

CHAPTER XIX.—ROAD LAWS.

RELATING TO COUNTY ROADS.

AN ACT to provide for laying out, establishing, altering, changing the width of, or vacating any county road, and providing for assessment, payment of damages, and providing for appeals.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That all county roads hereafter laid out and established shall not be less than thirty nor more than sixty feet wide, to be determined by the viewers as hereinafter provided, except that when the road is upon the state line the county commissioners may determine the width, not less than fifteen nor more than thirty feet of land to be taken in this state. Width of county roads.

SEC. 2. Applications for laying out, altering, changing the width of, or vacating any county road shall be by petition to the county commissioners, signed by at least twelve freeholders of the county residing in the vicinity where the road is to be laid out, viewed or reviewed, altered or vacated, and one or more of the signers of any such petition shall enter into bond with sufficient surety, payable to the state for the use of the county, conditioned that the persons making such application shall pay into the treasury of the county the amount of all costs and expenses accruing thereon in case the application shall fail. Changing or altering.

SEC. 3. When the commissioners make such an order, and the petitioners fail, neglect or refuse to pay the costs and expenses, the persons signing the bond shall be liable thereon for the full amount of all the costs and expenses of the application, and the clerk of the board shall deliver the bond to the prosecuting attorney, who shall collect and pay the same to the county treasurer; and in all Liability of bondsmen.

cases of contest the court having jurisdiction of the case shall have full power to render judgment for costs, according to justice between the parties.

Petition.

SEC. 4. Petitions for laying out, vacating or altering a county road, shall specify the place of beginning, the intermediate points, if any, and the place of termination of the road, or part proposed to be altered or vacated.

Notice of petition.

SEC. 5. Previous to any such petition being presented, notice thereof shall be given by advertisement set up at the office of the clerk of the board of county commissioners, and in three public places in each road district through which any part of the road is to be laid out, altered or vacated, at least twenty days previous to the meeting of the commissioners at which the petition shall be presented, and stating the time when such petition is to be presented, for two consecutive weeks before the presentation of any such petition, in some newspaper published in the county in which the road sought to be established, altered or vacated by such petition is situated, if there be a newspaper therein.

Proceedings thereon.

SEC. 6. On the presentation of the petition, if the commissioners are satisfied that notice has been given as aforesaid, they shall appoint three disinterested freeholders of the county as viewers, who shall also be a jury to assess and determine the compensation to be paid in money for the property sought to be appropriated, without deduction for benefit to any property of the owner and to assess and determine how much less valuable, if any, the land or premises from which such appropriation may be taken, will be rendered by the opening and construction of the road, and a skillful surveyor to survey the same, and shall issue an order directing the viewers, with the surveyor, to proceed, on a day to be named in the order, or on their failing to meet on that day, within five days thereafter, to view, survey and lay out or alter said road, and determine whether the public convenience requires that such road, or any part thereof, shall be sixty feet in width, or whether a less width than sixty feet will as well promote the public convenience, and report the width, in their opinion, the same should be established and opened.

SEC. 7. If the viewers fail to proceed on the day named in the order, or within five days thereafter, so that said duty shall not be performed and reported to the commissioners at their regular session next after such order was made, the commissioners may, at such next regular session, issue a new order and appoint new viewers, who shall be by such order required to perform the same duties as required of said original viewers under the original order, or the commissioners may make such other order in the premises as to them may seem proper.

In case of default.

SEC. 8. If a person appointed as viewer or reviewer on any road by the commissioners or the superior judge shall fail to attend at the place specified in the order at or before two o'clock P. M. of the day in the order specified, the surveyor and two viewers shall fill the vacancy by appointing a judicious, disinterested freeholder of the county, and in case of a review, when five viewers are required, the surveyor and not less than three of the viewers may appoint a judicious freeholder of the county to fill the vacancy, who shall be required to take the same oath, and be vested with the same power to do and perform the same duties, as if he had been appointed by the commissioners or superior judge of the county.

Filling vacancy.

SEC. 9. The principal petitioner shall give at least six days' notice in writing to the owner or his agent if residing within the county, or if such owner be a minor, idiot or insane person, to the guardian of such person, if a resident of the county, through whose land the road is proposed to be laid out and established, or through whose land the road which it is proposed to alter or vacate may have been previously established, and also six days' notice to the viewers and surveyor named in the order of the commissioners, of the time and place of meeting, as specified in the order, and of the day by which claims for compensation must be filed; and the principal petitioner, if the road is proposed to be laid out, altered or vacated on any lands owned by a non-resident or unknown owner, shall cause a notice to such non-resident or unknown owner to be published for four consecutive weeks in some newspaper published in such county; but if there be no news-

Notice to owner.

paper published therein, then by posting said notice in five public places in said county for said time, which notice shall state the time and place of the meeting of the viewers and surveyor, as specified in the order of the commissioners, and also the substance of the petition. All reasonable expense attached to the giving of notice and publishing herein mentioned shall be considered as part of the expense of establishing any road, and shall be borne by the county in all cases where the road is ordered established.

Expense.

Duty of viewers and surveyors.

SEC. 10. The viewers and surveyor shall meet at the time and place specified in the order of the commissioners, and after taking an oath faithfully and impartially to discharge the duties of their appointments respectively, shall take to their assistance two suitable persons as chain-carriers and one marker, and proceed to view, survey, lay out or alter the road as prayed for in the petition, or as near the same as in their opinion a good road can be made at reasonable expense, taking into consideration the utility, convenience, inconvenience and expense which will result to individuals as well as to the public if such road or any part thereof is established and opened or altered; and also, as a jury, discharge the duties required of them in section six (6) of this act, and assess and determine the damages sustained by any person through whose premises the road is proposed to be established, altered or vacated.

Assessing damages.

SEC. 11. But the viewers shall not be required to assess or award damages or compensation to any person except minors, idiots or lunatics, in consequence of the opening of the road, unless the owner or his agent, having notice, as provided in section nine (9) of this act, of the application and proceedings by which his property is sought to be appropriated or may be injured, shall have filed a written application with the viewers, giving a description of the premises on which damages or compensation is claimed; and all applications for damages shall be barred unless they be presented as provided for by this act.

SEC. 12. When an oath is required to be taken by any person under the provisions of this act, the same may be administered by the surveyor, or by one of the viewers or reviewers who has been previously sworn.

SEC. 13. The surveyor shall survey the road under the direction of the viewers, and cause the same to be conspicuously marked throughout, noting the courses and distances, and at the end of each mile shall cause the number of the same, and also the commencement and termination of the road or survey, to be marked on a tree or monument erected for that purpose, and shall make and deliver to one of the viewers, without delay, a correct certified return of the survey of the road, and a plat of the same; and the viewers shall make and sign a report in writing, stating their opinion in favor of or against the establishment or alteration of the road, or any part thereof, and set forth the reasons of the same; which report, together with the plat and survey of the road, or alteration, shall be delivered to the clerk of the board by one of the viewers on or before the first day of the session of the commissioners then next ensuing.

