

Sylvan Valley News

ONLY NEWSPAPER IN TRANSYLVANIA COUNTY

J. J. MINER, OWNER AND MANAGER

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PUBLIC ROAD LAW FOR Transylvania County

AN ACT
To Provide a Better System for Working and Maintaining the Public Roads in Transylvania County:

The General Assembly of North Carolina do enact:

SECTION 1. That the Roads and Ways of Transylvania county for the purposes of this act shall be as hereinafter provided, divided into Public Roads and Cartways, and for the proper construction, improvement and maintenance of the Public Roads of said county, the board of Commissioners thereof shall levy an annual tax, as hereinafter provided, and the said board of Commissioners shall, on the first Monday in April, one thousand nine hundred and nine, appoint a board of road trustees for each township in said county, which board shall be composed of three good and lawful men, resident of such township. The term of office of the first road trustee shall be six years, the second four years and the third two years, and one successor of one trustee shall be appointed for each of said townships in April, one thousand nine hundred and eleven, by said board of Commissioners, and annually thereafter, for the term of two years; and that in the event of a vacancy occurring in any of said boards of road trustees, by death, resignation removal from the township, or otherwise, the said Commissioners shall appoint his successors to fill the unexpired term. The said trustees are incorporated the Board of Trustees of said township, and the same shall be their incorporate name.

Sec. 2. That the road trustees for each of said townships shall meet on the first Saturday in May, one thousand nine hundred and nine, and annually thereafter, and organize by electing one of their number chairman, one secretary and one treasurer, or if they shall deem it advisable they may elect one of their number secretary-treasurer, and he shall forthwith report to the Commissioners of said county, in writing, a list of the officers thus elected, which report shall be kept on file in the registers office of said county; that the trustees for the purpose of performing the duties herein required of them, shall meet semi-annually and oftener, if in their judgment they shall deem it necessary, for the proper transaction of the duties herein imposed, and their secretary shall keep a record of all their meetings and proceedings; that the treasurer of said road trustees shall enter into a good and sufficient bond, to be approved by the other members of said board of road trustees, payable to the state of North Carolina, in trust for each township, in not less than the sum of one hundred dollars, and in no case less than double the tax levied for road purposes under this act for such township for such year, which bond shall forthwith be returned to and filed in the office of the register of deeds of said county; that said bond shall be conditioned that said treasurer of said board of road trustees shall faithfully, well and truly perform all duties, acts and things required of him under this act to be done and performed, and he and his sureties upon such bond shall be liable thereon for any default of the treasurer to do and perform any duty or duties required of him under this act; that the said road trustees, in their corporate name aforesaid, shall have the right to sue and be sued, plead and be impleaded in any of the courts of this state; that the said road trustees shall be exempt from the number of days labor hereinafter required in this act, upon the public roads of their township, and shall be entitled to such compensation as is hereinafter named.

Sec. 3. That it shall be the duty of the road trustees to examine into the condition of the public roads of their respective townships at least twice in each year, and make a report in duplicate on the condition of said public roads, and present one copy of said report to

the board of Commissioners of said county at their May and November meeting, and in addition thereto the said road trustees shall forthwith file one copy of said report with the clerk of the superior court of said county for the use of the solicitor, with such instruction and recommendation as they may deem proper; that the said road trustees shall have the right, upon petition of the citizens of their township, or without such petition if they shall deem it best for the interest of the traveling public, to lay out, alter or discontinue public roads that are wholly within their township, or when such proposed new road, alteration or discontinuance is wholly within their township, with as little injury to the lands through which the same passes as may be consistent with the best interest of the traveling public, and the said road trustees, taking into consideration the advantages and disadvantages to the owner of the land through which these roads thus altered or laid out pass, shall assess the damages, if any caused thereby, and such damages thus assessed shall be deemed a charge against the county, and the said road trustees shall make a certificate of such damages showing for what allowed, the amount and to whom payable, which certificate shall be forthwith filed with the board of commissioners of said county; and unless it shall appear to said commissioners that the damages are exorbitant and unjust, shall be allowed by them. That any person or persons aggrieved by the action of the road trustees in laying out, altering or discontinuing any public road as aforesaid as allowed for the amount damages allowed for laying out any new road or altering an old road as aforesaid, may, upon giving bond, with sufficient justified surety to be approved by the road trustees, in not less than the sum of one hundred dollars, and conditioned for the payment of all costs which may be adjudged against him or them by reason of such appeal, appealed to the board of commissioners of said county: Provided, notice of appeal be given to the said road trustees by the party or parties aggrieved within ten days after the act complained of. That the said Commissioners shall hear and determine such appeal, and if the same be against the appellant, it shall be their duty to enter judgment against the appellant and his sureties for the cost of the appeal, with all the force and effect of a judgment in the superior court: Provided, that any party or parties aggrieved by the action of the Commissioners in such matter may appeal to the superior court of said county in the manner set forth in the next succeeding section.

