

Dec. Ses. 1873

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 levy court, and the same with the rest of their proceedings shall be subject to the ratification, rejection or alteration of the court in such manner as in their judgment shall be just

8. *And be it enacted,* That the levy 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 levy court may deem just.

Assess or Levy.

9. *And be it enacted,* That in all cases of proceedings under this act, the damages adjudged by the court shall be paid or secured to 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 levy 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 favor of such defendant.

Payment of damages.

10. *And be it enacted,* That the commissioners aforesaid, shall as part of their return to the levy court make an estimate of the advantage which the opening and straightening said road will be to the public, and what proportion of the expense of opening or straightening said road shall be paid by the person or persons making application to the levy court, for the opening and straightening said road.

Advantage to be estimated.

11. *And be it enacted,* That the levy court shall have power, whenever the commissioners aforesaid determine that the petitioners shall pay a proportion of the expense of opening and straightening said road, to take the bond or bonds, with approved sureties of the petitioner or petitioners, or any other persons for the payment of his, her or their proportion of the expense aforesaid, payable in six months.

Bonds.

12. *And be it enacted,* That in all cases where the levy court shall adjudge, that a road be opened or straightened, it shall be the duty of the said levy court, at the next levy after their decision shall be given, to levy on the assessable property of the counties 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 court aforesaid have adjudged that the said damages be paid by the counties, or such proportion of the said sum as the court shall have adjudged to be paid by such counties, 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 conveniently be done.

Levy.

13. *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 forever

Public highway.