

ROAD LAWS
OF
NEBRASKA

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ROADS.

SECTION 1. [Supervision by county board.] The county board has a general supervision over the public roads of the county, with power to establish and maintain them as herein provided, and to see that the laws in relation to them are carried into effect. [1879, 120.]

SEC. 1a. [Roads leading to cities.] The county board of any county in which any city of the metropolitan, or city of the first class having over twenty-five thousand inhabitants, is situated, is hereby authorized and empowered, whenever the road fund of said county will warrant it, to aid in the grading, paving, or otherwise improving of any street, avenue, or boulevard leading into such city and within the corporate limits thereof, by providing for payment of not exceeding one-half of the cost of such grading and not exceeding the cost of the paving of intersections; and shall also be authorized and empowered to grade, pave, or otherwise improve any street, avenue, boulevard, or road, or any portion thereof leading into and adjacent to any such city, outside of the corporate limits thereof and within two miles from such corporate limits, including any portion thereof leading into or across any village or town and for such improvements outside of the corporate limits of any such city as hereinafter authorized and directed. [1883, chap. XXIII.; 1889, chap. 8.]

SEC. 1b. [Estimate—Cost—Notice.] Whenever the county board shall contemplate the making of such improvements outside of the corporate limits of any such city they shall notify the county surveyor, whose duty it shall be to make an examination of the proposed improvement and report an estimate of the cost thereof to said board. If, upon the coming in of such report, the county board determine to make the improvement, they shall cause personal notice to be served on the owners of property abut-

CHAP. 78. "An act to amend chapter forty-seven of the Revised Statutes, entitled 'Roads.'" Laws, 1879, 120. Took effect June 1, 1879.

NOTE, also, that "An act to provide for the election of road supervisors and further define their duties" (Laws, 1867, 46; G. S. 958), "An act declaring section lines roads in certain counties" (G. S. 959), "An act prescribing additional duties of supervisors" (Laws, 1875, 113), "An act to vacate certain roads" (Laws, 1875, 114), being superseded and re-enacted by different provisions of this chapter are omitted. The rule that where a party has been in the actual, open, notorious, and exclusive possession for ten years, he thereby acquires the absolute right to such exclusive possession, is applicable to public roads in favor of the public so far as it relates to mere easement. 21 Neb. 232.

SECS. 1a-1d. "An act to authorize the county board of any county in which a city of the metropolitan, or cities of first class having over twenty-five thousand inhabitants, is situated to grade, pave, or otherwise improve roads leading thereto, and to assist such city in the improvement of such roads within the corporate limits as are extensions of roads leading thereto." Laws, 1889, Chap. 8. Took effect March 30, 1889. Bordering roads. 70 N. W. R., 27.

ting on said road, of their intention to make such improvements, and, if the owner is a non-resident, then by personal service on the agent of such non-resident, if he have one residing in the county, and in case he has no such agent, by publishing such notice in a newspaper published in and of general circulation in said county, and upon the proof of service or publication of such notice aforesaid and after giving such owner an opportunity to be heard, the board shall decide upon the material to be used in such improvement and enter an order upon their record for the construction thereof. [Id., § 1b.]

SEC. 1c. [Expense—How paid.] Two-thirds of the cost of any improvement outside of the corporate limits of any city authorized by this act shall be paid by said board out of the road fund of said county, one-third by special assessment on all real estate abutting on or adjacent to such improvement to a depth not exceeding 500 feet on each side thereof to the extent of the special benefits to such real estate by reason of such improvement; the benefits to such real estate to be determined by said board, after publication in a newspaper of general circulation in the county, of notice to the owners of said real estate at least ten days prior to such determination. Such assessment may be according to the front foot of the real estate along the line of such improvement or according to such rule as said board may adopt for the distribution and equalization of the said one-third of the said cost, and the amount so assessed shall be placed upon the tax list for the ensuing year and collected in the same manner and at the same time as the tax on other property, and when collected credited to the road fund of said county. [Id., § 1c.]

SEC. 1d. [Contracts—Bonds—Payments.] All contracts for the construction of such improvements outside of the corporate limits of any such city shall be let to the lowest responsible bidder who will enter into bonds for the faithful performance thereof, in such amount and with such securities as the county board may determine. All payments on such contracts shall be made by warrants drawn on the road fund of said county. [Id., § 1d.]

SEC. 2. [Width.] All public roads shall have a width of sixty-six feet, and the stake line marking such road shall be on the northern edge of the said sixty-six feet, if the road is running east and west, and on the western edge, if the course of the road is north and south; *Provided*, That roads located on the state line, where any adjoining state locates similar roads, may have a width of thirty-three feet; *And provided further*, That whenever the county board shall deem it necessary, the width of such road, at any point where a bridge is to be located and constructed, may

be one hundred and fifty feet for a distance not exceeding three hundred feet on either side, from the center of such bridge.

SEC. 3. [Public roads defined.] All roads within this state which have been laid out in pursuance of any law of this state, or of the territory of Nebraska, and which have not been vacated in pursuance of law, are hereby declared to be public roads; *Provided*, That all roads that have not been used within five years shall be deemed vacated.

SEC. 4. [Establishment—Petition.] Any person desiring the establishment, vacation, or alteration of a public road shall file in the clerk's office of the proper county a petition signed by at least ten electors residing within five miles of the road proposed to be established or vacated, in substance as follows:

To the board of county. The undersigned ask that a public road, commencing at, and running thence, and terminating at, be established, vacated, or altered (as the case may be).

SEC. 5. [Deposit for expenses.] The petitioners for establishment or alteration of any public road shall at the time of filing their petition therefor deposit with the county clerk a sufficient sum of money to pay for the laying out or alteration of such road, the expense thereof to be paid out of such deposit, unless the road is finally established or altered. If the road is finally established or altered, the money shall be returned to the person who deposited the same.

SEC. 6. [Commissioner—Appointment.] Upon compliance with the foregoing requisites, the county clerk shall appoint some suitable and disinterested elector of the county a commissioner to examine into the expediency of the proposed road, alteration, or vacation thereof, and report accordingly.

SEC. 7. [Same—Power.] The commissioner is not confined to the precise matter of the petition, but may enquire and determine whether that or any road in the vicinity, answering the same purpose and in substance the same, be required; but such

SEC. 3. Abandonment by public must be complete and entire in order to work a vacation. 16 Neb., 245. Injunction does not lie against opening road where land owner's claim for damages is allowed and no appeal taken. 16 Neb., 571. Object, to remove uncertainty as to existence of road. 49 Id., 392.

SEC. 4. Petitioner for the location of a public road over his own land is not entitled to notice of the pendency of such petition. 21 Neb., 232. Establishment by user. 10 Neb., 518, 21 Id., 471. Where road has been located across the lands of any person by competent authority, accepted by the public, and traveled for more than ten years, public thereby acquires an easement, and the court will not inquire whether all the necessary steps were taken in the original location of the road. 23 Neb., 510. Section cited 20 Neb., 652. Id., 29. 28 Id., 837. Order of county board declaring highway "no road," without proceedings by petition or otherwise, void. 26 Neb., 257.

SEC. 6. Jurisdiction of county clerk to appoint commissioners stated. 25 Neb., 231. Commissioner must be appointed or consent of all property owners had. 31 Neb., 8.

SEC. 7. Provisions apply only to roads established under general provisions of road law, not to roads on section lines. 37 Neb., 902.

road must not be established through any burying ground, which is exempt from execution; nor through any garden, orchard, or ornamental ground contiguous to any dwelling house, so as to cause the removal of any building without the consent of the owner.

SEC. 8. [Same.] In forming his judgment he must take into consideration both the public and private convenience, and also the expense of the proposed road.

SEC. 9. [Same—Report.] After a general examination, if he shall not be in favor of establishing the proposed road, he will so report, and no further proceedings shall be had on that petition.

SEC. 10. [Same.] If he deems such establishment expedient, he may proceed at once to lay out the road as hereinafter directed, and may report accordingly, if the circumstances of the case are such as to enable him to do so, without pursuing the course pointed out in the next section.

SEC. 11. [Survey.] If the precise location of the road cannot be otherwise given, he must cause the line of the road to be accurately surveyed and plainly marked out.

SEC. 12. [Commissioner's oath.] Any commissioner other than the county surveyor must be sworn to faithfully and impartially discharge his duty as such commissioner, and, after being thus qualified, he shall have power to swear the assistants employed to a faithful and impartial performance of their respective duties in laying out the road described in his commission.

SEC. 13. [Bearing stakes.] Stakes must be set at each change of direction, on which shall be marked the bearing of the new course. Stakes must also be set at the crossing of fences and streams, and at intervals in the prairie, not exceeding a quarter of a mile each; in the timber the course must be indicated by trees suitably blazed.

SEC. 14. [Trees—Monuments.] Bearing trees must, when convenient, be established at each angle, and the position of the road relative to the corners of sections, and junctions of streams, or any other natural or artificial monument, or conspicuous object, must, as far as convenient, be stated in the field notes, and shown on the plat.

SEC. 15. [Plat and report—Files.] A correct plat of the road, together with a copy of the field notes of the surveyor, if one has been employed, must be filed as a part of the commissioner's report, and he shall also state the probable cost of the

work in laying out or altering such road, including any necessary bridges, culverts, and ditches. Such report shall be filed with the county clerk.

SEC. 16. [Objections and claims for damages to be filed.] If the report of the commissioner be in favor of establishing or altering the road, the county clerk must appoint a day, not less than sixty, nor more than ninety days, on or before which day all objections to the establishment or alteration to the road, and claims for damages by reason thereof, must be filed with the clerk.

