

for nomination at the primary election then and thereby his appointment of a member on the state central committee is revoked and cancelled and the person so appointed shall cease to be a member thereof and the person receiving such nomination may appoint a person to fill the vacancy. Such committee shall have the usual and customary powers and duties of such committees. The present state central committees shall continue in existence until new committees are chosen in accordance herewith.

Any vacancy in a state, county, district, or other authorized party committee shall be filled, until the next assembling after the passage of this act of the convention charged by law with the selection of such committee, in such manner as the state central committee may direct, and thereafter such convention shall provide for the filling of vacancies in committees selected by it.

No filing of candidates for nomination to an elective office at the primary election shall be made until after the period of time herein prescribed for holding state conventions of political parties has elapsed, and the officers with whom such petitions may be filed shall not receive or file the same until after the time for holding such state conventions has elapsed.

Sec. 18. Chap. 3, S. L. 1912, repealed.—That chapter three of Session Laws 1912, as amended shall as far as applicable apply to the provisions of this act.

Sec. 19. Laws repealed.—Sections 362, 363, 364, 365, 366, 367, 368, 369, 370 and 537, General Statutes of Minnesota^o 1913, and all acts and parts of acts inconsistent with this act are hereby repealed.

Sec. 20. This act shall take effect and be in force from and after its passage.

Approved April 15, 1921.

CHAPTER 323—H. F. No. 535.

An act relating to public highways; the powers and duties of the commissioner of highways, subordinate officers and employees, and various governmental agencies in relation thereto; providing for the location, construction and maintenance of trunk highways under article 16 of the State constitution and all other roads in the state; relating to the establishment and disposition of the trunk highway sinking fund and the trunk highway fund; for the payment of state aid for the construction and maintenance of roads; authorizing and directing the levy of taxes for highway purposes; repealing inconsistent laws and laws expressly mentioned; and providing penalties.

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

Section 1. Scope of act.—The provisions of this act shall be

construed as relating solely to roads, not included within the limits of any city, village or borough, except when highways within cities, villages or boroughs are specifically mentioned. The roads of this state shall for the purpose of this act be designated and referred to as "Trunk Highways," "State Aid 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 "Trunk Highways" shall be construed to include all roads established, or to be established under the provisions of Article 16 of the constitution of the State of Minnesota.

Subdivision (2). The words "State Aid Roads" shall be construed to include all roads which have heretofore been designated as state roads, or which may hereafter be designated as state aid roads, except such as may be or have heretofore been annulled or changed, and except such as may be included in the trunk highway system.

Subdivision (3). The words "County Roads" shall be construed to include those which have heretofore been or which hereafter, as herein provided, may be, established, constructed or improved under the authority of the several county boards except those heretofore designated as state roads, and also all roads lying within the county, or on the line between counties, established by judicial proceedings.

Subdivision (4). The words "Town Roads" shall be construed to include those roads and cartways which have heretofore been or which as herein provided hereafter may be established, constructed and improved under the authority of the several town boards and also all roads lying within the town, established by user.

Sec. 2. "Road" and "highway" defined.—The words "road" or "highway" whenever used in this act shall mean, unless otherwise specified, the several kinds of highways as defined in Section 1 of this act, and also cartway, street, alley, avenue, boulevard, together with all bridges or other structures thereon which form a part of the same.

Sec. 3. Width of road.—All roads, except cartways, established by town and county boards shall be at least four (4) rods wide and when necessary for construction or maintenance, additional right of way may be procured by purchase or condemnation.

Sec. 4. Width of bridges and culverts.—All bridges and culverts, and approaches thereto, on any road hereafter established or improved, except cartways, 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.

Sec. 5. Railroad bridge over highway.—Whenever any 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 (28) feet wide and at least fourteen (14) feet clear space from the surface of the highway to the bottom of the bridge; provided, that two openings, each at least fourteen (14) feet wide, shall be sufficient if approved in writing by the commissioner of highways.

Sec. 6. Highway bridge over railroad.—Any bridge hereafter constructed on any public highway over the tracks of any railroad, shall be at least eighteen (18) feet wide and the approaches thereto shall be at least twenty-four (24) feet wide and the grade of such approach shall not exceed five (5) feet rise in a hundred (100) feet. Such bridge shall leave a clear space above the railroad rails of at least 21 feet measured vertically; provided, however, that when local conditions preclude compliance with the foregoing requirements, such requirements may be modified by the commissioner of highways upon plans approved by him.

Sec. 7. Persons lawfully occupying United States or state lands shall be considered the owners thereof for the purposes of this act.

Sec. 8. Trunk highways.—All trunk highways shall be located, constructed, improved and maintained by the State. The State is hereby vested with all rights, title, easements and appurtenances thereto appertaining, held by, or vested in any of the counties or any legal subdivisions thereof, or dedicated to the public use, prior to the time any such road is taken over by the State as a trunk highway.

Sec. 9. State aid roads.—All state aid roads shall be constructed, improved and maintained by the counties under rules and regulations to be made and promulgated by the commissioner of highways, and the several counties are vested with all rights, title, easements and appurtenances thereto appertaining, held by, or vested in any of the towns or municipal subdivisions thereof, or dedicated to the public use, prior to the time such road is designated a state aid road.

Sec. 10. County roads.—All county roads shall be established, constructed and improved by the several county boards. The town through which any county road may pass shall maintain and keep it in repair; provided, however, that in counties having a population of one hundred fifty thousand (150,000) inhabitants or over, the several towns thereof shall have no jurisdiction over county roads.