Surveyors' duties.

SEC. 14. The commissioners, on receiving the report of the viewers, shall cause the same to be publicly read on three different days of the same session, and if no application be made to them for a review of the road, or any part thereof, or alteration, and they are satisfied that such road or any part thereof, if the same be capable of division, will be of public utility, and the report of the viewers is favorable thereto, and no damages have been claimed or assessed, shall then cause the report, survey and plat to be recorded; and from thenceforth the road shall be considered a public highway, and the commissioners shall issue their order to the overseers of the proper road district, or road districts, directing the road to be opened; but if the report of the viewers be against such proposed road or alteration, or if, in the opinion of the commissioners, the same is unnecessary, no further proceedings shall be had thereon, and the obligors in the bond securing the expenses shall be liable for the full amount of such costs and expenses.

Record of survey.

SEC. 15. The viewers shall, at the time they make their report of the view, also make a separate report, in writing, stating the amount of damages, if any, and to whom by them assessed, which would accrue by opening of the road, and they shall also file the written applications on which

Viewers' report.

such assessments have been made with the clerk of the board, and the commissioners shall cause such report to be publicly read on the day of the session at which it was received, and if no petition for review or alteration has been presented and received, and they shall be satisfied that the amount so assessed and determined is just and equitable, and that the road will be of sufficient importance to the public to cause the damages which have been assessed to be paid by the county, they shall order the same to be paid to the applicants from the county treasury; but if, in their opinion, the road is not of sufficient importance to the public to cause the same to be paid by the county, they may refuse to establish the same a public highway, unless the damages which have been assessed are paid by the petitioners; but if application by petition shall have been made for review or alteration, then no further proceedings shall be had on the report till the final determination of the commissioners on such application.

Review, by
petition.

SEC. 16. After the viewers have made return in favor of the road, and before the return is recorded and the road established, any citizen of the county may apply to the commissioners for a review of the road, by petition, agreeably to section two (2) of this act, and the commissioners shall, on such petition being presented, and being satisfied the same is just and reasonable, appoint five disinterested freeholders of the county to review the road, and issue their orders to the reviewers, directing them to meet at a time to be specified in the order, or within five days thereafter; and the petitioners for the review shall cause at least six days' notice to be given to the principal petitioner for the road of the time and place of the meeting of the reviewers; and the reviewers shall meet, and after taking the oath required in section ten (10) of this act, shall proceed to examine the route surveyed for the road by the former viewers, and make a report in writing to the commissioners, stating their opinion in favor of or against the establishment of the road, or any part thereof, and their reasons for the same.

Report of re-
viewers.

SEC. 17. If the report of the reviewers be in favor of the road, the same shall be established, recorded and opened,

agreeably to the provisions of this act, and the persons bound for the same shall pay into the county treasury the amount of the costs of such review; but if the report be against the establishment of such road, no further proceedings shall be had thereon before the commissioners, and the persons executing the first bond shall pay into the county treasury the costs and expenses of the view, survey and review.

SEC. 18. When the place of beginning or true course of a county road shall be uncertain by reason of the removal of any monument or marked tree by which such road was originally designated, or from any other cause, the county commissioners of the proper county may appoint three disinterested landholders of the county to review and find the line of the road, and if they deem it necessary, a competent surveyor to survey the same; and the reviewers and surveyor, after taking the oath required in section ten (10) of this act, shall view and survey said road, and the same correctly mark throughout as in the case of new roads, and shall make a return of the survey and a plat of the road to the commissioners, who shall cause the same to be recorded as in other cases; and from thenceforth the road, surveyed as aforesaid, shall be considered a highway.

Where original marks have been removed.

SEC. 19. If any person through whose land a county road is or may be established shall be desirous of turning the road through any other part of his land, he may, by notice and petition agreeably to the provisions of this act, apply to the commissioners of the county while in session, to permit him to turn the road through any other part of his land, on as good ground, and without increasing the distance to the injury of the public; and upon the receipt of such petition the commissioners shall appoint a surveyor and three disinterested freeholders of the county as viewers of the road, who shall proceed to view and survey the ground over which the same is proposed to be turned, and to ascertain the distance which it will be increased by such proposed alteration, and make a report in writing, stating the several distances so found, together with their opinion as to the utility of making the alteration.

Changing road.

SEC. 20. If the freeholders report to the commissioners

Report of freeholders.

that the prayer of the petitioner is reasonable, and that the alteration will not place the road on the worse ground or materially increase the distance to the injury of the public, they shall, upon receiving satisfactory evidence that the proposed new road has been opened a legal width, and if in their opinion the same will be just and reasonable, declare such new road a public highway and make a record thereof, and, at the same time, vacate so much of the old road as is rendered necessary by the new; and the person desiring the alteration shall pay all the costs of the view, survey and return, unless the commissioners are satisfied that the alteration is of sufficient advantage to the public to cause the same to be paid by the county.

Establishing
road on a coun-
ty line.

SEC. 21. When it becomes necessary to establish a road on a county line, the inhabitants along such line may petition the commissioners of their respective counties for a view of such road in the manner provided in this act, and the commissioners of each of the counties interested shall appoint two discreet landholders as viewers, who, or a majority of them, shall meet at the time and place named in the order of the commissioners of the oldest county interested, who shall appoint a surveyor, and the viewers and surveyor shall also be a jury for the assessment of damages, and shall in all respects be governed by the preceding sections of this act, and shall make their report in writing for or against such road to the commissioners of the counties concerned, and the commissioners, upon receiving such report, shall in all respects be governed by this act.

Commissioner
may act.

SEC. 22. If, on receiving such report, there is no legal objection thereto, and the commissioners of all the counties interested are of opinion that such road, if opened, would be of public utility, they shall order the same to be opened in the manner pointed out by this act.

Width of road
line.

SEC. 23. The commissioners of any county through which a county road has been established upon a line of the state may, upon petition and notice as hereinbefore provided, determine the width, not less than fifteen nor more than thirty feet, of the land within the county to be used for the road.

SEC. 24. When a road is located and ordered to be opened on any county or state line, as provided in this act, the viewers appointed to locate, establish and report damages shall assign a sufficient number of persons to open such road and keep the same in repair, dividing the road in such manner that the persons so assigned may work under the orders of the overseer of the road district to which they belong; and the supervisors and persons so assigned shall be governed by the provisions herein contained.

Opening and keeping in repair.