SEC. 17. [Examination—Report.] The time for the commissioner to commence the examination shall be fixed by the clerk, and if he fails to so commence, or report, the clerk may fix another day, or extend the time for making such report, or may appoint another commissioner.

SEC. 18. [Notice to land owners.] Within twenty days after the day is fixed by the clerk as above provided, a notice shall be served on each owner or occupier of the land lying in the proposed highway, or abutting thereon, as shown by the numerical indexes in the register's office, who reside in the county, in the manner provided for the service of original notices in actions at law; such notice shall be published for four weeks in some newspaper published in the county, if such there be, or if there be no newspaper published in the county then such notice shall be posted in at least three public places along the line of the proposed road, which notice may be in the following form:

To all whom it may concern: The commissioner appointed to locate, vacate, or alter (as the case may be) a road commencing at in county, running thence (describing in general terms all the points as in the commissioner's report) and terminating at has reported in favor of the establishment (vacation or alteration) thereof, and all objections thereto, or claims for damages, must be filed in the county clerk's office on or before noon of the day of A. D. or such road will be established (vacated or altered) without reference thereto.

A. B., County Clerk.

[Amended 1893, chap. 26.]

SEC. 19. [Report by county clerk.] No objections or claims

SEC. 16. Claim for damages a waiver of irregularities in location. 28 Neb., 837.
SEC. 18. Under the former law requiring notice in advance of petition (G. S. 958), it was held that unless the notice had been given, the commissioners had no jurisdiction in the location of the road. 5 Neb., 254. 6 Id., 133. 7 Id., 31. 9 Id., 331. Proof of posting notices should be made. 6 Neb., 133. Giving of notice is an essential prerequisite to be complied with before county board acquired jurisdiction; and where notice was given which failed to fix a time within which objections might be presented, it was *h. d.*, that the board did not acquire jurisdiction in the absence of an appearance by the parties to be affected. 23 Neb., 211. Cited 29 Id., 412.
SEC. 19. Claimant without actual notice excepted. 34 Neb., 735.

for damages shall be filed or made after noon of the day fixed for filing the same, and if no objections or claims for damages are filed on or before noon of the day fixed for filing the same, and the county clerk is satisfied the provisions of the preceding section have been complied with, he shall report to the county board at their next session all the proceedings hereinbefore provided for.

SEC. 20. [Hearing of application.] If objections to the establishment of the road or claims for damages are filed, the further hearing of the application shall stand continued to the next session of the county board, held after the commissioners appointed to assess damages have reported.

SEC. 21. [Appraisers of damages.] When claims for damages are filed and on the day appointed for filing the same, the county clerk must appoint three suitable and disinterested electors of the county as appraisers, to view the ground on a day fixed by him, and report upon the amount of damages sustained by the claimants; such report shall be made and filed in the clerk's office within thirty days after the day they are appointed.

SEC. 22. [Claims, etc., to be in writing.] All claims for damages and objections to the establishment, vacation, or alteration of the road must be in writing, and the statements in the application for damages shall be considered denied in all the subsequent proceedings.

SEC. 23. [Notice to appraisers.] The clerk shall cause notice of their appointment to be given to each of the appraisers, fixing the hour at which they are to meet at the office of the clerk, or of some justice of the peace therein named.

SEC. 24. [Appraisers—Vacancies.] If the appraisers are not all present within one hour of the time fixed, the clerk or justice, as the case may be, shall fill the vacancy by the appointment of others. The appraisers must be sworn to discharge their duty faithfully and impartially. Should the report not be filed in time, or should any good cause for delay exist, the clerk may postpone the time for final action on the subject, and may, if expedient, appoint other commissioners.

SEC. 25. [Costs.] Should no damages be awarded the applicant therefor, the whole of the costs growing out of his application shall be paid by him.

SEC. 26. [Action of county board.] At the next meeting of the county board, after the proceedings hereinbefore contem-

SEC. 20. Extent of damages. Future improvements. 48 Neb., 87.
SEC. 26. The measure of damages is the fair market value of the land actually taken, while special benefits may be set off against incidental damages to the residue of the tract. 3 Neb., 242. Jurisdiction of county board having been shown, all subsequent proceedings will be liberally construed. 25 Neb., 229. See note Sec. 18.

plated have been had, the said board may hear testimony, consider petitions for and remonstrances against the establishment, vacation, or alteration, as the case may be, if such remonstrance be filed within the time provided in section 19, and may establish, vacate, or alter, or refuse to do so, as in their judgment, founded on the testimony, the public good may require. Said board may increase or diminish the damages allowed by the appraisers, and may make such establishment, vacation, or alteration, conditioned upon the payment in whole or in part of the damages awarded, or expenses in relation thereto.

SEC. 27. [Same.] In the latter case, a day shall be fixed for the performance of the condition, which must be before the next session of the board, and if the same is not performed by the day thus fixed, the board shall, at such session, make some final and unconditional order in the premises.

SEC. 28. [Action to be recorded.] Any order made or action taken in the establishment of a road shall be entered in the road record, distinguishing between those made or taken by the clerk and those by the county board.

SEC. 29. [Record of plat and field notes—Growing crops.] After the road has been finally established, the plat and field notes must be recorded by the county clerk, and the road overseers of the district through which such road passes shall be directed by the clerk to have the same opened and worked; but when crops have been planted or sowed before the road is finally established, the opening thereof shall be delayed until the crop is harvested.

SEC. 30. [Vacation of old road.] The establishment of a new road on the route of a road already established according to law shall not vacate the road previously established, unless such vacation is prayed for in the petition, and so declared in the order establishing a new road.

SEC. 31. [Removal of fence.] Whenever a public road is ordered to be established or altered, according to the provisions of this chapter, which road shall pass through or on enclosed land not planted or sowed with crops, the road overseer shall give the owner or occupant of such land sixty days' notice in writing to remove his fences. If such owner or occupant does not remove his fences within sixty days after such notice, the overseer shall cause the same to be removed, and the road opened and worked; and such owner shall forfeit the sum of one dollar for every day

SEC. 31. Party having due notice of the establishment of a public road over his premises and having neglected within the time provided by this section to remove his fences, the enforcement of penalty and costs for such neglect is not unconstitutional. 23 Neb., 303. Owner may enjoin use of his property until compensation is made. 33 Id., 620.

he shall permit his fence to remain after the expiration of said sixty days, and shall pay all necessary costs of removal, to be collected by said overseer before any justice of the peace having jurisdiction, for the use and benefit of the school fund.

SEC. 32. [Streets in villages.] All public streets of villages not incorporated are a part of the public road; and all road overseers or persons having charge of the same, in the respective districts of such villages, shall work the same as provided by law.

SEC. 33. [Cities or incorporated village.] Such portions of all roads as lie within the limits of any city or incorporated village shall conform to the direction and grade, and be subject to all regulations of other streets in such city or village.

SEC. 34. [Lands of state institutions.] Roads or streets shall not be established or opened across the lands reserved by the state for its various institutions lying adjacent thereto without the express consent of the legislature.

IN TWO OR MORE COUNTIES.

SEC. 35. [Roads along or across county line.] The establishment, vacation, or alteration of a public road, either along or across a county line may be effected by the concurrent action of the respective county boards in the mode hereinbefore prescribed. The commissioners appointed to locate the road in such cases must act in concert, and the road will not be deemed established, vacated, or altered in either county until it is so in both. All expenses incurred under the provisions of the preceding section, and all expenses in keeping public roads on county lines in repair, shall be paid equally by the counties interested.

SEC. 36. [Distinctions abolished—Concurrent action required.] Hereafter there shall be no distinction between roads heretofore known as state roads and county roads; both are alike subject to the provision of this chapter. Roads established by the concurrent action of the county boards of two or more counties can only be discontinued by the concurrent action of the county boards of the several counties in which the same may be situated, but such roads shall be treated in all other respects as provided in this chapter.

CONSENT ROADS.

SEC. 37. [How established.] Public roads may be established without the appointment of a commissioner, provided the written consent of all the owners of the land to be used for that purpose

SEC. 38. Bordering roads. 70 N. W. R., 27.

SEC. 37. Cited 31 Neb. 8. Proof of dedicated roads. 38 Id., 596.

be first filed in the county clerk's office; and if it is shown to the satisfaction of the county board that the proposed road is of sufficient public importance to be opened and worked by the public, they shall make an order establishing the same, from which time only shall it be regarded as a public road.

SEC. 38. [Same—Survey necessary.] If a survey for the establishment of the road named in the preceding section is necessary, the board before ordering such survey may require the parties asking for the establishment of such highway to pay, or secure the payment, of the expenses of such survey.

DAMAGES APPEALS.

SEC. 39. [Damages—Appeals.] Any applicant for damages claimed to be caused by the establishment of a road may appeal from the final decision of the county board to the district court of the county in which the land lies; but notice of such appeal must be served on the county clerk within twenty days after the decision is made. If the road has been established on condition that the petitioners therefor pay the damages, such notice shall be served on the four persons first named in the petition for the highway, if there are that many who reside in the county.

SEC. 40. [Same.] An appeal may also be taken by the petitioner for the road as to the amount of damages, if the establishment of the road has been made conditional upon his paying the damages, by his serving notice of such appeal on the county clerk and applicant for damages within twenty days after the decision of the board, and filing a bond in the office of such clerk, with sureties to be approved by him, conditioned for the payment of all costs occasioned by such appeal, unless the appellant fails to recover a more favorable judgment in the district court than was allowed him by such board.