Sec. 11. 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.

Sec. 12. Commissioner of highways.

Sub. 1. The office of the commissioner of highways, the in-

cumbent whereof shall have the powers, duties and privileges herein declared, is hereby created; the term of such office shall be two (2) years and the governor of the state shall appoint a suitable person thereto. The commissioner of highways may be removed from office by the governor at his pleasure. Until the appointment and qualification of the first commissioner of highways under this act, the commissioner of highways previous to the passage of this act shall act as commissioner of highways hereunder.

Sub. 2. The commissioner of highways shall devote his entire time to the performance of his official duties and shall receive as compensation therefor a yearly salary of six thousand dollars, payable monthly.

Sub. 3. Such commissioner of highways shall before entering upon the performance of his official duties, give bond to the state, to be approved by the governor, in the penal sum of \$25,000, conditioned for the faithful performance of his duties. If a surety company bond is given, the premium thereon may be paid from the funds available for the payment of the expenses of the highway department; provided, however, that the amount of such premium so paid shall be approved as to amount by the state treasurer. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of said commissioner of highways in the performance of his official duties may maintain an action on such bond for the recovery of damages so sustained. The commissioner of highways shall have an official seal with which he shall authenticate his official acts. There shall be engraved on the margin thereof the words "COMMISSIONER OF HIGHWAYS—STATE OF MINNESOTA," and in the center thereof the same device as is engraved on the great seal of the state.

Sub. 4. The commissioner of highways shall appoint a first assistant commissioner of highways and a second assistant commissioner of highways, one of whom shall be an experienced highway engineer. Each may be removed from office by the commissioner of highways and at his pleasure, with or without cause. The salary of the first assistant commissioner of highways shall be fixed by the commissioner of highways, but in an amount not to exceed the sum of six thousand dollars per year, and the salary of the second assistant commissioner of highways shall be fixed by the commissioner of highways but in an amount not to exceed the sum of five thousand dollars per year, both payable monthly.

Such assistants shall devote all their time to the duties of their offices, and in case of the inability for any cause of the commissioner of highways to act, the first assistant commissioner of highways shall act as such commissioner of highways with all his powers and duties, and in case of the inability for any cause of such first assistant commissioner to so act, the second assistant commissioner of

highways shall act as such commissioner of highways with all his powers and duties.

Except when so acting as commissioner of highways, each of said first assistant and second assistant shall be subject to the direction and orders of the commissioner of highways.

Each such assistant shall, before entering upon the performance of his official duties, give bond to the state to be approved by the governor in the penal sum of ten thousand dollars, conditioned for the faithful performance of his duties. If a surety company bond is given the premium thereon may be paid from the funds available for the payment of the expenses of the highway department; provided, however, that the amount of such premium so paid shall be approved as to amount by the state treasurer. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of either of said assistants in the performance of his official duties may maintain an action on such bond for the recovery of damages so sustained.

The commissioner of highways is hereby authorized to employ such skilled and unskilled help and employees as may be necessary for the performance of his duties under this act, the same to be on such terms and for such compensation as he may deem just and proper. Provided no greater sum shall be paid to employees belonging to the following classes than as herein specified:

For Bookkeepers, not to exceed.....	\$3000.00
For Stenographers, not to exceed.....	1500.00
For Draftsmen, not to exceed.....	2400.00

Provided that the total annual expense for the Highway Department, exclusive of all outside employees and assistants and engineering and inspection work, shall not exceed the sum of One Hundred and Fifty thousand (\$150,000) Dollars per annum. None of such help or employees shall be required to possess any other qualifications than may be prescribed by the commissioner of highways.

Said commissioner of highways, first assistant, second assistant and such help and employees as may be so from time to time appointed or employed shall constitute and be known as the highway department.

Each of such help and employees as may be determined and designated by the commissioner of highways shall, before entering upon the duties of his office or employment, give bond to the state in such penal sum as may be determined upon by the commissioner of highways, to be approved by the governor and conditioned for the faithful performance of his duties. If a surety company bond is given the premium thereon may be paid from the trunk highway fund. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of said help or employees in the performance of his official duties may maintain an action on his bond for the recovery of the damages so sustained.

Sub. 5. The commissioner of highways shall maintain his office at the city of St. Paul. All salaries and expenses connected with the highway department shall be paid from the Trunk Highway Fund.

Sec. 13. Powers of Commissioner of Highways.

Sub. 1. The Commissioner of Highways is empowered to carry out the provisions of Section 1 of Article 16 of the Constitution of the State, and is hereby authorized to acquire by purchase, gift, or condemnation as provided by statute all necessary right of way needed in laying out and constructing the Trunk Highway System, and to locate, construct, reconstruct, improve and maintain such Trunk Highway System, to let all necessary contracts therefor, and to purchase all needed road material, machinery, tools and supplies necessary for the construction and maintenance thereof: and in carrying out the provisions of said Section 1 of Article 16 of the Constitution of the State, is hereby authorized to expend out of the Trunk Highway Fund such portions thereof as may be available for the purposes herein provided, and there is hereby appropriated, annually, from such fund the entire amount thereof or so much as shall be necessary for the location, construction, reconstruction, improvement and maintenance of the Trunk Highway System including the cost of acquiring title to any needed right of way, the purchase of the necessary road material, tools, machinery and supplies for the construction and maintenance of said Trunk Highway System and for the compensation of all persons employed and the necessary expenses incurred in the execution of such work, such expenditures to be made as provided in this act. Where any trunk highway runs to any interstate water forming the boundary between Minnesota and any other state and there connects with any interstate bridge across such boundary water or runs into any city or village situate on such water boundary and intersects any street thereof adjacent to and connecting with any such bridge, in every such case all that part of any such bridge within the limits of this state shall be considered as a part of such trunk highway system except where any such bridge is owned by a private person or corporation or is operated as a toll bridge and said commissioner is authorized and directed to co-operate with the duly authorized authorities of such adjoining state in the maintenance, repair, construction and reconstruction of any such bridge.

