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GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
THE STATUTES OF THE STATE, BY ACT OF THE
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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1865.

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4 record the same in a book to be provided for that purpose,
5 and shall perform such other duties as may from time to
6 time be required of them by the commandants of their regi-
7 ments, squadrons and battalions; *Provided*, That when
8 any adjutant is absent, the commanding officer shall appoint
9 a suitable person to do the duty of the adjutant.

c120
c. s. p. 823, Sect. 61.
1 SECT. 57. There shall be allowed to the officers compos-
2 ing any division, brigade, regimental, squadron or battal-
3 ion court martial, and to the judge-advocates thereof, one
4 dollar and fifty cents each day they may be necessarily en-
5 gaged in traveling to and from, and attending at such court;
6 the provost marshal shall have such compensation as is al-
7 lowed to sheriffs for similar services in civil cases; the fees
8 of witnesses are twenty-five cents for each day they attend
9 under a summons, and for each day in traveling to and from
10 the same, which compensation shall be paid out of the state
11 treasury, on the order of the president of the court martial,
12 indorsed by the state auditor.

c120
c. s. p. 823, Sect. 62.
1 SECT. 58. If, after paying all drafts upon the military
2 fund hereinbefore specified, there remain no funds, the
3 commander-in-chief is hereby authorized to rent or pur-
4 chase a suitable armory for any division or brigade, the
5 same to be paid out of the treasury of the city, county, or
6 counties which form such division or brigade.

c120
c. s. p. 824, Sect. 63.
1 SECT. 59. The adjutant general of the state shall fur-
2 nish to the commandants of divisions, for the use of their
3 brigades, blank forms of rolls, bonds, and of the different
4 returns that may be required from time to time by this
5 chapter, and explain the principles on which they should
6 be made.

CHAPTER XIII.

ROADS, CARTWAYS AND BRIDGES.

c40
1860-p. 60, Sect. 1.
1 SECTION 1. The supervisors in the several towns in
2 this state, shall have the care and superintendence of roads
3 and bridges therein, shall give directions for the repairing
4 of the roads and bridges in their respective towns, regulate
5 the roads already laid out, and alter each of them, as they,
6 or a majority of them, deem proper, as hereinafter pro-
7 vided; cause the roads and the bridges erected over streams
8 intersecting roads to be kept in repair; divide the respect-

9 ive towns into so many road districts as they deem conve-
 10 nient, by writing under their hands, to be lodged with the
 11 town clerk, and by him entered in the town records; such
 12 division to be made annually, if they deem it necessary, and
 13 in all cases to be made at least within twenty days after the
 14 annual town meeting; they shall assign to each of the said
 15 road districts such of the inhabitants liable to work on
 16 highways, as they think proper, having regard to proxim-
 17 ity of residence, and require the overseers of highways, as
 18 often as they deem necessary, to warn all persons liable to
 19 work on roads to come and work thereon, with such tools,
 20 carriages, cattle or teams, as the said overseers, or either of
 21 them, shall direct.

1 SECT. 2. The supervisors in each town shall render to
 2 the annual town meeting an account in writing, stating the
 3 labor assessed and performed in such town, the sums re- 1860—p. 81, Sect. 2. *c4 a1*
 4 ceived by such supervisor for fines and commutations, and
 5 all other moneys received under this chapter; a statement
 6 of the improvements necessary to be made on the roads and
 7 bridges, and an estimate of the probable expense of making
 8 such improvements beyond that of the labor to be assessed
 9 in that year, that the road tax will accomplish; also a
 10 statement in writing of all expenses and damages in conse-
 11 quence of laying out, altering or discontinuing roads.

1 SECT. 3. The overseers of highways in each town shall
 2 repair and keep in order the roads within their several dis-
 3 tricts; warn all persons from whom labor is due to work 1860—p. 81, Sect. 3. *c4 a1*
 4 on the highways, at such times and places within their sev-
 5 eral districts as they may think proper; collect all fines
 6 and commutation money, execute all lawful orders of the
 7 supervisors, and deliver to the town clerk, within sixteen
 8 days after election or appointment, a list, subscribed by
 9 such overseer, of the names of all the inhabitants in his
 10 road district, who are liable to work on the highways.

1 SECT. 4. If any person chosen or appointed to the
 2 office of overseer of highways, refuses to serve, or if his 1860—p. 81, Sect. 4. *c4 a1*
 3 office becomes vacant, the supervisors of the town shall by
 4 warrant under their hands, appoint some other person in
 5 his stead, and the overseer so appointed shall have the same
 6 powers, be subject to the same orders, and liable to the
 7 same penalties as overseers chosen at town meetings.

1 SECT. 5. The supervisors making the appointment, shall 1860—p. 81, Sect. 5. *c4 a1*
 2 cause such warrant to be forthwith filed in the office of the
 3 town clerk, who shall give notice to the person appointed,
 4 as in other cases.

c 4 a 1860—p. 81, Sect. 6.

1 SECT. 6. Every overseer of highways who refuses or
 2 neglects to perform any of the duties of this chapter, or
 3 which may be lawfully required of him by the supervisors
 4 of his town, shall, for every such refusal or neglect, forfeit
 5 the sum of ten dollars, to be sued for by the chairman of
 6 the board of supervisors of the town, and when recovered,
 7 to be applied by him in making and improving the roads
 8 and highways therein.

c 4 a 1860—p. 82, Sect. 7.

