

this act, but the board of supervisors are hereby empowered to proceed with the improvement from the point at which legal proceedings thereon were stopped."

SEC. 7. In effect. This act, being deemed of immediate importance, shall take effect and be in full force from and after its publication in the Register & Leader and Des Moines Capital, newspapers published in the city of Des Moines, Iowa.

Approved March 19, A. D. 1907.

I hereby certify that the foregoing act was published in the Des Moines Capital March 21, 1907, and the Register and Leader March 22, 1907.

W. C. HAYWARD,
Secretary of State.

CHAPTER 95.

LEVEES, DRAINS, DITCHES AND WATER COURSES.

S. F. 87.

AN ACT amendatory of the law as it appears in chapter sixty-eight (68) of the Thirtieth (30) General Assembly and amendatory acts of the Thirty-first (31) General Assembly relating to levees, ditches, drains and water courses and amending sections two (2), fourteen (14), eighteen (18), and nineteen (19), of said chapter, and providing for the place where ditches and drains shall be located; how appeals shall be tried in appellate courts; for the employment of counsel to represent the drainage district in appellate courts; for the crossing of railroad rights of way; for the building of culverts and bridges at the place of crossing and payment of the cost thereof; for the assessment of benefits, and making the provisions of this act applicable to chapter two (2), title ten (X) of the code.

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

SECTION 1. Location along natural drainage course. That section two (2) of chapter sixty-eight (68) of the acts of the Thirtieth General Assembly as amended by acts of the Thirty-first General Assembly be and the same is hereby amended by adding to said section at the end thereof the following:

"That the ditches or drains herein provided for shall be surveyed and located along the general course of the natural streams and water courses or in the general course of natural drainage of the lands of said district, having due regard for straightening and shortening of such natural streams, water courses and course of natural drainage. Whenever any such ditch or drain crosses any railroad right of way it shall be located at the place of the natural water way across such right of way, unless said railroad company shall have provided another place in the construction of the road bed for the flow of the water; and if located at the place provided by the railroad company, such company shall be estopped from afterwards objecting to such location on the ground that it is not at the place of the natural water way."

SEC. 2. Appeals—employment of counsel. That section fourteen (14) of said chapter be and the same is hereby amended by inserting after the word "damages" and before the word "the" in the fourth line of said section the following:

"The appeal herein provided for shall be tried in the district court as an action in equity and the appearance term shall be the trial term; and when several appeals are taken and pending in the district court by land owners of the same drainage district whose lands have been assessed by the board, the

court may, in its discretion, order the consolidation of such cases, and try the same as one cause of action. When any appeal is taken from any order of the board made in any drainage proceeding coming before it for action, it shall be the duty of the board to employ counsel to represent the interests of the drainage district affected by said appeal on the trial thereof in the appellate courts and the expense thereof shall be paid out of the drainage fund of such district."

SEC. 3. Establishment and construction across railroad right of way. That sections eighteen (18) and nineteen (19) of said chapter be amended to read as follows:

"Whenever the board of supervisors shall have established any levee, or drainage district, or change of any natural water course and the levee, ditch, drain or water course as surveyed and located crosses the right of way of any railroad company, the county auditor shall immediately cause to be served upon such railroad company, in the manner provided for the service of original notices, a notice in writing stating the nature of the improvement to be constructed, the place where it will cross the right of way of such company, and the full requirements for its complete construction across such right of way as shown by the plans, specifications, plat and profile of the engineer appointed by the board, and directing such company to construct such improvement according to said plans and specifications at the place designated, across its right of way, and to build and construct or re-build and re-construct the necessary culvert or bridge where any ditch, drain or water course crosses its right of way, so as not to obstruct, impede or interfere with the free flow of the water therein, within thirty days from the time of the service of such notice upon it; and upon receiving said notice it shall be the duty of such railroad company to construct the improvement across its right of way according to the plans and specifications furnished in said notice and to build and construct or re-build and re-construct the necessary culvert or bridge above mentioned and complete the same within the time specified in said notice; if such railroad company shall fail, neglect or refuse to do so within the time fixed in said notice the auditor shall cause the same to be done under the supervision of the engineer in charge of the improvement and such railroad company shall be liable for the cost thereof to be collected by the county in any court having jurisdiction; and the cost of constructing the improvement across the right of way of such company, not including the cost of building and constructing or re-building and re-constructing any necessary culvert or bridge, shall be considered as an element of such company's damages by the appraisers thereof; and the cost of building and constructing or re-building and re-constructing any necessary culvert or bridge shall be borne by such railroad company without reimbursement therefor. The commissioners to assess benefits shall fix and determine the benefits to the property of the railroad company within the levee or drainage district and make return thereof with their regular return. Such special assessment shall be a debt due personally from the railroad company, and unless the same is paid by the railroad company as special assessment, it may be collected in the name of the county in any court having jurisdiction."

SEC. 4. Statutes applicable. That the measure of damages for locating, establishing and constructing a levee, ditch, drain or water course across the right of way of any railroad company provided for in section three (3) of this act shall be construed to apply to all cases and proceedings now pending involving such question; and the provisions of this act shall also be applicable to chapter two (2) title ten (10) of the code.

SEC. 5. *In effect.* This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Register and Leader and the Des Moines Capital, newspapers published in the city of Des Moines, Iowa.

Approved March 28, A. D. 1907.

I hereby certify that the foregoing act was published in the Des Moines Capital, March 30, 1907, and the Register and Leader, April 2, 1907.

W. C. HAYWARD.
Secretary of State.

CHAPTER 96.

CATTLE GUARDS AT PRIVATE CROSSINGS OF RAILWAYS.

H. F. 385.

AN ACT to amend section two thousand twenty-two (2022) of the code, relating to cattle guards at private crossings of railways.

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

SECTION 1. **Causeway—cattle guards—cross fences.** That section two thousand twenty-two (2022) of the code be amended by striking out all of said section after the word "repair", in the third line thereof and inserting in lieu thereof the following: "a sufficient causeway or other adequate means of crossing the same and one cattle-guard on each side thereof connected by cross fences to the right of way fence on each side of the right of way, at such reasonable place as may be designated by the owner."

Approved April 5, A. D. 1907.

CHAPTER 97.

INTERURBAN OR STREET RAILWAY OVER HIGHWAYS.

H. F. 421.

AN ACT to repeal section two thousand and twenty-six (2026) of the supplement to the code, and chapter eighty-seven (87) of the acts of the Thirty-first General Assembly, and to enact a substitute therefor, relating to street railways over highways.

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

SECTION 1. **Repealed—interurban or street railway over highways.** That section two thousand and twenty-six (2026) of the supplement to the code, and chapter eighty-seven (87) of the acts of the Thirty-first General Assembly be and the same are hereby repealed, and the following enacted in lieu thereof:

"Any interurban or street railway, may for the purpose of constructing or extending its line locate, build and operate its road by any power other than steam, over and along any portion of the public road, beyond the limits of any city or town, which is one hundred feet or more wide. It shall as soon as practicable put the road in as good repair as it was before its use for such railway. Boards of supervisors are authorized to accept for road purposes conveyances of land adjoining any such road or part thereof sufficient to increase the same to the width of one hundred feet; but in any county in which