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the court, made before the hearing of testimony, be entitled to a trial by jury, and the issue or issues shall be framed under the direction of the court, so as to bring the matter in dispute between the parties fairly to trial, whether the same shall relate to the location of the road or the ascertainment of damages by the commissioners.

Damages to be ascertained.

7. *And be it enacted*, That the said commissioners, or a majority of them, shall value and ascertain the damages that may be sustained by each and every person through whose lands the said road may pass, in case the application shall be for opening or straightening a road, by opening or straightening the same, taking into consideration the advantages and disadvantages of the same, if any; and the said commissioners shall make such ascertainment of damages a part of their return to the court, and the same, with the rest of the proceedings, shall be subject to the ratification, rejection or alteration, of the court, in such manner as in their judgment shall be just.

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

8. *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.

When court shall determine any road 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.

In cases where court adjudges a road to be opened levy to be made for that purpose, &c.

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.