1 SECT. 7. The supervisors of each town shall meet at
 2 the town clerk's office within eighteen days after they are
 3 chosen, on such day as they agree upon, and afterwards at
 4 such other times and places as they think proper.

c 4 a 1860—p. 82, Sect. 8.

1 SECT. 8. The town clerk shall deliver the list filed by
 2 the overseers to the supervisors, who shall proceed to as-
 3 certain, estimate and assess the highway labor and road
 4 tax to be performed and paid in their town the next ensu-
 5 ing year.

c 4 a 1860—p. 82, Sect. 9.

1 SECT. 9. Every male inhabitant being above twenty-one
 2 years and under the age of fifty, excepting paupers, idiots,
 3 lunatics, and such others as are exempt by law, shall be as-
 4 sessed not less than two days nor more than four days in
 5 each year. Supervisors shall assess a road tax on all real
 6 estate, liable to taxation of the town, to any amount they
 7 may deem necessary, not exceeding fifty cents on each one
 8 hundred dollars of value as valued on the assessment roll
 9 of the preceding year. They shall affix the name of each
 10 person named in the list so furnished by the overseers, the
 11 number of days assessed to each person for highway labor,
 12 and also a description of each tract of land, and the name
 13 of the owner, if known, with the valuation thereof, as taken
 14 from the assessment roll of the previous year, and the
 15 amount of the road tax assessed thereon in a separate col-
 16 umn; the list so prepared shall be signed by the super-
 17 visors, and deposited with the town clerk, to be filed in his
 18 office.

c 4 a 1860—p. 82, Sect. 10.

1 SECT. 10. The supervisors shall direct the town clerk
 2 to make a copy of each list, shall sign such copies, after
 3 which they shall cause the several copies to be delivered to
 4 the respective overseers of highways of the several districts
 5 in which the highway labor is assessed. One copy for
 6 each overseer shall contain the name and number of days
 7 assessed to each person, the other the land road tax.

c 4 a 1860—p. 82, Sect. 11.

1 -SECT. 11. The names of persons left out of such list,
 2 and of new inhabitants, shall from time to time be added to
 3 the several lists, and they shall be rated by the overseers in

4 the same proportion to work on the highways as others rated
5 by the supervisors on such list.

1 SECT. 12. Overseers of highways shall give at least
2 three days' notice to all persons assessed to work on high- 1860-p. 83, Sect. 1. c 4 a 2
3 ways, and living within the limits of their respective dis-
4 tricts, of the time and places when and where they are to
5 appear for that purpose, and with what implements; but
6 no person being a resident of the town shall be required to
7 work on any highway other than in the district in which he
8 resides, but may elect to pay any land road tax in labor in
9 the district in which said land is situated. Such labor shall
10 be at the disposition of the overseers of their respective dis-
11 tricts.

1 SECT. 13. The overseers of highways have power in
2 case any bridge is washed away or damaged, or in case any
3 road is obstructed by the falling of timber after the road 1860-p. 83, Sect. 3. c 4 a 2
4 labor has been exhausted, to call out any or all persons lia-
5 ble to a poll tax in his district, and repair any bridges or
6 remove any obstructions of timber; but if it is not neces-
7 sary to call out all such persons in such district, then the
8 overseer shall give to each of the persons called out a re-
9 ceipt for the amount of said labor, and such receipt shall
10 be received by any road overseer and be applied in pay-
11 ment of any road tax assessed against the holder of the
12 same in any succeeding year.

1 SECT. 14. Every person liable to work on the high-
2 ways, shall work the whole number of days for which he is
3 assessed, but every such person, other than the overseers 1860-p. 83, Sect. 3. c 4 a 2
4 of highways, may elect to commute for the same, or for
5 some part thereof, at the rate of one dollar per day, in
6 which case such commutation money shall be paid to the
7 overseers of highways of the district in which the person
8 commuting shall reside, to be applied and expended by the
9 overseer in the improvements of the roads and bridges in
10 the same district. Overseers of highways when such land
11 tax is paid either in money or labor, shall write the word
12 "paid" against each name or tract in their list on which the
13 same is paid.

1 SECT. 15. Every person intending to commute for his
2 assessment, or any part thereof, shall within twenty-four 1860-p. 83, Sect. 4. c 4 a 2
3 hours after he is notified to appear and work on the high-
4 ways, pay the commutation money for the work required
5 of him by such notice, and the commutation shall not be
6 considered as made until such money is paid.

1 SECT. 16. Every overseer of highways has power to

c4 a 2

1860—p. 83, Sect. 5.

2 require a team or cart, wagon or plow, with a pair of horses
3 or oxen and a man to manage them, from any person hav-
4 ing the same within his district, who has been assessed two
5 days or more, and who has not commuted his assessment—
6 the person furnishing the same, upon such requisition, shall
7 be credited for two days for each day's service therewith.

c4 a 2

1860—p. 84, Sect. 6.

1 SECT. 17. Every person assessed to work on the high-
2 ways, and warned to work, may appear in person or by an
3 able bodied man as a substitute, and the person or substi-
4 tute so appearing shall actually work ten hours in each
5 day, under a penalty of fifteen cents for every hour such
6 person or substitute is in default, to be imposed as a fine
7 on the person assessed.

c4 a 2

1860—p. 84, Sect. 7.