SEC. 41. [Transcript on appeal.] In the cases contemplated in the two preceding sections, the clerk shall within ten days after the notices aforesaid are served and filed in his office make out and file in the office of the clerk of said court a transcript of the papers on file in his office, and the proceedings of the board in relation to such damages. The claimant for damages shall be plaintiff, and the petitioner for the road defendant, except the damages have been ordered paid out of the county treasury, in which case the county shall be defendant.

SEC. 42. [Proceedings on appeal.] The amount of damages the claimant is entitled to shall be ascertained by said court in

SEC. 39. Cited 14 Neb., 311. 16 Id., 572.

SEC. 42. Damages paid out of district road fund. 40 Neb., 95.

the same manner as in actions by ordinary proceedings, and the amount so ascertained shall be entered of record, but no judgment shall be rendered therefor. The amount thus ascertained shall be certified by the clerk of the county board, who shall thereafter proceed as if such amount had been by them allowed the claimant as damages.

SEC. 43. [Costs.] If the appeal has been taken by the claimant and he fails to recover on his appeal an amount greater than the amount allowed him by the board he shall pay the costs occasioned by the appeal; but if he recovers an amount greater than that allowed him by the board the county shall, in all cases, pay the costs. If the petitioner for the road appeals, he must pay the costs unless the claimant recovers a less amount than was allowed him by the board, in which case the costs shall be paid by the claimant. Judgment shall be rendered in accordance with the foregoing provisions. [Amended 1893, chap. 27.]

SEC. 44. [Re-survey.] When by the reason of the loss or destruction of the field notes of the original survey or in cases of defective surveys or record, or in cases of such numerous alterations of any road since the original survey that its location cannot be accurately defined by the papers on file in the proper office, the county board of the proper county may, if they deem it necessary, cause such road to be resurveyed, platted, and recorded as hereinbefore provided.

SEC. 45. [Road plat-book.] If the same has not been heretofore done in any other manner, the county clerk shall, within six months after this act shall take effect, cause every road in his county, the legal existence of which is shown by the records and files in his office, to be platted in a book to be obtained and kept for that purpose, and known as the "road plat-book." Each township or precinct shall be platted separately, on a scale of not less than four inches to the mile; and such clerk shall have all changes in or additions to the roads legally established immediately entered upon said plat-book, with appropriate references to the files in which the papers relating to the same may be found.

SEC. 46. [Section lines declared public roads.] The section lines are hereby declared to be public roads in each county in this state, and the county board of such county may, whenever the public good requires it, open such roads without any preliminary survey and cause them to be worked in the same manner as

SEC. 46. Under this section it is a matter of judicial discretion vested in the county board to cause any section line to be opened and worked as a public road, whether the same is petitioned for or not. 20 Neb., 653. 42 Id., 1. No petition, notice, or finding required. Procedure opening roads on different section lines. 47 Id., 354. Order directing survey of road not an order for opening the road. 48 Id., 211. Section line roads must be opened as provided by statute. 49 Id., 392.

other public roads; *Provided*, That any damages claimed by reason of the opening of any such road shall be appraised and allowed, as nearly as practicable, in manner hereinbefore provided. *And provided further*, That the county board before opening such section line road shall direct the county surveyor to perpetuate the existing government corners along such line, by planting monuments of some durable material with suitable witnesses whenever practicable, and make a record of the same. [Amended 1885, chap. 76.]

SECS. 47-52. [Unconstitutional. 38 Neb., 767.]

GENERAL PROVISIONS.

SEC. 53. [Road districts.] The county board shall divide the county, except that portion occupied by cities and incorporated villages, into as many road districts as may be necessary, and may alter the boundaries thereof as may seem proper; *Provided, however*, That in no case shall any road district be so constituted as to be within the limits of two distinct voting precincts, or townships in counties under township organization; and it shall be the duty of the county clerk, upon application, to furnish each supervisor with a particular description of the boundaries of his district.

SEC. 54. [Overseers to procure tools.] The overseers of the respective districts are hereby authorized to procure, if they deem it necessary, a plow and one or more scrapers for the use of the road district, the cost thereof to be paid out of the road fund of the district, and allowed in the settlement with the overseer.

SEC. 55. [Neglect of overseers—Penalty.] If any overseer shall neglect or refuse to keep the roads of his district in good repair as the number of hands and the amount of road tax under his control would reasonably enable him to do, or otherwise neglect to perform any of the duties imposed upon him by this chapter, he shall be liable on his official bond to pay a fine of not less than five nor more than fifty dollars, to be recovered by civil action before any justice of the peace in the county at the suit of any citizen for the benefit of the school fund.

SEC. 56. [Sudden damages.] In case of any sudden damage or injury to any bridge, culvert, or road, the overseer may, on one day's notice, call out any and all able-bodied men under fifty years of age in his district (but not more than two days at

SEC. 55. No right of action against the overseer exists for injuries occasioned to a person or his property by reason of a defect in a public road or bridge. 5 Neb., 392. Nor is county liable. 10 Id., 554.

any one time without their consent), to effect all repairs immediately necessary thereon; and persons so called out shall be entitled to receive \$1.50 per day from the fund in the hands of such overseer.

SEC. 57. [Failure to labor—Penalty.] If any able-bodied man when duly summoned as provided in the preceding section fail to appear and labor diligently by himself or his substitute, or send satisfactory excuse thereof, he shall be liable to a penalty of five dollars, to be recovered by civil action before any justice of the peace, at the suit of any citizen for the benefit of the school fund.

SEC. 58. [Roads and bridges in cities.] The county board may, in their discretion, whenever there is sufficient money on hand in the county road fund, build or repair any bridge or bridges within the limits of any incorporated city or village in their county.

SEC. 59. [Roads on county and town lines.] Any public road that is or shall hereafter be laid out on a county or town line shall be held to be a road on a county or township line, although, owing to the topography of the ground along said county or township line, or at the crossing of any stream of water, the proper authorities, in establishing or locating such road, may have located a portion of the same to one side of such county or township line.

SEC. 60. [Persons meeting on road.] Whenever any persons, traveling with any carriages, shall meet on any road in this state, the persons so meeting shall seasonably turn their carriages to the right of the center of the road, so as to permit each carriage to pass without interfering or interrupting, under the penalty of five dollars for every neglect or offense; *Provided*, This section shall not be construed to apply to any case, unless some injury to person or property shall occur by the driver of the carriage or wagon refusing to turn to the right of the beaten track; nor shall it be construed to extend to a case where it is impracticable, from the nature of the ground, for the driver of the carriage or wagon to turn to the right of the beaten track.

SEC. 61. [Drunken drivers.] No person owning any carriage, running or traveling upon any road in this state, for the conveyance of passengers, shall employ, or continue in employment, any person to drive such carriage who is addicted to drunkenness or the excessive use of spirituous liquors, and if any such owner shall violate the provisions of this section after he shall have had notice and reasonable proof that such driver is addicted to drunk-

eness, he shall forfeit at the rate of five dollars per day for all the time during which he shall thereafter have kept any such driver in his employment.

SEC. 62. [Same—Discharge.] If any driver, whilst actually employed in driving any such carriage, shall be guilty of intoxication to such a degree as to endanger the safety of the passengers in the carriage, it shall be the duty of the owner of such carriage, on receiving written notice of the fact, signed by any one of said passengers, and certified by him on oath, forthwith to discharge such driver from his employment; and every such owner who shall retain or have in his employ, within three months after the receipt of such notice, any driver who shall have been so intoxicated, shall forfeit at the rate of five dollars per day for the time during which he shall keep any such driver in his employment after receiving such notice.

SEC. 63. [Running horses—Penalty.] No person driving any carriage upon any road within this state, with or without passengers therein, shall run his horses or carriage (or permit the same to be run) upon any occasion, or for any purpose whatever; and no person riding any horse or mule shall run the same on any public road, except in cases of necessity; and every person who shall offend against the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not exceeding ten dollars, or imprisoned not exceeding sixty days, at the discretion of the court.

SEC. 64. [Horses to be hitched.] It shall not be lawful for any person to leave a horse, mule, or team standing upon any public road unless the same shall be securely hitched or guarded. Any person offending against the provisions of this section shall be liable to a penalty of \$5.00 for each and every such offense.

SEC. 65. [Same.] It shall not be lawful for the driver of any carriage used for the purpose of conveying passengers for hire to leave the horses attached thereto while passengers remain therein, without first making such horses fast with a sufficient halter, rope, or chain, or by placing the lines in the hands of some other person, so as to prevent their running. And if any such driver shall offend against the provisions of this section he shall forfeit the sum of \$20, to be recovered by civil action at the suit of any citizen for the benefit of the school fund.

SEC. 66. [Owners liable for damages—Violation of act—Penalty.] The owners of every carriage running upon any road, for the conveyance of passengers, shall be liable, jointly and severally, to the party injured, in all cases for all injuries and damages done by any person in the employment of such owners

as a driver, while driving such carriage, to any person or to the property of any person; and that, whenever the act occasioning such injury or damage be wilfull, negligent, or otherwise, in the same manner that such driver would be liable. Any driver of any mail stage coach, or any other vehicle for the conveyance of passengers, wilfully offending against the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be imprisoned not exceeding thirty days, or fined not exceeding \$100.

SEC. 67. [Carriage defined.] The term "carriage," as used in this act, shall be construed to include stage coaches, wagons, carts, sleighs, sleds, and every other carriage or vehicle used for the transportation of passengers and goods, or either of them.

SEC. 68. [Additional regulations in cities and villages.] Nothing herein contained shall be construed to prevent additional regulations, or the licensing of hacks and carriages by the corporate authorities of cities and villages, under the ordinances of such corporations.

