

the clerk shall enter judgment accordingly. Otherwise the offer shall be deemed withdrawn and evidence thereof shall not be given; and if a more favorable judgment be not recovered no costs shall be allowed, but those of the defendant shall be taxed in his favor.

Sec. 2. This act shall take effect and be in force from and after May 1, 1913.

Approved April 9, 1913.

CHAPTER 235—H. F. No. 571.

An Act relating to public highways; the powers and duties of counties, towns, villages and cities in relation thereto; the creation of a state highway commission, prescribing its powers and duties, appropriating money therefor, and providing for the payment of state aid for the construction and improvement of roads, and authorizing and directing the levy of taxes for highway purposes.

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

Scope of act and definitions: powers and duties of counties, towns and other municipalities.

Section 1. **Scope of act.**—The provisions of this act shall be construed as relating solely to roads, cartways and bridges thereon, not included within the limits of any city, village, or borough, except when highways within villages or cities are specifically specified.

The roads of this state shall for the purposes of this act, be designated and referred to as "State Roads," "County Roads" and "Town Roads," and shall be laid out, constructed, improved, repaired and maintained by the authorities hereinafter set forth, as herein provided.

Subdivision (1). The words "State Roads" shall be construed to include all roads which have heretofore been designated, or which may hereafter be designated as state roads.

Subdivision (2). The words "County Roads" shall be construed to include those established, constructed or improved under the authority of the several county boards, as hereinafter provided, and also all roads lying within the county, established by judicial proceedings.

Subdivision (3). The words "Town Roads" shall be construed to include those roads and cartways established, constructed and improved under the authority of the several town boards as hereinafter provided.

Sec. 2. Subdivision (1). **"Road" and "highway" defined.**—The words "road" or "highway" whenever used in this act

shall be construed to include bridges upon or which form a part of the road or highway to be improved or constructed.

Subdivision (2) **Width of road.**—All roads established by Town or County Boards shall be at least four (4) rods wide, and may be six (6) rods wide when all residents of lands adjoining such road shall petition for the same.

Subdivision (3). **Width of bridges and culverts.**—All bridges and culverts, and approaches thereto, on any road, hereafter established or improved, shall be at least sixteen (16) feet wide; and when such bridge in its construction or repair shall be raised three feet or more above the level of the bank on either side of any river, stream, gully or ravine, then such bridge and approaches shall be at least eighteen (18) feet wide and provided with substantial railings.

Whenever any steam or electric railroad company shall hereafter construct a bridge over a public highway, the same shall be constructed so as to leave a clear opening for the highway at least twenty-eight feet wide and at least fourteen feet clear space from the surface of the highway to the bottom of the bridge.

Any bridge hereafter constructed on any public highway over the tracks of any steam or electric railroad, shall be at least eighteen feet wide and the approaches thereto shall be at least twenty-four feet wide and the grade of such approach shall not exceed five feet rise in a hundred feet. The grade of any approach to, or over any culvert shall not exceed or be greater than the equivalent of a five-foot rise in a hundred feet.

Subdivision (4). **Owners defined.**—Persons lawfully occupying United States or State Lands shall be considered the owners thereof for the purposes of this act.

Sec. 3. **State roads.**—All state roads shall be constructed, improved and maintained by the counties under rules and regulations to be made and promulgated by the highway commission.

Sec. 4. All county roads shall be established, constructed and improved by the several county boards in conformity with the rules and regulations to be made and promulgated by the highway commission; provided, however, that in counties having a population of one hundred fifty thousand (150,000) inhabitants or over and which now have or hereafter may have a county superintendent of highways or other officer to superintend the construction and improvement of roads within its confines, the rules and regulations made by the highway commission need not be complied with. The county board of any county may appropriate from its road and bridge fund to any town in its county, such sums of money as are available and which it deems advisable to aid such towns in the construction and maintenance of roads therein; provided, that in counties having a population

of one hundred fifty thousand (150,000) inhabitants or over, such county aid may be expended in accordance with the provisions of Chapter 164, Laws 1905, as amended by Chapter 208, Laws 1909. The town through which any county road may pass shall maintain and keep it in repair under the rules and regulations of the highway commission. Provided, however, that, in counties having a population of one hundred fifty thousand inhabitants (150,000) or over and which now have or hereafter may have a county superintendent of highways or other officer to superintend the construction or improvement of roads within its confines, the several towns thereof shall have no jurisdiction over county roads."

Sec. 5. Town roads.—All town roads shall be located, constructed, repaired and maintained by town boards, provided that the county boards may aid in the construction, repair and maintenance of such roads.

The town board may appropriate money from the town road and bridge fund to aid in the construction or improvement of any road within the town which has been designated as a state road. Any money so appropriated shall be paid into the county road and bridge fund and shall be used only for the purpose designated by the town board at the time it makes such appropriation.

Sec. 6. Appropriations by town, village, borough or city for expenditure outside.—The council of any village, borough or of any city of the fourth class or the town board of any town, may appropriate and expend such reasonable sums as it may deem proper to assist in the improvement and maintenance of roads lying beyond its boundaries and leading into it, and of bridges thereon, whether they are within or without the county in which it is situated.

Sec. 7. Filing of plans and specifications as conditions precedent to contract. Subdivision (1). **Bridges.**—No contract for the construction or erection of a bridge shall be entered into by any county, town, village or city of the fourth class where the contract price of such bridge exceeds the sum of Five Hundred Dollars (\$500.00); unless plans and specifications for the proposed bridge shall be filed with the County Auditor, in case of county contracts, or with the town, village or city clerk respectively, in case a contract is to be entered into by a town, village or city of the fourth class, at least three weeks prior to the time when such bids are to be considered and the contract entered into, nor shall any such contract be let without first advertising for bids or proposals therefor in the newspaper, published in the county, in which the official proceedings of the county board are published. Such advertisement shall be published once a week for three successive weeks preceding the time fixed for receiving

bids and letting the contract and shall state the time and place of receiving bids and awarding the contract and shall refer to the fact that plans and specifications are on file in the office hereinbefore specified.

Subdivision (2). **Roads.**—No county or town shall contract for the construction or improvement of any road where the contract price exceeds Five Hundred Dollars (\$500.00) unless plans and specifications shall have been made and prepared and filed as provided in Subdivision 1 of this section, nor until advertisements for bids shall have been published as therein provided for.

Sec. 8. **Established roads.**—Every road established by the public authorities, where no appeal has been taken within the time limited therefor, is hereby declared a public road to all intents and purposes, and all persons who have neglected to appeal within the time prescribed by law, shall be forever debarred from any further redress.

HIGHWAY COMMISSION—STATE ROADS AND STATE AID.

Sec. 9. **Governor to appoint commissioners—Terms of office**—On or before January 1, 1914, the governor shall appoint one commissioner to succeed that member of the board of highway commissioners appointed under the provisions of Chapter 163, General Laws 1905, whose term of service then expires, and each year thereafter he shall appoint one commissioner until the three commissioners provided by Chapter 163, General Laws 1905 and Chapter 33, Laws 1911, are appointed, then each shall be appointed for three years, and until his successor has been appointed and qualified, but not more than two members of said commission shall belong to the same political party. Such commissioners shall serve without compensation. The governor shall fill all vacancies and may remove a member for inefficiency, malfeasance or neglect of duty. All appointments to fill vacancies shall be for the balance of the unexpired term of the commissioner whose death, removal or resignation caused the vacancy.

The state highway commission to be constituted and appointed under the provisions of this act shall be deemed a continuation of the state highway commission constituted and appointed under the provisions of Chapter 163, Laws 1905, and Chapter 33, Laws 1911. All questions shall be determined by a majority vote of such commissioners.

Sec. 10. **Chairman, Secretary, Deputy and Assistant Engineers.**—Said highway commission shall elect from its members a chairman and vice chairman, it shall have a common seal, the members thereof shall have power to administer oaths, and it shall be provided with a suitable office at the capitol, where it shall hold regular meetings not less than once in each month. Said commission shall appoint a secretary, who shall be a civil engineer and practical road builder, who shall be known as the

state engineer; it may also appoint deputy and assistant engineers and employ such other persons as it may from time to time require, and shall fix their compensation. Said state engineer, his deputies and assistant engineers, shall, each before entering upon the duties of their office, subscribe to, execute and file an oath of office and a bond in the penal sum of three thousand dollars (\$3,000.00) with sufficient sureties, conditioned on the faithful performance of their official duties. The secretary shall keep a record of every vote and official act of said commission, shall file and safely keep all maps and papers belonging to it, shall devote all of his time to the interest of the state as prescribed by said commission, and shall be in charge of the offices of the commission at the capitol. There shall be present at all times in the office of said commission, either the state engineer or one of his deputies. It shall also be the duty of the said state engineer and his deputies and assistants to give advice, assistance and supervision with regard to road and bridge construction throughout the state, as may be required and as the rules and regulations of the commission may prescribe, and to render such other engineering and surveying services as may be required by the governor for any of the state departments, and said state engineer and his deputies and assistants may be required by the commission to attend any public meeting held by the commission or other parties in the interest of road improvement in this state; provided, that the members of said commission, such state engineer, deputies, assistants, and other persons employed by said commission, shall be allowed necessary expenses, while performing their official duties outside of the state capitol, or outside the town or county in which they reside.

All of the files and records of said commission shall, under reasonable regulations, be kept open for public inspection and certified copies thereof shall be received in evidence in any court of the state.

The attorney general of the state shall be ex-officio attorney for the commission and shall give the commission such legal counsel, advice and services as it may from time to time require.

Sec. 11. Location of road material—Report to governor.—Whenever practicable said commission shall investigate and determine the location of road material in the state, ascertain the most approved methods of construction and improvement of roads, investigate the most approved laws in relation to roads in other states and hold public meetings throughout the state when deemed advisable. On or before March 1st of each year it shall make a printed report to the governor, stating among other things deemed by it expedient and of general interest on the subject of road-building, as near as possible, the number of miles of state roads built or improved during the preceding

year and their cost; the general character and location of material suitable for road construction; the general character and needs of the roads of the state; and recommend such legislation as it deems advisable.