1 SECT. 18. Every person so assessed and duly notified,
2 who does not commute, and who refuses or neglects to ap-
3 pear as above provided, shall forfeit for every day's refusal
4 or neglect the sum of two dollars. If he was required to fur-
5 nish a team, carriage, man or implements, and refused or
6 neglected to comply, he shall be fined as follows: For
7 wholly omitting to comply with such requisition, four dol-
8 lars for each day. For omitting to furnish a cart, wagon
9 or plow, one dollar for each day. For omitting to furnish
10 a pair of horses or oxen, one dollar and fifty cents for each
11 day. For omitting to furnish a man to manage the team,
12 one dollar and fifty cents for each day.

c4 a 2

1860—p. 84, Sect. 8.

1 SECT. 19. Every overseer of highways, within six days
2 after any person so assessed and notified, is guilty of any
3 refusal or neglect for which a penalty or fine is prescribed
4 in this chapter, unless a satisfactory excuse is rendered to
5 him for such refusal or neglect, shall make complaint to
6 one of the justices of the peace of the town.

c4 a 2

1860—p. 84, Sect. 9.

1 SECT. 20. The justice to whom such complaint is made,
2 shall forthwith issue a summons, directed to any constable
3 of the town requiring him to summon such delinquent to
4 appear forthwith before such justice, at some place to be
5 specified in the summons, to show cause why he should not
6 be fined according to law for such refusal or neglect, which
7 summons shall be served personally, or by leaving a copy
8 at his abode.

c4 a 2

1860—p. 84, Sect. 10.

1 SECT. 21. If upon the return of such summons no suffi-
2 cient cause is shown to the contrary, the justice of the peace
3 shall impose a fine as is provided in this chapter, for the of-
4 fense complained of, and shall forthwith issue a warrant
5 under his hand, directed to any constable of the town where
6 such delinquent resides, commanding him to levy such fine;

7 with the costs of proceedings, on the goods and chattels of
8 such delinquent.

1 SECT. 22. The constable to whom such warrant is di-
2 rected, shall forthwith collect the moneys therein mentioned. 1860—p. 85, Sect. 11. c 4 a 2
3 He shall pay the fine when collected, to the justice who is-
4 sued the warrant, who is hereby required to pay the same
5 to the overseer who entered the complaint, to be by him
6 expended in improving the roads and bridges in the district
7 over which he is overseer.

1 SECT. 23. Every penalty collected for neglect or refu- 1860—p. 85, Sect. 12. c 4 a 2
2 sal to appear and work on the highways, shall be set off
3 against his assessment upon which it is founded, estimating
4 each two dollars collected as a satisfaction for one day's
5 work.

1 SECT. 24. The acceptance by an overseer of any excuse
2 for refusal or neglect, shall not, in any case, exempt the 1860—p. 85, Sect. 13. c 4 a 2
3 person excused from commuting for working the whole
4 number of days for which he is assessed during the
5 year.

1 SECT. 25. Every overseer of highways is entitled to one
3 dollar per day, to be paid out of fines and commutation 1860—p. 85, Sect. 14. c 4 a 2
4 money, for every day he is necessarily employed in the ex-
5 ecution of his duties as overseer; *Provided*, That he shall
6 in no case receive a sum of money exceeding ten dollars in
7 any one year for such services beyond the amount of his
8 own highway labor and road tax, the number of days to be
9 accounted to and audited by the supervisor of the town.
10 When there are no funds from fines or commutations, the
11 supervisors may pay the overseers out of any other fund in
12 their hands, raised for the purpose of repairing and making
13 roads and bridges.

1 SECT. 26. Every overseer of highways shall deliver to 1860—p. 85, Sect. 17. c 4 a 2
2 the supervisor of his town, on or before the first day of
3 September of each year, the list furnished by the supervi-
4 sors, containing the land road tax, with his certificate there-
5 on, that on all tracts of land in said list opposite which the
6 word "paid" is not written, such tax is due and remains
7 unpaid, according to the best of his knowledge and belief.

1 SECT. 27. If any overseer refuses or neglects to deliver
2 such list, with his certificate, as provided in the last section,
2 he shall for every offense, forfeit the sum of five dollars, 1860—p. 86, Sect. 18. c 4 a 2
4 and also the amount of tax remaining unpaid, to be recov-
5 ered by the supervisors of such town, and applied by them
6 in improving the bridges and roads of such town.

c48

1864—p. 69, Sect. 1.

1 SECT. 28. The supervisors of the several towns shall
 2 receive the lists of the overseers of highways, pursuant to
 3 the preceding section, and return the same to the county
 4 auditor of the county, on or before the first day of Novem-
 5 ber in each year, who is hereby required to levy the amount
 6 of such arrearages of road tax upon the lands so returned,
 7 which arrearages shall be collected in the same manner as
 8 contingent charges of the county are levied and collected.
 9 Such road tax, when collected, shall be paid to the town
 10 treasurer of the proper town, upon the certificate of the au-
 11 ditor of the county, and shall be applied by the supervisors
 12 of the town in the construction of roads and bridges, to be
 13 paid by the town treasurer, upon the order of the super-
 14 visors.

c4 a 2

1860—p. 86, Sect. 20.