SEC. 69. [Injuring or obstructing roads.] If any person shall injure or obstruct a public road by falling a tree or trees in, upon, or across the same, or by placing or leaving any other obstruction thereon, or by encroaching upon the same with any fence, or by plowing or digging any ditch or other opening thereon, or by turning a current of water so as to saturate or wash the same, or shall leave the cutting of any hedge thereupon, for more than five days, he shall forfeit for every such offense a sum not less than \$3 nor more than \$10, and in case of placing any obstruction on the road, an additional sum of not exceeding \$3 per day for every day he shall suffer such obstruction to remain after he has been ordered to remove the same, by any of the road overseers, complaint to be made by any person feeling himself aggrieved; *Provided*, This section shall not apply to any person who shall lawfully fell any tree for use, and will immediately remove the same out of the road, nor to any person through whose land a public road may pass, who shall desire to drain his land, and shall give due notice to the overseer of such intention; *And provided further*, That any overseer of roads, after having given reasonable notice (to the owners) of the obstruction, or person so obstructing, or plowing or digging ditches upon such road, may remove any such fence or other obstruction, fill up any such ditch or excavation, and recover the necessary cost of such removal from such owner or other person obstructing such road aforesaid, to be collected by said overseer before any justice of the peace having jurisdiction.

SEC. 70. [Injuries to sidewalks, bridges, etc.—Penalty.] If any person shall purposely destroy or injure any sidewalk, public bridge, culvert, or causeway, or remove any of the timber or planks thereof, or obstruct the same, he shall forfeit a sum not less than \$3 nor more than \$100, and shall be liable for all damages occasioned thereby, and all necessary costs of rebuilding or repairing the same.

SEC. 71. [Sidewalks, trees, hedge, etc.] It shall be lawful for the owner or occupants of land bordering upon any public road to build sidewalks not to exceed six feet in width, and to plant shade and ornamental trees along and in such road at a distance not exceeding one-tenth of the legal width of the road from its margin, and also to erect and maintain a fence so long as it shall be actually necessary for the purpose of raising a hedge on said margin a distance of six feet from the within said marginal lines.

SEC. 72. [Fast driving over bridges.] Whoever shall ride or drive faster than a walk over any bridge, shall forfeit for every such offense the sum of \$5.

SEC. 73. [Ditches, etc.] The overseers of the several road districts are hereby authorized to enter upon any land adjacent to any public road in their respective districts, for the purpose of opening any ditch, drain, necessary sluice, or water course, whenever it shall be necessary to open a water course from any road to the natural water courses, and to dig, open, and clean ditches upon said land, for the purpose of carrying off the water from said road, or to drain any slough or pond on said road; *Provided*, That unless the owner of such land, or his agent, shall first consent to the cutting of such ditches, the overseer shall call to his assistance three electors of his district, who shall appraise the damages sustained by such person. Such appraisers shall make their award in writing, and the same shall be paid out of any money in the hands of the overseer, out of or belonging to his district, and if there be none such, the same shall be paid by the county board out of the county road fund.

SEC. 74. [Jurisdiction of justices of the peace.] Justices of the peace shall have jurisdiction in all cases arising under this act, where any fine, penalty, or forfeiture imposed does not exceed their jurisdiction.

SEC. 75. [Fire guards.] It shall be the duty of each overseer of roads during the months of June or July in each year to make provisions for the prevention and spread of prairie fires in his district by causing at least four furrows to be plowed on

each side of such public or main traveled roads in his district, not less than two rods from the center of such roads, where practicable, and at a suitable time, and as soon thereafter as the grass becomes sufficiently dry, he shall cause to be burned all grass between said plowing on either side of the roads. The labor to be performed under the provisions of this section shall be a part of the labor to be performed by persons assessed to pay labor or road tax, and they shall be allowed compensation at the rate hereinafter provided for other work on public roads. [Amended 1883, chap. LXX.]

SEC. 76. [Road tax—Disposition—District road fund.] In counties not under township organization, one-half of all moneys paid into the county treasury from the several road districts in discharge of road tax shall constitute a county road fund which shall be at the disposal of the county commissioners for the general benefit of the county, for road purposes; the other half of all moneys paid into the county treasury from the several road districts, in discharge of road tax, and all money paid in discharge of labor tax shall constitute a district road fund, which shall be paid by the county treasurer to the overseer of the road district from which it was collected, and expended by him only for the following purposes: *First*—For the construction and repair of bridges and culverts, and making fire guards along the line of roads. *Second*—For the payment of damages of the right of any public road. *Third*—For the payment of wages of overseers, and for the expense of procuring the necessary guideboards. *Fourth*—For the payment of the wages of commissioners of roads, surveyor, chainman, and other persons engaged in locating or altering any county road, if the road be finally established or altered as hereinbefore provided. *Fifth*—For work and repairs upon road. *Provided*, That the county commissioners of counties not under township organization may levy the same rate of road tax upon the property within any incorporated city of the metropolitan class and cities of the first class as is levied upon the property situated within the several road districts, and all moneys paid into the county treasury in discharge of road tax levied upon property within the incorporate limits of any such city shall constitute a part of the general road fund of the county,

SEC. 75. Act of 1883 has no repealing clause. Former law, first sentences, read as follows: "It shall be the duty of each overseer of roads during the months of August or September, in each year, to make provision for the prevention and spread of prairie fires in his district, by causing the grass along the line of the public roads, at least two rods in width on each side of said road, where practicable, to be mown. Such grass shall be permitted to lie where it is cut, and shall not be raked or gathered together, but shall, at a suitable time, when dry be burnt."

SEC. 76. Damages to owners payable out of road fund. 40 Neb., 95. Not repealed by sec. 49, chap. 13.

and be subject to the disposal of the county commissioners for the general benefit of the county and city one-half of which shall go to the county for road purposes and one-half to the council of said cities to be used for road purposes. [Amended 1891, chap. 43.]

SEC. 77. [Expenditure of road fund in another district.] The county commissioners shall have power, upon receiving a petition signed by at least two-thirds of the qualified electors of any district, to order that any road moneys belonging to the district be expended in any other district, under the direction of the proper overseer thereof; and in such case such overseer shall pay over all money in his hands to the overseer of the district in which such money is ordered to be expended and take his receipt for the same.

SEC. 78. [Persons to work out tax—Notice.] It shall be the duty of each overseer of roads to give at least three days notice to all persons residing in his district liable to pay labor and road tax therein, either personally or in writing left at their places of abode, of the time when between the first day of April and the first day of October in each year, and the place where they may appear and pay their labor tax and three-fourths of their road tax in labor, and with what implements. And it shall be the duty of the county clerk in each county in the state of Nebraska to furnish to each overseer of roads in his county, on or before the first day of March in each year a list of all property subject to road tax in his district, the name of the owner or owners of the same, together with the amount of road tax due thereon, said road tax to be computed upon the assessment of the previous year. [Amendment took effect Feb. 22, 1881.]

SEC. 78a. [Exemption.] That all pensioners of the United States shall be exempt from paying a poll tax or performing labor on any highway in this state. [1888, chap. 93.]

SEC. 79. [Allowance for work.] The overseer shall allow all persons who may appear in pursuance to such notice and offering to pay their labor tax and three-fourths [of] their road tax in labor, under his direction, the sum of \$1.50 for every day he shall actually work eight hours on such road, \$1.50 for each yoke of oxen, and \$1.50 for each span of horses he shall furnish agreeably to the requirements of the overseer; and for such

SEC. 78a. "An act to exempt pensioners, disabled soldiers, and invalids from paying poll tax or working on the public highways in this state." Took effect July 1, 1889. Laws, 1889, Chap. 93.

SEC. 79. Prior to the passage of this section and under the old law, Sec. 8, G. S., 952, it was held that the failure to give notice would not release lien of the tax, and the fact that notice is required to be given to residents only does not invalidate the tax on non-residents. Neb. 4, 806.

labor performed the overseer shall give to such person a certificate, which certificate shall be received by the county treasurer in discharge of the labor tax and three-fourths of the road tax of such person as aforesaid. One-fourth of the road tax shall be paid in cash; *Provided*, That any person who is a resident of the district not notified by the overseer to labor upon the roads as hereinbefore provided, shall be discharged from the payment of said labor tax and three-fourths [of] said road tax.

SEC. 80. [Overseer's return to county treasurer.] Each overseer of roads shall make a return to the county treasurer on or before the first day of November of each year, containing the names of each person liable to pay labor or road tax, or both, in his district, whom he has notified to labor upon the roads, as provided in section 78. Such returns shall be made under oath, and shall be conclusive evidence that notice to labor, as aforesaid, upon the person therein named has been made by said overseer. If said overseer makes a false return he shall be guilty of perjury and be punished accordingly.

SEC. 81. [Settlement of overseer.] Overseers of roads shall make an annual settlement under oath with the board of county commissioners, at their first meeting in January, showing the amount of money which has come into their hands by virtue of their office and how the same has been expended. The county commissioners, if they deem it expedient, shall have power to cite any overseer to appear before them at any other time and make settlement as herein provided, giving him reasonable notice thereof.

SEC. 82. [Allowance to overseer.] The overseer shall be allowed two dollars (\$2.00) per day including the time necessarily spent in notifying the hands, superintending the work on roads and making out his return. But not to exceed the sum of thirty dollars (\$30.00) in any year, which sum shall be paid out of the district road fund after deducting his own labor tax and three-fourths ($\frac{3}{4}$) of his road tax. If there is not sufficient money in the district road fund with which to pay said overseer, shall be entitled to a certificate from the county board, which certificate shall be paid out the district road fund, and if there be not sufficient money in the district road fund to pay such certificate, then the county treasurer shall register and pay said certificate in the same manner the county warrants are paid a warrant on the general fund, from the county board for the amount of labor performed. [Amended 1887, chap. 71.]