Sec. 4. That when it is desired to lay out a new road or alter or discontinue any public road or roads extending into two or more townships, the right to do the same shall be in the county Commissioners and shall be done subject to and as is provided for in chapter sixty-five, volume one of Revisal of one thousand nine hundred and five; Provided, that posting notice of the petition at the court house door for thirty days, and at some public place in each township through any part of which said road passes, for twenty days prior to the hearing for said petition, shall be sufficient for the notices required in section two thousand six hundred and eighty-four of said Revisal; Provided further, that any person or persons desiring to appeal to the superior court from the order of board of Commissioners shall first give bond with approved security in not less than the sum of one hundred dollars conditioned to pay all such costs as may be adjudged against him or them by reason of such appeal.

Sec. 5. That all roads, when laid out for construction or amendment under the provisions of the preceding sections shall, by reason of this act, be deemed divided so that the road trustees of each township shall have control of so much thereof as lies wholly within their township, and all public roads laid out

or amended under sections three and four of this act shall be constructed as is in this act provided for the construction and maintenance of the public roads; Provided, that no person shall be required to go out of his township to help in working or constructing any road.

Sec. 6. That the road trustees of the several townships of said county shall, on the first Monday of May, one thousand nine hundred and nine, or within ten days thereafter, divide their respective townships into suitable road districts, and on the first Monday in March, one thousand nine hundred and ten, and annually thereafter, make such alteration as they may deem proper, and cause a brief description thereof to be made on the township records, also to furnish each supervisor with a description of his road districts. That the road trustees of each township at the meeting at which they divide their township into road districts, as aforesaid, and annually thereafter, shall elect one supervisor for their township who shall have charge of the several road districts therein; but if in their judgment they should consider it best suited to the conditions in their township they may elect more than one supervisor, and assign to each the districts which he shall have charge of under the provisions of this act; that the road trustees shall cause each supervisor to enter into a bond in not less than the sum of one hundred dollars, executed to the state of North Carolina in trust for said township, with sufficient surety, to be approved by the road trustees for such township. That the road trustees shall have general power and control over the public roads in their townships, and shall confer with and may direct the supervisors as to the best methods of constructing, maintaining and permanently improving the public roads: that in case of a vacancy in the office of supervisor, occurring by death, resignation, removal or otherwise, the road trustees shall appoint his successor for the unexpired term, and may at any time, when they shall deem it for the best interest of the public roads of their township, remove any supervisor from office and appoint his successor.

Sec. 7. That each supervisor, before entering upon the duties of his office, shall take an oath faithfully and impartially to discharge the duties of said office, and shall make and execute bond with approved surety, such as may be required of him as aforesaid by the road trustees, and shall, at each semi-annual meeting of the road trustees, and oftener if directed by them, make a report of the condition of the roads under his charge, the character and extent of the work he has done on the same, the number of persons subject to road duty as defined in section nine of this act in each road district under his charge, and the number of days work by each of said persons, the name of each person who has paid cash in lieu of services and the amount of cash paid by each, the full amount of receipts and the amount and manner of all expenditures during said semi-annual period, the number of days worked by him on the roads of his district, and the number of hands worked each day, and the number of judgments, fines and penalties taken by him under this act, against whom and the amounts due thereon if any, and all such other matters as the road trustees may require of him appertaining to his duties or relating to the condition of his road.

Sec. 8. That it shall be the duty of each and every supervisor, subject to such directions as the road trustees may deem proper to make as to the manner of doing the same, to open or cause to be opened all public roads which shall have been or may hereafter be laid out and established in his road district, the same to keep in repair, and remove or cause to be removed all the obstructions that may from time to time be found thereon, for which purposes the supervisors are hereby authorized to enter upon any lands not encumbered by crops near to or adjoining such roads, to cut and carry away timber, except trees or groves on improved land, planted or left for ornament or shade; to dig, or cause to be dug and carried

away any gravel, sand, clay, marl or stone which may be necessary to make, improve or repair said road, and to enter on any lands adjoining or lying near the road to make such drains or ditches through the same as he may deem necessary for the benefits of the roads, doing as little injury to said lands and improvements thereon and timber as the nature of the case and public good will permit; and the drains or ditches so made shall be conducted to the nearest water-course, ditch or drain, and shall be kept open by the supervisors, and shall not be obstructed by the owners or occupier of said land, or any person or persons having the same in charge, under the penalty of forfeiting the sum not exceeding ten dollars for each and every offence, to be collected by the supervisor and paid over by him to the road trustees and applied to the road fund of said township. And if the supervisor shall wilfully injure any cultivated or improved land by failure to conduct said drains and ditches to the nearest waterway, ditch or drain, and keep said drains and ditches in repair, he shall be guilty of a misdemeanor.