SEC. 25. When a county road, or part of a county road, is considered useless, or has remained unopened for the term of five years, any twelve freeholders residing in that part of the county where such road is established may make application, agreeably to the provisions of this act, to the county commissioners of the county to vacate the same, setting forth in the petition the reasons why the road ought to be vacated, which shall be presented and publicly read at a regular session of the commissioners, and no other proceedings shall be had thereon until the next session of the commissioners, when it shall again be read, and if no objection be made the commissioners may declare vacated the road, or any part thereof which they may deem unnecessary to keep open for public convenience.

Vacating county line road.

SEC. 26. If no objection be made in writing to such vacation, the commissioners shall appoint three disinterested persons to view the road, who shall take the same oath as required by section ten (10) of this act, and proceed to view the road and make report of their opinion thereon, and the reasons for the same, to the commissioners; and if the viewers report in favor of vacating the road, or any part thereof, the commissioners may, if they deem it reasonable and just, declare the road vacated, agreeably to report of the viewers.

Contesting vacation.

SEC. 27. If a person appointed by the county commissioners as a viewer, reviewer or surveyor of any road, refuse or neglect to perform the duties required by this act, without making satisfactory excuse for such refusal or neglect, he shall be fined in any sum not exceeding fifteen dollars, to be recovered by action by any person suing for

Penalty for neglect or refusal.

the same before a justice of the peace within the district wherein the person so appointed and refusing or neglecting may reside; and the recovery shall be paid without delay by the justice of the peace or constable collecting the same to the treasurer of the county, taking his receipt therefor; and the county commissioners shall cause all fines which shall be paid into the county treasury under the provisions of this act, to be expended on roads and bridges within the county.

Rates of compensation.

SEC. 28. All persons required to render services under this act shall receive compensation for each day they are necessarily employed as follows, to-wit: Viewers, reviewers and chainmen, two dollars and fifty cents per day; other employes, two dollars per day, and surveyor, five dollars per day, to be charged as costs and expenses, and paid out of the county treasury on the order of the clerk of the board.

Alteration of road.

SEC. 29. When a county road is injured or destroyed by the washing of any lake, river or creek, or by any washing or sliding of land occasioned by natural drainage, the supervisor of the road district in which such injury or loss of road has occurred, upon petition of any six freeholders of the district, shall call to their aid a competent surveyor, and proceed to examine such road; and if, upon such examination, the commissioners, or a majority of them, are satisfied that such road has been destroyed or so much injured that the public good requires an alteration of the same, they shall proceed to alter and lay out so much of the new road as may supply the several parts of the road thus destroyed or injured.

Damages by alteration.

SEC. 30. If a person through whose lands any such alteration of the new road is laid out feels injured thereby, he shall make application to the overseer of his road district, at the time of making the alteration on his premises, to assess and determine, according to the provisions of section twenty-nine of this act, the compensation to be made in money for the property sought to be appropriated, and how much less valuable, if any, the premises will be rendered by the alteration of the road; thereafter the road overseer shall make report to the

county commissioners, who shall appoint three reviewers to inspect, assess and report the amount of damages sustained in the premises, and the clerk and commissioners of the proper county shall be governed in the reception and recording of such report in all respects as is prescribed in this act in cases of new roads.

SEC. 31. The surveyors shall receive for each day Compensation. actually employed, under the provisions of the two preceding sections, five dollars; the viewers, reviewers and chainmen, two dollars and fifty cents per day; other employes, two dollars per day, the same compensation allowed in cases of the construction of new roads, to be paid out of the county treasury as hereinbefore provided in this act.

SEC. 32. Any county road, or part thereof, which has Roads un- heretofore been or may hereafter be authorized, which opened. remains unopened for public use for the space of five years after the order is made or authority granted for opening the same, shall be and the same is hereby vacated, and the authority for building the same barred by lapse of time.

SEC. 33. When notice has been given and a road has Establishing been petitioned for as hereinbefore provided, and the petition calls for a road wholly on section lines, and where without review there are no damages claimed, and evidence filed that the route is practicable, the county commissioners may grant the road without reviewing or surveying the same. or survey.

SEC. 34. The county commissioners shall cause Monuments. monuments of stone to be placed at the beginning and terminus of all roads established under this act.

SEC. 35. No order of the county commissioners for the Limit for exe- establishment of a county road, or for the alteration or cuting orders. vacation, in whole or in part, of a state or county road, or changing the width of a county road, shall be executed until twenty days have elapsed after the entry of such order in the record of the commissioners, and no order shall issue to open any county road until fifteen days after the same has been established, at which time the clerk of the board may issue such order by direction of the commissioners, unless an appeal has been perfected.

Appeals.

SEC. 36. An appeal from the final order of the county commissioners establishing a county road, or altering or vacating, in whole or in part, a county road, or changing the width of a county road, may be taken to the superior court of the same county by any person having an estate in fee, for life or years, in any lands or tenements situated in any road district in the county, in or through which district such new, altered, changed or vacated road passes, or by the husband of any married woman or guardian of any ward having such an estate.

Appeal bond.

SEC. 37. To perfect such appeal the appellant shall execute with sufficient sureties, or cause to be executed by sufficient sureties, to be approved by the clerk of the board of county commissioners, a bond or undertaking payable to the state in a penal sum of not less than one hundred nor more than three hundred dollars, in the discretion of the clerk of the board, conditioned for the payment by such appellant of all costs that may be adjudged against him in the superior court, to which the proceeding may be removed by petition in error, which bond shall be filed with the clerk on or before the twentieth day after the entry of the order appealed from in the record of the county commissioners; but minors, idiots or lunatics, or the guardians respectively, may appeal, without giving bond, by causing an entry to be made within the period aforesaid by the clerk of the board in the record of the county commissioners.

Certifying records.

SEC. 38. Within ten days after the filing of an appeal bond, or the making of an entry for an appeal, as aforesaid, the clerk of the board shall transmit to the superior court the original papers in the proceeding and a certified transcript from the record of the county commissioners of all proceedings and orders had or made by or before them therein, upon the receipt of which the superior judge shall forthwith docket the proceedings, styling the petitioners plaintiffs and the appellants defendants, and shall set a day for the hearing thereof, which shall not be later than the twentieth day after such docketing of the appeal.

Duty of superior court.

SEC. 39. If, upon the hearing of the matter, it appear that the proceedings previous to the appeal were, in sub-

stance, regular and legal, and if no exception be taken by any claimant of compensation and damages to the assessment returned to and approved by the county commissioners, the superior court shall affirm the orders of the county commissioners and enter a judgment against the appellants for all costs created by the appeal; but if the previous proceedings are found to be substantially erroneous, the court shall set them aside and order another view by three disinterested freeholders or the county, to be appointed by the court, who shall perform the same duties that are required of the viewers appointed by county commissioners under this act, except that they make their return to the superior court.

