

exhibiting vouchers therefor, also the amount received by him of taxes assessed upon the taxable property of the district within the year, purposes for which they were assessed, the amount assessed for each purpose, which report shall be recorded by the clerk, and if it appears that there is any balance in the hands of the treasurer, he shall pay such balance to his successor in office as soon as he executes the bond required as a condition for holding the office of treasurer, and his sureties justifies on said bond. The director and clerk shall examine said report, and if correct they shall endorse the same, and when said report is so approved and endorsed the voters at the annual meeting may authorize the clerk to issue an order in favor of said treasurer to an amount not exceeding two (2) per cent. on all orders issued by the clerk and signed by the director and paid by him during the past school year. Whenever any school district is united to another school district, the treasurer shall upon demand pay over to the treasurer of the consolidated school district all moneys in his hands.

SEC. 2. All acts and parts of acts inconsistent or in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage and approval.

Approved April 21, 1897.

H. F. No. 763.

CHAPTER 199.

County and town roads.

An act to lay out, alter and discontinue county roads, and to provide for an appeal from the decisions of county commissioners and township supervisors, in laying out, altering or refusing to lay out or alter, county or town roads.

Be it enacted by the Legislature of the state of Minnesota:

Petition by freeholders.

SECTION 1. If twenty-four freeholders of any county containing one hundred or more legal voters, and twelve freeholders of any county containing less than one hundred legal voters, petition the board of county commissioners of such county for the location, establishment, change or vacation of any highway or cartway running into more than one town, or on the line between two towns of said county, or along the shore of any lake situated wholly or partly within said county, and such highway or cartway not being within the limits of

any incorporated city, whether such highway or cartway is connected or to be connected with other roads or not, setting forth in such petition the beginning, course and termination of the highway or cartway proposed to be located, established, changed or vacated, together with the names of the owners of the land, if known, through which the same may pass, the auditor of such county shall lay such petition before the board of county commissioners at the next session thereafter.

SEC. 2. When the board of county commissioners to whom such petition is presented are satisfied that at least thirty days' notice thereof has been given before the sessions of said board at which such petition is to be heard, by posting up notices in three of the most public places in each of the towns through which such highway is proposed to be located, changed or vacated, the board of commissioners shall appoint from the members thereof a committee to examine such proposed location, establishment, change or vacation; and the board, if necessary, shall designate a time when and a place where such committee will meet upon such route.

Committee to
examine
location.

SEC. 3. At the time and place designated said committee shall meet and proceed to examine the highway proposed to be located, changed or vacated, and in such examination may employ a competent surveyor.

SEC. 4. After such committee have completed their examinations, they shall make a report of their proceedings, setting forth the highway proposed to be located, established, changed or vacated, by course and distance, and recommending therein, according to the opinion of the majority, either that the prayer of the petitioners be granted or rejected; a copy of which report shall be returned to the board of commissioners at their next session thereafter.

Report and
recommendation.

SEC. 5. At the next meeting of the board of commissioners they shall proceed to determine the prayer of such petition; and such board shall declare it granted if a majority of the board so agree, and shall direct the auditor to notify the supervisors of the several towns in which such road is located or established, or change or vacation is made, when such supervisors will cause to be opened so much of such highway as lies in their respective towns; *provided*, that all damages sustained by reason of laying out or altering any county road shall be assessed by the county commissioners laying out such road, and paid by the county.

Action of
commissioners.

SEC. 6. If at the session of the board of commissioners at which the report of the road committee appointed to examine such highway is presented, any

Remonstrance and
determination of
damages.

person over whose land such road passes shall remonstrate against granting the prayer of the petition, setting forth in writing that he is damaged in a sum mentioned, by the location, change or vacation of such highway, to the truth of which he takes and subscribes an oath, such board shall determine, from the face of the report, and the evidence before them, the amount of damages sustained, and whether the damages so assessed are greater than the utility of the proposed highway or change; and if they deem the road of sufficient advantage to the county to warrant the paying of the damages assessed by the board, they shall declare such highway located, changed or vacated, and all damages declared assessed shall be paid by the county interested; but if they shall determine that the damages assessed are greater than (the advantages of) the proposed location or change, they shall order the petition dismissed.