Sub. 2. On the first Tuesday in April of each year it shall be the duty of the Commissioner of Highways, State Auditor and State Treasurer following the transfer to the Trunk Highway Fund of any surplus remaining in the Trunk Highway Sinking Fund, as provided in this act, to set aside from the total sum in said fund—

1. The proportion of expense of the Highway Department to be borne by the Trunk Highway Fund authorized by Section 12 of

this act not to exceed One Hundred and Fifty Thousand (150,000) Dollars.

2. The proportion of the Trunk Highway Fund provided by this act to be set aside for maintenance.

3. Such sum as may be found necessary for the payment of interest and refundment purposes.

4. Such sum as may be necessary to equal the total sum of the Federal aid received from the United States Government for road purposes in Minnesota.

Any sum remaining in the Trunk Highway Fund after setting aside the sums hereinbefore mentioned together with the sum set aside to meet the government aid, and the total amount received as government aid shall constitute the portion of the Trunk Highway Fund available for construction purposes for that year. The Highway Commissioner is hereby authorized to use during the ensuing year for hard surface construction on the Trunk highway, not to exceed 20% of such construction fund, provided that the commissioner of highways may, in his discretion, if the provisions of Federal Aid should so require as a conditional precedent to receiving such aid, use an additional amount from such fund not to exceed, in any event, an additional thirteen and one third per cent from such construction fund in any one year. The remainder of such fund shall be used by the Commissioner on the Trunk Highway System for construction purposes in grading, draining, graveling and bridge and drainage construction on the unfinished portions of the Trunk Highway, provided the same shall be expended among the various sections of the state in equitable proportions as far as practicable in the construction of said unfinished portions of the Trunk Highway. Provided further, that the Commissioner of Highways shall have authority to use for construction purposes in grading, draining, graveling and bridge and drainage construction on the unfinished portions of the Trunk Highway System any portion of the funds set aside as herein provided that shall not be needed as a part of the fund so set aside, and is further authorized to use any portion of the Trunk Highway Fund, set aside for maintenance in any one county, for construction purposes in such county when not needed for maintenance therein.

Sub. 3. Until such time as he may definitely locate and permanently construct the several routes of the trunk highway system, he shall select practicable roads along the general location of all other of the several routes, enumerated in Article 16 of the state constitution, which he shall maintain for the benefit of the traveling public, which routes shall be known as temporary trunk highways.

No portion of the trunk highway system lying within the corporate limits of any borough, village or city shall be constructed, reconstructed or improved unless the plans and specifications therefor shall be approved by the governing body of such borough, village

or city before such work is commenced, nor shall the grade of such portion of the trunk highway system lying within such corporate limits be changed without the consent of the governing body of such borough, village or city.

Sub. 4. The commissioner of highways shall by order or orders designate such temporary trunk highway or highways, and when the final and definite location of any trunk highway or portion thereof has been by him determined he shall designate the same by order. Provided that when the County Board of any county interested asks for a public hearing with reference to the final location of any Trunk Highway, a hearing shall be held by the Commissioner within the section interested before making any such final location. A copy of such order shall be certified to the county auditor or auditors of the county or counties wherein such highways are located and such counties or subdivisions thereof shall thereupon be relieved from responsibilities and duties thereon, provided that in case the final location should be other than the location of the temporary trunk highway, the portion of such temporary location which is not included in the final location shall upon notice from the commissioner of highways revert to the county or subdivision thereof originally charged with the care thereof.

Sub. 5. The commissioner of highways shall adopt a suitable marking design with which he shall mark or blaze the routes so selected, and as the definite final location of each route is opened to traffic the markings shall be changed to such location.

Sub. 6. The commissioner of highways may conduct the work or any part thereof, incidental to the construction and maintenance of the trunk highways by labor employed therefor or by contract. In cases of construction work, the Commissioner of Highways shall first advertise for bids for contracts and if no satisfactory bids are received, he shall have the right to reject all bids and readvertise or do the work by labor employed therefor. When work is to be let under contract he shall publish a notice to that effect, for three successive weeks prior to the date such bids are to be received, in such local newspaper or other periodicals as may be deemed advisable, provided that in case of emergency requiring immediate action, contract may be awarded without published notice.

Sub. 7. Whenever, during the construction work on any trunk highway, it may be necessary to prevent traffic from passing over any portion of such highway, in order to avoid damage to the work under way, the commissioner of highways is empowered to close such portion of the highway to any or all traffic, by causing to be posted in a conspicuous manner, at the ends of the portion of the highway so closed, suitable signs warning the public that such road is closed under authority of law; and by the erection of suitable barricades, fences, dykes or other obstructions. The driver or owner, or both, of any vehicle, self propelled or otherwise passing

through, over or around any such barricades, fence or other obstructions so placed, or any person or persons, opening, removing or defacing any such barricade, fence or other obstruction, or any such warning sign, without written permission from the engineer in charge of the work, or any person or persons wilfully, knowingly or maliciously causing any damage to the work under construction, shall be guilty of a misdemeanor.