SEC. 40. The order to the viewers shall specify a place Order to viewers. where, and a day upon which, or within two days (Sunday excepted) thereafter, they shall meet to commence the performance of their duties, and shall require them to make their report on or before a day therein specified, which shall not be later than the twentieth day after the entry of the order in said court; and the court shall also appoint a surveyor to attend the viewers and perform the duties required by the section aforesaid of surveyors, who shall have power to take to his assistance two chainmen and a marker, all of whom shall be disinterested, and he shall deliver a report and plat of his survey to one of the viewers in time to be returned with their report, and it shall be so returned.

SEC. 41. If the proceedings and report of viewers and Confirmation of proceedings. surveyor, or of the viewers hereinafter mentioned, be substantially legal, and also substantially coincide with the order of the county commissioners appealed from, the court shall confirm such proceedings and report, and shall render a judgment against the appellants for costs created by the appeal; or, if the report of the viewers be favorable to the petitioners, but materially varies from the order appealed from, the court shall nevertheless confirm the same, if it be within the scope of the petition and substantially legal; and the court may, in such case, require all the costs created by the appeal to be paid by the appellants, or by the petitioners, or a portion of them by one party and the

residue by the other, as may be equitable, and shall render a judgment accordingly.

Proceedings by court.

SEC. 42. If the report of the viewers appointed by the court be adverse to establishing, altering, vacating or changing the width of the road, the court shall, upon the motion of the petitioners, or any twelve of them, but not otherwise, order a review by five disinterested freeholders of the county, to be appointed by the court, to whom an order similar to that hereinbefore prescribed in respect to viewers shall be issued; and such reviewers shall examine the proposed new road, alteration or change, or road or part thereof proposed to be vacated, as defined or referred to in the order appealed from, and report in writing to the court their opinions for or against the same, with their reasons; and if their report be such as is mentioned in the first clause of the preceding section, the court shall proceed as directed in said clause, but if it be adverse to such new road, alteration, change or vacation, no further proceedings shall be had in the premises except to render a judgment against the petitioners for all costs that have accrued from the commencement of the proceedings before the county commissioners.

SEC. 43. When a viewer, reviewer or surveyor appointed by the court is unable or fails to attend to the duty required of him, the court may substitute another in his stead.

Oath of employes.

SEC. 44. Every viewer, reviewer, surveyor, chainman or marker appointed or selected under the provisions of this act shall, before entering upon his duties, take oath faithfully and impartially to discharge the duties of his appointment, which oath may be administered by any person authorized by law to administer an oath.

Appeal from final action.

SEC. 45. An appeal to the superior court from the final action of the county commissioners on any petition or report for a road shall be allowed, and the court may order another view of the road and assessment of damages, or make any other order which may be just and reasonable in the case, if the appellant enter into bond to the county in the sum of two hundred dollars, with sufficient surety, to the acceptance, of the county treasurer, within fifteen days

from the date of the decision of the county commissioners, conditioned for the payment of all costs and expenses arising from such appeal, if the road be established, and the assessment of compensation and damages be not increased by the proceedings had in the superior court, which appeal shall be entered with the superior court judge within six days from the filing of the bond with the county treasurer.

SEC. 46. The decision obtained in the superior court, as provided in the foregoing sections, shall be certified to the clerk of the board, who shall notify the county commissioners thereof, whereupon the commissioners shall dispose of the case agreeably to the order of the superior court, and the superior judge shall be allowed to tax the same fees which are by law allowed for similar services in other cases.

Certifying decisions.

SEC. 47. Every claimant of compensation and damages on account of the establishment or alteration of a county road, or change in width of a county road, may appeal to the superior court from the final decision of the county commissioners confirming the assessment of compensation and damages made by the viewers in his behalf, or the refusal of the viewers to award damages to him, which appeal shall be perfected and docketed in the mode hereinbefore prescribed in section thirty-seven, except that the appellant shall be the plaintiff, and the obligors in the bond shall be the defendants; and several claimants may unite in a joint appeal, although their claims may be distinct, or they may severally appeal.

Appeal of claimant.

SEC. 48. Upon such appeal, whether joint or several, the superior court shall confine itself to the questions of compensation and damages presented by it, and shall forthwith, after the docketing thereof, cause the same to be tried as in other civil cases.

Trial of appeal.

SEC. 49. The court shall also issue a summons or notice to all the appellants, whether joint or several, and to the obligors aforesaid, to attend at the same time and place, which summons or notice shall be served by delivering to each person named therein a copy thereof, or by leaving such copy at his usual place of abode, and if any of the parties are non-residents of the county, but have an agent or

Notice to appellants.

attorney therein, service on such agent or attorney, in manner aforesaid, shall be sufficient, or a summons or notice may be sent to another county for service upon any party residing or being therein; if an appellant is a non-resident when he perfects his appeal, he shall leave with the superior judge the name of an agent or attorney in the county, upon whom service may be made, and if he fail to do so, no service upon him shall be necessary; and service upon a guardian shall be sufficient service upon his ward.

Jury shall examine.

SEC. 50. On motion of either party, or any one of the appellants, the jury shall, under the care of an officer of the court, and with such person or persons as the court may appoint to show them the premises, and before any testimony shall be given, except the plat and field notes of the road and the title papers of the claimants, if produced, which they shall take with them, proceed to examine the road as established or ordered, and the property of the several claimants taken therefor or alleged to be injured thereby, and after making such examination shall return to the superior court at the time it shall have appointed; whereupon, or upon the jury being sworn, if no view is moved for, the trial of the claims in the order the court shall direct, or any number or all of them at the same time, if the parties so agree, shall be proceeded with in the same manner as the other jury trials in the court; but any claimant may elect to have his claim tried separately; and the jury shall render a separate verdict upon each claim, which shall be entered upon the record of the court, and a new trial shall not be granted except for misconduct of the jury, nor shall an appeal, except by petition in error as hereinafter provided, be taken to any other court.

Separate trial of claim.

Exceptions to decision.

SEC. 51. When an assessment for compensation and damages has been made or refused by viewers of a county road or alteration thereof, or change in its width, appointed by the superior court, any claimant may, before the confirmation of the report of the viewers, file exceptions to their decision upon his claim, whether it was rejected altogether or compensation and damages awarded to him; whereupon such proceedings shall be had for a trial by

jury of his claim and of any others thus presented, as are provided in the preceding section; and the provisions of said section shall in all respects apply to the same.

SEC. 52. If, by the final decision in the superior court Costs of appeal. any claimant of compensation and damages do not obtain a greater sum than was awarded by the order of the county commissioners from which he appealed, he shall pay all costs created by his appeal, so far as the court can ascertain the same, and judgment shall be rendered against him for the same; and in cases not hereinbefore specially provided for, the court shall give such judgment in respect to costs as may be equitable.

SEC. 53. All such judgments shall be rendered in favor Form of judgments. of the county, and may be enforced by execution issued by the superior court on its own motion, or at the instance of any person entitled to any part thereof, and the money, when collected, shall be paid to the persons respectively entitled thereto.