Sec. 12. State road and bridge fund—Tax therefor.—For the purpose of state aid in the construction and improvement of public highways, there shall hereafter be levied annually on all taxable property of the state a tax of one mill on each dollar of valuation, to be collected in the same manner as other state taxes, and the money so raised, together with all moneys accruing from the income derived from investments in the internal improvement land fund, or that may hereafter accrue to said fund, and all funds accruing to the state road and bridge fund, however provided, shall constitute the general state road and bridge fund.

Sec. 13. Appropriation for expenses.—There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated for the fiscal year ending July 31, 1914, one hundred and fifty thousand (\$150,000) dollars, and for the year ending July 31, 1915, the sum of one hundred and fifty thousand (\$150,000) dollars, to pay the expenses of said commission, including the salary and expenses of the state engineer and his deputies and assistants and all other persons employed by the commission; provided, that not more than fifteen thousand (\$15,000) dollars shall be expended in any one year for the expenses of the office of said commission; provided further that all unexpended funds in any year may be carried over to the credit of the commission for subsequent years.

All accounts and expenditures shall be certified by the chairman of said commission, and paid by the state treasurer upon warrants drawn by the state auditor.

Sec. 14. Members and employes not to be interested in contracts.—The members of the highway commission, the state engineer, his deputy or assistant engineers, shall not be, either directly or indirectly, interested in any contract for constructing or improving any road under this act.

Sec. 15. Apportionment of road and bridge fund.—On or before the first Tuesday in March of each year the highway commission shall estimate the probable sum of money that will accrue to the state road fund during that year, and apportion the same among the different counties of the state, as herein provided, and shall immediately send a notice to the state auditor and to the board of county commissioners of each county stating the amount that such county shall be entitled to receive for said year out of said fund. Not less than one nor more than three per cent of the state road and bridge fund available in any year shall be apportioned to any county.

Any funds in excess of one-half of one per cent of the total funds available for allotment in any one year, allotted to any county in any year, which, for a period of two years after such allotment shall remain unused and unexpended by such county, or for work done in such county, shall revert to the unapportioned funds in the state road and bridge fund and be thereafter and during the next succeeding year, apportioned the same as other funds added to such state road and bridge fund, by taxation or otherwise, are apportioned.

Sec. 16. **Allotment—How used and expended.**—Twenty per cent of the allotment so made to any county shall be used only for maintenance of state roads and bridges thereon.

It shall be the duty of the county commissioners of each county in which state roads have heretofore or may hereafter be constructed or improved, to provide for the proper maintenance of the same in accordance with the rules and regulations to be prescribed by the highway commission.

The cost of such maintenance shall be paid by the state from the proportion of allotment to each county for maintenance purposes above specified, to an amount not exceeding the proportion so made available for maintenance purposes. Such payment shall be made upon reports to the highway commission by the county auditor, to be approved by the highway commission, in substantially the same manner as is herein provided for the payment of the state's part of the cost of the construction and improvement of state roads.

Not to exceed twenty-five per cent of the apportionment from the state road and bridge fund of any county, remaining after the amount for maintenance has been deducted, may, when deemed advisable by the county board, be expended on county roads under such rules and regulations as may be prescribed by the state highway commission; to be paid in substantially the same manner as is herein provided for the payment of other state aid for the construction and improvement of state roads; provided that only such proportion of the cost of the construction, improvement or repair of any county road shall be paid from such county's allotment as is herein provided with reference to the payment for the construction or improvement of a state road.

The amount which shall be paid by the state out of the allotment of the road and bridge fund, to any county as state aid, in the construction or improvement of any road or bridge in any county in any year, shall be as follows:

In counties where the assessed value of the property for taxation purposes is less than five million (\$5,000,000) dollars, 80 per cent; in counties with a taxable valuation of five million

dollars (\$5,000,000) and less than ten million dollars (\$10,000,000), 70 per cent; in counties with a taxable valuation of ten million dollars (\$10,000,000) and not exceeding fifteen million dollars (\$15,000,000), 60 per cent; in all other counties, 50 per cent. In determining the taxable valuation hereinbefore provided for, the assessed valuation of moneys and credits provided for in Chapter 285 General Laws 1911, shall be excluded. The proportion of cost of constructing any road or bridge above specified, shall be paid by the state only in case the funds in the allotment to any given county, over and above the amount set aside for maintenance, as herein provided, shall be sufficient therefor.

Sec. 17. Rules and regulations.—As soon as the highway commission shall have ascertained the location of the available road material throughout the state, and the best methods of road and bridge construction, as far as the same may be practicable, it shall prepare and adopt such rules and regulations for the construction, maintenance and improvement of state roads as shall be most suitable to the requirements of, and bring the most practicable results to, the several parts of the state.

Such rules and regulations shall be printed and copies shall be forwarded to the county auditor of each county in the state for general distribution. Such rules and regulations may be amended from time to time, but such amendments must be printed and distributed not later than April 1st of each year.

Sec. 18. Designation of state roads—Revocation of designation.—Any county board may, with the consent of the highway commission, designate any established road, or specified portion thereof, in its county, not within the corporate limits of any borough, village or city, as a state road, and construct or improve the same in accordance with the regulations of the state highway commission relative to state roads.

When any county board has designated any road as a state road as herein provided, the county auditor shall transmit a copy of the resolution to the state highway commission, together with a description of the road so designated. It shall be the duty of the commission to thereupon determine whether sufficient funds will be available from the state road and bridge fund for the improvement of said road as a state road and also determine the desirability of such designation with reference to the relation of such road to other state roads, or its relation to other roads and traffic conditions in such county, and if it determines such question in the affirmative, then and in such case, the highway commission may, by its order in writing, to be filed with the county auditor, consent to the designation of such road as a state road

Whenever it shall be made to appear to the highway commission that the board of county commissioners of any county have refused to grant an application to it made by at least ten freeholders resident of such county, to designate any established road or part thereof as a state road, the highway commission may consider such application *de novo*, and if in its opinion sufficient funds will be available for the improvement of such road, and its designation and improvement as a state road is desirable because of the relation of such road to other state roads or traffic conditions in such county, the highway commission may by its written order designate such road or part thereof, as a state road without a prior designation thereof by the county board or its concurrence in such designation. A copy of such order shall be filed with the county auditor.

The council of any village or city of the fourth class, may, with the consent of the highway commission, and the county board of the county in which such village or city is situated, designate any street or road within its corporate limits, not less than sixty (60) feet in width, as a state road when the street or road so designated will constitute a direct connecting link with the parts of a state road leading to and out of any such village or city. The county board of such county shall signify its consent by resolution and in and by such resolution shall designate the amount which may be paid out of the allotment made to such county, as state aid in the construction or improvement of any such street. No greater amount than is so designated by the county board shall be paid as state aid for the construction or improvement of such street. The consent of the highway commission to the designation of any such street or road within the corporate limits of any village or city of the fourth class shall be obtained by such village or city in substantially the manner and upon consideration of the same conditions as is herein provided for the granting of its consent to the designation of highways by county boards as state roads. Any street or road within any village or city of the fourth class, so designated, may be improved as other state roads and state aid paid therefor as hereinafter provided. The village or city clerk, as the case may be, shall make substantially the same report as is herein required to be made by a county auditor with reference to state roads designated by the county board, and payment of the state's share of the cost of construction and improvement thereof shall be made in substantially the same manner and upon substantially the same conditions precedent as is herein provided for the payment of state aid to counties; provided, however, that the payment to be made by the state shall be made from the allotment to the county in which such village or city is situate; and provided further, that no more than one-half of the cost of

constructing or improving any state road within the corporate limits of any village or city, nor in any event, to exceed fifteen hundred dollars (\$1,500) per mile, shall be paid as state aid therefor from the state road and bridge fund.

Any roads which may have been at any time designated as state roads may, by joint action of the county board and the highway commission, be abandoned or changed as such.

Said state engineer shall make or cause to be made all necessary surveys, establish grades and prepare plans and specifications for all state roads, except roads in counties which now have or hereafter may have a county superintendent of highways or other officer to superintend the construction and improvement of roads within its confines, and shall cause to be superintended all work done on such designated state roads. Such work may be done under contract or by day labor, as the county board and highway commission may direct, and a report thereof shall be made by the superintendent thereof in duplicate as may be required by the highway commission, one copy of which shall be delivered to the county auditor and one to the state engineer.

Sec. 19. Designation of road on county line as state road.—

Whenever the county boards of adjoining counties make application to the state highway commission for the designation of an established road running on or near the boundary line between two counties, as a state road, said commission shall investigate the desirability of such designation, and if it shall decide that it is desirable so to do, shall so designate such road and determine and fix the part of the cost of the improvement thereof to be paid by each county.

Sec. 20. Assistant engineers—Duties.—The highway commission shall appoint as many assistant engineers throughout the state as they may deem necessary for the purpose of superintending all work done on state roads. Such assistant engineers shall devote their entire time to their official duties; may be assigned to one or more counties as deemed advisable, and shall act under the instructions of the state engineer and the rules and regulations of the highway commission. It shall be the duty of said assistant engineers to make all necessary surveys, estimates and specifications for work to be done on state roads and for that purpose they shall have the co-operation and assistance of the state engineer or any of his deputies or assistants. It shall also be the duty of said assistant engineers upon the request of any board of county commissioners or any board of town supervisors, within their respective towns and counties, to advise and consult with such county or town boards in the construction or improvement of county or town roads; to make plans and specifications when so required; to exercise supervision over such construction or improvement, and lend every possible assistance to the local

road authorities in bettering the public highways. All persons appointed by the highway commission shall be appointed solely on their merits and qualifications.