1 SECT. 29. It shall be the duty of every overseer of high-
 2 ways to have at least three-fourths of the road labor assess-
 3 ed in this district worked out or actually expended on the
 4 highways previous to the first day of August in each year.

c4 a 2

1860—p. 89, Sect. 21.

1 SECT. 30. Every overseer of highways shall, on the
 2 second Tuesday next preceding the time of holding the
 3 annual town meeting in his town, within the year for which
 4 he is elected or appointed, render to one of the supervisors
 5 of the town an account in writing, containing—
 6 *First.*—The names of all persons assessed to work on
 7 the highways in the district of which he is overseer.
 8 *Second.*—The names of all those who have actually work-
 9 ed on the highways, with the number of days they have
 10 worked.
 11 *Third.*—The names of all those who have been fined, and
 12 the sums in which they have been fined.
 13 *Fourth.*—The names of all those who have commuted,
 14 and the manner in which the moneys arising from the fines
 15 and commutations have been expended by him.

c4 a 2

1860—p. 87, Sect. 22.

1 SECT. 31. Every such overseer shall also then and there
 2 pay to the supervisors all moneys remaining in his hands
 3 unexpended, to be applied by the supervisors on the roads
 4 and bridges in the town.

c4 a 2

1860—p. 88, Sect. 23.

1 SECT. 32. If any overseer refuses or neglects to render
 2 such account, or if, having rendered the same, he refuses
 3 or neglects to pay any balance which may then be due from
 4 him, he shall for every such offense forfeit the sum of five
 5 dollars, to be recovered with the balance of the moneys re-
 6 maining in his hands, by the supervisors of the town, and
 7 applied to the making or improving of roads and bridges in
 8 such town.

1 SECT. 33. The supervisors of the town may alter or
 2 discontinue any road, or lay out any new road when peti-
 3 tioned by any number of legal voters not less than six, resid-
 4 ing within one mile of the road so to be altered, discontinued 1860-p. 88, Sect. 1. c 4 a 3
 5 or laid out; said petition shall set forth in writing a descrip-
 6 tion of the road, and what part thereof is to be altered and
 7 discontinued, and if for a new road, the names of the own-
 8 ers of the land, if known, over which the road is to pass,
 9 the point at which it is to commence, its general course,
 10 and the point near which it is terminate; *Provided*, That
 11 the said supervisors shall not have power to vacate, alter
 12 or change any state road, any portion of which passes
 13 through any of the unorganized counties of the state, nor
 14 shall they vacate any portion of any mail route, or change
 15 the same in any manner so as to make the same materially
 16 longer, and when any change is made in any such route,
 17 the supervisors shall cause the same to be immediately
 18 opened and made passable; *Provided*, That state roads not
 19 opened within two years from the time they are laid out
 20 may be vacated as other roads.

1 SECT. 34. Whenever any number of legal voters deter- 1860-p. 87, Sect. 2. c 4 a 3
 2 mine to petition the supervisors for the alteration or dis-
 3 continuance of any road, or laying out of any new road,
 4 they shall cause a copy of their petition to be posted up in
 5 three of the most public places of the town twenty days
 6 before any action is had in relation thereto.

1 SECT. 35. Whenever the supervisors receive a petition 1863-p. 126, Sect. 1. c 6 7
 2 in compliance with the two preceding sections, they shall
 3 give at least ten days notice, by posting up notices in three
 4 public places, near the line of said road, when and where
 5 they will meet for the purpose of personally examining the
 6 proposed alteration, discontinuance, or route for the new
 7 road proposed, and they shall hear any reasons that may be
 8 offered for or against altering, discontinuing, or laying out
 9 the same.

1 SECT. 36. Whenever the supervisors determine to lay 1860-p. 88, Sect. 4. c 4 a 3
 2 out any new road, or alter any old one, they shall cause a
 3 survey to be made by a competent surveyor, who shall
 4 make a report to them of such survey, accompanied with a
 5 plat, particularly describing the route by metes and bounds,
 6 courses and distances; they shall incorporate such report
 7 and survey, accompanied with the plat, in an order to be
 8 signed by them, declaring such road so altered or laid out
 9 to be a public highway, which order together with the pe-
 10 tition, shall be deposited with the town clerk, who shall
 11 note the time of filing the same, but on refusal, shall note
 12 the fact on the back of such petition.

c4 a 3

1860—p. 88, Sect. 5.

1 SECT. 37. The town clerk whenever any order of the
 2 supervisors for laying out, altering or discontinuing a road
 3 is received by him, shall carefully file the same, and the
 4 time hereinafter limited for appealing from such order shall
 5 be computed from the time of filing the same; but the town
 6 clerk shall not record such order, until a final decision is
 7 made, and not then unless such order is confirmed.

c4 a 3

1860—p. 88, Sect. 6.