SEC. 54. The superior court shall make a record of all Records of superior court. proceedings had in the superior court under the provisions of this act, including the reports and plats of viewers, reviewers and surveyors, and forthwith, after the termination of the proceedings upon an appeal, transmit to the clerk of the board, if the appeal was from the county commissioners, all original papers received from him, and also a transcript from the record aforesaid of the proceedings upon such appeal.

SEC. 55. If it appear by the transcript so transmitted to the clerk of the board that the court has approved the establishment, alteration, vacation or change of a road, and that the compensation and damages, if assessed in or under the orders of the court, do not in the aggregate exceed the amount assessed, approved and ordered to be paid out of the county treasury before the appeal, the clerk shall forthwith record in the proper book the final decision of the court in the premises, with all reports, plats, field notes or other matters appearing in the transcript necessary to a right understanding of the same, and note in said book the date of said recording, and thenceforth the road shall be established, vacated, altered or Clerk shall record final decision.

changed, as the case may be, and he shall issue the necessary orders for the payment of the compensation and damages.

In case of excessive damage.

SEC. 56. But if the damages so assessed exceed, in the aggregate, the amount ordered to be paid out of the county treasury, the clerk of the board shall lay the papers and transcript before the county commissioners, at their next session, who may thereupon establish such road, alteration or change, and order the compensation and damages to be paid out of the county treasury, or refuse to establish the same unless the compensation and damages, or such portion thereof as they shall require, be paid, within such time as they may designate, by the petitioners.

SEC. 57. If the appeal from the county commissioners was under section thirty-six, and the compensation and damages assessed in that court in favor of all the appellants do not, together with the compensation and damages awarded to claimants who do not appeal, exceed the amount which the commissioners had, before the appeal, ordered to be paid out of the county treasury, the clerk shall issue the necessary orders for the payment of all compensation and damages, and the road, or alteration, shall be considered as established from the date of the final order in the superior court.

SEC. 58. But if the assessments in the superior court, with the compensation and damages awarded to claimants not appealing, exceed the amount so ordered to be paid out of the county treasury by the county commissioners, the clerk shall lay the papers and transcripts received from the superior judge before the commissioners at their next session, and they shall act upon the same as in the case mentioned in section thirty-nine, but the commissioners, if in their opinion a part only of a road will be of public utility, may record and establish such useful part and reject the residue, if such division can be made without affecting the rights of any person entitled to compensation and damages.

Power of commissioners.

SEC. 59. The clerk of the board, upon receiving a transcript from the superior judge, as aforesaid, shall lay it

before the county commissioners, who shall make an order in conformity with the decision of the superior court.

SEC. 60. The final decision of the superior court, made Review of final decision. under the provisions of this act, may be reviewed, upon a petition in error, by the supreme court of the state, but shall not be reversed for any defect in form if found to be substantially correct; and upon a reversal, the supreme court of the state may award a writ of *procedendo* when deemed necessary.

SEC. 61. For their services, required by this act, the Fees. officers herein mentioned or referred to shall be entitled to the same fees as they are entitled to by law for like services in other cases, and the person or persons appointed to show premises to a jury shall receive such compensation, to be taxed in the cost bill, as the court shall direct.

SEC. 62. The county commissioners shall adopt a form Forms of documents. for petitions, notices, bonds, and other papers necessary to be used in matters pertaining to the establishment of roads; and printed copies shall be furnished for use in their respective counties upon application therefor.

SEC. 63. All laws concerning roads and highways in Repeal. conflict with this act, and all laws applicable to particular counties of this state concerning roads and highways, are hereby repealed: *Provided*, That any proceedings commenced before this act takes effect, for the alteration, establishment or abandonment of any road or highway, may be conducted under the provisions of the law under which said proceedings were commenced.

Approved March 7, 1890.

TURNPIKE ROADS.

AN ACT for laying out, opening, building and maintaining turnpike roads, and providing for counties issuing bonds for the same.

Be it enacted by the Legislature of the State of Washington:

Disinterested
freeholders.

SECTION 1. That the county commissioners of any county, when they become satisfied that the public interests of their county demand and justify special action for the improvement of the roads therein, may appoint three disinterested freeholders of their county as commissioners, to view, survey and locate one or more roads, beginning at and leading from the county seat of the county, or such other and eligible points as may be deemed proper, and running by such direct and eligible route as they find best for the public convenience, and terminating at any point within or at the county line; but they are not authorized or required to construct or maintain any such road within the corporate limits of the town or city where the county seat is located, when, according to the last federal census, more than one thousand inhabitants are contained in such corporate limits.

Width of roads.

SEC. 2. The roads established and constructed under this act shall be opened not more than sixty nor less than forty feet wide, and at least sixteen feet in width shall be turnpiked with earth so as to drain freely to the sides, and raised with stone or gravel not less than ten nor more than sixteen feet in width, nor less than twelve inches thick in the center, and not less than eight inches at the outer edges of such bed of stone or gravel, well compacted together in such manner as to secure a firm, even and substantial road, but the commissioners may, in their discretion, cause the road to be constructed wholly of earth, plank or timber, when stone or gravel is not accessible to the line of the road; in no case shall the grade of ascent or descent on the road be greater than seven degrees; the road shall be well provided with all necessary side drains, waste-ways and under draining to prevent overflowing or washing by water, and with substantial bridges or culverts at all cross-

ings of water courses; and such roads shall be free to the public for travel.

SEC. 3. The county commissioners may authorize the Engineer or surveyor. commissioners by them appointed to call to their assistance a competent surveyor or civil engineer, or both, at their discretion, with the necessary and proper assistance, and lay out, survey and locate such turnpike road through or upon improved or unimproved lands on the best route between the points of beginning and termination, and to obtain by grant, or take propositions for the purchase from the owners of land over which the road will pass, the right-of-way, and to take timber and other materials necessary to the construction and repair of the same.

SEC. 4. When said commissioners and the owners fail Right-of-way. to agree as to the amount of compensation, or when the owner is unknown, non-resident or incapable of contracting, then the same shall be ascertained and adjusted by proceedings had in the name of the county commissioners under the law providing for the appropriation of private property by corporations; and the commissioners may authorize the viewers or commissioners by them appointed to locate the road upon the whole or any part of any state or county road heretofore laid out and established within the county, and to widen, alter, change or vacate the same, or any part thereof, subject to the rules as to compensation for property appropriated as aforesaid.

SEC. 5. Before determining upon the location or establishment of any such turnpike road, the county commissioners may require donations of money, and written Written agreements. agreements on the part of taxpayers of the county, subjecting their taxable property to taxation annually, to aid in the location and construction of the same during the term of years named, therein specified, which agreements shall be filed and recorded in the office of the county clerk, and from the time of such filing and recording shall operate as a lien upon the real estate of the several parties joining therein as donors for the purpose therein provided. All revenues derived from donations in money and taxation shall be kept and held as a separate fund in the county treasury, and shall be applicable only to the purposes of

locating and constructing such turnpike roads; and if the commissioners determine not to establish and construct such road, then any money received as donations by taxation shall be returned.