Sec. 21. Procedure of county board in constructing or improving state roads.—Whenever the county board of any county shall determine to build or improve any state road for which aid is to be claimed, they shall proceed as follows:

If the estimated cost of such work does not exceed five hundred dollars (\$500.00) the said board shall cause surveys, when necessary, to be made therefor by an assistant engineer, and shall thereupon receive bids for all or part of said work and let the contract to the lowest responsible bidder, or may cause the same to be done by day labor under the supervision of said engineer. In case the estimated cost exceeds five hundred dollars (\$500.00), the said county shall cause surveys, plans and specifications therefor to be made by an assistant engineer and submit the same to the highway commission for approval, and when such plans and specifications are approved, the said county board shall proceed to do said work by contract or day labor. The work shall be done under the supervision of an assistant engineer, who shall in all matters pertaining to such work act under the rules and regulations of the highway commission and the instructions of the state engineer.

The provisions of this section shall not apply to any county which now has or which may hereafter have a population of one hundred fifty thousand (150,000) inhabitants and over and a county superintendent of highways or other county officer to superintend the construction or improvement of roads within its confines.

Sec. 22. State aid—How paid.—After any county board shall have completed any work on a state road for which state aid is claimed, the auditor of such county shall make a statement to the highway commission, showing the location, nature and cost of such work, and shall also submit a detailed report from the assistant engineer in charge showing all such details concerning the same as may be required by the highway commission. On receipt thereof the said highway commission shall proceed to examine such reports and if it finds the same satisfactory and that the work has been done in substantial compliance with the plans and specifications therefor, and the contract therefor, if any, the secretary of the highway commission shall certify the same to the state auditor who shall issue a warrant for the state's share thereof as shown by said report, payable to the treasurer of such county, but in no case shall said warrant with all other warrants exceed the amounts allotted to such county, and it shall be the duty of the assistant engineer to report such work in duplicate to the county auditor with details and cost

within thirty days after completion thereof, one copy of which shall be sent to the highway commission with the auditor's report.

The detailed report of the assistant engineer mentioned herein shall contain, among other matters, a statement showing the municipal subdivision performing the work or expending the money on such highway, and if more than one such municipal subdivision has performed work or expended money on such highway, then the names of such municipal subdivisions and the portion of the work performed or money expended by each. The county auditor, upon receipt of the money from the state highway commission provided for in this section, shall pay or credit the same to the municipal subdivision entitled thereto, and if more than one such municipal subdivision has performed work and expended money upon such highway as shown by the assistant engineer's report, then to each of such municipal subdivisions in the proportion shown by such assistant engineer's report.

Sec. 23. Good roads day.—The third Tuesday of June in each year is hereby designated as "Good Roads Day" and the governor shall annually, on or before the first day of June, by public proclamation, request the people of the state to contribute labor, material or money toward the improvement of public highways in their respective communities, upon that day.

ROADS ESTABLISHED BY JUDICIAL PROCEEDINGS.

Sec. 24. Petition—Appointment of commissioners.—Whenever a petition praying for the location, alteration or vacation of any highway running into or through two or more counties, or on or partly on the line dividing two or more counties, in any judicial district in this state, signed by twenty legal voters and taxpayers resident in said counties, shall be presented to a judge of the district court in said district, or whenever a petition praying for the location, alteration or vacation of any highway running into or through two or more counties, on or partly on the line dividing two or more counties in two or more judicial districts in this state, signed by twenty legal voters and taxpayers, resident in said counties, shall be presented to a judge of the district court of one of said districts, the said judge is hereby authorized to appoint three commissioners whose duty it shall be to meet at such times and places as may be necessary and to immediately proceed to lay out, alter or vacate such road as directed by the judge in accordance with the prayer of the petition; provided, that no road shall be ordered by the judge to extend more than six miles outside of the judicial district in which the application is made, and such road shall be extended beyond the district only for the purpose of commencing or ending at some village or public road.

Provided, however, that in cases where said road, if a new road, or if an old road, the part thereof to be altered or vacated runs through or into two or more counties situated in two or more judicial districts, the judge to whom the petition was presented shall appoint commissioners from each of the counties affected by said road, not exceeding five in all, and direct them to lay out, alter, or vacate said road accordingly; and it shall be the duty of said commissioners to meet at such times and places as may be necessary and to proceed to lay out, alter or vacate said road in like manner as provided herein in other cases.

Sec. 25. Notice of presentation.—Three weeks' published and posted notice of the presentation of such petition shall be given in each of the counties affected, at least thirty days in advance thereof. Such notice shall contain a copy of the petition, the name of the judge to whom it will be presented, and the time and place of presentation; and proof of such notice shall be filed with the clerk before the hearing. Such notice shall also be served, in the same manner as the service of the summons in a civil action, upon each county and organized town in which, or along the boundary of which, such proposed road is sought to be established, and proof of the service of such notice on such counties and towns shall be filed with the clerk of said court before the hearing.

Sec. 26. Commissioners may appoint surveyor.—The commissioners shall appoint a surveyor, an axman and two chainmen, to survey such road, if so directed by the court. The surveyor shall receive four dollars and the axman and chainman shall each receive two dollars per day for their services, and in addition thereto eight cents for each mile of necessary travel in performance of their duties. The surveyor shall make plats of the location of such road, in which the county lines and all stakes, trees, monuments and distances shall appear, and file one of such plats for record with the register of deeds of each county in or through which said road is located. The surveyor shall receive two dollars for each plat so filed.

Sec. 27. Damages—Determination and payment.—Said commissioners shall appraise and fix the damages to be paid to each landowner by reason of the establishment, alteration or vacation of such road over and across his lands, unless such right of way be voluntarily released to the county in which such land is situated; and in their report they shall set forth each appraisal made by them, and all releases of the right of way. Such damages, when finally determined, and all expenses incurred in the establishment, alteration or vacation, including compensation for right of way, shall be paid by the counties through, into or between which such road passes, each county paying its just proportion, as determined by the court. The county shall provide

for and pay such damages as in the case of a county road. Said commissioners shall receive for their services three dollars each per day and eight cents for each mile of necessary travel.

Sec. 28. Commissioners' report—Hearing.—Said commissioners shall report their proceedings at the term of the district court, held in the county where such proceedings were begun, next after the completion of their duties, and any person aggrieved by its action may then appear and be heard upon such report; and the court upon such hearing, may consider the propriety of establishing, altering or vacating such road, and may confirm or reject such report. The confirmation shall be final and the order of confirmation, if a road be thereby established or altered, shall direct the time and manner of opening the same for public use. The clerk of court shall within thirty days after filing of the same, transmit a certified copy of the order to the auditor of each county through or into which such road passes; upon receipt of such order the county board shall proceed in accordance with its terms to open so much of the road as lies within its county for public use.

Sec. 29. Trial by jury.—Any person aggrieved by such appraisal may demand a jury trial to determine the amount of damages to which he is entitled for the right of way for such road over his land. Such demand shall be in writing, signed by the person making it, his agent or attorney, and filed with the clerk of the district court with whom the report is filed, within thirty days after the entry of the order of confirmation. A failure to file such demand shall be deemed a consent to the appraisal made. A trial so demanded shall be had at the next term held in the county in which the land is situated, unless continued for cause. If the land is situated in a county other than that in which the report is filed, the clerk with whom such report and demand are filed shall certify a copy of said demand, and of so much of the report as applies thereto, to the clerk of the trial county who shall file the same. The county board or county attorney of the county in which land so taken is situated may in like manner and with like effect demand a jury trial to determine the damages to be paid in any one or all of the cases within such county, and the like proceedings shall thereupon be had.

Sec. 30. Powers of county boards.—Subdivision (1). General supervision.—County boards shall have general supervision of county roads, including those within their respective counties established by judicial authority, with power to appropriate and expend such sums of money from the county road and bridge fund as they may deem advisable for opening, vacating, resurveying or improving the same in towns and villages of such county, or for the building or repairing of bridges upon any

public road in any town or village, borough or city of the fourth class in the county, or for purchasing necessary road material, machinery, tools and supplies, provided, that before any such sums shall be appropriated and expended by such county board on any road or bridge within the limits of any village, borough or city of the fourth class in such county, such expenditures upon such road or bridge shall be first authorized by the council of such village, borough or city of the fourth class.

Subdivision (2). **Roads in adjoining county.**—The board may appropriate and expend money for the construction and maintenance of roads in an adjoining county, when it deems it for the best interests of the public; but the amounts so appropriated shall not exceed twenty thousand dollars in any one year.

Subdivision (3). **Bridges in villages, boroughs and cities of the fourth class.**—Whenever the council of any village, borough or city of the fourth class shall determine that it is necessary to build or improve any bridge or bridges including approaches thereto and any dam or retaining works connected therewith, upon or forming a part of streets or highways either wholly or partly within its limits, the county board shall appropriate such money as may be necessary therefor from the county road and bridge fund, not exceeding during any year the amount of taxes paid into the county road and bridge fund during the preceding year, on property within the corporate limits of said village or city. Such appropriation shall be made upon the petition of the council. The council shall determine the plans and specifications, shall let all necessary contracts, shall have charge of construction, and upon its request warrants in payment thereof shall be issued by the chairman of the board and county auditor from time to time as the construction work proceeds. Any unpaid balance may be paid or advanced by the village or city. On petition of the council the appropriations of the county board during not to exceed two successive years may be made to apply on the construction of the same items and to repay any money advanced by the village or city in the construction thereof. Provided, that this subdivision shall not limit the authority of the county board to appropriate and expend money on such bridges under the provisions of subdivision 1 of this section.

Subdivision (4). **County road and bridge fund.**—The county board shall provide and set apart a fund for the construction and maintenance of roads and bridges in such county, to be known as the "County Road and Bridge Fund," upon which shall be drawn all warrants for the construction and maintenance of state and county roads and bridges in such county, as determined by such boards or as required by the provisions of this act.

Subdivision (5). **County may issue bonds—When.**—When authorized by the voters as hereinafter provided, the county board of any county is authorized to issue bonds for the purpose of macadamizing any established county road or roads therein, or surfacing the same with any hard material, or in any other way making a permanent improvement thereon, when the expense of so doing exceeds the amount of any appropriation the county board is authorized to make therefor.

Whenever fifty or more voters of the county who are also freeholders, petition for such improvement, and file such petition with the county auditor, he shall lay the same before the county board at its next regular, special or adjourned meeting.

