

## CHAPTER CCXLVIII.

AN ACT TO LOCATE AND ESTABLISH A STATE ROAD FROM HOWARD LAKE, IN THE COUNTY OF WRIGHT, TO THE VILLAGE OF ARLINGTON, IN THE COUNTY OF SIBLEY.

*Be it enacted by the Legislature of the State of Minnesota :*

SECTION 1. That Isaac Berfield, of the town of Helen, county of McLeod, Owen McGraw, of the town of Green Isle, Sibley county, and O. S. Storres of the town of Winstead, McLeod county, are hereby appointed commissioners to survey, locate and establish a state road from the village of Howard Lake, in said county of Wright, via the village of Winstead Lake, town of Bergen, and Plato village in the said county of McLeod, to the village of Arlington, in the said county of Sibley, on the most feasible route.

SEC. 2. It shall be the duty of said commissioners, or a majority of them, to meet at H. Jones, at said village of Howard Lake, in said county of Wright, on any day within sixty days after the passage of this act, and there make oath that they will faithfully and impartially discharge their duties as provided by this act, and fairly and impartially assess the damage, if any, they find to be sustained by owners of land through which said road may run, and then proceed to discharge their duties. *Provided*, That in the absence of any one of these commissioners the other two shall have the power to fill the vacancy, and the person so appointed shall have the same authority as is by this act conferred upon said original commissioners.

SEC. 3. Said commissioners are hereby authorized to employ one surveyor and two chainmen. Said commissioners shall receive three dollars per day, said surveyor not to exceed five dollars per day, and said chainmen not to exceed two dollars per day.

SEC. 4. The said commissioners shall cause said surveyor to make an accurate plat of said road showing its survey and location, particularly describing the line thereof by metes and bounds, courses and distances, a copy of which shall be filed in the office of the registers of deeds of each of said counties of Wright, McLeod and Sibley.

SEC. 5. The said commissioners shall assess such damages sustained by owners of land through which such road is located, as they may deem just, taking the benefits and advantages therefrom into consideration, and shall file such assessment of damages within two weeks after the completion of their survey in the said offices of the registers of deeds in which such lands are situate, and said damages shall be paid by the counties in which such damages occur, *Provided*, that in all cases where the owners of land through which

road is located shall release the right of way in writing for such road, no damages shall be assessed therefor; and such releases shall be filed with said plats in the counties where said lands so released are situated.

SEC. 6. The expense of surveying, locating and establishing said road shall be paid by said counties in which the same shall be located, in proportion as near as may be to the expenses incurred thereby in each, and said commissioners shall apportion the amount paid by each, and file the same with the said plats in each of said counties.

SEC. 7. The county commissioners of each of said counties where the filing of the plats and assessments of damages and the statements of expenses shall have been duly made and filed as provided by this act shall, at their next regular or special session thereafter, cause the orders of their respective counties to be issued in payment of the expenses of said survey and location of said road, and shall also cause to be issued the orders of their respective counties to the owners of land sustaining damages therein as assessed by said commissioners, and in case of an appeal to the district court, and there shall be a higher rate of damages assessed, then after the same is finally determined, they shall also cause to be issued their orders for the excess.

SEC. 8. Any person aggrieved by the assessment or failure to assess damages by said commissioners may, within thirty days after the filing of their said award of damages, appeal to the district court of the county in which the land of such person is situated, by serving a notice on the county attorney of such county, and a copy of the appellant's complaint therein. Upon such appeal being taken, like pleadings and proceedings shall be had therein as in actions originally commenced in the district court.

SEC. 9. Within ten days after the filing of their said award of damages, said commissioners shall give notice to each person through whose lands said road shall be located, of their assessment of his damages. Such service shall be made by delivering such notice personally to such owner if a resident of either of said counties, or by leaving a copy thereof at his usual place of abode, with some person of suitable age and discretion then resident therein; in case of minors on their guardian, and if they shall have no guardian, then on the person who shall have the care or custody of such minor, and in case of lunatics or idiots on their guardian or the person in whose custody they are found. In all cases where the owner is not a resident of either of said counties, or a service cannot be had by reasonable diligence, or the owner be unknown, then such notice shall be given by publishing the same in some newspaper published in each of said counties once in each week for two consecutive weeks. *Provided*, that in case such notice is so served by advertisement the person on whom the same is so served may appeal as aforesaid to the district court within twenty days after the said last publication of such notice.

SEC. 10. This act shall take effect and be in force from and after its passage.

Approved February 12, 1879.