SEC. 7. Every road located by state or county authority is a county road, and shall only be changed or vacated by an order of the county commissioners, as provided for in this chapter. All damages claimed in the location of any state road through any of the organized counties of this state shall be determined by the provisions of this chapter, the same as in the location of a county road; and the organized counties through which any state road is located shall be liable for such damages. It shall be the duty of the county commissioners to cause all the proceedings in the location, changing or vacating any state or county road, to be recorded in a suitable book provided for such purpose, to be known as the "Book of State and County Roads," and said book shall be a public record, and shall be *prima facie* evidence in all the courts of this state of its contents. The said county commissioners are authorized to allow a reasonable compensation for such recording, not exceeding ten cents per folio.

SEC. 8. That in all cases where the territorial or state roads have been heretofore laid out or travelled through or across land which has since been duly and legally embraced within the limits of any public park in any city in this state, which park contains walks and drives through the same, so much of said state and territorial roads as (is) in embraced within the limits of any such public park is hereby vacated; *provided, however*, that nothing herein contained shall apply to any portion of any road or street which has been designated as a parkway by any board of park commissioners.

SEC. 9. The county commissioners have general supervision of county roads, and have power to appropriate such sums of money from the county treasury

County and
state roads.

Public parks.

Supervision
of roads and
appropriation
of
money.

as they think advisable for opening, vacating, resurveying, or otherwise improving such roads, not exceeding in any one year the sum or ratio of one thousand dollars to each five hundred thousand dollars of assessed valuation of real estate in such county; *provided*, that additional sums may be appropriated, but shall not be expended except upon ratification thereof by a vote of the people, to assist in building bridges, and opening and repairing county roads, to be expended under their direction; *provided, further*, that the towns through which any county road may pass shall keep such road in repair the same as other roads in their towns.

SEC. 10. That whenever any board of county commissioners of any county shall determine to expend any portion of the county "road and bridge fund," not exceeding the sum of three hundred dollars, to aid in the construction or repair of roads and bridges in any town of such county, the same shall be appropriated and expended as hereinafter provided, and not otherwise.

SEC. 11. Whenever any board of county commissioners shall make any appropriation, not exceeding the sum of three hundred dollars, out of the "road and bridge fund" of such county, to aid in the construction or repair of roads and bridges, or either, in any town of such county, the board of county commissioners making such appropriation shall direct the county auditor or of such county to draw a warrant on the treasurer of such county for the amount of such appropriation, making the same payable to the town treasurer of the town for which such appropriation is made.

Warrants for not exceeding \$300.

SEC. 12. No damages shall be assessed or allowed under the provisions of this chapter to any person, persons or corporations by the reason of laying out any new road, or altering any old one, when the title of the land over which such road passes was vested in the state or the United States at the time of the location of such road, excepting as otherwise provided in this chapter.

Titles vested in U. S. or the state.

SEC. 13. The county commissioners, in cases of county roads, and the town supervisors, in cases of town roads, may assess and allow damages on application, in cases where roads have been previously laid out and no damages have been assessed or allowed, or release given, if they consider such assessment just and right; *provided, however*, that no damages shall be allowed or paid unless application for such damages shall have been made within three years from the date of laying out such roads.

Assessment and allowance of damages.

Appeal to
dist. court.

SEC. 14. Any person who shall feel himself aggrieved by any determination or award of damages made by the supervisors of any town or towns, or by the commissioners of any county, either in laying out, altering or discontinuing, or in refusing to lay out, alter or discontinue any highway or cartway, or any taxpayer or legal voter of any county through which such road or highway, or any part thereof, which is to be laid out, altered, changed or vacated, may or shall pass, may, within thirty (30) days after the filing of such determination or award or damages, appeal to the district court of the county from such determination or award of damages by filing in the office of the clerk of the court of such county a bond in the sum of not less than two hundred and fifty (250) dollars, with good and sufficient sureties, to be approved, by the judge of such district court or the county commissioners or the county auditor of the county, conditioned to pay all costs arising from such appeal in case the determination of the supervisors or county commissioners, as the case may be, shall be sustained, and by the service of a written notice on the chairman of the board of supervisors or county commissioners, as the case may be, signed by the party taking the appeal, or his attorney. A copy of such notice shall be filed in the office of the county auditor of such county, and also in the office of the town clerk of each town in which such highway or cartway proposed to be laid out, altered or discontinued may be situated.

\$250 bond.

Notice of
appeal.