It shall be the duty of the county commissioners to consider such petition and if they find it contains the requisite number of signatures, they shall request an estimate of the cost of such improvement to be made by the engineer of the highway commission.

If such estimate is furnished more than six months prior to the time of holding the next general election, the county board may, if it deems it desirable, order the holding of a special election in the county for the purpose of voting on the question of making such improvement and issuing bonds therefor. No special election shall be ordered when a general election will be held within six months after the estimate of the state engineer is filed with the county auditor. If a special election is ordered the county auditor shall cause ballots to be prepared, setting forth a statement of the proposed improvement and description of the road or roads to be improved, with the words "yes" and "no" thereafter, with appropriate spaces for voting.

Persons voting in favor of the proposition shall put a cross (X) after the word "yes" and those opposed after the word "no." If not submitted at a special election, the auditor shall cause the same to be submitted at the next general election. In either event the votes on such question shall be returned and canvassed as is provided by law with reference to other questions submitted to the voters. If a special election shall be ordered the same shall be held substantially in the manner provided by law for the holding of general elections and the auditor shall cause published notice thereof to be given in the official paper of the county for three successive weeks prior thereto, giving a description of the road or roads to be improved and a statement of the improvement proposed and the estimated cost thereof. If a majority of the voters voting at the election vote in favor of the improvement, then the county board shall issue the bonds of the county as hereinafter provided and cause the improvement to be made.

The bonds so issued shall bear interest, evidenced by coupons, at a rate not exceeding six per cent per annum, payable annually; such bonds may be made payable in equal installments, the first of which shall become due and payable not less than five years after the date thereof and the last of which installments shall become due and payable not more than twenty years after the date thereof. Said bonds shall not be sold for less than par and accrued interest and the proceeds thereof shall be used by the county only for making the improvements specified in the proposition as submitted to the voters; such bonds shall not be valid until registered by the county auditor, and his certificate of registration endorsed thereon. The county auditor shall thereafter levy a sufficient tax to pay the interest and principal of said bonds as the same shall accrue, which tax shall be collected as other taxes are collected; provided, however, that no such bonds shall be issued by any county when the issuance of the same would make the entire indebtedness of the county exceed fifteen per cent of the assessed valuation of the taxable real property of the county; provided, that in computing the indebtedness of any county, any indebtedness created by the issue of bonds of such county for the construction of drainage ditches the cost of which is assessed against the benefited property, shall not be included.

Sec. 31. Road tax.—The county board at its July meeting may include in its annual tax levy, an amount not exceeding three mills on the dollar of the taxable valuation for the county road and bridge fund. Such taxes may be additional to the amount permitted by law to be levied for other county purposes.

Sec. 32. Establishment, alteration, or vacation by county boards.—County roads, other than those established by judicial authority, shall be established, altered or vacated only by the county board. Damages resulting from establishing, altering or vacating such roads shall be determined in the manner hereinafter provided, and shall be paid by the counties through which they pass. All proceedings in establishing, altering or vacating roads shall be recorded in a public record book, designated as the "Book of County Roads."

The county commissioners of any county having two hundred thousand (200,000) inhabitants or over, are hereby authorized and empowered to constitute and declare any public highway or road in such county outside of the corporate limits of any incorporated city or village therein, a county road; and they are hereby given general supervision over such roads with full power to appropriate such sums of money from the county treasury of such county as they may deem advisable for improving the same; provided, that nothing contained in this section shall be so construed as to relieve the supervisors or town over-

seer of highways of any town in such county from any of the duties imposed upon them by existing laws relating to roads, cartways and bridges, nor to repeal any existing special law relating to roads, cartways and bridges applicable to such county.

In any county of this state having two hundred thousand (200,000) inhabitants or over, or which may hereafter have two hundred thousand (200,000) inhabitants or over, the county commissioners thereof are hereby authorized and empowered to extend any street or avenue beyond the city or village limits of any city or village in such county to connect with any road or highway in any adjoining county, which extension, however, shall not exceed one mile in length; and said county commissioners are given full power to change, alter, improve, or repair such extension of road within such county, and to appropriate such sum or sums of money from the county treasury of such county as they may deem advisable therefor; provided, that in no case shall the location of such road wherewith such extension shall be connected, be changed at the point where the same now crosses the county line between such county and such adjacent county or counties.

Sec. 33. Roads in more than one town—Petition.—Whenever twenty-four freeholders of any county petition the county board for the establishment, alteration, or vacation of any road or of any roads which connect with each other running into more than one town, or partly in one or more towns and partly on the line between one or more towns, or on the line between two or more towns, in such county, or along the shore of any lake wholly or partly in such county, or into a town or towns and the unplatted part of any village or villages therein, such road or roads not being within a city, setting forth the beginning, course and termination or the beginnings, courses and terminations of the road or roads, and the names of the owners of the land, if known, through which the same may pass, and file the same with the auditor, he shall forthwith lay the same before the board, if in session, and if not, at their first session thereafter. If the petition relate to a road or roads, partly in a town or towns, and partly in the unplatted portion of a village or villages, before it shall be acted upon by the county board it shall have attached thereto a certified copy of a resolution of the village council or of each village council, as the case may be, approving the same.

Sec. 34. Hearing on petition—Appointment of committee.—If such petition appears reasonable on its face the board shall order a hearing thereon, designating in such order the time and place for such hearing and shall also appoint from its members a committee to examine the route or routes of such road or roads and fix the time and place upon such route or upon any one of

such routes, at which said committee shall meet for the purpose. At least twenty days before the time fixed for such committee meeting, and not less than thirty (30) days before the time of said hearing, the board shall cause posted notice of the time and place of such meeting and hearing to be given in each town affected, setting forth a copy of the petition. Proof of such notice shall be made by affidavit of the person posting the same. Such affidavit shall be filed with the county auditor and be by him kept with the other papers relating to such proceedings.

Sec. 35. Committee to examine and report on petition.—At the time and place designated, said committee shall meet and examine the road or roads proposed to be established, altered or vacated, and in such examination they may employ a surveyor. After such examination, they shall report to the board at its next session, setting forth, if a new road or roads or any alteration or alterations of any existing road or roads be proposed, the courses and distances thereof, and recommending the granting or rejection of the petition.

Sec. 36. Hearing—Award of damages—Establishment of road.—At the time and place designated, said board shall hear all parties interested as to the necessity for, and as to the amount of damages to land owners by reason of such establishment, alteration or vacation, and may adjourn such hearing from time to time, if necessary. It shall determine the damages which will be sustained by each owner through whose land such road or roads may pass, and with whom it cannot agree as hereinafter provided, or who is unknown, specifying the amount of damages, if any, awarded to each land owner and describing each parcel of land separately. If the board determines that the establishment of the road is desirable and of sufficient advantage to warrant the payment of damages assessed, it shall declare the road or roads established, altered or vacated in accordance with the petition. Otherwise, it shall declare the petition dismissed.

The damages sustained by reason of establishing, altering or vacating any road may be ascertained by the agreement of the owners and the county board; and, unless such agreement is made, or the owners release in writing, all claim to damages, the same shall be assessed and awarded before such road is opened, worked, used, altered or vacated. Every such agreement and release shall be filed with the county auditor and shall be final as to the matters therein contained.

In ascertaining the damages which will be sustained by any owner, the board shall determine the money value of the benefits which the establishment, alteration or vacation, as the case may be, will confer, and deduct such value, if any, from the damages, if any, and award the difference, if any, as damages.

If the petition be granted, the board shall provide for the laying out and construction of such road, in the case of the establishment of a new road or the alteration of an existing road or roads, and the carrying into effect the vacation of an existing road or roads, when such action is petitioned for.

All damages resulting from the establishment, alteration or vacation of any county road shall be paid by the county.

Sec. 37. Appeal.—Any tax payer of the county, or any person aggrieved by any determination of a county board, either establishing, altering or vacating or refusing to establish, alter or vacate any road, or by any award of damages made by such county board may appeal therefrom to the district court of such county within the time and in the manner and with effect as is hereinafter provided.

TOWN ROADS.

Sec. 38. General supervision in town board.—The town board of each town shall have general care and supervision of all town roads therein, and such care and supervision of county roads therein as is prescribed by the provisions of this act, and shall procure machinery, implements, tools, stone, gravel, and other material required for the construction and repair thereof; provided, however, that all work done on county roads under the supervision of town boards shall be done in accordance with rules and regulations to be made by the highway commission; provided, that in counties having a population of one hundred and fifty thousand (150,000) or over and which now have or hereafter may have a county superintendent of highways or other officer to superintend the construction or improvement of roads within its confines the town board shall not have jurisdiction over county roads. Provided, however, that the county board of each county shall have the care, supervision and maintenance of all bridges in the county outside of the corporate limits of cities and villages which have originally cost \$1,000 or more.

Sec. 39. Report to town meeting.—The town board shall render to the annual town meeting a report in writing, containing:

1. The amount of road taxes levied and the amount collected during the preceding year, and also all money paid into the road and bridge fund from all other sources.

2. A statement of the improvements needed on roads, cartways and bridges for the ensuing year, with an estimate of their probable expense.

3. A statement of all expenses and damages occasioned by establishing, altering, or vacating roads and of all sums expended for machinery, implements, tools, stone, gravel, and other materials, during the year, with an estimate of the amount required for the ensuing year.

Sec. 40. Taxation for road purposes.—All real and personal property in each town liable to taxation, other than “monies and credits” taxed under Chapter 285, Laws 1911, shall be taxed for road purposes. All road taxes hereafter levied shall be paid in cash and hereafter no highway labor shall be assessed.

The electors of each town shall have power at their annual town meeting to determine the amount of money which shall be raised by taxation for road and bridge purposes, not exceeding, however, fifteen (15) mills per dollar on the taxable property of the town. The tax so voted shall be extended, collected and payment thereof enforced in the same manner and at the same time as is provided by law for the extension, collection and enforcement of other town taxes.