1 SECT. 38. The damages sustained by reason of laying
 2 out or opening, or altering any road, may be ascertained
 3 by the agreement of the owners and the supervisors, and
 4 unless such agreement is made, or the owners shall, in
 5 writing, release all claim to damages, the same shall be as-
 6 sessed in the manner hereinafter prescribed, before the
 7 same is opened, or worked or used. Every agreement and
 8 release shall be filed in the town clerk's office, and shall
 9 forever preclude such owners of such lands from all further
 10 claim for such damages. In case the supervisors and the
 11 owners of land claiming damages cannot agree, the super-
 12 visors shall assess the damages at what they deem just and
 13 right to each individual claimant with whom they cannot
 14 agree, and deposit a statement of the amount of damages
 15 so assessed to each individual with the town clerk, who
 16 shall note the time of filing the same. The supervisors in
 17 all cases of assessing damages, shall estimate the advan-
 18 tages and benefits the new road or alteration of an old one,
 19 will confer on the claimants for the same, as well as the
 20 disadvantages. And any person living on United States
 21 land, who has filed his declaratory statement for the same,
 22 in the proper land office, shall, for all the purposes of this
 23 chapter, be considered the owner of said land.

c4 a 3

1860—p. 89, Sect. 7.

1 SECT. 39. Any person, being owner or agent for any
 2 tract of land over which any highway, altered, discontinued,
 3 or laid out, shall run, feeling himself aggrieved by any order
 4 made by the supervisors, may appeal from the same at any
 5 time within thirty days after the filing of such order in the
 6 town clerk's office; such appeal shall note the time such
 7 order was filed, and shall be made to three county commis-
 8 sioners. All persons who wish to make an appeal from
 9 such order, shall act in concert and make their appeal to
 10 the same three commissioners.

c4 a 3

1860—p. 89, Sect. 8.

1 SECT. 40. Every such appeal shall be in writing, ad-
 2 dressed to the three commissioners aforesaid, and signed by
 3 the party appealing. It shall briefly state the ground on
 4 which it is made, and whether it is brought in relation to
 5 damages assessed by the supervisors, or in relation to the
 6 alteration, discontinuance, or laying out of the road, or
 7 whether it is brought to reverse entirely the determination.

8 The appeal shall be left with one of the three county com-
9 missioners by the person appealing, and he shall also leave
10 a notice of such appeal with the other county commissioners
11 to whom the appeal is made.

1 SECT. 41. The commissioners to whom the appeal is
2 made, as soon as may be convenient, after the expiration of
3 thirty days from the filing of the order in the town clerk's
4 office, from which the appeal is made, shall agree on a time
5 when and where they will meet to consider the same; which
6 shall be at some place deemed convenient at or near the
7 road to be examined. 1860—p. 89, Sect. 9. c4a3

1 SECT. 42. The person making the appeal, shall cause a
2 notice in writing, of the time and place agreed on by the
3 three commissioners, when and where they will meet, to be
4 served on each of the supervisors from whose order they
5 appeal, and also on at least three of the petitioners who
6 petitioned in relation to such road; which notice shall be
7 served at least eight days before the time named therein,
8 by delivering one to each supervisor, or leaving one at each
9 of their dwellings, and in like manner shall notice be serv-
10 ed on three petitioners. 1860—p. 90, Sect. 10. c4a3

1 SECT. 43. The three county commissioners aforesaid,
2 shall meet at the time and place mentioned in the notice,
3 and hear the proofs and allegations of the parties, They
4 shall have power to issue process to compel the attendance
5 of witnesses, and may adjourn from time to time, as may be
6 necessary. Their decision, or that of any two of them,
7 shall embrace the whole matter in controversy. They shall
8 first consider the propriety and expediency of locating,
9 altering, or discontinuing the road; secondly, the subject
10 of damages, if such subject was embraced in the appeal
11 under which they are acting, and they shall fix on the
12 amount of damages which, in their judgment, is right and
13 just to be paid to each person claiming, but no person shall
14 be entitled to a re-assessment of damages unless his name
15 appears in the appeal in reference to that subject. 1860—p. 90, Sect. 11. c4a3

1 SECT. 44. Every such commissioner shall receive two
2 dollars for each day employed in hearing and deciding such
3 appeal, to be paid by the party appealing when the deter-
4 mination of the supervisors is sustained, but if reversed to
5 be paid by the town. 1860—p. 90, Sect. 12. c4a3

1 SECT. 45. Upon the refusal of the supervisors to alter,
2 discontinue, or lay out any new road petitioned for as pre-
3 scribed in section thirty-three aforesaid, any one of the pe-
4 tioners may appeal from such determination in the same 1860—p. 90, Sect. 13. c4a3

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5 manner and subject to the same provisions and restrictions
6 as relates to persons who feel themselves aggrieved by a
7 determination of the supervisors to alter, discontinue or lay
8 out a new road.

c 4 a 3

1860—p. 90, Sect. 14.

1 SECT. 46. When an appeal is made from the determin-
2 ation of the supervisors refusing to lay out, alter or discon-
3 tinue a road, and the county commissioners reverse such
4 determination, such county commissioners shall alter, dis-
5 continue, or lay out the road applied for, as the case may
6 be, and in doing so shall proceed in the same manner in
7 which supervisors of towns are directed to proceed in like
8 cases. Such roads shall be opened by the supervisors of
9 the town in the same manner as if laid out by themselves.

c 4 a 3

1860—p. 91, Sect. 15.

1 SECT. 47. In case the term of office of any county com-
2 missioner expires before the determination of such appeal,
3 he shall continue to act in the premises the same as if he
4 had been re-elected.

c 4 a 3

1860—p. 91, Sect. 16.

1 SECT. 48. The amount of damages as finally settled by
2 the county commissioners, or as agreed on by the supervi-
3 sors, together with all charges of officers and other persons
4 employed in laying out or discontinuing any road, shall be
5 audited by the supervisors with the amount of damages and
6 charges due each individual, which account shall be certi-
7 fied to and deposited with the town clerk, and paid by the
8 town.

c 4 a 3

1860—p. 91, Sect. 17.