SEC. 83. [Contracts for building and repairing bridges, culverts, roads, etc.] All contracts for the erection and reparation

of bridges and approaches thereto, for the building of culverts and improvements on roads, the cost or expense of which shall exceed one hundred dollars shall be let by the county commissioners to the lowest bidder; Provided, That the county commissioners may adopt plans and specifications for the building of such bridges, and may let a contract or contracts for the building of all bridges that may be required to be constructed during the term of one year from the letting of the contract; And provided, That bids shall be by the lineal foot and such contract shall be let for the building of such bridges as may be required at a specified sum per lineal foot for bridges of similar material: And provided further, That bridges shall not be built to cost a sum greater than the amount of money on hand in the county bridge fund derived from the levy of previous years, and two-thirds of the levy of the current year, together with the amount of money in the district road fund of the district where such work is to be performed. Every bidder before entering on any work, pursuant to contract, shall give bond to the county with at least two good and sufficient sureties, who shall be residents of the state and one of whom shall be a resident of the county, in any sum not less than one thousand dollars and in such additional amount as the county commissioners may require, which bond shall be approved by the county commissioners and shall be conditioned for faithful execution of the contract. [Amended 1895, chap. 57.]

SEC. 84. [Same—Bids.] Before any contracts, as afore said, shall be let, the county commissioners shall advertise for bids therefor, and shall require bidders to accompany their bids with plans and specifications of the work, and they may accept the most suitable plan, and award the contract accordingly, or may reject any and all bids.

SEC. 85. [Same—Advertisement.] Such advertisements shall state the general character of the work, and shall be published four consecutive weeks in some newspaper printed and of general circulation in the county; and if there be no newspaper printed in the county, then such advertisement shall be published in some newspaper of general circulation therein. Where the cost of the work exceeds five hundred dollars, such advertisement shall also be published four consecutive weeks in some newspaper printed in, and of general circulation throughout the state.

SEC. 83. Public bridges are a part of public roads. 4 Neb., 158. 5 Id., 392. 6 Id., 212. County commissioners cannot either personally or by agent engage in the business of erecting bridges, etc. Such work must be done by contract. 6 Neb., 212. 10 Id., 180. Probably under this section they could do so where the costs did not exceed \$100. They cannot purchase a private bridge. 9 Neb., 331. Cited 37 Id., 687. 40 Id., 852. There must be money available, and advertisement for bids. 45 Id., 211.

SECS. 85, 87, 88. Cited 18 Neb., 359.

SEC. 86. [Same—Work, how paid for.] The cost of the work performed under any contract entered into under the provisions of the preceding sections shall be paid from the money belonging to the district in which such work is performed ; or, if that be insufficient, the balance shall be paid from the county road fund ; *Provided*, That where under any law of this state bonds are voted to aid in the building or repairing of any bridge, the expense thereof shall be paid by such bonds, or the proceeds thereof.

SEC. 87. [Bridges in two or more counties.] Bridges over streams which divide counties and bridges over streams on roads on county lines, shall be built and repaired at the equal expense of such counties ; *Provided*, That for the building and maintaining of bridges over streams near county lines, in which both are equally interested, the expense of building and maintaining any such bridges shall be borne equally by both counties.

SEC. 88. [Contracts for such bridges.] For the purpose of building or keeping in repair such bridge or bridges, it shall be lawful for the county boards of such adjoining counties to enter into joint contracts ; and such contracts may be enforced in law or equity, against them jointly, the same as if entered into by individuals, and they may be proceeded against, jointly, by any parties interested in such bridge or bridges, or for any neglect of duty in reference to such bridge or bridges, or for any damages growing out of such neglect ; *Provided*, That if either of said counties shall refuse to enter into contracts to carry out the provisions of this section, for the repair of any such bridge, it shall be lawful for the other of said counties to enter into such contract for all needful repairs, and recover by suit from the county so in default such proportion of the costs of making such repairs as it ought to pay, not exceeding one-half of the full amount so expended ; but the provisions of this act shall apply only to those bridges which have been built or may hereafter be built by co-operation of the counties separated by said stream. [Amended March 1. Took effect June 1, 1881.]

SEC. 89. [Enforcement of such contracts.] If the county board of either of such counties, after reasonable notice in writing from the county board of any other such county, shall neglect or refuse to build or repair any such bridge, when any contract or agreement has been made in regard to the same, it shall be lawful for the board so giving notice to build or repair the same, and to recover, by suit, one-half (or such amount as shall have been agreed upon) of the expense of so building or repair-

ing such bridge, with costs of suit and interest from the time of the completion thereof, from the county so neglecting or refusing.

SEC. 90. [Same—Judgment.] Any judgment so recovered against the county board of either of such counties shall be a charge on such county, unless the jury shall in their verdict certify that the neglect of or refusal of such board was wilfull or malicious, in which case only the members of such board shall be personally liable for such judgment, and the same may be enforced against them in their personal and individual capacity, and upon their official bonds.

ROADS UNDER TOWNSHIP ORGANIZATION.

SEC. 91. [Township road fund.] In counties under township organization all money paid to the township treasurer in discharge of township road tax, and all money paid in discharge of labor tax, shall constitute a township road fund, which fund shall be divided as follows: All of said fund shall be held by the township treasurer subject to the order of the town board, excepting an amount not to exceed one-fifth of the entire fund aforesaid, shall be paid by the town treasurer to the overseer of the district from which such tax is collected. The amount under control of the town board as aforesaid shall be expended for the general benefit of the township, for road and bridge purposes. The amount under the control of the overseer shall be applied within his district as follows: *First*—For the construction and repair of bridges and culverts, and making fireguards along the line of roads. *Second*—For the payment of damages for right-of-way of any public road. *Third*—For payment of wages of overseers, and for necessary guide boards. *Fourth*—For the payment of wages for commissioners of roads, surveyor, chainmen, and other persons engaged in locating or altering any county road, if the road be finally established or altered as hereinbefore provided. *Fifth*—For work and repairs on roads. [Amended 1893, chap. 28.]

SEC. 92. [Expenditure in another district.] The town board shall have power, upon receiving a petition signed by at least two-thirds of the qualified electors of any district, to order that any road moneys belong[ing] to the district be expended in any other district in such township, under the direction of the proper overseer thereof, and in such case such overseer shall pay all money in his hands to the overseer of the district in which such

SEC. 91. Cited 24 Neb., 55. Damages to owners payable out of the road fund, 40 Id., 95.

money is ordered to be expended, and take his receipt for the same.

SEC. 93. [Notice to parties to work out tax.] It shall be the duty of each overseer of roads to give at least three days notice to all persons residing in his district liable to pay labor and road tax, either personally or by writing left at their usual place of abode, of the time when between the first day of April and first day of November in each year, and the place where they may appear and pay their labor tax and three-fourths of their township road tax in labor, and with what implements.

SEC. 94. [Allowance for work.] The overseer shall allow all persons who appear in pursuance of such notice the same allowances as in counties not under township organization, as provided in section 79 of this act, and the certificate thereof shall be received by the treasurer in discharge of the labor tax and three-fourth of the township road tax, of such person; the other one-fourth of such township road tax and the county road tax shall be paid in cash; *Provided*, That any person not notified by the overseer to labor upon the roads as hereinbefore provided shall be discharged from the payment of said labor tax, and three-fourths of such township road tax.

SEC. 95. [Overseer's return to town treasurer.] Each overseer of roads shall make a return to the township treasurer on or before the first day of November in each year, containing the names of each person liable to pay labor or road tax, or both, in his district, whom he has notified to labor upon the roads, as provided in section 93. Such return shall be made under oath, and shall be conclusive evidence that notice to labor as aforesaid upon the persons therein named has been made by said overseer. And when the township treasurer returns the duplicate tax list to the county treasurer, as provided by law, he shall accompany the same with the returns made to him by said overseers. If any overseer makes a false return, he shall be guilty of perjury, and be punished accordingly.

SEC. 96. [Settlement of overseer.] Each overseer shall, at the time required by the town board, make a settlement of his accounts, showing the amount of money coming into his hands as such overseer, and how the same has been expended. In such settlement he shall be allowed the same amount for similar services by overseers in counties not under township organization, as provided in section 82, which sum shall be paid out of any money belonging to the district, after deducting his labor tax, and three-fourths of his township road tax; and if there be not sufficient money belonging to the district with which to pay said

overseer, he may be paid in whole or in part out of the township road fund, or for any balance due him he may receive from the town board a certificate which may be received in payment of his own township road tax for any succeeding year.

SEC. 97. [Contracts for building bridges, etc.] All contracts for the erection and reparation of bridges and approaches thereto, for the building of culverts and improvements on roads, within the limits of any township, the cost or expense of which shall exceed one hundred dollars, shall be let by the town board to the lowest competent bidder; but no contract shall be entered into for a greater sum than the amount of money on hand in the township road fund, derived from the levy of previous years and two-thirds of the levy of the current year, together with the amount of money on hand belonging to the district where such work is to be performed. The contract shall be let and the successful bidder give bond as provided in sections 83, 84, and 85, for the letting of contracts in counties not under township organization; and all the provisions of said sections shall apply, so far as applicable, to the letting of contracts provided for in this section; *Provided*, That where any work is to be performed or contract let, the cost of which is to be paid by order of the county board entirely out of the county road fund, or by the entire county, the contract therefor shall be let by the county board in the same manner as provided in sections 83, 84, and 85, for the letting of such contracts in counties not under township organization.