After the annual town meeting, in case of emergency, the town board may levy a tax on the property in its town for road and bridge purposes in addition to the tax, if any, voted at the annual town meeting for road and bridge purposes, in an amount not to exceed five (5) mills on the dollar of the assessed value of the property in the town, and any tax so levied by the town board shall forthwith be certified to the county auditor for extension and collection.

The town board may thereafter pledge the credit of the town by issuing town orders not exceeding, however, the amount of the additional tax so levied by the town board for road and bridge purposes, in payment for work done or material used on the roads within the town.

Sec. 41. Dragging of roads and tax therefor.—The county auditor of each county shall annually extend upon the tax lists of his county, in the same manner as is provided by law for extending the county school tax, a tax of one mill on the dollar of the taxable property in each town, outside the corporate limits of any borough, village or city in any such town; provided that in towns having an assessed valuation of one million (\$1,000,000) dollars or more the amount of such tax shall not exceed one thousand (\$1,000) dollars. The tax so levied shall be collected and the payment thereof enforced in the same manner as is provided by law for the collection and enforcement of other town taxes extended by the county auditor. The county treasurer shall settle with and pay over to the town treasurer such taxes when collected at the time and in the manner now provided by law with reference to other town taxes.

The proceeds of such tax levy shall be kept in a separate fund to be known as the “Dragging Fund,” and shall be expended by the town board only for the expense of procuring a suitable number of drags and dragging the roads of the town.

The town board in each town, on recommendation of the town road overseer, shall enter into contracts for the dragging

of the roads of the town, giving preference to the main traveled road and roads constituting mail routes within their respective towns; provided, however, that the compensation which may be agreed to be paid for each time a road is dragged shall not exceed one dollar per mile for each mile of road dragged.

The contract price shall be paid from the "Dragging Fund," in the same manner as other claims against the town, after approval by the road overseer.

Sec. 42. Town road overseer.—Each town shall constitute a road district. The office of district road overseer is hereby abolished and in place thereof, the town board shall appoint a competent road builder as road overseer for the entire town, who shall have charge, under the supervision of the town board of the construction of all town roads, and the maintenance of all town and county roads in the town. He may appoint one or more competent assistants, subject to the approval of the town board. No member of a town board shall be eligible for appointment as town road overseer or assistant overseer. The compensation of the road overseer and assistants shall be fixed by the town board at a sum not to exceed three dollars (\$3.00) per day for the time actually employed in the performance of their duties. Before entering upon his duties, each shall give a bond to the town with sureties to be approved by the town board, in the sum of two hundred and fifty dollars (\$250.00) conditioned for the faithful discharge of his duties and to return to the town all the property of the town which may come into his custody. The town overseer and his assistants, if any, shall hold office at the pleasure of the town board. Provided, that such road overseer shall have no jurisdiction over county roads in any county which now has or hereafter may have a population of one hundred fifty thousand (150,000) inhabitants or over, and a county superintendent of highways or other officer to superintend the construction and improvement of roads within its confines.

Sec. 43. Petition for establishment, alteration or vacation.—Any town board may alter or vacate a town road or establish a new road in its town upon a petition of not less than eight voters of the town, who own real estate, or occupy real estate under the homestead or pre-emption laws or under contract with the state, within three miles of the road proposed to be established, altered or vacated. Provided, however, that in any town not having eight (8) voters, who own real estate or occupy real estate under the homestead or pre-emption laws or under contract with the state, within three (3) miles of any proposed road, the town board of such town may alter or vacate a town road, or establish a new road in the town upon a petition signed by a less number of voters, of such town, who own real estate or occupy real estate under the homestead or pre-emption laws or under

contract with the state in such town. Such petition shall contain a description of the road, and what part thereof is to be altered or vacated, and, if a new road, the names of the owners of the land, if known, over which such road is to pass, its point of beginning, general course and termination.

Sec. 44. Notice of hearing on petition.—The petition shall be filed with the town clerk, who shall forthwith present it to the town board. Said board, within thirty days thereafter, shall make an order describing as nearly as practicable the road proposed to be established, altered or vacated, and the several tracts of land through which it passes and fixing a time and place when and where it will meet and act upon said petition. The petitioners shall cause personal service of such order to be made upon each occupant of such land at least ten days before such meeting, and also cause ten days' posted notice thereof to be given.

Sec. 45. Hearing and determination.—At the time and place designated, the board shall meet, and on proof, by affidavit, of the giving of such notice, it shall examine the road proposed to be established, altered or vacated, hear all parties interested, and determine whether it will grant or refuse the petition. If it be refused, the fact shall be noted on the back thereof.

Sec. 46. Survey and order.—If the petition be granted, the board, if it deem it necessary, shall cause a survey to be made. When the center of such road does not follow a section line, or some subdivisional line of a section, the surveyor shall note the distance to the point on any course at which such course will intersect a section line, and the distance of such point of intersection from the most convenient section, quarter section, or meander corner, as established by government survey; and the notes of such intersections, and a description of the road so established, altered, or vacated, shall be incorporated in an order to be signed by the board.

Sec. 47. Damages and benefits.—The damages sustained by reason of establishing, altering or vacating any road may be ascertained by the agreement of the owners and the town board; and, unless such agreement is made, or the owners release, in writing, all claims to damages, the same shall be assessed and awarded before such road is opened, worked or used. Every agreement and release shall be filed with the town clerk, and shall be final as to the matters therein contained. The board shall assess the damages of each claimant with whom it cannot agree, or who is unknown, specifying the amount awarded to each and briefly describing each parcel of land. In ascertaining the damages which will be sustained by any owner the town board shall determine the money value of the benefits which the

establishment, alteration or vacation, as the case may be, will confer, and deduct the benefits, if any, from the damages, if any, and award the difference, if any, as damages.

Sec. 48. Award—Filing papers.—Within five days after the date of the order establishing, altering or vacating a road, the board shall make its award of damages, and file such order and award, together with all petitions, affidavits and orders relating thereto, with the town clerk; but said clerk shall not record such final order within the period of thirty days, nor, in case of an appeal, until a final decision is had thereon, and not then unless such order is confirmed. In case said board does not file such order within twenty days, it shall be deemed to have rejected the application. After the order is confirmed, the same and the award shall be by said town clerk recorded and sent to the county auditor, who shall file and preserve the same. He shall give his receipt therefor to the clerk, who shall file the same and make an entry thereof in the record relating to such road.

Sec. 49. Order or copy as evidence.—The order establishing, altering or vacating any road, or a certified copy of the record thereof, shall be received in all courts as competent evidence of the facts therein contained, and shall be prima facie evidence of the regularity of the proceedings prior to the making thereof, except upon the hearing of an appeal.

Sec. 50. Determination final for year.—The determination of a town board refusing to establish, alter or vacate any road shall be final, unless appealed from, for one year from the filing of its order; and no petition for establishing, altering or vacating such road shall be again acted upon within the time aforesaid. In case its determination granting a petition is appealed from and reversed, it shall not within one year from the date of such determination entertain a petition having the same or a similar object.

Sec. 51. Appeals.—Orders of a town board establishing, altering, vacating or refusing to establish, alter or vacate any road or cartway, or awarding damages, may be appealed from by the person or persons and in the manner and with the effect hereinafter provided.

Sec. 52. Roads on town line.—Whenever any town board receives a petition similar to that required for establishing a town road, praying for the location, alteration, or vacation of a road on the line between that and an adjoining town, it shall immediately notify the town board of such adjoining town, and the town board of each of said towns, or a majority of each, acting together as one board, shall determine said petition. They shall be governed, as to notice, survey, hearing, award of damages, filing and recording papers, and in all other matters pertaining to their duties, by the regulations in this act provided

for the government of town boards in establishing, altering or vacating town roads. A copy of the proceedings shall be filed in the town clerk's office in each town.

Before making an order establishing a road under the provisions of this section, the two town boards shall divide the length of the proposed road into two parts, which parts may be of unequal length. Such division shall be so made as to divide as nearly equal as possible the cost and expense of constructing and maintaining the entire road to be established, and assigning to each of said parts one-half of such cost and expense.

After such division shall have been made the town boards shall thereupon by agreement determine which of such parts shall thereafter be opened, constructed and maintained by each. If the town boards cannot so agree the matter shall be determined by lot.

It shall be the duty of the town boards of the respective towns, parties to the laying out of a road under the provisions of this section, to proceed forthwith, to open and construct its share of such road and thereafter maintain the same.

Sec. 53. Between town and city, etc.—Whenever such a petition is presented to the council of a city or village, and the town board of a town, praying for the location, alteration or vacation of a road on the line between such town and the city or village, such board and council, or a majority of each, acting together as one board, shall determine said petition in the same manner in all respects as provided in the preceding section and the provisions of the preceding section shall apply to the town board and city or village council.

Sec. 54. Section line roads.—In towns which have not been organized, or in which no public roads have been established, the section lines shall be considered public roads, to be opened to the width of two rods on each side of such lines, upon the order of the county or town board, as the case may be, without any survey being had, unless it be necessary on account of variations caused by natural obstacles, subject, however, to the provisions of this act, in relation to the assessment of damages and the right to appeal.

Sec. 55. Cartways.—Any town board may establish a cartway two rods wide on petition of not less than five voters, freeholders of such town. All their proceedings shall be the same as provided in this act for establishing town roads. The cost and expenses thereof, and the damages awarded for lands taken therefor, shall be paid by the town, as in the case of town roads, and a record of such cartway shall be filed with the town clerk; provided, that, when a road or cartway is established which will not be a continuous road from one highway to another, one-half of the damages to the land through which it passes shall be paid by the persons benefited thereby.

Town boards shall, on petition of the owner of a tract of land, of not less than five acres in area, who has no access thereto except over the lands of others, establish a cartway not more than two rods wide connecting his land with a public road. The amount of damages, if any, to be paid by the petitioner to the town before such cartway is opened.

In any county having a population of two hundred thousand inhabitants or more, any town board may expend, road or bridge funds upon a legally established cartway, the same as on a town road.

