

P14514

An abstract of the duties of Surveyors of Roads under the Act of Assembly, passed 3rd March, 1835 :

5. *It is enacted*, That the several county courts shall divide all the public roads into precincts, and as often as it shall be necessary, appoint a surveyor over each one, whose duty it shall be to superintend the road within the same, and see that it be provided with drains, cleared, smoothed of rocks and obstructions, and that it be otherwise kept in good repair, and secure from the falling of dead timber therein; which surveyor shall continue in office until another shall be appointed by the said court in his stead: *Provided*, That no surveyor be required to serve more than two years in continuation.

7. *It is further enacted*, That all male persons of the age of sixteen years or more, and under sixty years of age, not excused by order of the court, shall be appointed by the court to work on some public road. For every person so appointed, who, when required by the surveyor placed over him, shall, without legal cause or disability, fail to attend with proper tools for clearing the road, or shall refuse to work when there, or to find some other male person equally able to work in his room, a sum not exceeding one dollar, (to be fixed by the court of each county respectively, as often as may be deemed necessary,) for every day's failure, shall be paid by himself, if a free man of full age, if an infant, then by his parent, master or guardian, and if a slave or servant, then by his overseer, if he be under one, or otherwise by his master, and said sum shall be recoverable by the surveyor, with costs, before a justice of the peace, and after deducting the costs accruing on his warrant or information, shall be applied by him as it may be necessary, in the improvement and repair of the road, for failing to work on which the penalty was incurred. But if the person so failing shall tender to the surveyor within twenty days thereafter the amount of the penalty so fixed as aforesaid, it shall be received as a full

and satisfactory discharge thereof; and it shall be the duty of the surveyors of roads to render to the courts of their counties respectively, at the court when their county or road levy is usually laid, a strict account of all moneys received by them as aforesaid, and the manner in which the same shall have been expended, which said accounts shall be verified by affidavit. All moneys on hand and unexpended at the time of making out said account, shall be delivered over therewith by the surveyors to the court, and received by it as a part of the depositum, to be applied to the uses of roads or bridges. And if any surveyor shall fail to render such account, he shall be liable to a penalty not less than twenty nor more than fifty dollars, judgment for which may be rendered by the courts of the counties respectively, ten days previous notice of such proceeding having been given to such person or his legal representatives. Nothing in this section contained shall debar the county courts from uniting the labourers of several precincts when they shall deem it necessary or proper to do so, for the purpose of opening a new road, or repairing great damages casually occurring to an existing one: *Provided*, That in either of these cases, not more than ten days of extra labour for both within the year, be demanded of the person regularly assigned and liable to labour on some other precinct. Should the surveyor think it expedient, he is hereby authorized, instead of prosecuting the offences herein before mentioned, to make out a list of the persons chargeable therewith, and return the same, upon oath, to some justice of the peace, who shall forthwith summon such persons to appear before him, and shall, upon trial, give judgment according to the right of the case. Any fines imposed by the justice so acting, shall be paid over to the surveyor, to be expended and accounted for by him as herein directed.

8. *It is further enacted*, That every surveyor of a road shall cause the same to be constantly kept well drained, cleared and smoothed, and thirty feet

wide at the least, unless the court shall, by order entered of record, authorize a less width; and at the fork or crossing of every public road, shall cause to be erected and kept in repair from time to time, a stone, or otherwise an index on a post or tree, with plain inscriptions thereon in large letters, directing to the most noted place to which each of the said roads shall lead, and may take stone or wood for that purpose, from any adjoining land, and for the expense of setting up and inscribing such stones, posts or indexes, and keeping them in repair, the surveyor shall be reimbursed by the county court in their next succeeding road levy; and where bridges and causeways are necessary, the surveyor shall cause them to be made twelve feet broad at the least, convenient and safe, and shall keep the same in repair, and for that purpose, may cut and take from the lands of any person adjoining, such and so much timber, earth or stone, as may be necessary, the same being first viewed and valued upon oath, by two honest housekeepers appointed for that purpose by a justice of the peace, unless the owner shall freely give such timber, earth or stone for that use; but where a road leads through a city or town, the surveyor shall not take any timber, stone or earth, from any lot within the town, without the permission of the owner, but shall take the same from lands nigh or adjacent to said town, where it will do the least injury to the proprietor; and where the assistance of wheel carriages or ploughs is necessary for making or repairing any roads, bridges or causeways any surveyor first obtaining the assent and warrant of a justice of the peace, may impress such necessary carriages, ploughs, draught horses or oxen, with their gear and driver, belonging to any persons who are appointed to work on the road, and shall appoint two honest housekeepers, who, upon oath, shall value by the day, the use of such carriages, ploughs, draught horses and oxen, with their gear and driver; which valuation, with a certificate from the surveyor how many days they were used