SEC. 98. [Work let by contract, how paid for.] Where any contract is let as aforesaid by the town board, the expense of which is to be borne exclusively by the township, it shall be paid from the money belonging to the district in which such work is performed; or, if that be insufficient, the balance shall be paid from the township road fund, and if the work be of general benefit to the entire township, the town board may, in their discretion, cause the same to be entirely paid for from the township road fund, or from the fund of each district *pro rata*; *Provided*, That if under any law of this state, bonds are voted to aid in the building or repairing of any bridge, the expense shall be paid by such bonds or the proceeds thereof.

ROADS ON TOWN LINES.

SEC. 99. [Roads on town lines.] Where a public road is located on township lines, the county board shall allot the part of

such road which such town shall keep in repair, and the part so allotted shall be considered as wholly belonging to such town.

SEC. 100. [Appropriation from county treasury.] When it shall be necessary to build, construct, or repair any bridge, or road, in any town, which would be an unreasonable burden to the same, the cost of which will be more than can be raised in one year by ordinary road taxes in such town, the town board shall present a petition to the county board of the county in which such town is situated, praying for an appropriation from the county treasury to aid in the building, constructing or repairing of such bridge or road, and such county board may (a majority of all the members elect voting for the same) make an appropriation of so much for that purpose as in their judgment the nature of the case requires and the funds of the county will justify; said appropriation to be expended under the supervision of an authorized agent or agents of the county, if the county board shall so order. In such case, where the county grants aid, as aforesaid, the contract shall be let by the town board, under the provisions of sections 83, 84, and 85.

BRIDGES ON TOWN LINES.

SEC. 101. [Bridges on town lines.] Bridges over streams which divide township lines, and bridges over streams on roads on township lines shall, if the expense thereof be not paid by the county board, be built and repaired at the equal expense of such towns; *Provided*, That for the building and maintaining of bridges over streams near township lines, in which both are equally interested, the expense of building and maintaining such bridges shall be borne equally by the townships so interested.

SEC. 102. [Same—Contracts, how let.] Contracts for the purposes mentioned in the foregoing section may be entered into and enforced in the same manner as provided in sections 89 and 90, for the enforcement of similar contracts in counties not under township organization.

BRIDGES OF COUNTY.

SEC. 102a. [Same.] That in counties under township organization, the expense of building, maintaining, and repairing bridges on public roads over streams shall be borne exclusively

Sec. 100. Cited 33 Neb., 620. Cost of right of way for highway. 40 Id.
 Sec. 102a, 102b. "An act to provide for the building, maintaining, and repairing certain bridges in counties under township organization." Laws, 1887, chap. 72. Took effect July 1, 1887. This act would seem to repeal all provisions relative to the building of bridges by the towns in counties under township organization. Prior to the passage of this act, the respective towns were vested with the power and charged with the duty of building and repairing bridges. 24 Neb., 58. Counties not liable for bridges or repairs made before act. 46 Id., 211.

by the counties within which such bridges are located. [1887, chap. 72.]

SEC. 102b. [Same.] The county board of every such county shall build, maintain, and repair every such bridge, and make adequate provision for the payment of the expense thereof. [Id.]

SEC. 103. [Repealed Chap. 47, R. S., 342. G. S., 950.]

ROAD DISTRICT WARRANTS.

SEC. 104. [Special tax to pay road fund warrants.] That in order to provide for the payment of all outstanding road district warrants and to liquidate indebtedness against road districts, the county board of any county where such indebtedness exists be and the same are hereby authorized and empowered to levy a special tax not to exceed five mills upon the dollar of the valuation said road districts, or so much thereof as may be necessary to pay all the outstanding indebtedness of the character hereinbefore mentioned. Said levy to be made by the county board at their next regular annual meeting in July while assembled for the purpose of levying other taxes as provided by law. Said tax to be collected by the county treasurer in the same manner as other county taxes are collected, and all warrants to be paid by the county treasurer in the order in which they appear upon his warrant register. [1879, § 1, 164. Amended 1893, chap. 29, § 1.]

SEC. 105. [Same.] In case the five mill levy hereinbefore mentioned shall not be sufficient to pay the entire amount of the various road districts the county board, in such county where a deficiency exists shall annually thereafter make other levies for this purpose, not exceeding five mills on the dollar in any one year, until all the indebtedness against the road districts in such county shall have been paid. [Id., § 2.]

SEC. 106. [Repealed. Laws, 1893, chap. 29.]

TRENCHES AND DITCHES.

SEC. 107. [Trenches and ditches.] It shall be unlawful for any road supervisor, contractor, or other person whose duty it shall be to grade any road, highway, or approach to any bridge or culvert, in any county in this state, to dig any ditch, trench, or other excavation, within less than fifteen feet of the centre line of such road, highway, or approach, except in cases where for

SEC. 104-106. "An act to provide for the payment of outstanding road district warrants and to liquidate all indebtedness against road districts." Laws, 1893, chap. 29. Took effect July 9, 1893.

SEC. 107. "An act to prevent the digging of ditches or trenches within less than fifteen feet of the center line of public highways." Approved and took effect March 5, 1886.

any cause a bridge or culvert shall have been placed one side of the center line of a road; then and in that case no ditch, trench, or other excavation shall be made within less than fifteen feet of the center line of the approach to such bridge or culvert; *Provided*, That this act shall not be so construed as to prevent the digging of a ditch or drain across any road, when it becomes necessary to make a culvert or bridge for the purpose of allowing the water to flow across the line of such road through such culvert or under such bridge. [1885, chap. 78.]

BARBED WIRE FENCE.

SEC. 108. [**Obstructing highway.**] That from and after the passage of this act it shall be unlawful for any person to build a barbed wire fence across or in any plain traveled road or track in common use, either public or private, in this state, without first putting up sufficient guards to prevent either man or beast from running into said fence. [1885, chap. 77.]

SEC. 109. [**Penalty.**] Any person violating the provisions of the foregoing section shall be guilty of a misdemeanor and fined not less than five (\$5.00) nor more than twenty-five (\$25.00) dollars, and shall be liable for all damages that may accrue to the party damaged by reason of said barbed wire fence. [Id.]

REPAIRING CROSSINGS.

SEC. 110. [**Crossings.**] Any railroad corporation, canal company, mill owner, or any person or persons who now own, or may hereafter own or operate, any railroad, canal, or ditch that crosses any public or private road shall make and keep in good repair good and sufficient crossings on all such roads, including all the grading, bridges, ditches, and culverts that may be necessary, within their right of way. [1887, chap. 73.]

SEC. 111. [**Neglect—Notice.**] That the road supervisor of any road district where any party or corporation mentioned in section 1 has failed or neglected to comply therewith, shall give thirty days' notice in writing to said corporation, company or person, or their agent, where such crossing is required; a copy of notice to be sworn to and filed with the county clerk. [Id., § 2.]

SEC. 112. [**Same—Action to compel obedience.**] If any corporation or party mentioned in section 1 of this act shall fail or neglect for sixty days from date of filing said notice to make

SECS. 108, 109. "An act to prohibit the obstructing roads and highways." Approved March 5, 1885. Took effect June 5, 1885. Cited 24 Neb., 352.

SECS. 110-113. "An act to compel railroad corporations and others to make and keep in repair crossings." Laws, 1887, chap. 73. Took effect March 31, 1887. Act constitutional. Duty of railroad defined. Highway laid out after railroad. 29 Neb., 412. Ill constructed crossing. 84 Id., 479.

said crossing as required by section 1, then it shall be the duty of the county commissioner or supervisor to bring an action in the name of the county, and compel said corporation, company, or person to make such crossing, and said corporation, company, or person shall pay all costs and damages sustained by the county or any person or persons, together with a reasonable attorney's fees for plaintiff. [Id., § 3.]

SEC. 113. [Crossings, where located.] All crossings, bridges, and culverts shall be in the center of the road; *Provided*, That where it is impracticable to make a crossing in the center of the road, said corporation, company, or persons may obtain, by purchase or otherwise, the right of way around any obstruction, which shall be surveyed, platted, and recorded in the county where located, and it shall thereafter be a public highway. All costs shall be paid by such corporation, company, or persons. [Id., § 4.]

LIABILITY OF COUNTIES.

SEC. 114. [Roads and bridges out of repair.] That whenever any highway or bridge in any county in this state shall be out of repair, or unsafe for travel, any three citizens or tax payers in the state may notify the county commissioners of the commissioner district, within which the said road or bridge is situated, or if the county be under township organization, the supervisor of the town in which it is situated, in writing, setting forth a description of the road or bridge and the defects therein. [1889, chap 7.]

SEC. 115. [Repairs.] It shall then be the duty of the said commissioner of the said county or counties, within twenty-four (24) hours after service of said notice, to commence to make suitable repairs to said highway or bridge and to place it in a safe condition for travel. [Id., § 2.]

SEC. 116. [Line between two counties.] If the said road or bridge shall be on the line between two counties, then the commissioners of the respective districts, within which said road or bridge is located, of the respective counties shall be served with the said notice, or if it be on the line between two townships, in counties under township organization, then the supervisors of both townships in which said road or bridge is situated shall be notified in like manner. [Id., § 3.]