Sub. 8. The commissioner of highways shall once each year publish a map showing the location and status of improvement of the trunk highway system.

Sub. 9. The commissioner of highways shall be the custodian of and preserve the records of the state highway commission as heretofore constituted, and of the official acts and determinations which shall be denominated orders, made by himself or predecessors in office. All of the files and records of the highway department shall, under reasonable regulations, be open to public inspection, and copies thereof certified by the commissioner of highways, as being true copies, shall be received in evidence in any court in this state with the same force and effect as the originals. The attorney general shall be ex-officio attorney for the commissioner and shall give him such legal counsel, advice and assistance as he may from time to time require.

Sub. 10. The commissioner of highways shall keep accurate and complete books of account of such character as may be prescribed by the public examiner, the same to show in detail itemized receipts and disbursements of the trunk highway sinking fund and the trunk highway fund. The books of account shall show (and it shall be the duty of the public examiner to so prescribe) the following, among other facts:

a. The expenses of maintaining the highway department, including the salaries and expenses of the individual members thereof.

b. The amounts of money expended in each county of the state for the construction or maintenance of trunk highways, when, where and upon what job or portion or road expended, so that the cost per mile of such construction or maintenance can be easily ascertained.

c. The amount of road equipment and materials purchased, and when, where and from whom purchased. Such books shall also show the price paid for each item; the original invoice shall form a part of the permanent files and records in said department, and shall be open to public inspection.

d. Any other moneys expended by the state in connection with any other roads than trunk highways, and when, where and upon what portion of road so expended. It shall be the duty of the public examiner to examine the books, accounts, records and files of the highway department at least twice every year, and oftener if he thinks proper; a copy containing a summarized report of such audit

shall be filed with the auditor of each county. Provided, however, no money derived from the one mill road tax shall be expended on the trunk highway system, excepting by action of the County Board of the County to whom such money may be allotted.

Sub. 11. The commissioner of highways shall from time to time make and adopt such rules and regulations for the location, construction, improvement and maintenance of state aid roads, as he shall deem suitable, and which shall be printed and copies forwarded to the County Auditor of each county.

Sub. 12. The engineers and technical assistants shall give advice, assistance and supervision with regard to road or highway construction and improvement throughout the state, as may be required and as the rules and regulations of the commissioner of highways may prescribe, and render such other engineering or surveying service as may be required by the Governor for any of the State departments.

Sub. 13. Whenever practicable said commissioner of highways shall investigate and determine the location of road material in the state, ascertain the most approved methods of construction and improvement of roads, and 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 he shall make a printed report to the governor stating among other things, deemed by him expedient and of general interest on the subject of road building, as near as possible, the number of miles of 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 he deems advisable.

Sub. 14. The commissioner of highways shall each year, so far as time and conditions permit, cause an inspection to be made of all bridges exceeding thirty (30) feet in length. The commissioner of highways shall cause a copy of the report of such examination and recommendations to be transmitted to the county auditor of the county in which the bridge is situated, in case such bridge is not on a trunk highway.

Sub. 15. It shall be unlawful for any member or employe of the highway department to be directly or indirectly interested in any contract for the construction or improvement of any road or bridge constructed or improved under the provisions of this act or in any contract for the repair, purchase or sale of any road machinery, equipment, materials or supplies under the provisions of this act. Any such person violating any of the foregoing provisions shall be deemed guilty of a gross misdemeanor.

Sub. 16. In all cases of payments to be made as herein authorized by the Commissioner out of the Highway Fund, the same shall

be made in the following manner: The Commissioner shall furnish verified abstracts of the same, prepared in triplicate, one of which shall be delivered to the State Auditor, one to the State Treasurer and one retained by the Commissioner. Such abstract shall contain the name, residence and the amount due each claimant and shall designate the contract or purpose for which the payment is made.

The copy of the abstracts delivered to the State Auditor shall be accompanied by the original voucher or vouchers, together with the proof of claim for each item included in such abstract. And if there be sufficient money in the proper fund, the State Auditor shall issue his warrant upon the State Treasurer for the gross amount shown by such abstract; and the State Treasurer shall deliver checks to the several persons entitled thereto, as shown by such abstracts, and he shall preserve in his office a record of each check and remittance, showing the date of each issue, the name of the payee and any other facts tending to evidence its payment.

Sub. 17. Provided: That controversies arising out of any contract for construction or repair of highways, entered into by the commissioner of highways, or by his authority, shall be submitted to arbitration if the parties cannot otherwise agree. Three (3) persons shall compose the arbitration board unless a lesser number is agreed on. If a lesser number is not agreed upon, each party shall name one arbitrator and these two shall name a third.

The party desiring arbitration shall make a written demand therefor and shall in such demand name the arbitrator by him selected. He shall also in such demand set forth all the controversies and claims which he desires to submit to arbitration. Such demand shall be immediately served upon the opposite party, who shall within five (5) days name an arbitrator on his part and shall set forth in writing any additional claims or controversies which he desires to submit to arbitration on his part.

The two persons so named shall immediately meet and designate a third arbitrator. If they cannot agree, within five (5) days either party to the controversy may apply to the district court for the appointment of such third arbitrator.

