

SEC. 12. Lands entered must be taxed. When a tax has been voted in any school district, no lands entered prior to said vote shall be exempt from the tax thus voted.

SEC. 13. Pay of commissioners out of school fund. The fund commissioners from and after the first day of April, 1851, shall receive such annual compensation for their services and contingent expenses for books, postage and stationery as may be allowed by the clerk of the district court, sheriff and prosecuting attorney and approved by the superintendent of public instruction, to be paid out of the school fund.

SEC. 14. Allowance when and how made. Such allowances shall be made in writing by the first day of October of each year, and shall be transmitted by the fund commissioner, with his annual report to the superintendent.

SEC. 15. Fiscal year. Said compensation shall be in full for services rendered for the year commencing April first, and ending March thirty-first.

SEC. 16. Limitation of taxing. No property shall be subject to taxation for district purposes more than once in any one year.

SEC. 17. To take effect—proviso. This act shall take effect and be in force from and after its publication in the Iowa Capital Reporter and Iowa Republican; provided, that nothing herein contained in reference to school districts shall become binding till the first day of April, 1851.

Approved, February 5th, 1851.

Published in the Iowa Capitol Reporter and Iowa Republican February 12th, 1851.

[180] CHAPTER 78.

RIGHT OF WAY.

AN ACT granting the Ottumwa and Libertyville 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 Ottumwa and Libertyville plank road company, is hereby authorized to lay out and construct their road between the towns of Ottumwa, in Wapello county, and Libertyville, in Jefferson county, on such grounds as may be by them deemed suitable for that purpose, including any portion of the public highway: provided, the traveling on such highway is not thereby interfered with.

SEC. 2. Road way width—private property. The quantity of ground to be thus taken shall be merely a road way, not exceeding 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—manner of obtaining—jury—deed. When the proprietor of any lands thus taken is legally competent to act for him or herself, and has received personal notice of the laying the road through his or her land, he or she 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 or she may sustain, or he or she shall be held to have accepted the largest amount of damages offered 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 incapable to act for him or herself, or if he or she has not been personally served with notice of the laying out said road, the jury aforesaid must be called for by the company.

SEC. 5. Sheriff must summon—notice of time and place of meeting. When called upon in either of the above methods, the sheriff must as soon as practicable, summons nine persons qualified to act as ordinary jurors as between the parties; and who are not interested in a similar question. A time and [181] place must be appointed by the sheriff for the meeting, and reasonable notice thereof given to the parties, or their agents or guardians, unless they are already acquainted with those facts.

SEC. 6. Panel. At the time appointed, if a requisite number of qualified jurors do not appear, the sheriff must complete that number; the parties then (commencing with the agents of the company) shall in turn proceed to strike off one juror each until only three remain.

SEC. 7. Striking jury—modification. If either of the parties fail 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. Parties may agree—appeal—proviso. The three jurors so selected must then proceed to examine the ground and decide upon the amount of damages that shall be paid by the company for the right of way aforesaid, upon which amount being paid, the company is entitled to a deed for the right of way: provided, that either party dissatisfied with the decision of the jury, shall have the right to appeal to the district court of the county in which said land is situated, at any time within thirty days from that on which the decision was rendered, but said appeal shall not prevent the prosecution of the 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 an appeal unless the appellant recovers a greater amount of damages than first awarded.

SEC. 9. Jury disagreeing sheriff to summon another. If the jury cannot agree upon the amount of damages to be awarded to the proprietor of such land, the sheriff shall discharge them and cause others to be selected, in the same manner as provided for selecting the first jury, who are to proceed as above directed in the first place.

SEC. 10. Sheriff to swear jury. Before entering upon the examination and determination of the matters to be examined and determined by them, the jurors are required to take an oath to render a just and fair award of damages to the proprietor of such as aforesaid; which said oath may be administered to them by the proper sheriff.

[182] **SEC. 11. Purposes.** The right of way acquired by virtue of the provisions of this act, may be retained for any of the purposes contemplated in the articles of incorporation of the company, but no other.

SEC. 12. 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. 13. Fees—how paid. The sheriff and jurors are entitled to the same compensation as is provided for in other cases for like services, and all the expenses caused by the proceedings above authorized, except where appeals have been taken and resulted as above, must be borne by the company.

SEC. 14. To take effect. This act shall take effect and be in force from and after its publication in the "Des Moines Republic" and the "Des Moines Courier." The expense of said publication to be paid, however, by the company.

Approved, February 5, 1851.

CHAPTER 79.

SUPREME COURT.

AN ACT to amend an act to re-organize the supreme court, approved January 22, 1848.

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

SECTION 1. Cases from 6th judicial district to be taken to supreme court at Fort Des Moines. That all cases of appeals and writs of error, from the sixth judicial district, shall be taken to the supreme court at Fort Des Moines, in the fifth judicial district.

SEC. 2. To take effect. This act shall be in force from after its publication in the "Iowa Star" and "Des Moines Republic."

Approved, February 5, 1851.

Published in the "Iowa Star" February 13th; and "Des Moines Republic" February 20th, 1851.

[183] CHAPTER 80.

STATE ROAD.

AN ACT to locate and establish certain state roads therein named.

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

SECTION 1. Commissioners—Ft. Des Moines to Ft. Clarke. That Samuel Gray, of the county of Polk, and David Harman, and John Wright, of the county of Dallas, be, and they are hereby appointed commissioners, to locate and establish a state road, commencing at Fort Des Moines via Hickman's Mill, Bowl's Mill, and the old residence of Reuben Clark in Boone county, to Fort Clark, near the mouth of the Lizard fork of the Des Moines.

SEC. 2. Commissioners—from Garry Owen's to Cascade, also from Denson's ferry to McNaley's. Silas Conklin, William McGargil and Thomas McNaley, be, and they are hereby appointed commissioners to locate and establish a state road commencing at Garry Owen's in Jackson county, thence via. the house of Thomas McNaley to Cascade in Dubuque county, and also from Denson's ferry thence via. the house of Joseph Bamhill to intersect the aforesaid road at the house of Thomas McNaley.

SEC. 3. Commissioners—Chariton to Newton. N. B. Allison of Marion county, Jesse Richman of Jasper county, and Henry Allen of Lucas county, be and they are hereby appointed commissioners, to locate a state road from the town of Chariton in Lucas county, via. the town of Knoxville, and Red Rock in Marion county, to the town of Newton in Jasper county.