Sec. 9. That all able-bodied male persons and all male persons able to perform the labor herein required, between the ages of eighteen and forty five years, shall be liable annually to do and perform five days labor on the public roads under the direction of the supervisor of the road district in which he resides: Provided, that if any person being warned, as hereinafter provided, shall pay to the supervisor of his road district the sum of one dollar for each day's labor required by this act, the same shall be received in lieu of each day's labor and shall be applied by the road supervisor receiving the same to the improvement of the roads in that district: Provided, that if from heavy rains, floods, washouts or any unusual injury to the roads, the road trustees shall be of the opinion that the condition of the roads in their township demands it, they may increase the number of days labor for each person subject to road duty as above to not more than seven days: Provided further, that ten hours shall constitute a day's work as required under this act.

Sec. 10. That it shall be the duty of every supervisor to order out every such person resident as aforesaid, between the first day of March and the first day of December annually, to do and perform the work aforesaid on the public roads within the district; and if any such resident, being personally warned by such supervisor or by leaving a written notice at his usual abode, shall refuse or neglect, having had at least two days' notice to attend himself, or by an able-bodied substitute acceptable to the supervisor, or having attended shall refuse to obey the directions of the supervisor, or shall spend the time in idleness or inattention to the duties assigned him, every such delinquent shall forfeit and pay the sum of one dollar for every such offence, and shall further be liable in all cases of non-attendance to the amount of labor required by the road trustees in such township, to be recovered by an action before any justice of the peace of the proper township at the suit of the supervisor within whose district he may reside and shall also be guilty of a misdemeanor and fined not exceeding five dollars, or imprisoned not exceeding five days; and the money so collected shall be applied by said supervisor to the improvements of the roads within his district and accounted for by him at the annual settlement with the road trustees: Provided, that no person shall be released from the performance of the labor on the public roads by reason of the neglect of any supervisor to order out such person on or before the first day of December as herein provided.

Sec. 11. That in case any person shall remove from any district to another who has prior to such removal performed the whole or any part of the labor aforesaid, or in any way has paid the whole or any part of the money due in lieu of such labor, and shall produce a certificate of the same from the supervisor of the proper district, such certificate shall be a complete re-

lease for the amount or time therein specified.

Sec. 12. That any person of road age, as defined in this act, who shall be summoned as hereinbefore provided, to perform any labor upon the public roads under the provisions of this act, shall by himself or by an able-bodied substitute appear at the place appointed by the supervisor at the hour of seven o'clock a. m. with the necessary tools and implements, as the supervisor may direct, and the supervisor may arrange for the use of teams, wagons, carts, plows or scrapers to be employed and used on the roads under his direction, upon terms and prices to be approved by the board of trustees.

Sec. 13. That for the purpose provided in this act, as to the liability of any person to work on the roads, as aforesaid, his residence shall be deemed to be in the township in which he sleeps five days previous to the time set for working said roads, provided that a properly verified receipt from some road official or tax collector from any state, county, city or town, or other district, shall relieve any holder of same from an equal amount of work or sum of money due under this act as said receipt or certificate shall specify: Provided, further, that no bona fide guest of any hotel or boarding house, temporarily staying or boarding in Transylvania county, shall be liable to road duty.

Sec. 14. That the several supervisors within their respective districts shall collect by suit or otherwise all fines, forfeitures and penalties arising or accruing under the provisions of this act, unless the collection thereof is otherwise herein provided for, and they are hereby authorized and declared before their settlement with the road trustees to prosecute to final judgment all actions against any and all persons neglecting or refusing to comply with the provisions of this act from whom such fines, forfeitures and penalties can be collected or enforced; and the said judgment if not paid together with the costs therein, shall remain and be enforced against the judgment debtor.

Sec. 15. That all moneys remaining in the hands of any supervisor at the time of the annual settlement with the road trustees shall be paid over to his successor in the office as soon as such successor shall be elected and qualified, taking a receipt therefor, and depositing same with said road trustees. It shall be lawful for any supervisor to have execution issued on any judgment that remains unpaid within his district at any time when in his opinion the same can be collected, and the money so received when collected shall be expended as provided in the foregoing sections.

Sec. 16. That the Commissioners of said county are hereby authorized to and shall levy at the June session of their board in one thousand nine hundred and nine, and annually thereafter, for the purposes hereinafter mentioned in this act, not less than five nor more than fifteen cents on every hundred dollars worth of taxable property in said county, and the chairman of said Commissioners shall cause the same to be placed on the list for the current year to be included in and collected in the annual taxes, and the amount collected for each township shall be set aside for and used in each township for the purposes hereinafter mentioned. And it shall be the duty of the board of trustees of each township to confer with and make recommendation to the county commissioners as to the amount of tax needed in each township for the purpose hereinafter mentioned, and if said commissioners shall be satisfied from such recommendation that any township needs, for said purposes more tax for the ensuing year, the said Commissioners may on the first Monday in June of each year levy an additional tax for said purposes in said township: Provided that said levy shall not exceed the limitation hereinbefore mentioned in this section nor be less than the minimum levy mentioned in this section, and the taxes levied by virtue of this act shall be collected by the sheriff or tax collector in the same manner and under the same pains and penalties as

Concluded on Page 6.