at any time within thirty days after said 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 previous to an appeal.

SEC. 3. Non-residents—notice—same as sec. 2. And be it further enacted, that if upon the location of [131] said road, it shall be found to run through the lands of any non-resident proprietor, the said company or their assigns, shall give four weeks notice to each proprietor if known, and if not, by a description of such lands, by publication in some newspaper printed in the city of Dubuque or Iowa City, that said road has been located through his or her lands, and if such proprietor 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 assigns 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 company thereby shall acquire all rights, privileges and immunities mentioned in said third [second] section.

Approved February 5th, 1851.