Sec. 56. Dedication of land for road.—One or more owners may dedicate land for a road or cartway by making application therefor, in writing, to the town board, describing the land and the purpose of its dedication, and filing such application with the clerk. The clerk shall present the same to the town board which, within ten days after such filing, may make an order declaring the land described to be a public road or cartway. When so declared, such land shall be deemed duly dedicated for the purpose expressed in the application, and no damages shall be assessed therefor.

Sec. 57. Field notes, plat, etc.—Upon the written request of any town board, the auditor of the county in which such town is situated shall furnish a copy of the description, field notes, and plat, if any, of each territorial, state, and county road running into or through such town, on file or of record in his office. On receipt of such copy the board shall file it with the clerk, who shall record the same in the road record book of the town. Such record shall be prima facie evidence of the existence of such road as described therein.

Sec. 58. Extraordinary improvement of roads.—Whenever it shall seem advisable and for the general public good, to improve any established highway in any town by macadamizing the same, or by using any hard material, or in any other way making a permanent improvement thereon, at an expense greater than any amount the town or county is authorized to make appropriation for, the question of making such improvement may be submitted to a vote under the following conditions: Whenever fifteen or more voters of such town, who own real estate therein, or occupy the same under the homestead or pre-emption laws of the United States or under contract from the state, shall file with the town clerk a petition asking for such improvement, and for a submission of the same to vote of the people, said clerk shall immediately call a meeting of the town board, who shall make and file an estimate in writing of the probable expense of the improvement. Said clerk shall submit the proposition to the voters of the town at their next annual meeting, or if so requested, in said petition, he shall call a special town meeting to

vote upon it, giving notice thereof as provided by law. At such special town meeting the polls shall be open from nine o'clock a. m. until five o'clock p. m. The ballot shall contain a statement of the question and the estimated cost, and the vote shall be "yes" or "no." If sixty per cent of the vote cast favors the proposition, the town board shall at once contract for the improvement.

Bonds for such improvement.—To provide funds for such improvement, the town board shall issue the bonds of the town to an amount not exceeding the estimated cost of the proposed improvement, and in no case exceeding, together with the outstanding indebtedness of the town, five per cent of the assessed valuation thereof. The bonds so issued shall bear interest, evidenced by coupons, at a rate not exceeding six per cent per annum, payable annually, and shall become due in ten equal installments, the first of which shall become due and payable not more than eighteen months after date, and annually thereafter. Said bonds may be sold by the town board at not less than par, and the proceeds shall be disbursed, by the town board, in the same manner that other funds are disbursed, for labor and material for said improvement. Said bonds shall not be valid until registered with the county auditor, who on receiving satisfactory evidence that the provisions of law relating to their issue have been complied with, shall register the same in his office and indorse his certificate of registration on said bond; and shall thereafter, in due manner and season, levy a sufficient tax to pay interest and principal of said bonds as the same shall accrue, to be collected as other taxes are collected.

Sec. 59. Drainage of town roads.—Subdivision (1). Whenever the town overseer of roads shall file with the town board his affidavit stating that a road passing through or into said town runs into or through a swamp, bog, or other low land, and that it is necessary or expedient that a ditch should be opened through private lands, the probable length, width, and depth of such ditch, the termini and general course of the same, a description of the land over which said ditch will pass, the names of the owners thereof, if known, and that such road through such low ground cannot, without extraordinary expense, be made passable unless such ditch or ditches are opened, the chairman of said board shall prepare a notice, therein fixing a time, not less than six nor more than sixty days from the date thereof, when said board will meet at a place to be described in the notice, and personally examine the premises. Such chairman shall cause said notice, together with the affidavit, to be filed in the office of the town clerk, who shall make true copies of such notice and deliver them to said town overseer. Said overseer shall

personally serve the same upon each of such land owners, if residents of the county, and upon the occupants of such lands where the owners are not residents of such county. Such ditch or ditches shall be laid out upon such lines as the owners of the land desire, when it is practicable and can be done without extra cost.

Subdivision (2). Notice, when posted.—The overseer serving such notice shall make a return thereof to the town clerk, stating the facts and if it appears from such return that the owners of said lands, or any of them, are not residents of the county, and no occupant resides on the lands, then the clerk shall cause three weeks' published notice to be given, which shall be deemed sufficient notice.

Subdivision (3). Hearing and assessment.—At the time specified in the notice, the town board shall examine the road and premises over which such ditch must pass, and hear any reasons for or against laying out the same, and determine upon the advisability of opening such ditch. If it determines that it is expedient and advisable to open such ditch, it shall assess the amount of damages which, in its judgment, will be just and equitable compensation to the owners for the right to open such ditch through their lands, including the right to enter upon such land whenever necessary for the purpose of cleaning out or repairing it. It shall also estimate the advantages, as well as the disadvantages which will accrue to the owner of any land through which such ditch may run, by reason of such opening. But the damages may be determined by agreement between the owners and the town board, and every such agreement or release of claim shall be in writing, and filed with the town clerk.

Subdivision (4). Order establishing ditch—Appeal.—If on such hearing the board shall determine that the opening of such ditch is necessary and for the interest of the general public, it shall make an order establishing and opening the same, therein providing for the effectual drainage of such swamp, bog or other low land, so far as is necessary for the proper construction and maintenance of the road which runs through or into the swamp, bog or other low land, and file said order, together with a statement of all its doings in reference thereto, including the damages allowed, with the town clerk, who shall copy the same into a book to be kept by him especially for that purpose. If not appealed from within ten days from such filing, said determination and order shall be final and the overseer shall proceed to construct such ditch under the direction of said board. An appeal may be taken from any such determination and order, by any party aggrieved, in like manner as in the case of appeals from orders of the town board establishing or refusing to establish a town road.

Subdivision (5). **Ditches kept open.**—After such ditch has been opened, the overseer shall keep the same in good condition and free from obstructions, and for that purpose he may enter upon the lands through which it passes whenever it becomes necessary.

Subdivision (6). **Obstructing ditches.**—Any person who shall dam up, obstruct, or in any way injure any such ditch shall be liable in a civil action for double the damages assessed for such injury by the court or jury trying the case, and shall also be guilty of a misdemeanor.

Subdivision (7). **Payment of damages.**—When the amount of damages to be paid to the owners of land taken for such ditch shall have been finally determined in accordance with the provisions therefor contained in this act, the town board shall provide for and make payment in the manner provided by law for the payment of damages for lands taken for a public road.

Sec. 60. **Special duties of overseer.**—Whenever any public road in a town becomes obstructed or unsafe from any cause, the overseer shall immediately repair such road, and render his account therefor to the town board.

APPEALS FROM COUNTY AND TOWN BOARDS.

Sec. 61. **Who may appeal—Bond—Notice of Appeal.**—Any person aggrieved by any determination of a county or town board, or of a town board and village council, either establishing, altering or discontinuing, or refusing to establish, alter, or discontinue, any public road, or, by any award of damages made by such town or county board, may appeal therefrom, within thirty days after the filing of such determination or award, to the district court of the county, by filing with the clerk of such court a bond in the sum of not less than two hundred and fifty dollars, approved by the judge or by the court commissioner or auditor of such county, conditioned to pay all costs arising from such appeal in case the determination or award is sustained, and by service of a notice of appeal as provided in the next section.

In case the town or county board determines to establish, alter or discontinue a road, or refuses so to do, any taxpayer of the county, as to a county road, and any taxpayer of the town, as to a town road, through which such road or any part thereof, passes, shall have the same right of appeal.

Sec. 62. **Notice of appeal—What to contain.**—The notice of appeal shall state briefly the grounds of appeal—whether it relates to the damages assessed, or to the establishing, altering, or discontinuing a road, or to the refusal so to do, and whether it is taken to reverse entirely the decision of the board, or some portion thereof, and, if the latter, what portion. It shall be signed by the party appealing, or his attorney, and be served upon the chairman of the town or county board, as the case

may be. A copy thereof, when the appeal is from the action of a county board, shall be filed with the auditor of the county, and, when from that of the town board, with the clerk of each town in which such road may be located.

Sec. 63. Proceedings on appeal.—Such appeal shall be entered upon the calendar for trial at the next general term of the court occurring more than twenty days after the appeal is perfected. Except where the parties otherwise agree, the court or jury shall reassess the damages, unless such re-assessment is rendered unnecessary by the determination of other matters involved; but its proceedings shall be based upon the same principles which the board was required to follow in its determination. Upon final judgment being rendered, the clerk shall file a certified transcript thereof, with the county auditor, if the appeal was taken from the action of the county board, and with the clerk of each town affected by such determination, if the appeal was from the action of a town board. If the determination appealed from be affirmed or if the damages be reduced, the appellant shall pay costs and disbursements; but if such damages be increased, or such determination be altered, modified, or reversed otherwise than as to amount of damages, such costs and disbursements shall be paid by the town or county, as the case may be; the same to be taxed and allowed as in other cases, and judgment entered therefor in like manner.

Sec. 64. Proceedings after decision on appeal.—When on appeal the determination of any town or county board is reversed or altered, the board from whose determination such appeal was taken shall proceed to establish, alter, or vacate such road, in conformity with the decision of such appeal; and the proceedings thereon shall be the same as if they had originally so determined to establish, alter or vacate such road. The amount of damages finally determined and awarded, whether by the town or county board, or by the court or jury, together with the charges of officers and other persons necessarily employed in establishing, altering or vacating any road, shall be audited by the board making the original assessment. Such board shall, in its report of such audit, specify the amount of damages, and charges due each individual, and such amounts shall be certified to by the board so auditing the same, and, in case of town roads, deposited with the town clerk, and paid by the town, and in case of county roads, with the county auditor, and paid by the county. Before any town road is opened or used, an amount of town orders equal to the damages assessed to each individual shall be duly issued and deposited with the town clerk for the use and benefit of said individual, and delivered to him on demand. The issuing and depositing of said orders shall be deemed to be sufficient security for the payment of said damages.

GENERAL PROVISIONS APPLICABLE TO ALL ROADS.

Regulations Concerning Use of Roads.

Sec. 65. **Meeting and passing vehicles.**—When persons meet on any road or bridge, traveling with vehicles, each shall seasonably drive to the right of the middle of the traveled part of such road or bridge, so that the vehicles may pass without interference.