Submitting to
vote.

SEC. 6. The county commissioners shall not levy any general tax nor appropriate any money, except so far as may be necessary to pay the expense of preliminary surveys already commenced, or any other liabilities already incurred, to be expended in the construction of such turnpikes, without first submitting to the qualified voters of the county the question as to the policy of constructing such roads by general tax, which submission shall be made at any general election; and the county commissioners shall cause public notice of such vote to be given by publication in the official paper of the county, and also by causing hand-bills to be posted up at the usual place of holding elections in the county, at least fifteen days prior to such election.

Conduct of elec-
tion.

SEC. 7. The judges of such election in the several precincts and wards in any county in which such question is submitted, and such notice is given, as aforesaid, shall open a poll for taking such vote, receive and count the ballots cast, and within three days thereafter return to the clerk of the board of county commissioners a full and correct abstract of the votes, and shall in all respects be governed by the laws regulating general elections, and be entitled to the same compensation for returning the poll-books, which shall be paid out of the county treasury on the order of the clerk of the board. And the poll-books so returned shall, within five days of the day of holding such election, be opened and the votes counted by the commissioners and the clerk of the board, and a correct statement of the result shall be kept by the clerk on file in his office for public inspection.

Two-fifths ad-
verse vote de-
feats.

SEC. 8. If at such election two-fifths of the votes so cast be against the policy of constructing such turnpikes, the commissioners shall not assess any tax for that purpose, but they may, on petition of not less than one hundred tax-payers of the county, again submit the same question at any regular annual election to the qualified

voters of the county, notice of which shall be given and the election conducted in all respects in the manner prescribed in the two preceding sections.

SEC. 9. If at any such election three-fifths be found in favor of the construction of such turnpikes, the commissioners may proceed to levy taxes, issue bonds and appropriate and expend money in the construction of such turnpike roads as, in their judgment, may be necessary to the public convenience and promotive of the public interest.

SEC. 10. When the county commissioners receive or require donations of money or written agreements on the part of the tax-payers, subjecting their taxable property to taxation annually, to aid in the location and construction of such roads, and a majority of the tax-payers within the boundaries of the road sign such subscription or agreement, the commissioners shall thereupon be authorized to levy the amount thereof upon the taxable property within the boundaries of the road, according to the benefits to said property, taking into consideration any assessments that have heretofore been made; and the boundaries of the road shall not be taken to include any property that does not lie within two miles of such contemplated improvement.

SEC. 11. Upon the location and establishment of any such turnpike road by the county commissioners, and after an affirmative vote by the qualified voters, they may, for the purpose of aiding in the construction, and to provide a permanent fund for the maintenance and expense thereof, levy annually, in addition to other road taxes authorized by law, a tax for turnpike road purposes of not more than four mills on the dollar of valuation on the taxable property in the county, and to continue such levy from year to year until the road or roads which have been commenced are completed.

SEC. 12. No such taxes shall be levied on any lands which have heretofore been assessed for the construction of any free turnpikes or improved road or roads already constructed or in course of construction at the time of the levy of the tax, unless the amount of such assessment, and

in such case such excess only shall be levied and collected; and for the purpose of raising the money necessary to meet the expenses of such improvement the county commissioners may, if in their opinion the same be advisable, submit to the qualified voters of the county at any general election the question whether the county commissioners shall be authorized to issue bonds of the county for the purpose of building roads in accordance with the provisions of this act, and if three-fifths of the legal votes cast be in favor of the issue of such bonds, then the county commissioners may issue the bonds of the county, payable at such times as they deem advisable, not exceeding twenty years, with interest not exceeding six per cent. per annum, payable semi-annually, and which bonds shall not be sold for less than their par value.

Full records
kept.

SEC. 13. The county commissioners shall cause to be kept by the clerk of the board a full record of all the proceedings in the location, establishment and construction of the road, together with accurate accounts of receipts and expenditures of money under the provisions of this act, and no money shall be drawn from the treasury except to pay liabilities already accrued, and then only in pursuance of orders caused by the commissioners whilst in session as a board, to be entered upon the record of their proceedings, and by orders drawn by their clerk upon the county treasury in favor of the persons to whom such money is due.

Letting con-
tracts.

SEC. 14. The work of the construction of such roads shall be let publicly by the county commissioners to the lowest responsible bidder, after due notice given of such letting by publication in one or more newspapers published or of general circulation in the county, or by hand-bills, or both; for that purpose the commissioners shall cause the same to be divided into convenient sections, and each section numbered from the county seat or other point named as the place of beginning, toward the termination, and shall let the same by sections, with proper specifications of the various kinds of labor required on each section; and bidders shall be required to separately state their bids for each class of work, in such manner as the commission-

ers shall provide, and each contractor shall be required to give bond, with sufficient sureties, for the performance of his contract, payable to the county commissioners, for the use and benefit of the county, and with the necessary specifications and stipulations on the part of the contractor inserted therein.

SEC. 15. In all cases the construction of such roads shall commence at the point of beginning, and no payment for work or material shall be made except upon estimates made by the surveyor or engineer employed by the commissioners, and by him duly certified, of work actually done or material actually furnished, or both, and after reserving such per cent. as may be fixed by the parties to the contract to guarantee performance of the same. Construction and payment.

SEC. 16. The viewers, surveyor, or engineer, and their assistants, shall be entitled to receive the same compensation for their services required under the provisions of this act as is now allowed by law in the construction of state or county roads.

Approved March 7, 1890.

PUBLIC HIGHWAYS; REPAIR OF.

AN ACT to provide for keeping highways in repair, and for the levy and collection of road poll and road property taxes, and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That the boards of county commissioners of the several counties shall divide their respective counties into suitable road districts, and may change the boundaries thereof not oftener than once a year, and each commissioner shall be *ex-officio* road commissioner of the several road districts in his commissioner district, and Commissioner districts.

shall see that all orders of the board of commissioners pertaining to the roads in his district are properly executed: *Provided*, When in any county the members of the board of commissioners thereof are not elected by districts, it shall be the duty of such board, by proper order to be entered in its records, to divide such county into commissioner's districts, to correspond with the number of members of such board, and assign to each member thereof one of such districts, of which he shall be such road commissioner: *Provided*, That no member of the board of county commissioners shall receive any compensation for any services whatever performed by him or required of him under any of the provisions of this act, other than his salary, or per diem and mileage, as county commissioner.

Road overseers.