SEC. 117. [Damages—Recovery—Limitation.] If special

SECS. 114-117. "An act relating to highways and bridges and liabilities of counties for not keeping same in repair." Laws, 1889, chap. 7. Took effect July 1, 1889. Bridge in two counties. 42 Neb., 804. County liable whether notice specified in Secs. 1 and 2 given or not. 43 Id., 508.

damage happens to any person, his team, carriage, or other property by means of insufficiency, or want of repairs of a highway or bridge, which the county or counties are liable to keep in repair, the person sustaining the damage may recover in a case against the county, and if damages accrue in consequence of insufficiency or want of repair of a road or bridge, erected and maintained by two or more counties, the action can be brought against all of the counties liable for the repairs of the same, and damages and costs shall be paid by the counties in proportion as they are liable for the repairs; *Provided, however,* That such action is commenced within thirty (30) days of the time of said injury or damage occurring. [Id., § 4.]

PURCHASING PRIVATE BRIDGES.

SEC. 118. [Purchase by township.] Whenever any private bridge owned by any person or corporation shall be situate within or shall be constructed across any river bounding any township, such township may purchase such bridge, and thereupon it shall become a public bridge, and be maintained in the same manner as bridges originally built by such township. [1889, chap. 88.]

SEC. 119. [Same.] No such bridge shall be purchased unless sufficient funds are in the treasury, except as hereinafter provided. [Id., § 2.]

SEC. 120. [Bonds.] If there shall not be sufficient funds in such township treasury to purchase said proposed bridge, the said town may borrow money and issue its bonds therefor, when authorized, in the manner hereinafter provided. [Id., § 4.]

SEC. 121. [Same—Vote.] Whenever the owners of any such bridge shall submit to the town board of such township a proposition to sell such bridge, the town board may submit to the voters of such township a proposition to issue the bonds of such township for the purpose of purchasing such bridge in accordance with such offer. [Id., § 4.]

SEC. 122. [Same.] Such proposition shall state the amount of said bonds, the date when they shall mature, and the rate of interest which they bear, which in no case shall exceed eight per cent per annum. [Id., § 5.]

SEC. 123. [Election.] The notice for said election and manner of holding the same shall be governed by the law regulating elections for voting bonds by a county. [Id., § 6.]

SEC. 124. [Issuance of bonds.] If two-thirds of the votes

SECS. 118-128. "An act to authorize townships to purchase toll bridges and to issue their bonds to pay for the same. Laws, 1889, chap. 18. Passed and took effect March 30, 1889.

cast at such election shall be in favor of the proposition, the town board shall cause to be prepared and issued the bonds in accordance with the proposition submitted. Said bonds shall be signed by the supervisor, the town clerk, and attested by the clerk of the county under its seal. [Id., § 7.]

SEC. 125. [Statement on bonds.] Said bonds shall state for what purpose issued, the amount, and when payable, interest and when payable, and the number of each bond. [Id., § 8.]

SEC. 126. [Record.] The proposition to issue said bonds, the notice of said election, canvass of votes, shall be recorded in the office of the county clerk, and the county clerk shall enter upon the records of the county board the number, amount, and interest, and date at which each bond issued shall become payable, and the county clerk shall cause such bonds to be registered in the office of secretary of state and state auditor, as required by law [Id., § 9.]

SEC. 127. [Tax.] The county board shall each year, until the bonds voted under the authority of this act be paid, levy upon the taxable property in the township a tax sufficient to pay the interest and five per cent of the principal of bonds issued under this act, and at the tax levy preceding the maturity of any of said bonds, levy an amount sufficient to pay the principal and interest due on said bonds. [Id., § 10.]

SEC. 128. [Limitation as to amount.] No bonds shall be issued under this act to an amount exceeding ten per cent of the assessed value of the taxable property at the last assessment within such township. [Id., § 11.]

PAYMENT TO CITY TREASURER.

SEC. 57. [Road taxes.] The treasurer of the county shall pay over on demand to the treasurer of any city all money received by him arising from taxes levied belonging to such city, together with all money collected as a tax on dogs from the residents of such corporation, for the use of the general fund therein. And also all the moneys arising from the levy of road tax against or upon property in said city, which shall be expended only upon the streets, grades, and bridges in said city, or within three miles thereof.

ROAD RECORD BY COUNTY CLERK.

Laws 1867—Statutes of 1897—Chap. 2, Art. 2.

SEC. 27. [Road record.] It shall be the duty of the county clerk to record in a proper book, to be called the "road record," a record of the proceedings in regard to laying out and establishing, changing or discontinuing roads in the county.

FILLING PITFALLS—OVERSEER DUTIES.

AN ACT to protect stock from pitfalls and providing a penalty for the violation of this act. Laws 1897, Chap. 6, Statutes of 1897.

SECTION 1. Hereafter it shall be unlawful for the owner or holder of any real estate in the state of Nebraska to leave uncovered any well or other pitfall into which any stock may fall or receive injury, but all old wells not in use and every other pitfall shall be filled with dirt from the bottom to the level of the surface. Provided, That if any person shall make complaint to the road overseer of the road district in which any well or pitfall upon the land of any non-resident in his district is open, it shall be the duty of such road overseer to immediately cause to be filled, or if such land is not a common, securely covered, such well or pitfall and file a bill for the same with the county clerk which, when approved by the county commissioners, shall be filed with the treasurer of the county, and the same is hereby made a lien upon such real estate, and the county treasurer shall collect it the same as other tax is collected upon such real estate.

SEC. 2. The road overseer shall receive two (\$2.00) dollars per day for the time actually engaged in enclosing or filling dangerous wells and pitfalls and a reasonable compensation for all material furnished. He shall file his claim with the county clerk, who shall present it to the county board at their next meeting following. The board shall pass upon it, and upon their recommendation the clerk shall draw a warrant upon the county treasurer for the amount allowed. Said warrant to be drawn against the general fund.

SEC. 3. Twenty days notice in writing shall be given to residents. Non-residents shall be notified by publication in legal county newspapers. The notice shall run for three consecutive weeks.

SEC. 4. Any resident freeholder leaving any well or pitfall unclosed or unfilled into which stock may fall shall be fined in any sum not exceeding five hundred (\$500) dollars nor less than

fifty dollars and liable to the owner of said stock for all damages. The same to be collected in any court of competent jurisdiction.

MOWING RAILROAD RIGHT OF WAY.

"AN ACT to require the right of way of all railroads in the state of Nebraska to be mowed each year between the fifteenth day of July and the fifteenth day of August, and providing a manner of causing the same to be done in all cases when the company or corporation owning or operating a railroad over said right of way shall neglect or refuse to cause the same to be done. Laws of 1897, chap. 17. Statutes 1897, Chap. 16.

SECTION 1. That the right of way of all railroads in the State of Nebraska shall be mowed each year between the fifteenth day of July and the fifteenth day of August.

SEC. 2. That if any railroad company or corporation owning or operating a railroad over said right of way shall neglect or refuse to cause their right of way to be mowed as provided in the foregoing section, any person occupying or owning the land adjoining said right of way may, after said fifteenth day of August, cause the portion of said right of way adjoining the said land occupied or owned by such person to be mowed, and shall receive for such work the reasonable value thereof to be fixed by the road overseer of said district, who shall certify under oath to the value of such work, and the said certificate shall be filed with the county clerk, and the said certified bill shall be charged to said company and collected for said person in the same manner and at the same time as other taxes.

RAILROAD CROSSINGS, SIGNALS, ETC.

Statutes 1897, Chap. 16.

SEC. 101. Any railroad corporation may raise or lower any turnpike, plank road, or other way, for the purpose of having their railroad pass over or under the same; and in such cases said corporation shall put such turnpike, plank road, or other way, as soon as may be, in good repair.

SEC. 102. Every railroad corporation, while employed in raising or lowering any turnpike or other way, or in making any other alterations, by means of which the said way may be obstructed, shall provide and keep in good order suitable temporary ways to enable travelers to avoid or pass such obstructions.

SEC. 103. Every railroad corporation shall maintain and keep in good repair all bridges, with their abutments, which corpora-

tion shall construct for the purpose of enabling their road to pass over any turnpike, road, canal, water-course, or other way.

SEC. 104. A bell of at least thirty pounds weight or a steam whistle shall be placed on each locomotive engine, and shall be rung or whistled at the distance of at least eighty rods from the place where the said railroad shall cross any other road or street, and be kept ringing or whistling until it shall have crossed said road or street, under a penalty of fifty dollars for every neglect, to be paid by the corporation owning the railroad, one-half thereof to go to the informer, and the other half to this state, and also be liable for all damages which shall be sustained by any person by reason of such neglect.

SEC. 106. When any person owns land on both sides of any railroad, the corporation owning such railroad shall, when requested so to do, make and keep in good repair one causeway or other adequate means of crossing the same.

PROTECTION TO HEDGES IN PUBLIC ROADS.

Laws 1867. Statutes 1897, Chap. 2, Art. 2.

SEC. 1. Whenever any owner or owners, occupier or occupiers, of any lands bordering upon any public road or highway, except a street or alley in a town, may wish to plant and cultivate any hedge or live fence along the margin of his, her, or their land, it shall be lawful for any such person or persons to set and plant any such hedge or live fence precisely on the line of the road or public highway, and also to place on the margin of such road a protection fence, not to occupy more than six feet of the margin or edge of said road, and such protection fence, when placed opposite to any live fence or hedge, actually set and planted, shall be permitted by the county commissioners, and all other persons, to remain for the term of seven years; *Provided*, That the county commissioners may grant permission in writing to the owner or owners of any live fence or hedge to continue such protection fence any term of time which they may deem necessary.

VACATING PUBLIC ROADS.

AN ACT to provide for the organization, power, and government of cities of the second class having more than 5,000 inhabitants. Laws 1883, 85, 87. Statutes 1897, Chap. 14, Art. 2.