When such board of arbitration shall have been appointed, an agreement shall be executed as provided by Section 8017, General Statutes 1913. The arbitrators shall thereupon proceed to hear and determine claims and controversies between parties and make award thereon. The proceedings on the hearing and award shall be governed by the Provisions of Sections 8017, 8018, 8019, 8020, 8021 and 8022, General Statutes of Minnesota 1913.

Provided, further, that if either party refuses to sign the agreement to arbitrate, or neglects or refuses to enter into such arbitration or to proceed therewith, such party shall be deemed to have waived all rights, claims and demands and the arbitration

shall proceed and an award shall be filed according to the justice of the case.

Provided, further, that no right to demand arbitration shall accrue until the work provided for in the contract shall have been in all things completed. Nor shall any person have the right to discontinue the performance of his contract by reason of anything in this section contained, but such person shall in all things comply with and carry out the determinations and instructions made or given by the commissioner of highways or his representatives; but the question whether or not such contract has been completed may be submitted to arbitration together with any other controversies as hereinabove specified.

Provided, further, that no more than one arbitration shall be had on questions, claims or controversies growing out of the same contract. Nor shall any such arbitration be demanded after a period of more than sixty (60) days from the date of the completion of the work under such contract.

Sec. 14. Government war materials—

Sub. 1. The commissioner of highways is hereby authorized to accept from the Federal government, allotments to the state of excess war material suitable for road construction and maintenance purposes and to provide for the use of same in the improvement and maintenance of roads in the state.

Sub. 2. The commissioner of highways is hereby authorized to pay the necessary expense incurred in receiving, placing in use, or delivering such excess war materials from the Federal government and to pay for the expense so incurred from the trunk highway fund; provided that any expense so incurred in receiving and delivering material which may be loaned to counties, shall be charged to the counties receiving such material and payment by the county shall be credited to the trunk highway fund.

Sub. 3. The commissioner of highways is hereby authorized to buy such supplies and equipment as may be necessary to carry out the provisions of this act, and to purchase and supply extra parts for excess war materials as may be required to furnish an adequate supply depot for proper upkeep of such material, and to charge the expense thereof to the trunk highway fund; provided that such extra parts and equipment as are furnished to counties shall be delivered at cost and payment by the counties shall be credited to the trunk highway fund.

Sec. 15. Trunk highway sinking fund—Trunk highway fund.—The proceeds of the tax imposed and collected on motor vehicles, shall constitute the trunk highway sinking fund.

On or before the 1st Tuesday in April of each year, the Commissioner of Highways, the State Auditor and the State Treasurer, shall determine the sum of money required during the year beginning on said 1st Tuesday in April, for the payment of principal

and interest of any bonds which may have been issued and sold under the provisions of Section 4, Article 16 of the Constitution of the State of Minnesota.

After such sum shall have been determined, which shall be evidenced by an order of the commissioner of highways, the state auditor and the state treasurer (a majority of whom may act), the moneys in or accruing to said trunk highway sinking fund, in excess of such requirements, shall be transferred to the trunk highway fund. Not less than 40% of the funds so transferred shall be set aside by the commissioner of highways to be expended in providing for the adequate maintenance of the trunk highway system in the several counties of the state and not more than 4% of the sum set aside for maintenance shall be used in any one county in any one year.

The proceeds of the sale of bonds as authorized by article 16 of the state constitution, moneys received from time to time from the federal government as aid in the construction or maintenance of roads, license fees or charges imposed by law upon motor vehicles or the operators thereof, except wheelage tax, so called, which may be imposed by any borough, city or village, the balance on hand at the passage of this act in the expense fund of the highway department as created by section 10 of chapter 119, Laws 1917, and moneys otherwise allotted or appropriated therefor or otherwise accruing thereto shall be paid into the treasury of the state and credited to the trunk highway fund.

Sec. 16. Construction and maintenance of trunk highways in cities and villages—

Sub. 1. The county board of any county, the council or other governing body of any city, village or borough, or the town board of any town, as the case may be may enter into an agreement with the commissioner of highways for the construction of a roadway or structure, of greater width or capacity than would be necessary to accommodate the normal trunk highway traffic, upon any trunk highway within its boundaries, and may appropriate, from any funds available, and pay into the trunk highway fund such sum or sums of money as may be agreed upon. Provided that nothing herein contained shall prevent any such city or village from constructing the portions of the street not included in the Trunk Highway System independent of any contract with the Commissioner of Highways, provided, such construction conform to such reasonable regulations as the Commissioner of Highways may prescribe as to grade and drainage.

Sub. 2. Where a trunk highway is located over or along a street in any city, village or borough, which street is or may be improved to a width greater than the normal width of such trunk highway, the council or other governing body of such city, village or borough, as the case may be, may enter into an agreement with

the commissioner of highways for the maintenance of such additional width, by the commissioner of highways, and shall from time to time in accordance with such agreement appropriate and pay into the trunk highway fund such sums of money as may be agreed upon. Provided nothing herein contained shall be construed to prevent any such city or village maintaining such additional width at their own expense independent of any contract with the Commissioner of Highways.

Sec. 17. Public utilities and works on trunk highways.—Electric transmission, telephone or telegraph lines, pole lines, railways, ditches, sewers, water, heat or gas mains, flumes or other structures, which under the laws of this State or the ordinance of any village or city may be constructed, placed or maintained across or along any trunk highway or the roadway thereof, by any person, persons, corporation or any subdivision of the State, may be so maintained or hereafter constructed only in accordance with such regulations as may be prescribed by the Commissioner of Highways, who shall have power to prescribe and enforce reasonable rules and regulations with reference to the placing and maintaining along, across or in any such trunk highway any of the utilities hereinbefore set forth; provided, however, that nothing herein shall restrict the actions of public authorities in extraordinary emergencies.