in the work, shall entitle the owner to an allowance for the same, in the next road levy; and in the like manner shall the owner of timber, stone or earth, taken for bridges or causeways, or other modes of improvement, be entitled to the valuation thereof in the next county or road levy, upon a certificate of the two housekeepers who valued the same; and when it shall be necessary to cut a ditch through any lands adjoining a public road for the purpose of draining the same, it shall and may be lawful for the surveyor of such road to cause the said ditch to be cut for that purpose, (provided the same be not cut through any yard, garden or lot in any town, without the consent of the owner thereof,) and if any owner or tenant of such land shall think himself injured thereby, upon his application to any justice of the peace for said county, the said justice shall issue his warrant to three discreet and disinterested freeholders, requiring them, after having been first duly sworn, to view the said lands and ditch, and ascertain the damages which such owner or tenant may have sustained by the cutting thereof which assessment shall, by the said freeholders be reported to their next levy court, and the damages so assessed shall be levied and paid in the same manner as other road expenses; and hereafter, every surveyor of a road who shall neglect to perform the duty hereby required of him by law, shall forfeit and pay a sum not less than ten nor exceeding thirty dollars; and the surveyors of roads now acting, or that may hereafter be appointed, shall be entitled to receive a reasonable compensation, to be adjudged of by their respective county courts, not exceeding one dollar and twenty-five cents for every day they may be necessarily employed in working on and repairing the said roads, nor exceeding ten dollars in any one year, to be paid them out of the county or road levy, unless the court, for extraordinary services, may think proper to make some additional allowance.

16. *It is further enacted,* That in counties where a portion only of the

public roads is let to contract, and the residue is confided to surveyors, the persons allotted to such residuary precincts, if the county courts shall so order and direct, shall have the very same right with those allotted to contract precincts, of paying their respective assessments in labour or in money, and under the same regulations, and shall be entitled in like manner to a certificate from the surveyor of the labour done, and to a credit thereof with the sheriff in the settlement of their levy. In this case, the surveyors shall prosecute delinquent labourers, as surveyors are herein before directed to do, and shall be under the same obligations as are required of contractors, to exhibit a list of the levy to persons allotted to their precincts, who are chargeable therewith, and make out return lists, and deliver the same to the sheriff of the county, in manner and time as before prescribed.

17. This section provides that when a levy is laid under this law, it shall be accompanied by such an arrangement of precincts, as that the amount assessed upon each shall conform, as near as may be, to the probable expense of opening and keeping the same in repair. Where a road levy upon persons and property, as herein authorized, is applied under the superintendence of surveyors, these surveyors shall continue in office, be served with a notice of their appointment, and besides the special duties and powers enumerated in this and the preceding section, shall be charged with the general duties and powers as aforesaid, and all in manner and form as severally set forth and provided in sections five, six and eight of this act. But nothing herein shall prevent the county courts from placing several precincts, if they think fit, under one surveyor. The person or persons who shall come to and reside within the bounds of any precinct, managed upon the plan of this and the preceding section, after the time prescribed for notifying those who are charged with a levy therefor, shall be liable as a titheable to labour rateably on such precinct for the residue of the year;

and it shall be the duty of the surveyor or thereof, to give such person notice accordingly. The surveyors appointed under this and the preceding section, shall be entitled to compensation, at the discretion of the county court, not exceeding one dollar and fifty cents per diem for the time actually engaged in superintending the work on the road, which time shall be stated in writing and sworn to. **TESTE,**

J. P. White

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J. R.