1 SECT. 49. Whenever the supervisors of any town disa-
2 gree with the supervisors of any other town of the same
3 county, or of another county, relating to the laying out of
4 a new road, or the alteration of an old road, which ex-
5 tends into both of such towns, the supervisors of such towns
6 shall meet together at the request of either disagreeing su-
7 pervisors, and make their decision on the subject of disa-
8 greement.

c 4 a 3

1860—p. 91, Sect. 18.

1 SECT. 50. Whenever the supervisors of any town receive
2 a petition praying the location of a new road, or the altering
3 or discontinuing of an old one, on the line between two towns,
4 such road shall be laid out, altered or discontinued, by two
5 or more of the supervisors of each of said towns, either on
6 such line or as near thereto as the convenience of the
7 ground will admit, and they may so vary the same, either
8 to the one side or the other of such line, as they think
9 proper.

1 SECT. 51. The said supervisors, when there may be
2 such highways, shall divide each highway into two or more

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3 road districts, in such manner that the labor and expense
 4 of opening, working and keeping in repair such highways 1860—p. 91, Sect. 19.
 5 through each of the said districts may be equal, as near as
 6 may be, and to allot an equal number of such districts to
 7 each of said towns. *c 4 a 3*

1 SECT. 52. Each district shall be considered as belonging
 2 wholly to the town to which it may be allotted, for the pur- 1860—p. 92, Sect. 20.
 3 pose of opening and improving the road and keeping it in *c 4 a 3*
 4 repair, and the supervisors shall cause such highway, and
 5 the position and allotment thereof, to be recorded in the
 6 office of the town clerk in each of said towns.

1 SECT. 53. All roads heretofore laid out on the line be- 1860—p. 92, Sect. 21.
 2 tween any two towns, shall be divided, allotted, and recor- *c 4 a 3*
 3 ded, and kept in repair in the manner above directed.

1 SECT. 54. Whenever the supervisors have laid out any
 2 public road through any enclosed, cultivated or improved 1860—p. 92, Sect. 22.
 3 lands, in conformity with the provisions of this chapter, *c 4 a 3*
 4 and their decision has not been appealed from, they shall
 5 give the owner or occupant of the land through which such
 6 road is laid, twenty days' notice, in writing, to remove his
 7 fences. If such owner does not remove his fences within
 8 twenty days, the supervisors shall cause such fences to be
 9 removed, and direct the road to be opened, and worked;
 10 *Provided*, That no enclosure shall be ordered opened be-
 11 tween the first day of April and the first day of Oc-
 12 tober.

1 SECT. 55. If the decision of the town supervisors is ap- 1860—p. 92, Sect. 23.
 2 pealed from, the twenty days' notice shall be given after the *c 4 a 3*
 3 decision of the county commissioner, upon such appeal has
 4 been filed in the office of the town clerk of the town, ex-
 5 cept in cases provided for in section thirty-three.

1 SECT. 56. Public roads and parts of roads, whether ter- 1860—p. 92, Sect. 24.
 2 ritorial, state, or county, now legally existing, are declared *c 4 a 3*
 3 the highways of towns in which they are located, and may *strike out*
 4 be altered, discontinued, or re-opened by their respective
 5 town authorities as other roads.

1 SECT. 57. All public roads to be laid out by the super-
 2 visors, shall not be less than four rods wide. *Provided*, 1863—p. 103, Sect. 1.
 3 That the supervisors of the several towns shall have power *c 56*
 4 to lay out cartways two rods wide, when petitioned for by the
 5 persons desiring the same. The cost of surveying and
 6 locating said cartways shall be paid by the town, as is pro-
 7 vided by law in the laying out of public roads, and the dam-
 8 ages to the land through or upon which the said cartway

9 is laid out, shall be paid by the person for whose benefit the
10 said cartway is laid, and the damages in this section men-
11 tioned, shall be ascertained, and an appeal had in the same
12 manner, as in the case of public roads, and the town clerk
13 shall record such cartways in like manner.

c56

1863—p. 104, Sect. 2.

1 SECT. 58. It shall be lawful for the owner or occupant
2 of any enclosed land through which said cartway may be
3 located, to make and maintain good and sufficient gates at
4 the entrance of such cartway through such enclosure, and
5 whoever having opened such gate fails to close the same, or
6 throws down or damages such gate, shall be fined in any
7 sum not exceeding ten nor less than five dollars.

c4 a3

1860—p. 93, Sect. 26.

1 SECT. 59. The same powers and duties in and by this
2 chapter conferred and imposed upon town supervisors are
3 also conferred and imposed upon the city councils of the
4 several cities throughout this state; and in addition, it shall
5 be the duty of the city council to appoint some qualified
6 elector of each road district in the city to be overseer of
7 roads of such district; and the overseers of roads, the city
8 clerks, the justices of the peace, and the constables of the
9 several cities in the state shall have and exercise the same
10 powers and perform the same duties, and be subject to the
11 same liabilities as are in and by this chapter conferred and
12 imposed upon the town overseers of roads, town clerks,
13 town justices of the peace, and town constables; and all
14 the provisions of this chapter, shall be applicable to the
15 several cities in this State.

c68

1862—p. 133, Sect. 1.
Amended.