SEC. 2. There must be elected in the several counties of this state on the first Saturday in December, in the year eighteen hundred and ninety, and every two years thereafter, one elector of each and every road district in the county, to act as road overseer in their respective districts, to hold office for two years, commencing on the first Monday after the first day of January next succeeding their election, or until their successors are elected and qualified. The overseer shall, at least ten days prior to the election hereinbefore provided for, cause three notices to be posted up in three conspicuous places in his road district, giving notice that there will be an election held at some convenient place in said district, stating time and place of holding said election, for the next succeeding term; at which election the old overseer shall act as chairman, if present; if not present, the voters shall select one of their number as chairman; also, select a clerk of election, who shall keep a record of the proceedings, and all qualified electors in the district may vote at such election, and the person receiving the highest number of votes shall be declared elected overseer; and returns thereof shall be certified to the clerk of the board of county commissioners. Such road overseers must give their official bond in a sum double the amount of all funds likely to come into their hands during their term of office,

Election of overseer.

Bond.

conditioned for the faithful performance of all duties required by law, or orders of the board of county commissioners, and take the usual oath of office. On the first Monday in February, eighteen hundred and ninety-one, the several boards of commissioners of the respective counties of this state must, when such appointment has not already been made upon a petition of not less than ten, tax-payers of the road district, and in case there be more than one petition, then upon the petition containing the largest number of tax-payers of the road district, appoint one road overseer for each of the road districts in their respective counties; such overseer to be an elector of the district for which he is appointed, and who shall hold office until his successor is elected and qualified. Such overseer shall, Duties of overseer. under the direction of the road commissioner of his district, perform the duties in this act hereinafter specified. Such road overseers must give an official bond in the sum double the amount likely to come into their hands during their term of office, conditioned for the faithful performance of all duties required by law, or order of the board of county commissioners, and take the usual oath of office.

SEC. 3. The boards of county commissioners of the several counties of this state shall have general supervision Duty of county commissioners. over the roads in their respective counties. They must by proper order: *First*, cause to be surveyed, viewed, laid out, recorded, opened and worked, such highways as are necessary for public convenience, as by law provided. *Second*, abandon or abolish such as are not necessary. *Third*, in their discretion let out by contract the construction, maintenance and improvement of the highways, and the construction, maintenance and repair of bridges or other adjuncts of highways, when the amount of work to be done exceeds one hundred dollars. *Fourth*, levy a property road tax. *Fifth*, order and direct overseers specially in regard to work to be done on particular roads in their districts. *Sixth*, in their discretion cause to be erected and maintained on the highways they may designate, mile-stones or posts, and guide-posts, properly inscribed. *Seventh*, cause the road tax collected each year to be ap-

portioned to the several road districts entitled thereto, and kept by the treasurer in separate funds. *Eighth*, audit all claims on the funds of the respective road districts when required to pay for right-of-way or work or improvement thereon. *Ninth*, remove any overseer for inefficiency, neglect of duty or malfeasance in office. *Tenth*, order such warrants drawn on the county treasurer in favor of each district from the funds belonging thereto and payable to the overseer thereof, necessary to pay for labor performed in his district not under contract.

Qualification of overseers.

SEC. 4. When the overseers of road districts receive notice of their appointment from the board of county commissioners, or notice of their election from the clerk of the county commissioners, they must, within fifteen days thereafter, give the official bond required by law and take the usual oath of office. The notice and certificate that the bond has been approved and filed, and the oath taken and endorsed thereon, or a certified copy thereof, constitute a commission, and authorizes the person named therein, and holding the same, to discharge the duties of overseer. The bond must be approved by the board of county commissioners.

Duties of.

SEC. 5. The overseers, under the direction and supervision of the road commissioners, and pursuant to orders of the board of county commissioners, must: *First*, take charge of the highways within their respective districts, and shall employ all men, teams, watering carts, and all help necessary to do the work in their respective districts:

Must be disinterested.

Provided, No road overseer shall be interested, directly or indirectly, in any contract work to be done in the road district under his charge and control. *Second*, keep them clear from obstruction and in good repair, and destroy, or cause to be destroyed, at least once a year, all Canada thistles growing or being on any portion of the public highways or public roads in their respective districts. *Third*, cause banks to be graded. *Fourth*, make quarterly reports, under oath, of the number of days they have been employed during the preceding three months; the number of days' labor performed on the roads and highways in their respective districts, by whom performed, and the wages paid

per day, filing therewith a receipt, or receipts, signed by each or all persons who have performed labor, stating the number of days of labor performed and the amount received for the same; also, the amount and value of the materials and kind thereof. *Fifth*, receive for his services, from Compensation. money in the treasury belonging to his road district, a sum not to exceed two dollars and fifty cents per day for each day's service performed by him, and not to exceed fifty days in any one year, to be audited and ordered paid by the board of county commissioners. Road overseers shall receive fifteen per cent. on all moneys collected by them as road poll tax: *Provided*, No per diem for the time spent in making collections shall be allowed said overseer.

SEC. 6. The board of county commissioners may annually set apart from the property road tax collected from all sources a sum not exceeding twenty per cent. of the aggregate for general county road purposes, to be known as the general road fund of the county, from which sum so set apart they may direct such amounts to be paid as may be found necessary for such general county road purposes, in which the inhabitants of all the districts within the county are more or less interested, or to assist weak or impoverished districts in keeping their roads in repair, to be applied as the said board may order or direct: *Provided*, That an additional twenty-five per cent. may be set apart General road fund. by the commissioners for a bridge fund only: Bridge fund. *And provided further*, That the boards of county commissioners in the several counties shall have no power to create a debt on any road district in excess of the estimated amount of receipts from said district for the current year: *First*, all contracts, authorizations, allowances, payments and liabilities to pay, made or attempted to be made in violation of this act shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such county; and all officers of said county are charged with notice of the condition of the treasury of said county, and the extent of the claims against the same. *Second*, all county commissioners and any other officer authorizing, or aiding to authorize, or auditing or allowing any claim or demand upon or against said treasury, or any fund thereof,

Liability of
officers.

in violation of any of the provisions of this act, shall be liable in person and upon their several official bonds, to the person or persons damaged by such illegal authorization, to the extent of his loss by reason of the non-payment of his claim.

Road poll taxes.

SEC. 7. The board of county commissioners shall annually, at the time other taxes are levied by them, levy upon each male person over twenty-one and under fifty years of age, except paupers, idiotic and insane persons and all firemen exempt by law, found in each road district during the time for the collection of road poll taxes for that year, an annual road poll tax of two dollars, and every such person in a road district who has not paid the same in some other district must pay the amount of road poll tax so levied. For the purpose of collecting road poll taxes, every road overseer is hereby authorized to demand payment of said poll tax from every person liable therefor, and on the neglect or refusal of such person to pay the same, he must collect by seizure and sale of any personal property owned by such person. The sale may be made after three hours' verbal notice of time and place of such seizure and sale.