Sec. 18. State road and bridge fund—

Sub. 1. 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.

Sub. 2. On or before the first Tuesday in February of each year, the commissioner of highways, the state treasurer and the state auditor shall estimate the probable sum of money that will accrue to the state road and bridge fund during the current year and after first setting aside therefrom an amount not exceeding \$50,000 for a reserve maintenance fund, to be expended as hereinafter provided, shall apportion the balance of the state road and bridge fund among the different counties of the state as herein provided and the commissioner of highways shall immediately send a statement of such apportionment to the state auditor and to the county auditor of each county, showing the amount apportioned to each county for expenditure during such year.

Sub. 3. Not less than one per cent nor more than three per cent of the state road and bridge fund available in any year and

remaining after setting aside the funds hereinbefore provided for, shall be apportioned to any county.

Sub. 4. Any fund in excess of one-half of one per cent of the total state road and bridge fund available for allotment in any one 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.

Sub. 5. Not less than twenty per cent of the allotment so made to any county shall be used for maintenance of state aid roads and bridges thereon, and a greater proportion of the allotment so made may be so used when a greater percentage shall have been declared by resolution of the county board to be necessary for such purpose and such resolution shall have been approved by the commissioner of highways. Payment shall be made by the state to a county only for such proportion of the cost of maintenance of any road as is hereinafter specified with reference to the payment of state aid to such county for the construction or improvement of a state aid road therein. Any payment made by the state to a county for maintenance of trunk highways or state aid roads shall be credited to the county fund out of which the cost of maintaining such road was paid by such county.

Sub. 6. The state's proportion of the cost of such maintenance shall be paid from the proportion of the allotment made to the county set aside for maintenance purposes, to an amount not exceeding the proportion so set aside for maintenance purposes. Such payments shall be made upon reports to the commissioner of highways by the county auditor, after approval by the commissioner of highways, in substantially the same manner as is herein provided for the payment of the state's share of the cost of construction and improvement of state aid roads.

Sub. 7. The amount which shall be paid by the state out of the allotment of the state 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 (\$5,000,000) dollars and less than ten million (\$10,000,000) dollars, 70 per cent; in counties with a taxable valuation of ten million (\$10,000,000) dollars and not exceeding fifteen million (\$15,000,000) dollars, 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 the cost of construct-

ing any road or bridge above specified shall be paid by the state only in case the funds apportioned to any given county, over and above the amount set aside for maintenance, as herein provided, shall be sufficient therefor.

Sec. 19. Designation state aid roads—Revocation—

Sub. 1. The county board of any county may, with the consent of the commissioner of highways, 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 aid road, and construct or improve the same in accordance with the regulations of the commissioner of highways relative to state aid roads.

Sub. 2. Any such board may also, with the consent of the commissioner of highways, designate as a state aid road, any street or road within the corporate limits of any village, borough or city of the fourth class.

Sub. 3. When any county board has designated any road as a state aid road as herein provided, the county auditor shall transmit a copy of the resolution to the commissioner of highways, together with a description of the road so designated. It shall be the duty of the commissioner of highways 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 aid road and also determine the desirability of such designation with reference to the relation of such road to other state aid roads, or its relation to other roads and traffic conditions in such county and if he determines such questions in the affirmative, then and in such cases, the commissioner of highways may, by his order in writing, to be filed with the county auditor, consent to the designation of such road as a state aid road.

Sub. 4. Any street or road within the corporate limits of any borough, village or city of the fourth class designated as a state aid road, as hereinbefore provided, may be improved by the county as other state aid roads are improved, and state aid paid therefor in the same manner and to the same extent as other state aid roads lying within the county wherein such borough, village or city is situated; provided, however, that the grade of any such street shall not be changed without the consent of the governing body of any such borough, city or village; and provided further, that the plans and specifications for any improvement thereof shall be approved by such governing body before such work is commenced.

Sub. 5. Whenever it shall be made to appear to the commissioner of highways that the board of county commissioners of any county has refused to grant an application to it made by at least ten freeholders, residents of such county, to desig-

nate any established road or part thereof as a state aid road, the commissioner of highways may consider such application de novo and if, in his opinion, sufficient funds will be available for the improvement of such road, and its designation and improvement as a state aid road is desirable because of the relation of such road to other roads or traffic conditions in such county, the commissioner of highways may by his written order designate such road or part thereof as a state aid 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.

Sub. 6. Any roads which may have been at any time designated as state aid roads, may, by joint action of the county board and the commissioner of highways, be abandoned or changed as such; provided, that in case the county board of any county fails or neglects for the period of ten days after being notified by the commissioner of highways, to properly maintain any state aid road which it is required to maintain, then the commissioner of highways shall have power to revoke the designation of such highway as a state aid road.

Sec. 20. **Designation of road on county line as state aid road.**—Whenever the county boards of adjoining counties make application to the commissioner of highways for the designation of an established road running on or near the boundary line between two counties, as a state aid road, said commissioner of highways shall investigate the desirability of such designation, and, if he 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 and maintenance thereof to be paid by each county.

Sec. 21. **Maintenance of state aid roads—**

Sub. 1. It shall be the duty of the county board of each county in which state aid roads have heretofore or may hereafter be designated, to provide for the proper maintenance of the same in accordance with the rules and regulations of the commissioner of highways.

