

CHAPTER 22.

RIGHT OF WAY.

AN ACT granting the Mount Pleasant and Fairfield plank road company the right of way.

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

SECTION 1. Right of way—proviso. That the Mount Pleasant and Fairfield Plank Road Company is hereby authorized to lay out their road between the town of Mount Pleasant and Fairfield, 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.

SEC. 2. Road way not to exceed 60 ft. in breadth. The quantity of ground to be thus taken shall be merely a road way, not exceeding sixty feet in breadth, 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—jury to assess. 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 the county in which the land lies 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 him by the company, and in 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 incompetent to act for himself, or if he has not been personally served with a notice of the laying out of the road as aforesaid, the jury aforesaid must be called for by the company.

SEC. 5. Sheriff to summon jury. When called upon in either of the above methods, the sheriff must as soon as practicable summon nine persons qualified to act as ordinary juries, as between the parties, and who are not interested in a similar question, a time and place must be appointed 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. Talismen. At the time appointed, if the requisite number of qualified jurors do not appear, the sheriff must complete the 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. 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. Examination and assessment of damages by jury—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 the payment of which amount 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 wherein said land is situated, at any time within thirty days from the making of said decision; but such 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 recover a greater amount of damages than first awarded.

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

SEC. 10. **Agents.** 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.

[45] SEC. 11. **Fees.** The sheriff and jurors are entitled to the same compensation as is provided for in other cases for similar services, and all the expenses caused by the proceedings above authorized must be borne by the company.

SEC. 12. **Take effect.** This act shall be in full force from and after its publication.

Approved, January 18, 1853.

CHAPTER 23.

REMOVAL OF RECORDS.

AN ACT to remove certain records relating to the half-breed tract in Lee county from the office of the recorder of deeds of Des Moines county to the clerk's office at Keokuk.

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

SECTION 1. **Transfer.** That the volume of the conveyances of lands in the half-breed reservation in Lee county, now in the office of the recorder of deeds of Des Moines county, with the indexes, be transferred to the office of the clerk of the district court at Keokuk in said Lee county, and that the said clerk be required to preserve the same in his office as a public record open for examination.

SEC. 2. **Surrender.** That the recorder of deeds of Des Moines county be, and he is hereby, required to surrender said volume of conveyances to the clerk of the aforesaid county.

Approved, January 18, 1853.

CHAPTER 24.

PRIVATE PROSECUTORS.

AN ACT to make private prosecutors liable for costs in certain cases.

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

SECTION 1. **Prosecution failing—court to award costs vs. prosecutor.** That in all prosecutions for a violation of any of the [46] penal laws in any of the courts of the state, said prosecution being at the instance of a private prosecutor, the court trying said cause, if said prosecution fails, may award costs