1 SECT. 60. If twenty-four freeholders of any county con-
2 taining one hundred or more legal voters, and twelve free-
3 holders of any county containing less than one hundred
4 legal voters petition the board of commissioners of such
5 county for the location, establishment, change or vacation
6 of any highway running into more than one town of said
7 county, whether such highway is connected or to be con-
8 nected with other roads or not, setting forth in such peti-
9 tion the beginning, course and termination of the highway
10 proposed to be located, established, changed or vacated,
11 together with the names of the owners of the lands through
12 which the same may pass, the auditor of such county shall
13 lay said petition before the board of county commissioners,
14 at their next session thereafter.

c68

1862—p. 139, Sect. 2.

1 SECT. 61. When the board of county commissioners to
2 whom such petition is presented are satisfied that at least
3 thirty days notice thereof has been given, before the ses-
4 sion of such board at which such petition is to be heard, by
5 posting up notices in three of the most public places in

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6 each of the towns through which such highway is proposed
7 to be located, changed or vacated, the board of commis-
8 sioners shall appoint from the members thereof a commit-
9 tee to examine such proposed location, establishment,
10 change or vacation, and the board if necessary shall desig-
11 nate a time when and a place where such committee will
12 meet upon such route.

1 SECT. 62. At the time and place designated, said com-
2 mittee shall meet, and proceed to examine the highway
3 proposed to be located, changed or vacated, and in such
4 examination may employ a competent surveyor. 1862-p. 139, Sect. 3. c 68

1 SECT. 63. After such committee have completed their
2 examinations, they shall make a report of their proceedings
3 setting forth the highway proposed to be located, estab-
4 lished, changed or vacated, by course and distance, and
5 recommending therein according to the opinion of a major-
6 ity, either that the prayer of the petitioners be granted or
7 rejected, a copy of which report shall be returned to the
8 board of commissioners at their next session thereafter. 1862-p. 139, Sect. 4. c 68

1 SECT. 64. At the next meeting of the board of commis-
2 sioners, they shall proceed to determine the prayer of such
3 petition, and such board shall declare it granted if a ma-
4 jority of the board so agree and shall direct the auditor to
5 notify the supervisors of the several towns in which such
6 road is located or established, or change or vacation is
7 made, when such supervisors will cause to be opened so
8 much of such highway as lies in their respective towns. 1862-p. 139, Sect. 5. c 68

1 SECT. 65. If at the session of the board of commission-
2 ers at which the report of the road committee appointed to
3 examine such highway is presented, any person over whose
4 land such road passes shall remonstrate against granting
5 the prayer of the petition, setting forth in writing that he
6 is damaged in a sum mentioned, by the location, change or
7 vacation of such highway, to the truth of which he takes
8 and subscribes an oath, such board shall determine from the
9 face of the report and the evidence before them, the amount
10 of damages sustained, and whether the damages so assessed
11 are greater than the utility of the proposed highway or
12 change, and if they deem the road of sufficient advantage
13 to the county to warrant the paying of the damages assess-
14 ed by the board, they shall declare such highway located,
15 changed or vacated, and all damages declared assessed shall
16 be paid by the county interested; but if they shall deter-
17 mine that the damages assessed are greater than the advan-
18 tage of the proposed location or change, they shall order
19 the petition dismissed. 1862-p. 139, Sect. 6. c 68

c 68 1862—p. 140, Sect. 7.

1 SECT. 66. Such committee, appointed to examine such
2 highway shall receive each one dollar and fifty cents per
3 day for every day they may be necessarily employed, and
4 such surveyor shall receive such compensation as the board
5 may determine.

c 68 1862—p. 140, Sect. 8.

1 SECT. 67. Every state road or other continuous road
2 passing through or into more than one organized county, is
3 a county road, and shall only be altered, changed or va-
4 cated, by an order of the board of county commissioners.
5 All damages claimed in the location of any state road
6 through any of the organized counties of this state shall be
7 determined by the provisions of this chapter the same as in
8 the location of a county road, and the organized counties
9 through which each state road is located shall be liable for
10 such damages.

c 30 1865—p. 71, Sect. 1.

1 SECT. 68. The county commissioners have a general
2 supervision of county roads, and have power to appropri-
3 ate such sums of money from the county treasury as they
4 think advisable for opening and working such roads, not
5 exceeding, in any one year, the sum or ratio of one thou-
6 sand dollars to each five hundred thousand dollars of as-
7 sessed valuation of real estate in such county. *Provided*,
8 that additional sums may be appropriated, but shall not be
9 expended except upon a ratification thereof by a vote of
10 the people, to assist in building bridges and in opening and
11 repairing county roads; to be expended under their direc-
12 tion. *Provided further*, That the towns through which any
13 county road may pass, shall keep such road in repair, the
14 same as other roads in their towns.

struck out

1 SECT. 69. If a person receives or suffers bodily injury
2 or damage in his property, through a defect or want of re-
3 pair, or of sufficient railing on or upon a road, cartway or
4 bridge, he may recover in a civil action, of the county,
5 town, place or persons by law obliged to repair the same,
6 the amount of damage sustained thereby, if such county,
7 town, place or persons had reasonable notice of the defect,
8 want of repair, or of sufficient railing, or if the same had
9 existed for twenty-four hours previous to the occurrence of
10 the injury or damage.

c 69 1862—p. 141, Sect. 1.

