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THE
REVISED STATUTES,
OF THE
TERRITORY OF MINNESOTA,

PASSED AT THE SECOND SESSION OF THE
LEGISLATIVE ASSEMBLY,

COMMENCING JANUARY 1, 1851.

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One mill on the dollar to be raised for territorial purposes.

ding section, the board of commissioners shall, at the time they are required by this chapter to levy a county tax, levy a tax of one mill on the dollar upon the taxable property of the county for territorial purposes, which last mentioned tax shall not be kept separate and distinct from the county tax, but shall be added thereto, and collected at the same time the county taxes are collected.

CHAPTER 13.

OF COUNTY ROADS.

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County roads under supervision of commissioners.

SEC. 1. All county roads shall be under the supervision of the board of county commissioners of the county, wherein the said roads are located, and no county road or cartway shall be hereafter established, nor shall any road be altered or vacated in any county in this territory, except by the authority of the board of commissioners of the proper county.

Applications for laying out or altering roads, how made.

SEC. 2. All applications for laying out, altering, or vacating county roads, shall be by petition to the board of commissioners of the proper county, signed by at least twelve householders of the county residing in the vicinity where said road is to be laid out, altered, or vacated, which petition shall specify the place of beginning, the intermediate points, if any, and the place of termination of said road.

Proof of notice must accompany petition.

SEC. 3. When any petition shall be presented for the action of the said board, for the laying out, alteration, or vacation of any road, it shall be accompanied by satisfactory proof, that notice has been given by posting up advertisements in three public places, of said road or proposed road, or by publication three successive times in any newspaper published in the county, thirty days previous to the presentation of said petition to the board, notifying all concerned, that application would be made to the said board at their session, for laying out, altering, or vacating said road, (as the case may be.)

Upon petition and proof of notice, commissioners to appoint board of examiners.

SEC. 4. Upon the presentation of such petition, and proof of notice being given as above provided, it shall be the duty of the board of commissioners, to appoint two disinterested householders residing in the vicinity of said road, who in connection with the county surveyor, shall

constitute a board of examiners, who shall meet at a time and place to be designated by the said board of commissioners, not less than ten days from the date of the appointment of said examiners.

SEC. 5. The said examiners, or a majority of them assembled at the time and place appointed, shall each take an oath or affirmation faithfully and impartially to discharge the duties of their appointment, and shall forthwith proceed to select and mark said road as proposed to be laid out or altered according to the prayer of the petitioners, as near as in their opinion, a good road can be made without unreasonable expense, or causing the farms or inclosures through which it may pass, to be unnecessarily damaged; and in all cases where roads can be laid out on township, section, or quarter section lines, it is hereby made the duty of all examiners so to locate roads hereafter to be located in this territory, when the land has been surveyed and the face of the country and the interests of the settlers along the line of said road will permit.

SEC. 6. The said examiners, after having made the necessary examination, shall report to the board of commissioners, at their next meeting, in writing, stating the general face of the country over which said road passes, its general necessity and utility, and whether in their opinion, said road should be laid out, altered, or vacated, as prayed for by the petitioners; and if the said examiners, or a majority of them, shall report unfavorably, or if there shall be a remonstrance presented to the board of commissioners at any time previous to the final decision of said board, against the laying out, altering, or vacating any road, signed by twelve householders, residing on or near said road, then said road shall not be laid out, altered, or vacated, as prayed for by the petitioners, until a majority of householders residing within one mile of the line of said road, shall have petitioned the board of commissioners, for the laying out, altering, or vacating of said road, which fact shall be proved to the satisfaction of said board of commissioners, in which case the prayer of the petitioners shall be granted.