SEC. 8. The sale must be at public auction and of sufficient amount of the property to pay the taxes, percentage and costs.

Seizing and selling personal
property.

SEC. 9. For seizing or selling personal property, the tax collector or overseer may charge in each case the sum of two dollars and the same mileage as is allowed by law to the sheriff of the county.

SEC. 10. On payment of the price bid for any property sold, the delivery thereof, with a bill of sale, vests the title thereto in the purchaser.

SEC. 11. All excess over the taxes, per cent. and cost of the proceedings of any such sale must be returned to the owner of the property sold, and until claimed must be deposited in the county treasury, subject to the order of the owner, his heirs or assigns.

SEC. 12. The unsold portion of any property may be left at the place of sale at the risk of the owner.

Receipts.

SEC. 13. Road poll tax receipts in blank, signed and numbered, shall be delivered by the clerk of the board of

county commissioners to each person charged with the collection of road poll taxes on or before the first Monday of April of each year, and he shall be charged with the amount of such road poll tax receipts delivered to him, and be credited with those returned, and shall settle with the said clerk and pay over the amounts collected to the county treasurer on the first Monday in each month, with a statement, under oath, of the total amount of poll taxes collected by him during the last preceding month, less the per centum allowed for fees; a sum not exceeding twenty-five per cent. of all road poll taxes so collected may be apportioned to the general road fund, and the balance shall be apportioned to the several districts of the county from which it was collected.

SEC. 14. The board of county commissioners must, each year, at the meeting at which they are required to levy the property tax for county purposes, estimate the probable amount of property tax for highway purposes which may be necessary for the ensuing year, over and above the road poll tax, and must regulate and fix the amount of property highway tax and levy the same thereby: *Provided*, That said property tax for highway purposes shall not exceed the sum of seven mills on each dollar of assessable property in any one year. Annual tax levy.

SEC. 15. The annual property tax for road purposes must be levied by the board of county commissioners at their session when the tax is by them levied for county purposes. The property road tax, when levied, must be annually assessed and collected by the same officers and in the same manner as other state and county taxes are levied, assessed and collected, and turned over to the county treasurer for the use of the road districts from which it is respectively collected. Property road tax.

SEC. 16. Corporations or other employers of persons in any road district subject to road tax are chargeable for the road poll tax assessed against their employes, to the extent of any credit in their hands not exceeding such tax: *Provided*, The road overseer shall first give written notice to such employes and employer, or the resident agent of such corporation, and from the time of such notice the Liability of employers.

amount of any credit in his hands, or that shall thereafter accrue, sufficient to satisfy said tax, shall be paid to the road tax collector, whose receipts shall be evidence in bar of the prosecution of any action by the employe against the principal for the recovery of the same: *Provided further*, Every person, firm or corporation having persons liable for road poll tax in their employ, and who have been notified that such employe has not paid the same, shall become liable for such tax, which shall be collected from said employers as provided for collecting taxes from individuals in section seven of this act.

SEC. 17. Every person, firm or corporation shall furnish, upon demand by the tax collector, the names, number or designation of each and every person in his, its or their employ, and upon failure to furnish such names, numbers or designation, shall be deemed guilty of a misdemeanor, and fined in a sum of not less than fifty dollars nor more than one hundred dollars, to be collected as in cases provided by law for misdemeanors: *Provided, however*, In case of corporations the said sums may be collected in an ordinary action before any justice of the peace in the county: *And provided further*, That the agent of any corporation who shall neglect or refuse to comply with section sixteen of this act shall be liable to punishment as in this section provided.

Penalty for failure to furnish list.

Repeal

SEC. 18. All acts and parts of acts in conflict with this act are hereby repealed: *Provided*, That the tax due or to become due upon the assessment made in the several counties for the year A. D. 1889, shall be collected under the laws in existence at the time of the taking effect of this act, and such laws and parts of laws as apply to the collection of road taxes for the year 1889, shall continue in force and effect for said purpose.

Approved March 7, 1890.

TAXES; SPECIAL ROAD DISTRICT.

AN ACT to authorize road districts to levy special taxes for road and bridge purposes.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That whenever one-fifth of the property tax-payers, resident in any road district in this state, shall petition the county commissioners of their county, setting forth that the amount of road taxes derived from the general revenue laws are inadequate for the proper improvement and maintenance of the public roads and bridges, and for the construction of necessary bridges in said road district, and the board of county commissioners, upon the consideration of the same, "will not" or "cannot" afford the necessary relief by appropriation from the county funds or otherwise, it shall be the duty of the board of county commissioners so petitioned to submit the question of levying a special tax to the electors of said road district, said tax not to exceed one per cent. of the taxable property in said district, as per the assessment roll of such county, and if a majority of all the votes cast at such election shall favor such special tax, the board of county commissioners shall order the same to be levied on all the taxable property in said road district, as shown by the county assessment roll of that year, and said assessment and collection thereof shall be made and collected the same as is provided for under the general law for the assessment and collection of special school taxes: *Provided*, That no person shall be eligible to vote at an election under this act unless he be a *bona fide* resident of such road district and is otherwise entitled to vote under the general election law of this state.

SEC. 2. The board of county commissioners shall appoint an inspector and two judges (who may act as clerks of said election), who are qualified electors, as set forth in this act, to conduct such election, and shall fix the time and place of holding the same, and such election shall be conducted and returns made, as near as may be, in ac-

cordance with the general election law of this state, except as otherwise set forth in this act. At such election the ballots shall contain the words "Tax, yes," or "Tax, no."

Notice.

SEC. 3. Whenever the board of county commissioners shall order an election under the provisions of this act, they shall name the number of mills to be assessed on each and every dollar's worth of property in said road district, as per the assessment roll of the county for that year, together with the time and place for the holding of such election, and the names of the inspector and judges appointed therefor, and the hours at which the polls for such election shall be opened and closed, which time shall not be less than six hours from the time of the opening to the closing of the same, and cause the same to be entered in the record of their proceedings. And it shall be the duty of the

Form of.

county auditor to issue the notices therefor, which notices shall set forth the names of the inspector and judges, the number of mills on the dollar to be assessed, and the time and place for holding such election, together with the hours of the opening and closing of the polls. He shall furnish three copies of such notice to the supervisor of such road district, which notices shall be posted by the road supervisor in three of the most public places in his road district, at least ten days prior to such election, and the county auditor shall also cause a copy of the same to be published in the official newspaper of the county, if there be one, for at least three weeks prior to the day of holding such election. The judges and inspector shall make prompt returns to the county auditor of such election, and they shall receive two dollars each for their services, to be paid out of the general county funds.

Publication.

SEC. 4. The county treasurer shall place any tax so paid or collected to the credit of the road district to which it belongs.

SEC. 5. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 20, 1890.