1 SECT. 70. Whoever at any time obstructs any of the
2 public highways in this state with fences, logs, brushwood,
3 timber or other material, with intent to prevent the free use
4 thereof by the public, is guilty of misdemeanor, and shall
5 be punished by a fine not exceeding twenty-five dollars, nor
6 less than ten dollars, with costs, or be imprisoned in the
7 county jail not less than ten nor more than twenty-five days.

8 *Provided*, That in all such cases, five years use by the public
9 of any road, and the repair thereof by the public authori-
10 ties, is sufficient to establish a public highway within the
11 intent and meaning of this section.

1 ⁶⁹ SECT. 71. Justices of the peace shall have jurisdiction
2 on complaint made on oath, to hear and determine all cases ^{1862-p. 141, Sect. 2.}
3 arising under the preceding section. c 69

1 SECT. 72. All fines recovered under the provisions of ^{1862-p. 141, Sect. 3.}
2 this chapter, shall be paid into the treasury of the town
3 wherein the offence was committed, to be used in repairing
4 the public highways within such town. c 69

1 SECT. 73. Whoever drives or rides upon the bridges
2 belonging to any incorporated bridge company, or upon any ^{1863-p. 98, Sect. 1.}
3 bridge erected by any county town, or upon any bridge
4 which has been or may be erected by any individual, and
5 upon which the notice hereinafter prescribed is conspicu-
6 ously displayed, faster than a walk, shall forfeit and pay
7 for the use and benefit of the county wherein such bridge is
8 located, in whole or in part, as a penalty therefor, the sum
9 of not less than five nor more than ten dollars for each and
10 every such offense. c 52

1 SECT. 74. Upon complaint made to any justice of the
2 peace, in any county where such bridge is located in whole
3 or in part, that any such offence has been committed, such
4 justice shall examine the complainant on oath, and if it ap- ^{1863-p. 98, Sect. 2.}
5 pears that such offence has been committed, the said justice
6 shall issue his warrant reciting the substance of the com-
7 plaint, requiring the officer to whom it is directed, forth-
8 with to arrest the accused, and to bring him before such
9 justice, or some other justice of the same county to be dealt
10 with according to law. If the name of the person commit-
11 ting the offense is not known to the complainant or the jus-
12 tice, the complainant may give the justice such description
13 as may enable the person accused to be identified, and the
14 warrant shall recite such description, and shall justify the
15 officer to whom it is directed, in arresting the person describ-
16 ed, and bringing him before the justice. c 52

1 ³ SECT. 75. In all cases of conviction under the provis-
2 ions aforesaid, the justice shall enter judgment for the fine ^{1863-p. 98, Sect. 3.}
3 and costs against the defendant, and may commit him until
4 the judgment is satisfied, or issue execution upon the judg-
5 ment to the use of the county. c 52

1 SECT. 76. No fine shall be imposed under the provis- ^{1863-p. 98, Sect. 4.}
2 ions aforesaid, unless there was at each end of said bridge, c 52

3 at the time when such offence was committed, a conspicu-
 4 ous sign board, upon which was painted the following words
 5 and figures: "\$10 fine for riding or driving on this bridge
 6 faster than a walk."

c 56

1864—p. 108, Sect. 1.

1 SECT. 77. Whenever any bridge or ferry company or
 2 individual is authorized by law to collect toll for the cross-
 3 ing of any bridge or ferry belonging to such company or
 4 individual, any person who wilfully runs the toll gate of
 5 such company or individual, and passes over such bridge or
 6 ferry with the intention of avoiding the payment of the toll
 7 prescribed by law, or who refuses to pay such toll when
 8 thereto lawfully requested, shall forfeit and pay for the use
 9 and benefit of the county wherein such bridge or ferry is
 10 located, a fine of five dollars for each and every such of-
 11 fense, which fine shall be prosecuted and collected, together
 12 with costs, in the same manner as the penalties prescribed
 13 in the preceding sections.

CHAPTER XIV.

THE LAW OF THE ROAD.

c 21

C. S. p. 347, Sect. 1.

1 SECTION 1. When persons meet each other on any bridge
 2 or road, traveling with carriages, wagons, sleds, sleighs,
 3 or other vehicles, each person shall seasonably drive his
 4 carriage or other vehicle to the right of the middle of the
 5 traveled part of such bridge or road, so that the respective
 6 carriages, or other vehicles may pass each other without
 7 interference.

New.

1 SECT. 2. The driver of a carriage or other vehicle, pas-
 2 sing a carriage or other vehicle traveling in the same di-
 3 rection, shall drive to the left of the middle of the traveled
 4 part of a bridge or road, and if the bridge or road is of
 5 sufficient width for the two vehicles to pass, the driver of
 6 the leading one shall not wilfully obstruct the same.

c 21

C. S. p. 347, Sect. 3.

1 SECT. 3. No person owning or having the direction or
 2 control of any coach or other vehicle, running or traveling
 3 upon any road in this state, for the conveyance of passengers,
 4 shall employ or keep in employment any person to drive
 5 such coach or other vehicle, who is addicted to drunken-
 6 ness, or to the excessive use of intoxicating liquors.

1 SECT. 4. Whoever offends against the provisions of the