

ROAD LAWS OF NEBRASKA, KANSAS AND MISSOURI.

ROAD LAWS OF NEBRASKA.

SECTION NUMBERS CORRESPOND WITH CONSOLIDATED STATUTES OF 1893.

SEC. 1811. [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. [18, 9, 120.]

SEC. 1816. [WIDTH.] All public roads shall have a width of sixty-six feet.

SEC. 1817. [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. 1818. [ESTABLISHMENT—PETITION.] Any person desiring the establishment, vacation, or alteration of any 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. 1819. [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 persons who deposited the same.

SEC. 1820. [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. 1824. [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. 1825. [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. 1829. [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. 1840. [ACTION OF COUNTY BOARD.] At the next meeting of the county board, after the proceedings hereinbefore contemplated 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 remonstrances be filed within the time provided in section 19 [1833], and may establish, vacate, or alter or refuse to do so, as in their judgment, founded on the testimony, the public roads 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. 1843. [RECORD OF PLAT AND FIELD NOTES.] After the road has been finally established, the plat and field notes must be recorded by the county clerk.

SEC. 1844. [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. 1851. [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 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. 1852. [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.

SEC. 1860. [SECTION LINES.] 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 other public roads.

COLLATED ROAD STATUTES OF KANSAS.

[N. B.—The main statute is chapter 103, Laws of 1874. The sections of that statute are here indicated by double section numbers, the numbers written in brackets being the original numbers of the sections as they stand in the statute. It was necessary to break up the original arrangement of the law, in order to group together the various kindred provisions. Every section with a number in brackets belongs to the road law of 1874.]

PETITION AND BOND.

SEC. 1 [1]. That applications for laying out roads, or for viewing, reviewing, altering, or vacating any road, shall be by petition to the board of county commissioners, signed by at least twelve householders of the county, residing in the vicinity where said road is to be laid out, viewed, reviewed, altered, or vacated; and one or more of the signers of any petition presented as aforesaid shall enter into a bond with sufficient security, payable to the State of Kansas, for the use of the county, to be approved by the county commissioners, conditioned that the persons signing such bond shall pay into the treasury of the county the amount of all costs and expenses accruing on said location, view, review, alteration, or vacation; in case the proceedings had in pursuance of said peti-

tion shall not be finally confirmed and established, and on neglect or refusal of the persons so bound, after a liability shall have accrued, the county clerk of the county shall collect, or cause to be collected, such costs and expenses, and pay the same into the county treasury.

SEC. 2 [2]. All petitions for laying out or altering roads shall specify the place of beginning, the intermediate points, if any, and the place of termination of such road.

APPOINTMENT OF VIEWERS AND GIVING NOTICE.

SEC. 3 [3]. Upon presentation of any petition for a road, or for the alteration or vacation of any road, to the county commissioners, at any regular session of their board, it shall be the duty of said commissioners, if they find the petition to be a legal one, and that the proper bond has been filed, to appoint three disinterested householders of the county as viewers, and the county clerk shall give notice by advertisement set up in the county clerk's office, and in every municipal township through which any part of said road is designed to be laid out, altered, or vacated, for at least twenty days, and by publication for two consecutive weeks in a newspaper, if there be one published in the county, setting forth that such petition has been presented, giving the substance thereof, and that viewers will, on such day as the commissioners have designated, not more than twenty days after the expiration of the notice herein required, proceed to view said road, and give to all parties a hearing. They shall also cause a record of such notice to be entered on their journal by the county clerk. They shall issue an order directing the county surveyor to meet with them at the time and place named in said notice, to survey such road. In case of failure to meet on the day designated, they may meet on the following day, without further notice; and in case of failure to meet within the time herein specified, new notice shall be given as hereinbefore provided; that in all applications for the location, change and relocation of any road to be located upon or along any section line, and the petition shall so state, and shall specify the section lines to be followed, the place of beginning and the place of ending, the survey may be dispensed with; and in case the owners of the land taken agree in writing to the proposed location, relocation, or change, and the commissioners are satisfied that the location, relocation or change prayed for is practicable, and can be made without unreasonable expense, they may dispense with the viewing of such location, relocation, or change of road, and shall order the same to be opened, and shall also direct the county clerk to note such location, relocation or change of roads upon the road records of his office.

SEC. 4 [4]. It shall be the duty of at least one of the petitioners to cause six days' notice to be given in writing to the owner or owners, or their agents, if residing in the county, or if such owner be a minor, idiot or insane person, then to the guardian of said person, if a resident of the county, through whose land such road is proposed to be laid out and established, and also six days' notice to the county surveyor of the time and place of meeting, as specified in the notice of the commissioners. Copies of said notice to owners of lands, with affidavits of service attached, shall be filed in the county clerk's office before said road shall be established.

VIEW, SURVEY, DAMAGES, REPORTS, FINAL ACTION.

