

CHAP. 89. 3. AND BE IT ENACTED, That the county court, to whom the return as aforesaid shall be made, shall determine whether the damages by them adjudged as aforesaid, shall be paid by the persons petitioning for the said road, or levied on the county, or may direct the said damages to be paid by the petitioners and the county in such proportion as the court may deem just.

Court to determine whether damages shall be paid by petitioners, or levied on county.

When road is determined to be opened or shut up clerk to transmit a copy of judgment to levy court

9. AND BE IT ENACTED, That whenever the county court shall adjudge and determine that any road shall be opened or shut up, it shall be the duty of the clerk to transmit to the levy court of the county a copy, under seal, of the judgment of the county court including the assessment of damages, and also a copy of the plot returned.

Damages to be paid before road is opened.

10. AND BE IT ENACTED, That in all cases of proceedings under this act, the damages adjudged by the court shall be paid to the respective parties, or their guardians, before the said road shall be opened; and in case of the death of any of the parties concerned, after the valuation made by the commissioners, or a majority of them, as aforesaid, the damages finally adjudged to him, her or them, by the court, shall be paid to his, her, or their executor or administrator; *Provided always,* that the signing of any petition presented to the county court under this act, shall not make any petitioner liable for the payment of the damages adjudged by the court, or any part thereof, but the court may in their discretion give judgment against the petitioners for the costs incurred by any person defending against the claim of the petitioners, where the case shall be decided in favour of such defendant.

Proviso.

Where road is adjudged to be opened, by authority for that purpose.

11. AND BE IT ENACTED, That in all cases where the county court shall have adjudged that a road be opened or straightened, it shall be the duty of the levy court, at the levy next after the judgment of the county court shall be given, to levy on the assessable property of the county a sum of money sufficient to open or straighten the said road, as the case may be, and also sufficient to pay the damages aforesaid, in case the county court shall have adjudged that the said damages be paid by the county, or such proportion of the said sums as the county court shall have adjudged to be paid by such county, and it shall be the duty of the levy court to cause said road to be opened or straightened as soon as the same can be conveniently done.

When opened and entered to be a public road.

12. AND BE IT ENACTED, That when any road shall be opened or straightened according to the provisions of this act, and well and sufficiently cleared, it is hereby declared that the same shall be for ever thereafter a public road, and shall be kept in repair as other public roads are.

Commissioners compensation.

13. AND BE IT ENACTED, That the said commissioners shall be entitled to receive a compensation for their services and attendance, not exceeding two dollars a day, to be ascertained by the county court of the county to which the said plot or certificate shall be returned, which, together with all charges arising from the survey or attendance of witnesses, or other process of the court, shall in the discretion of the said court, be paid by the petitioners, or levied, collected and paid, by the county, as herein before directed.

Fees of officers of county courts.

14. AND BE IT ENACTED, That the officers of the several county courts of this state shall be entitled to receive the same fees for all business done in virtue of this law, as are now allowed for like services, to be paid as aforesaid.