The driver of any vehicle passing another vehicle traveling in the same direction shall drive to the left of the middle of the traveled part of the road, and, if such road be of sufficient width to permit such passing, the driver of the leading vehicle shall not obstruct the same.

Sec. 66. **Intemperate drivers.**—No person owning or having control of a coach or vehicle traveling upon any road for the conveyance of passengers, shall employ any person to drive the same who is addicted to the excessive use of intoxicating liquors.

Every person who violates any provision of this section shall forfeit for each offense such sum as the court shall fix, not exceeding fifty dollars, and shall also be liable to any party injured for all damages sustained by reason of such offense; provided, that complaint for such violation shall be made within three months, and every action for damages shall be begun within one year thereafter.

Sec. 67. **Leaving horses unfastened.**—No driver of any vehicle used for the conveyance of passengers for hire, shall leave the horses attached thereto, while any passenger remains in or upon the same, without securely fastening such horses or leaving some suitable person in charge thereof; and, if any driver shall violate the provisions of this section, he and his employer shall, in an action for damages instituted by any person injured by reason of the violation of this section, be deemed guilty of negligence.

Sec. 68. **Traction engine—Whistle, etc.**—Every engineer, owner, or other person in charge of a traction engine propelled along a road, who shall blow or permit the whistle of such engine to be blown within five hundred feet of a team passing on such highway, if the team can be seen from the position of such engine, or who shall not stop the same at least one hundred feet before meeting a horse or team traveling on such road, unless on a side hill where such stoppage might expose the flues of the engine and cause an explosion, and not start the same until such horse or team shall have passed the engine, shall be guilty of a misdemeanor.

Sec. 69. **Traction engine—Bridges.**—Every owner, engineer, or other person in charge of a traction engine, before taking such engine across a culvert or bridge, shall place extra planking

thereon for the protection of the same, and neglect to do so shall render him liable for one-half the expense of repairing any damage caused by his failure to do so; provided, the amount so paid by him shall not exceed fifty dollars. Such sum may be recovered in a civil action against the owner.

REGULATIONS AFFECTING ABUTTING OWNERS.

Sec. 70. **Removal of fences.**—Whenever a town or county board has established a road through inclosed, cultivated or improved lands, under any of the provisions of this act, and its decision has not been appealed from, or, if appealed from, its order has been sustained, it shall give each owner or occupant of land through which such road is established twenty days' notice, in writing, to remove his fences, and, if he does not remove them within such time, it shall cause them to be removed, and the road to be opened and worked; but no inclosure shall be so opened between April 1 and October 1.

Sec. 71. **Seeding roads—Trees.**—Any person living upon or owning land fronting on a public road, a portion of which is not in actual use or needed for public travel, may plow, level, and seed the same to grass, except within one rod of the center. But he shall not by such work interfere with the travel upon the road, or the improvements of the same, or be entitled to compensation therefor, or acquire title to any portion of said road thereby. Such landowner may plant trees on the sides of such road, within six feet of the outside line thereof, with the written approval of the town board as to town roads and the county board as to county roads. Any person, other than one acting under the authority of the town or county board, which has supervision of any road, who shall plow or dig up any part of a road, except as above specified, shall be guilty of a misdemeanor.

Sec. 72. **Hedge—Fence in road.**—A person owning property along the line of a road or street sixty feet or more wide, who shall plant a close hedge upon such property, may erect a fence upon such road or street not more than six feet from the line thereof, for the purpose of protecting the hedge, and may maintain such fence for five years after the hedge is planted.

Sec. 73. **Town board may cut down hedges and trees within road limits.**—Subdivision (1).—The town boards of supervisors are hereby given the right and power to determine upon the necessity and order the cutting down of hedges and trees within road limits. Provided, that trees, other than willow trees, shall not be so cut down unless the center of such trees is more than six (6) feet from the side of any road as established by statutory proceedings or dedicated specifically to public use; provided, such trees or hedges, or either of them, interfere with keeping

the surface of the road in good order, or cause the snow to drift onto or accumulate upon said road in quantities that materially obstruct travel.

Subdivision 2. Owner to be notified.—When the town board of any town in this state shall determine that such cutting down of hedges or trees within the limits of such roads is necessary, or that the same would aid materially in keeping such roads in repair or free from snow, they shall notify the owner or owners of the abutting lands of such decision and order the trees or hedges cut down within ninety days after such notice. If the said owner or owners fail or refuse to comply with such notice and order within the time specified, the said town board shall have the power to cause such trees or hedges to be cut down at the expense of the town. The timber and wood of such trees shall belong to the said owner or owners of the abutting land, provided they pay the expense of cutting down said trees or hedges and remove the same from the roadside within sixty (60) days. If such timber or wood is not removed within said time, the town board shall sell the same or destroy it if it cannot be sold at a profit, and if sold, pay the proceeds thereof into the road and bridge fund of said town.

Subdivision (3). Expenses to be paid out of road and bridge fund.—The town board of supervisors are hereby granted the further right and power to appropriate and pay out of the road and bridge fund of their town, or from any other fund available the cost of cutting down such trees and hedges and the removal or destruction of the same, if done at public expense.

Sec. 74. Tunnels under roads.—Every owner of land on both sides of a public road may tunnel under such road to permit stock to pass from one side to the other, but he shall at his own expense construct such tunnel so as not to endanger the public in the use of such road. Before constructing such tunnel, the land owner shall obtain from the town board of the town in which it is located, its approval of the place, the kind of tunnel, and the manner of its construction. If the tunnel be constructed *without such approval, it shall be valid, unless within one year from its completion said town board shall cause the same to be abated.* Bridges over tunnels shall be not less than sixteen feet wide, properly protected with railings, and constructed of such materials as to be safe for travel; and if, within one year after the construction of such bridge, the town board shall deem it or its appurtenances insecure, it may cause the same to be put in the proper condition at the expense of its owner, and, whenever said board shall deem the tunnel out of repair, it may cause the necessary repairs to be made at the expense of such owner. In either case the reasonable cost of such repairs shall be certified by the town clerk to the county auditor and by him

assessed upon the land in the same manner as the road taxes. Provided, that when any such public road is not on a section or sectional subdivision line, the owner of the lands on both sides of such road shall be permitted to construct an appropriate tunnel to be approved by the town board of such town, which tunnel the owner shall maintain at his own expense for the first year and which shall be thereafter maintained by the town board at the expense of the town.

Sec. 75. Roads on mineral lands.—Whenever a public road crosses mineral land or other lands outside the limits of any city, village or borough, which the owner or lessee desires to mine in such way as to remove the supports of the road or to improve said lands by building any structure or building thereon, he may, at his own expense, change such road to other land, and make a new road thereon, suitable for public travel; provided that no such change of road on lands other than mineral lands shall be made unless the same be first approved by the town board and the state highway commission, and the new road be first constructed, and approved by said town board and said highway commission; and, if he cannot obtain such land upon reasonable terms, the county or town board, or the city or village council, as the case may be, upon requisite petition, shall make such change under the provision of law for establishing roads. Provided, however, that before any such road is changed a sixty day notice of the intention of the owner or lessee thereof to change the same shall be served upon the board of the municipality in which the road is situate, by filing with the clerk thereof a declaration of such intention in the form of said notice; and provided, however, that the said owner or lessee shall be liable to the owner or occupant of any land abutting upon said road or any affected by such change to the extent of the damage sustained by reason of such change, and for the recovery of which an action may be brought after such change is made. In case such board or council desire to establish a road over mineral lands, it may agree with the owner or lessee of the land that, in case he shall consent to its establishment, its location shall be changed upon his request. Provided, however, that before such road will be changed by any such board or council, ninety days' notice thereof shall be posted in three conspicuous places along said road, which said notice shall state the time when said road shall be changed.

Sec. 76. Dedication by user.—Whenever any road or portion thereof shall have been used and kept in repair and worked for at least six years continuously as a public highway, the same shall be deemed dedicated to the public, to the width of two (2) rods on each side of the center line thereof and be and remain, until lawfully vacated, a public road, whether the same has ever been established as a public highway or not.

Sec. 77. Use of railroad right of way.—The continued use of any road by the public upon and parallel to the right of way of any railroad company shall not constitute such road a legal highway, or a charge upon the town in which the same is situated, and no right shall inure to the public or any individual by such use.

Sec. 78. Alteration of road—Old road open two years.—Whenever a road shall be changed by order of a county or town board, the road as it existed before the change shall remain open to public travel for two years from the date of the order; but the board may vacate such road within said two years when it deems the new road to be fit for public travel at all times of the year.

Sec. 79. Road declared abandoned.—A public road in any county having a population of two hundred thousand or more, outside the limits of any city or village, which has been acquired or established in any manner other than by grant, deed or condemnation, or of which there is no public record, which has not been used for public travel and on which no road tax has been expended for three years, shall be deemed vacated; and the title thereto shall at once revert in the original owner of the land, his successors or grantees, without any proceedings, except as follows: Any person having an interest in the land, and claiming such vacation, shall post at least six notices in conspicuous places in the town, including one at each end of the portion claimed to be vacated, and give thirty days' written notice to the town board, specifying in each such notice his claim, and a description of the road sufficient for identification, before he shall do any act to interfere with public travel; but, where such road has been inclosed for three years, no notice shall be required. If the town board, after notice, shall determine that such road has not been so vacated, it shall so notify the claimant in writing, within thirty days thereafter, who shall not inclose or interfere therewith until the question of its vacation has been lawfully determined. Failure to serve such notice shall be deemed a waiver of all right to question such vacation.

Sec. 80. Town boards to construct culverts.—The town boards are hereby required to install one substantial culvert for an abutting owner in cases where by reason of grading a public highway, the same is rendered necessary for a suitable approach upon said highway over driveways from abutting lands.

MISCELLANEOUS PROVISIONS.