SEC. 3. Any city heretofore incorporated and subject to the provisions of this act shall include within its corporate limits all the territory heretofore included therein, and also the mayor and council may by ordinance include within the corporate limits of such city all territory contiguous or adjacent thereto which has been at any time, by the owner or proprietor thereof, or by any one by his or her authority or acquiescence, laid off or subdivided into lots or blocks containing not more than five acres of land each, whether the same shall have been laid off, subdivided, or platted in accordance with any statute of this state or otherwise, and the mayor and council shall have the power by ordinance to compel the owners of any contiguous or adjacent land, or any part thereof, brought within the corporate limits of such city as aforesaid, to lay out streets, avenues, and alleys so as that the same shall correspond in width and direction and be continuous with the streets, avenues, and alleys of such city or otherwise, as shall appear most for the convenience of the inhabitants of such city and the public, and to vacate any public road heretofore established through such land where necessary to secure regularity in the general system of streets, avenues, and alleys through the same.

MILITIA EXEMPT FROM ROAD WORK.

Laws of 1897, Chap. 50. Statutes 1897, Chap. 56.

SEC. 58. [Exempt from road work.] The officers and enlisted men of the Nebraska National Guard shall be exempt from working on roads and highways, and from the payment of any poll tax levied for that purpose, and shall be exempt from sitting on any grand or petit jury within this state, while an active member.

ROAD TAXES—SPECIAL APPROPRIATION IN CITIES.

Statutes 1897, Chap. 14, Art. 2.

SEC. 39. [Annual appropriation bill.] The city council shall, within the last quarter of each fiscal year, pass an ordinance, to

be termed the "annual appropriation bill," in which such corporation authorities may appropriate such sum or sums of money as may be deemed necessary to defray all necessary expenses and liabilities of such corporation, not exceeding in the aggregate the amount of tax authorized to be levied during the then ensuing year; and in such ordinance shall specify the objects and purposes for which such appropriations are made, and the amount appropriated for each object or purpose; *Provided*, That the fund arising from "road taxes," as in this chapter provided, shall be deemed specially appropriated, and shall not be included in the annual appropriation ordinance.

ROADS AND BRIDGES UNDER TOWNSHIP ORGANIZATIONS.

Statutes 1897, Chap. 10, Art. 1.

SEC. 67. [**Aid to roads and bridges.**] In addition to the powers hereinbefore conferred upon all county boards, the board of supervisors shall have power to appropriate funds to aid in the construction of roads and bridges not exceeding two mills of the levy for the current year for general purposes, except by a vote of the people authorizing them to expend a greater amount.

RUSSIAN THISTLE LAW REPEALED.

AN ACT to repeal sections Twenty-one (21), Twenty-two (22), Twenty-three (23), Twenty-four (24), Twenty-five (25), Twenty-six (26), Twenty-seven (27), Twenty-eight (28), Twenty-nine (29), Thirty (30), Thirty-one (31), Thirty-two (32), Thirty-three (33), Thirty-four (34), Thirty-five (35), and Thirty-six (36) of Chapter Two (2), Article four (4), of the Annotated Statutes of eighteen hundred and ninety-five of the State of Nebraska relating to Russian Thistles. Laws of 1897, chap. 2.

SECTION 1. That sections Twenty-one (21), Twenty-two (22), Twenty-three (23), Twenty-four (24), Twenty-five (25), Twenty-six (26), Twenty-seven (27), Twenty-eight (28), Twenty-nine (29), Thirty (30), Thirty-one (31), Thirty-two (32), Thirty-three (33), Thirty-four (34), Thirty-five (35) and Thirty-six of Chapter Two (2), Article Four (4) of the Annotated Statutes of Nebraska, for eighteen hundred and ninety-five, be and the same are hereby repealed.

DRAINAGE OF SWAMP LANDS.

"AN ACT to provide for draining marsh or swamp lands in the state of Nebraska, and to repeal an act entitled 'An act to drain marsh or swamp lands.'" Laws of 1873. Statutes 1897, Chap. 89.

SEC. 1. [Power of county board.] The board of commissioners of any county may, at any regular or special session, cause to be located and constructed, straightened, widened, altered, or deepened, any ditch, drain, or water-course, as hereinafter provided, when the same is necessary to drain any lots, lands, public or corporate road, or railroad, and will be conducive to the public health, convenience, or welfare.

SEC. 2. [Ditch defined.] The word "ditch," as used in the act, shall be held to include a drain or water-course. The petition for any such improvement shall be held to include any side lateral, spur, or branch ditch, drain, or water-course necessary to secure the object of the improvement, whether the same is mentioned therein or not; but no improvement shall be located unless a sufficient outlet is provided.

SEC. 3. [Public Road.] When the proposed improvement will drain the whole, or any part of any public or corporate road, or railroad, or will so benefit any such road that the traveled track or road bed thereof will be improved by its construction, there shall be apportioned to the county, if the road is a state or county road, or to the corporation, if a corporate road or railroad, a proper share of the costs and expenses thereof, as hereinbefore provided.

SEC. 4. [Petition-bond.] A petition for any such improvement shall be made to the board of commissioners of the county, signed by one or more owners of lots or land which will be benefited thereby, which said petition shall be filed with the county clerk, and shall set forth the necessity of the proposed improvement, and describe the route and termini thereof with reasonable certainty, and shall be accompanied by a good and sufficient bond signed by two or more sureties, to be approved by the county clerk, conditioned for the payment of all costs that may occur in case said board of county commissioners find against such improvement.

SEC. 5. [Survey.] The county clerk shall deliver a copy of said petition to the board of county commissioners, at their next meeting, who shall thereupon take to their assistance a competent surveyor or engineer, if in their opinion his services are necessary, and at once proceed to view the line of the proposed improvement, and determine by actual view of the premises along

and in the vicinity thereof, whether the improvement is necessary, or will be conducive to the public health, convenience, or welfare, and whether the line described is the best route, and they shall report their finding in writing, and order the clerk to enter the same on their journal.

SEC. 6. [Route Changed.] If the commissioners, upon actual view, find that the route proposed is not such as to best effect the object sought, they shall change the same and establish the route and determine the dimensions of the proposed improvements; *Provided*, Any change so made shall not in any case exceed one hundred and sixty rods from the route described in the petition.

SEC. 7. [Plat.—Estimate.] If the board of commissioners find for the improvement they shall cause to be entered on their journal an order directing the county surveyor, or an engineer, to go upon the line described in said petition, or as changed by them in accordance with section six, and survey and level the same and set a stake at every hundred feet, numbering down stream; note the intersection of section lines, road crossings, boundary lines, precinct, and county lines and make a report, profile, and plat of the same, and estimate the number of cubic yards for each working section as hereinafter provided.

SEC. 8. [Schedule of lands benefited—Estimate of construction.] The commissioners shall also by their order direct the surveyor or engineer to make and return a schedule of all lots, lands, public or corporate roads or railroads, that will be benefited by the proposed improvement, whether the same are abutting upon the line of the proposed improvement or not, and an apportionment of a number of lineal feet and cubic yards to each lot, tract of land, road, or railroad, according to the benefits which will result to each from the improvement, and an estimate of the cost of location and construction to each, and a specification of the manner in which the improvement shall be made and completed.

SEC. 9. [Plat and report—Contents.] The plat provided for in section 7 shall be drawn upon a scale sufficiently large to represent all the meanderings of the proposed improvement, and shall show the boundary lines of each lot, or tract of land, and of each road or railroad to be benefited thereby, the name of the owner of each lot or tract of land as it then appears on the tax duplicate, the authority or company having in charge or controlling each public or corporate road or railroad, the distance in feet through each tract or parcel of land and such other matters as the surveyor or engineer deems material. The profile shall show the

surface, the grade line, and the gradient fixed, and the surveyor or engineer shall file his report with the county clerk within thirty days after making the survey and level.

ROAD OVERSEERS' BONDS.

Compiled Statutes 1897, Chap. 10.

SEC. 7. [Approval of bond.] The official bonds of all county, precinct, and township officers shall be approved by the county board; *Provided*, The official bonds of the county commissioners or supervisors shall be approved by the county judge. The bonds of notary public shall be approved by the county clerk. All such bonds shall be filed and recorded in the office of the county clerk, except the bonds of the county clerk and the members of the county board, which shall be filed and recorded in the office of the county judge.

SEC. 19. [Penalties in bonds.] The following named officers shall give bonds with penalties of the following amounts, to wit:
 * * * * *
 Each road overseer \$500.

PUBLICATION AND DISTRIBUTION OF ROAD LAWS.

AN ACT to provide for the publication and distribution of the road law to road supervisors. Laws of 1875, p. 115. In force Feb. 23, 1875.

SECTION 1. That the secretary of state is hereby authorized and required to cause to be published in pamphlet form, put up in suitable paper covers, all laws of this state now in force, prescribing the manner of laying out and opening public roads, and the duties of road supervisors under them.

SEC. 2. That as soon as said pamphlets shall be prepared and published, the secretary of state shall immediately transmit to the county clerks of each organized county in this state a sufficient number of said pamphlet laws to supply each supervisor in every county with a copy of the same.

SEC. 3. It shall be the duty of each supervisor to carefully preserve said copy and at the expiration of his term of office to deliver the same over to his successor in office.

SEC. 4. It is hereby made the duty of each county clerk to certify to the secretary of state the number of road districts in his county, and make requisitions for a sufficient number of said pamphlet laws to supply each district.

SEC. 19. Principal and sureties, both liable without first bringing action against principal for tort, 5 Neb., 107.

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