SEC. 5 [5]. It shall be the duty of the viewers, or a majority of them, and the county surveyor, to meet at the time and place specified in the notice aforesaid, or on the following day thereafter; and they may, if they deem it necessary, take to their assistance two suitable persons as chain carriers, and one as marker, and then proceed to view, survey, lay out, alter or vacate the road as prayed for in said petition, or as nearly so as a good road can be made at a reasonable expense, taking into consideration the utility, convenience and inconvenience and expense which will result to individuals as well as to the public, if such road, or any part thereof, shall be established and opened or altered. Said viewers shall also assess and determine the amount of damages sustained by any person or persons through whose premises the said road is proposed to be established. Such viewers shall not assess or award damages or compensation to any person or persons in consequence of the opening of said road, unless the owner or owners, or their agents or guardians, having been duly notified as provided in section 4, of the applications and proceedings by which their property is sought to be appropriated or damaged, shall have filed a written application with said viewers, giving a description of the premises on which damages or compensation are claimed at the time of said view and hearing, as hereinbefore provided for: *Provided*, That in case any person has not received the notice of the view of said road, as provided for in section 4, he may at any time within twelve months after the location of said road file an application for damages with the county commissioners, who shall determine the amount of damages sustained by such claimant; and all applications for damages shall be forever barred unless they are presented as provided for in this act.

ROAD LAWS OF MISSOURI.

SEC. 7792. Roads to be opened and repaired—how—article not to apply, when.—All public roads in this state shall be established, opened, widened and repaired according to the provisions of this article: *Provided*, that in the location, opening, working and repairing of roads it shall not apply to counties that now have or may hereafter adopt township organization. (Laws 1887, p. 246, amended.)

SEC. 7793. Width of road, etc.—All public roads shall be not less than thirty nor more than sixty feet wide, to be determined by the county court according to the utility and necessity of such road. In cases where a road shall be widened, it shall be done

according to the provisions hereinafter provided for opening and establishing new roads. (Laws 1887, p. 246.)

SEC. 7795. County surveyor ex-officio road commissioner.—The county surveyor of each county shall be *ex-officio* commissioner of roads and bridges. (Laws 1887, p. 246.)

SEC. 7796. [Application for new road or change of road, how made.]—Applications for the establishment of new roads, or change of roads, shall be made by a petition to the county court, signed by at least twelve freeholders of the municipal township or townships through which said proposed road may run, three of whom shall be of the immediate neighborhood, specifying the proposed beginning, course and termination thereof, with not less than two points named on the direction of said road: *Provided*, that said proposed road shall run along government surveys whenever practicable; *provided, further*, said petition shall be accompanied by the names of all resident persons owning land through which said proposed road or change of road shall run, with the amount or damages claimed by them, so far as can be ascertained, and also the names of those who are willing to give the right of way for said proposed road or change of road. (Amended Laws 1893, p. 222—*a*)

SEC. 7797. Notice to be given.—Notice of such intended application shall be given by printed or written hand-bills, put up in three or more public places in such municipal township or townships, one of which to be put up at the proposed beginning and one at the proposed termination of said road, at least twenty days before the first day of a regular term of the county court at which the petition is presented, and which notice shall apply and be binding on corporations as well as on persons. (Laws 1887, p. 246—*b*.)

SEC. 7798. [Court to hear remonstrance—duty of commissioner.]—The court when such petition is presented, accompanied by the names required by section 7796, upon proof of notice having been given as required by said section 7796, hear the remonstrance, if any be presented, of twelve or more freeholders residing in the township or townships through which the proposed road or change of road may run, three of whom shall reside in the immediate neighborhood, and such witnesses as the respective parties may produce in regard to the public necessity, practicability and probable damages to the owners of the land through which said proposed road or change of road may run, and who have not consented to relinquish the right of way, and the expenses of locating or changing said road in making culverts, bridges or grading; and if the court, after hearing the testimony, be of the opinion that the facts in the case justify the location or change of the road at the expense of the county, they shall make an order of record requiring the county road commissioner to view, survey and mark out such road, otherwise such proceedings shall be dismissed. *Provided*, that if the petitioners pay into the county treasury the probable amount of damages, as aforesaid, to the use of the owners of said lands, which shall be fixed at the time by the court, then said court shall make said order, requiring the road commissioner to view, survey and mark out such road. Said commissioner shall see that all relinquishments of the right of way of those who give the same are filed with the county clerk on or before the second day of the next term of said court, and shall take the names of all resident owners of land through which said road may run, and who have not or will not give the right of way, and the amount of damages claimed by each one separately, together with the numbers of land, and also his estimation of the cost of bridges, culverts and grading that may be needed upon such road, and report the same, together with his survey and plat of said road, on or before the second day of the next regular term thereafter; and if it appear from said report that the right of way has been secured and filed, as aforesaid, or that the damages claimed do not exceed the amount offered by the court, or deposited by the petitioners as aforesaid, the court shall order the road established or changed, as the case may be. (Amended Laws 1893, p. 222—*c*.)

SEC. 7803. Roads on county lines.—The county courts of the several counties shall have the power to locate highways on the boundary lines of the several counties, and shall, when the citizens of each of the counties living along the boundary lines shall petition for the road, as herein provided for establishing and opening roads, locate the same not less than forty feet wide on the line between the counties, each county appropriating one-half the land and money to open, grade, bridge and work the same. (Laws 1887, p. 248.)

SEC. 7805. New roads to be districted—owner to be given time to construct fences.—When a new road has been opened, it shall be districted and kept in repair, as other public roads. The county court shall, at the time of giving judgment for the establishment of the road, specify the time when the possession shall be given by the owner, giving the owner of the land a reasonable time, not exceeding six months, to erect fences, if the commissioner's report shows that the fencing is required, and also time to gather growing crops, if any are growing at the time on the premises, which time shall be stated in the judgment. (Laws 1887, p. 248.)