Such notice shall briefly state the grounds on which such appeal is taken, and whether it is brought in relation to damages assessed or in relation to laying out, altering or discontinuing or refusing to lay out, alter or discontinue any highway, or whether it is brought to reverse entirely the decisions of the board of supervisors or board of county commissioners, or any part thereof; if the latter, what part, and all matters referred to in the notice of appeal.

Action of
court.

Unless the parties otherwise agree, the matters in such appeal shall be tried, and the court or jury, as the case may be, shall reassess the damages, unless the determination of the matters tried in said court shall render such reassessment unnecessary, but the rule for reassessing damages and determining the matters involved in such appeal shall be based upon the same principles as the supervisors or county commissioners were required to adopt in originally determining the same; and upon final judgment being rendered therein, the clerk of said district court shall file a certified transcript in the office of the county auditor of such county if the appeal was taken from the action of the county com-

missioners, and in the office of the town clerks of all towns affected by such determination if the appeal was taken from any action of any board of supervisors. If the determination of the board of supervisors or commissioners appealed from be affirmed, or if the amount of damages allowed be reduced in said district court, the party appealing shall pay all costs and disbursements incurred in said district court; but if the amount of damages allowed be increased, or if such determination shall be altered, modified or reversed in said court otherwise than as to amount of damages, such costs and disbursements shall be paid by the town or county, as the case may be; such costs and disbursements to be taxed and adjusted as in other cases in said court, and judgment entered therefor in like manner. Such appeal shall be entered upon the calendar of said district court for trial, at the next general term thereof occurring more than twenty (20) days after the appeal is perfected.

SEC. 15. When an appeal shall have been made from the determination of any board of supervisors or county commissioners, and such determination shall have been reversed or altered, the supervisors or commissioners from whose determination such appeal was taken shall proceed to lay out, alter, or discontinue such highway, in conformity with the decision of such appeal; and the proceedings thereon shall be the same as if they had originally so determined and awarded, whether by the supervisors or by the court or jury, together with all the charges of officers and other persons necessarily employed in laying out, altering or discontinuing any town road, shall be audited by the supervisors, specifying the amount of damages and charges due each individual, and the respective amount shall be certified to by the said supervisors, and by them deposited with the town clerk and paid by the town. Before any road shall be opened or used, an amount of town orders equal to the damages assessed to each individual shall be duly issued and deposited with the said town clerk for the use and benefit of said individual, and shall be delivered to him upon demand. The issuing and depositing of said orders shall be deemed to be sufficient security for the payment of said damages. In no case shall any town be compelled to pay any damages that may be awarded in laying out and altering or discontinuing any county road.

Auditing and
payment of
damages.

SEC. 16. Every road laid out by the proper authorities, as provided for in this chapter, from which no appeal has been taken within the time limited for taking such appeal, is hereby declared a public highway to all

A public
highway.

intents and purposes, and all persons having refused or neglected to take an appeal, as provided for in this chapter, shall forever be debarred from any further redress. This act shall not affect any pending action or proceeding in court.

SEC. 17. This act shall take effect and be in force from and after its passage.

Approved April 21, 1897.

H. F. No. 347.

CHAPTER 200.

Lien on grain for threshing.

An act to provide for lien on grain for threshing the same.

Be it enacted by the Legislature of the state of Minnesota:

Owners of machines have prior lien.

SECTION 1. Every person or persons, co-partnership or corporation owning or operating a threshing machine shall have a lien upon all grain threshed from the day of threshing, for the reasonable value of such threshing, or in case there is an agreed price for threshing the same, then for such agreed price.

SEC. 2. Said lien shall have priority over all other liens and incumbrances created subsequent to the passage and approval of this act, except liens for seed grain, upon filing a statement as hereinafter provided within ten (10) days after the threshing of such grain is completed.

Conditions of claiming a lien.

SEC. 3. Every person, copartnership or corporation claiming a lien under this act and wishing to avail himself of the benefits thereof, and to continue such lien shall make a statement in writing, setting forth:

1—The amount actually due and owing him after allowing all just credits and set-offs.

2—That such amount is due and owing for the threshing of such grain.

3—The first and last day on which such threshing is performed.

4—A description of the property to be charged with the lien.

5—The name of the owner or reputed owner of such property.

6—A notice of intention to claim and hold such lien.

Statement on oath.

Such statement shall be verified by the oath of the person claiming the lien, or by his agent, or by one having knowledge of the threshing, and shall, within ten