

## CHAPTER 64.

## RIGHT OF WAY.

AN ACT granting the Fort Madison, West Point and Salem Plank Road Company the right of way.

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

**SECTION 1. Right of way.** That the Fort Madison, West Point and Salem plank road company, is hereby authorized to lay out their line of road, between the towns of Fort Madison and West Point, and between West Point and Salem, on such ground as may be deemed suitable for the purpose, including any portion of the public highways; provided, the traveling on such highways is not thereby interrupted.

**SEC. 2. Road way width—private property.** The quantity of ground to be thus appropriated by said company, shall be merely a roadway, not exceeding sixty-five feet in breadth, and when private property is thus taken, a fair equivalent must be paid therefor, before the property can be appropriated by such company.

**SEC. 3. Damages—manner of obtaining—deed.** Where the proprietor of any land thus taken is legally competent to act for himself, and has received personal notice of the laying out said road through his land, and declines to receive the amount tendered him by said company, he shall 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 [160] amount of damages he may sustain; or he shall be held to have accepted the largest amount of damages so tendered him by said company, and on which tender the company shall be entitled to a deed for such right of way.

**SEC. 4. Minors, etc.** In case the proprietor 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 the company.

**SEC. 5. Sheriff must summon—notice of time and place of meeting.** When called upon in either of the above cases, the sheriff must as soon as practicable summons nine persons qualified as jurors in ordinary cases, and who shall not be interested in a like question. A time and place convenient for the parties must be designated by the sheriff for the meeting, and reasonable notice thereof given to the parties or their agents or guardians, unless 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 when the parties (commencing with the agent of the company) shall in turn strike off one juror each until only three remain.

**SEC. 7. Parties may agree.** If either party fails to strike off jurors in the manner 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. Jury to assess—deed—appeal—not prevent work.** The three jurors so selected shall 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 aforesaid upon the payment of which amount is entitled to a deed for such right of way; provided, that either party dissatisfied with the decision of the jury shall have the right of appeal to the district court of the proper county, at any time within thirty days from the making of said decision,

but such appeal shall not prevent the promotion of the work on said road; provided, further, the said company shall first have paid or tendered, the amount adjudged by said jury, and in no case when the appeal shall be taken by the owner, his agent or guardian shall the company be liable for costs unless [161] such appellant recover a larger amount of damages than was first awarded.

**SEC. 9. Purposes.** The right of way acquired by this act may be retained for any of the purposes contemplated in the articles of incorporation of said company, but for no other.

**SEC. 10. Agent.** Any of the notices aforesaid if served on an known agent of the proprietor of the land are to have the same effect as if served on the principal.

**SEC. 11. Fees—paid by company.** The sheriff and jurors are entitled to the same compensation as is provided for in similar cases for like service; and all the expenses caused by the proceedings above authorized must be paid by the company.

**SEC. 12. Take effect.** This act shall take effect and be in full force from and after its publication in the Iowa Statesman at Fort Madison and the Iowa True Democrat at Mount Pleasant, Henry county. The costs of said publication to be paid by said company.

Approved, February 5th, 1851.

## CHAPTER 65.

### RIGHT OF WAY.

AN ACT granting the Port Louisa, Wapello and Virginia Grove Plank Road and Bridge Company the right of way.

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

**SECTION 1. Right of way—bridge the Iowa river—must not obstruct.** That the Port Louisa, Wapello and Virginia Grove plank road and bridge company, is hereby authorized to lay out and construct a plank road from Port Louisa in Louisa county, through Wapello to Virginia Grove in said county, 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; and erect a bridge across the Iowa river at Wapello; provided, said bridge is so erected as not to interrupt materially the navigation of said Iowa river.

**SEC. 2. Width—private property.** The quantity of ground to be thus taken shall not [162] exceed sixty feet in width, and when private property is thus taken a fair equivalent must be paid therefor, before the property can be appropriated by the company.

**SEC. 3. Damages how obtained.** 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 said county for a jury to assess the amount of damages he may sustain, or he shall be held to have accepted of the largest amount of damages offered, and on the payment or tender of which sum the company is entitled to a deed for the right of way.