SEC. 7. Whenever after any examination as above prescribed, the board of county commissioners shall authorize any road to be located or altered, the register of deeds shall forthwith issue an order under the seal of the board of commissioners, directing the county surveyor, forthwith to survey said road, as located and marked by the road examiners; and the said surveyor shall take to his assistance two chain bearers, and one marker, and proceed to survey such road, and cause the same to be conspicuously marked throughout, noting the courses and distances, and at the end of each mile, shall cause the number of the same, and also the commencement and termination of said road or survey, to be marked on a tree or monument erected for that purpose; and he shall make out a correct and certified return of the survey of said road, and a plot of the same, and deliver said return and plot to the register of deeds of his proper county, on or before the day of the first regular meeting of the board of commissioners, next ensuing after the date of the order for the survey of said road, and shall also furnish at the same time, a true and certified account of the time necessary and consumed in making the survey of the said road; and the board of commissioners shall immediately thereupon direct orders to be drawn on the county treasurer for the payment of the same, allowing the surveyor two dollars and fifty cents per day, for each day necessarily employed in said survey, and two dollars for the return and plot of said survey, and allowing one dollar and fifty cents per day, for each day each of the chain bearers and marker were necessarily employed by said surveyor, or in the survey of said road.

SEC. 8. Upon receiving the return and plot of any road, the register of deeds shall thereupon record the same, and notify the several supervisors of roads, through whose precincts said road passes, that the

Examiners to take oath.

Duties of examiners.

Examiners to report to commissioners; report what to contain.

Register of deeds, when to issue order for survey of road.

Duty of surveyor.

Register of deeds to record plot of road, and notify

supervisors to open same.

said road has been legally established as a public road and highway; and the said supervisors shall proceed to open said road as prescribed by law.

When road is vacated, owners of land may inclose the same.

SEC. 9. Whenever any public road is vacated in this territory, it shall be competent for the owners of any land from which said road was taken, to inclose, cultivate and dispose of the same, in the same manner as if said road had never been established; and the board of commissioners of any county shall have authority to vacate any portion or the whole of any county road in the manner and under the restrictions herein prescribed, within the limits of their proper county.

County roads to be sixty-six feet wide.

SEC. 10. All county roads laid out and established in this territory, shall be sixty-six feet in width; and it shall not hereafter be considered legal to locate a territorial road when said road does not pass the line of a county, or without a petition for the location of said road from at least twelve householders in each county in which said road is proposed to be located; residing in the vicinity of the line of the proposed road.

Compensation of examiners,

SEC. 11. All road examiners appointed under the provisions of this chapter, shall receive two dollars per day, for each and every day necessarily employed in the examination of any road.

When section line divides two counties, commissioners of either county may locate road.

SEC. 12. Whenever a township or section line divides two counties, and it becomes necessary for the location of a road along said line, it shall be competent for the board of commissioners of either county, to authorize the location of said road in every respect, as provided by this chapter for the location of roads, and the supervisors at the several precincts in which said road shall be located, shall open and keep in repair so much of said road as lies within their respective county; and whenever a territorial road runs on the line between two counties, no such vacation of such road shall be legal, unless authorized by both the said counties, as provided by this chapter.

Commissioners may cause to be opened a cartway.

SEC. 13. Any person who shall be so located that his land has no connection with any public road, or cartway, may apply to the board of commissioners of his county, in writing at any regular or special session, and the said board of commissioners shall thereupon issue an order to the county surveyor, directing him to locate and mark a cartway from the premises of said applicant, to some convenient public road or cartway, so located as to be most beneficial to all, through whose land it may pass, and the said surveyor shall notify the occupant of any and every cultivated or inclosed farm or tract of land, through which said cartway is located, and report his doings therein, to the board of commissioners at their next regular session, when, if there is no remonstrance against said cartway, the county surveyor shall forthwith be directed to survey said cartway, and file a plot thereof, for record in the same manner, in every respect, as required for the survey of county roads, except that it shall be surveyed thirty-three feet in width.

If remonstrance be made, commissioners to deliver the same to surveyor; his duties.

SEC. 14. If the owner or owners of any land in which said cartway shall be located, shall remonstrate previous to the survey thereof in writing to the board of commissioners, showing cause why said cartway should not be established as located by the surveyor, it shall be the duty of said commissioners to furnish the surveyor with a copy of said remonstrance, and direct him to review said location and if practicable, and the ends of justice can be better served, to re-locate said cartway, and give notice to all concerned, that they may appear before the board of commissioners at their next regular session, when if no person appears to remonstrate, the last location made, shall be ordered to be surveyed as provided in the foregoing section; but if any person or persons shall appear to remonstrate against the second location, as reported by the surveyor, then the said board shall decide from the reasons laid before them, which of the cartways so located shall be surveyed and established and give their order to the county surveyor accordingly.