Sub. 2. In the expenditure of the funds for maintenance, preference shall be given to state aid roads improved as such, and especially such state aid roads, to the cost of construction or improvement of which the United States has contributed.

Sub. 3. In case the county board of any county fails or neglects to maintain any state aid road, as to which it is hereinbefore directed preference shall be given in the expenditure of the funds set aside for maintenance purposes, in accordance with rules and regulations promulgated by the commissioner of highways, he may cause the same to be maintained and to pay the expense thereof from the "Reserve Maintenance Fund."

He shall have power to enter into contracts for the performance of work or he may purchase the necessary tools and materials and employ the necessary labor and cause the same to be done by day labor; provided, however, that the amount so expended in any one county in any one year shall not, together with the funds allotted to such county during such year, exceed an amount equal to three per cent of the total state road and bridge fund available for allotment and expenditure during such year; and provided further, that an amount equal to any sum so expended by the commissioner of highways in any county during any one year shall at the time of the next allotment of the state road and bridge fund be deducted from the allotment which would otherwise be made to such county and the amount so deducted shall be credited to the reserve maintenance fund; provided, further, however, that no county shall by reason of any such deduction receive in any one year less than one-half of one per cent of the total state road and bridge fund provided and expended during such year.

Sec. 22. Procedure for constructing or improving state aid roads.—Whenever the county board of any county shall determine to build or improve any state aid 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), the said board shall cause surveys, when necessary, to be made therefor, 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 labor employed therefor. In case the estimated cost exceeds five hundred (\$500) dollars the said county shall cause surveys, plans and specifications thereof to be made and submit the same to the commissioner of highways for approval, and when such plans and specifications are approved, the said county board shall proceed to do said work by contract or labor employed therefor, as the county board and the commissioner of highways may direct. The work shall be done under the supervision of the county highway engineer, who shall in all matters pertaining to such work act under the rules and regulations of the commissioner of highways.

In case it shall be determined to do the work by contract, the county board may agree in such contract to pay the contractor, on account of the contract price, an amount not exceeding eighty-five per cent of the value of the work from time to time actually completed, as shown by monthly estimates thereof, based on the contract price, made by the engineer in charge of the work, and in such case it shall be lawful for the county auditor to issue a warrant on the county treasurer to the contractor for an amount equal to the specified percent-

age of the value of the work so completed and specified in the engineer's monthly estimate, without allowance of a claim therefor by the county board.

Sec. 23. State aid—How paid.—After any county board shall have completed any work on a state aid road for which state aid is claimed, the auditor of such county shall make a statement to the commissioner of highways showing the location, nature and cost of such work, and shall also submit a detailed report from the county highway engineer in charge showing all such details concerning the same as may be required by the commissioner of highways. On receipt thereof the said commissioner of highways shall proceed to examine such reports, and if he 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, he 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.

Sec. 24. Powers of county board.

Sub. 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.

Sub. 2. 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 and 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 of 1909.

Sub. 3. The board may appropriate and expend money for

the construction and maintenance of roads in another county having a road or roads immediately tributary, and running into the county appropriating such money, when it deems it for the best interest of the public.

Sub. 4. 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 aid and county roads and bridges in such county, as determined by such boards or as required by the provisions of this act.

Sub. 5. The county board at its July meeting may include in its annual tax levy an amount not exceeding ten 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. 25. **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 section shall not limit the authority of the county board to appropriate and expend money on such bridges under the provisions of section 24 of this act.

Sec. 26. **County bonds for paving.**—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 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.

Sub. 1. 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.

Sub. 2. 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 order an estimate of the cost of such improvement to be made by the county highway engineer.

Sub. 3. 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 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.

Sub. 4. 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 in-

stallments 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 improvement 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 the 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. 27. Issuance of bridge bonds authorized without submission to voters.—Whenever the county board of any county in this state shall deem it advisable to construct, repair or renew any bridge or bridges over water within the county or bordering thereon and such county has no outstanding road and bridge bonds issued as such, and such board has been previously petitioned by twenty-five or more voters of the county who are also freeholders, to take such action, such county board may cause the bridge bonds of said county to be issued and sold in an amount not exceeding $\frac{1}{2}$ of 1 per cent of the assessed valuation of the taxable property within said county, without submitting the matter to a vote of the electors of said county. Such bonds shall be signed by the chairman of such board and countersigned by the county auditor and shall be payable not more than twenty (20) years from their date, and shall bear interest evidenced by coupons which shall not exceed six per cent per annum, payable semi-annually, and shall not be sold for less than par and accrued interest. Bonds issued to defray the expense of state rural highways, as same have heretofore been defined by statutes, shall not be considered road and bridge bonds within the meaning of this act.

Sec. 28. Certain county boards authorized to issue bonds for bridges.—Whenever the county board of any county in this state bordering on a navigable river forming part of the boundary of the state, shall deem it advisable to join with the adjoining state or any county or municipality thereof in constructing and maintaining a bridge over such navigable river and connecting with any public street of an incorporated village within such county, and such county has no outstanding road

or bridge bonds and such board has previously been petitioned by one hundred (100) or more voters of such county who are also freeholders, to take such action, such county board may cause the bonds of the county to be issued for one-half of the total cost of such bridge, but not to exceed in the aggregate \$60,000.00 without submitting the matter to the vote of the electors of the county. Such bonds shall be signed by the chairman of such board and countersigned by the county auditor, and shall be payable not more than twenty years from their date and shall bear interest, evidenced by coupons, which shall not exceed six per cent per annum, and shall not be sold for less than par and accrued interest. Bonds issued to defray the expense of state rural highways shall not be considered as road and bridge bonds within the meaning of this act. Provided, however, than only one such bridge may be constructed by any county under the provisions of this act.