Sec. 81. Condemnation of gravel beds, etc.—Whenever any county or town board or common council of any village or city, shall deem it necessary for the purpose of building or repairing public roads or streets within its jurisdiction, it may procure,

by purchase or condemnation, in the manner provided by law (the procedure in such condemnation proceedings shall, as near as practicable, be that provided in Chapter 41 of the Revised Laws of Minnesota for 1905 and such procedure shall apply to condemnation proceedings under this section) any plot of ground, not exceeding five acres, containing gravel or stone, or clay, or sand or one or more of such road materials, suitable for road purposes, together with the right of way to the same of sufficient width to allow teams to pass, and on the most practicable route to the nearest public road.

Sec. 82. Side roads.—The county board of each county, and the town board of each town, may establish side roads and ford crossings adjacent to or near any bridge over a stream in its county or town, when such bridge was built at an expense of not less than one thousand dollars and forms part of a public road. Such side road shall intersect such main road at the nearest practicable point. It shall not be less than two nor more than four rods wide. In all other respects the same proceedings shall be had as are required by law for establishing county or town roads as the case may be.

Sec. 83. Bridges over Minnesota river—Rates of toll.—Any corporation organized for the purpose, or any counties, towns, cities or villages interested, may jointly or separately erect and operate a fixed span bridge over the Minnesota river at any suitable point, down to and including the borough of Le Sueur. All such bridges erected over said river below Le Sueur shall be provided with a suitable draw, with an opening of not less than eighty feet, which on reasonable signal or notice, shall be opened to allow the passage of vessels. Before any such bridge is erected, the location and plan thereof shall be approved by the governor.

Any corporation maintaining a bridge over said river may charge and receive the following rates of toll from all persons using the same: For each foot passenger or bicycle rider, five cents; for each hog, sheep or calf, two cents; for each head of cattle, five cents; for each vehicle or sleigh drawn by one animal, twenty cents; for each additional animal used; five cents; for each automobile, twenty cents; for any other vehicle or animal, a reasonable rate of toll. Such rates of toll may be changed by law whenever the net annual income from such bridge shall exceed a reasonable percentage of the cost thereof.

Sec. 84. Bridges over navigable waters.—Whenever in the opinion of the board of county commissioners of any county or supervisors of any town, or the board of trustees or council of any city or village of this state, it becomes necessary, for the purpose of accommodation of travel on any highway, to erect a bridge over any river or waterway within their respective

jurisdictions, the navigable portions of which river or waterway lie wholly within the limits of the state, such board or council may cause the erection of a fixed bridge over such river or waterway, without a draw; provided, the clear height above the ordinary high water stage of such waterway and the clear width of the opening, shall be sufficient to accommodate the ordinary navigation of such waterway; and provided further, that the location and plans thereof are submitted to and approved by the chief of engineers of the United States Army and by the Secretary of War, before construction is commenced.

Sec. 85. Securing free use of toll bridge.—Any counties, towns, cities or villages interested may secure the free public use of any toll bridge now or hereafter built across any streams in this state, and may jointly or severally, together or separately enter into any contract with the owner of such bridge, or with each other or with each other and the owner of such bridge, as they shall deem proper, to secure such free public use of such bridge, whether by purchase, lease or otherwise.

Sec. 86. Final payment on road contract.—Final payment shall not be made on any contract for road work by any county or town board where the amount involved in the contract exceeds two hundred dollars, until an assistant state engineer has examined the work and certified that the same has been properly done and performed according to contract and his certificate to that effect shall have been filed in the office of the county auditor of the county, or town clerk of the town, as the case may be. Such examination shall be made and such certificate shall be filed by the assistant engineer, within thirty days from the date of written notification by the contractor to the state engineer of the completion of the work. Any county auditor or any town clerk who issues a warrant or an order in final payment upon a road contract where the amount involved in such contract exceeds the sum of two hundred dollars, until such certificate shall have been filed, shall be deemed guilty of a misdemeanor. The provisions of this section shall not apply to any county now having or which may hereafter have a population of one hundred fifty thousand (150,000) inhabitants or over and a county superintendent of highways, or other officer to superintend the construction or improvement of roads within its confines.

Sec. 87. State engineer to inspect bridges.—It shall be the duty of the state engineer to make an annual inspection of all bridges exceeding thirty feet in length, as far as time and conditions permit, and report the condition of the same to the highway commission and the appropriate county board, and make such recommendations as he may deem advisable.

Sec. 88. County boards authorized to reconstruct and repair bridges.—Subdivision (1).—Whenever it shall become necessary

to reconstruct or repair any bridge upon any county or town road in any town or towns or upon any town line in this state and the said bridge is unsafe for travel or has been condemned by the proper authorities, and the said town fails, neglects or omits to construct, reconstruct or repair the same, or provide for the expense and cost of so constructing, reconstructing or repairing the same, the county board of any such county in which said town is located shall have the power and authority and are hereby given power and authority to reconstruct or repair any such bridge, upon giving notice to the town board of such town of their intention to do so and fixing a time and place for hearing the necessity and advisability of making such reconstruction or repair.

Subdivision (2). **Statement to be prepared in duplicate.**—When any county board shall have reconstructed or repaired any such bridge as hereinbefore provided, such county board shall cause to be prepared an itemized statement, in duplicate, of the cost of such reconstruction or repair. One of such statements shall be filed with the county auditor and the other filed in the office of and with the town clerk of said town. And such town clerk shall forthwith notify the several members of the town board that such a statement has been filed and that a meeting of said board to act thereon will be held at his office at a time within ten days thereafter specified by such clerk in such notice. Such board shall meet at said time and levy a special tax upon all the taxable property of the town sufficient to pay the amount expended by the county in such reconstruction or repair of such bridge. Said town board shall certify said tax on or before October 15th next succeeding to the county auditor, and the county auditor shall extend the same with other town taxes upon the tax list of said town. Mandamus may be brought by such county against such town for failure of its board to do any of the things prescribed within the time fixed for the doing of the same; provided, that if such tax would exceed one-eighth of one per cent of the assessed valuation of such town, then the county shall bear one-half of such expense so far as the same shall exceed said one-eighth of one per cent. When two or more towns are interested in said bridge, the statement hereinbefore provided for shall be made in as many copies as there are towns interested and one more, and the county board shall apportion to each interested town the amount which each town should properly pay toward the work done by the county, and such amount shall be levied by the town boards of each town after the filing of the cost of the bridge and the amount belonging to each town with the town clerk thereof. The proportion which each town shall pay shall be determined at the hearing upon the necessity and advisability of reconstructing or repairing such bridge.

Sec. 89. Obstruction of or damage to highways.—Any person who shall, with intent to prevent the free use thereof by the public, obstruct any of the public highways of this state in any manner, or who shall dig any holes therein, or remove any earth, gravel or rock therefrom, or any part thereof, or who shall in any manner obstruct any ditch on the side of any such highway, and thereby damage the same, shall be guilty of a misdemeanor. It is hereby made the duty of the members of the town boards of the several towns of this state to make complaint and prosecute all violations of the provisions of this section.

Sec. 90. Removing snow.—It shall be the duty of the town board of each town, so far as funds are available for the expense thereof, to keep all highways within their towns in a passable condition by the removal of snow therefrom; and for that purpose the road overseer is authorized to employ, by and with the consent of the town board, such men and teams as may be necessary for the purpose. The town board may also provide for the erection of snow fences when deemed desirable.

Sec. 91. Repeal.—All laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

The following laws and parts of laws are hereby expressly repealed, to-wit:

Subdivision (1). **Revised Laws 1905.**—All of Chapter 13, Revised Laws of Minnesota, 1905, except Sections 1246 to 1254 thereof inclusive.

Subdivision (2). **General Laws 1905.**—All of Chapters 66, 116, 245, 151, 324, 70, 80 and 215 of the General Laws 1905.

Subdivision (3). **General Laws 1907.**—All of Chapters 423, 361, 173, 262, 285, 458 and 19 of the General Laws of 1907.

Subdivision (4). **General Laws 1909.**—All of Chapters 394, 117, 50, 484, 390, 291, and 432, of the General Laws of 1909.

Subdivision (5). **General Laws 1911.**—All of Chapters 217, 100, 359, 378, 335 and 70 of the General Laws 1911.

Provided, however, that the express or implied repeal by the provisions of this act, of any law now in force shall not affect any action or proceeding now pending in any court, or any cause of action which has already accrued under such law so repealed, or any proceeding which at the time of the passage of this law has been instituted for the establishment, vacation, alteration, laying out, construction or repair of any road or the assessment and payment of damages therefor or the collection and enforcement of any taxes levied or assessed for road purposes, including road labor assessed, and any such taxes uncollected at the time of the passage of this act shall be collected and the payment thereof enforced under the provisions of law existing at the time of such levy and assessment.

Nothing in this act shall repeal or in any way affect the provisions of Chapter 254, Laws 1911.

Sec. 92. This act shall take effect and be in force from and after its passage.

Approved April 15, 1913.

CHAPTER 236—S. F. No. 7.

An Act to amend Section 5171 of the Revised Laws of 1905, relating to peace officers.

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

Section 1. **Females may be appointed police officers and detectives.**—That Section 5171 of the Revised Laws of nineteen hundred and five be and the same is hereby amended so as to read as follows:

“Section 5171. Every state or municipal officer who shall appoint, swear in, or allow any person to act as policeman, special policeman, constable, special constable, patrolman, militiaman, or otherwise as a peace officer, for the purpose of bearing arms or maintaining the peace, or as a detective, spy, or secret agent, with authority to bear arms and make arrests, and every person acting in any such capacity before he shall have become a legal voter of the state, shall be guilty of a gross misdemeanor; *provided, however, that nothing in this section shall be held to prohibit the appointment of females who are qualified voters under Section Eight of Article Seven of the Constitution of Minnesota, to be police women, special police women, or detectives, in any incorporate city when the same shall be authorized by the governing body thereof.*”

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 11, 1913.

CHAPTER 237—S. F. No. 54.

An Act relating to the title to property acquired by any woman in her own name during any period of time in which she shall have been or may hereafter be legally separated from her husband and relating to the conveyance thereof, and declaring conveyances of any such property heretofore made valid.

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

Section 1. **Property may be held, acquired and transferred by wife during separation from husband.**—That all property, real