Sec. 29. County highway engineer.

Sub. 1. The county board of each county shall appoint and employ as hereinafter provided and may remove, a county highway engineer, who shall have charge of the highway work of the county and the forces employed thereon, and who shall make and prepare all surveys, estimates, plans and specifications which are required of him. His salary shall be fixed by the county board and be payable the same as other county officers are paid.

Sub. 2. Such county highway engineer may be selected from a list of eligible, competent highway engineers or road builders which list shall be submitted by the commissioner of highways upon request of the county board or when a vacancy exists. Said engineer shall not be required to possess any other qualifications than may be prescribed by the commissioner of highways.

Sub. 3. The county highway engineer shall devote his entire time to his official duties, and shall before entering upon the duties of his office, give bond to the state in the penal sum of \$3,000, to be approved and filed in the same manner as are the bonds of the other county officers. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of said county highway engineer in the performance of his official duties, may maintain an action on his bond for the recovery of the damages so sustained.

Sub. 4. The county highway engineer shall prepare and submit to the county board at its regular meetings in July, a report of all expenditures and work done since the last report, and an estimate of probable expenditures for the balance of the year. He shall also prepare and submit, prior to the time the levy for county road and bridge purposes is made, a recommendation with

estimates of cost, of work which he considers necessary or advisable for the following year.

Sub. 5. Within thirty days after the completion of a construction job, and once each month on other work, he shall submit a report thereof to the county board and to the commissioner of highways, and shall submit such other reports as the rules and regulations of the commissioner of highways shall require.

Sub. 6. On or before January 1st, of each year the county highway engineer shall prepare a complete report covering the highway work of the county, and submit one copy to the county board and one copy to the commissioner of highways.

Sub. 7. In all cases where any other engineer or surveyor is now charged by law with, duties in connection with, and supervision of road or highway work for the county he is hereby relieved at the expiration of his present term, and the county highway engineer at that time is expressly charged with, and he shall then assume such duties, provided that the duties of the County Highway Engineer as specified in this section shall be performed by the county surveyor in all counties in the state having a population of over 225,000.

Sec. 30. **Payment of labor by time check.**—Where any county is engaged in constructing, improving, maintaining or repairing any public road by labor employed therefor, it shall be lawful for the county auditor and county treasurer to pay the claims of the laborers who have performed manual labor on said roads, for such labor, and the claims of persons who have furnished tractors, trucks, teams and wagons or plows or scrapers in the performance of work on such roads for the use of such teams and such equipment, without such claims having first been audited and allowed by the county board, provided such claims shall be evidenced and authenticated as herein provided, and be in the form as hereafter provided.

Sub. 1. The county board may authorize the overseer, superintendent or foreman, designated by it to have charge of the construction, improvement or maintenance of any road, to issue time checks with reference to such road work, which time checks shall be issued and be in the form hereinafter prescribed, provided, however, that the aggregate amount of the time checks so issued by any overseer, superintendent or foreman, as to any one road, shall not exceed such amount as shall have been previously specified by resolution of the county board. Said county board may also authorize the overseer, superintendent or foreman to deduct from the sum that may be due any workman, any amount due from said workman for board to any person, and to issue to such person a time check for the total amount due as board from any one or more workmen, according to the form of check approved by the public examiner.

Sub. 2. Any overseer, superintendent or foreman so authorized, shall, on the 15th and last days of each calendar month, issue to all persons who have performed manual labor in the carrying on of such work, or who have furnished tractors, trucks, teams, wagons, plow or scraper, a time check, so-called, for all labor performed by the person to whom the same is issued for labor on the road designated, or for the hire of tractors, trucks, teams and wagons, plows or scrapers upon the road work specified therein, prior to the date of the issuance of same; and as to which no time check has been previously issued.

Sub. 3. Such time check shall be substantially in the form which shall be prescribed by the public examiner.

Sub. 4. The overseer, superintendent or foreman issuing any such time check shall fill in all the blank spaces therein, indicating therein the hours of labor performed on each date. He shall sign the same before delivering it to the person in whose favor it is issued. Such time checks shall be made out in duplicate; one copy thereof shall be delivered to the claimant and the other shall be forthwith delivered to the county auditor. The auditor shall not issue a warrant to the claimant until he shall have compared the copy delivered to him with the copy delivered to the claimant, nor in any event unless the two copies are alike, nor shall he issue such warrant unless the copy presented by the claimant shall have been verified by the oath or affirmation of the claimant, nor until such claimant shall surrender to the auditor the copy of such time check delivered to him. Every such overseer, superintendent, foreman, or county highway engineer, is hereby authorized to administer such oath or affirmation to any such claimant. Upon the surrender to him of such time check the auditor may issue a warrant therefor which warrant shall be payable by the county treasurer. The auditor shall endorse upon the time check so surrendered, the date of payment thereof and the number of the warrant issued therefor.

Sub. 5. If any person who would otherwise be entitled to the issuance to him of a time check on the 15th or last day of any month quits the employment of the county, or is discharged therefrom before such dates, the overseer, superintendent or foreman, as the case may be, shall thereafter and within twenty-four hours after the termination of such employment, issue to such person a time check as herein provided.

Sub. 6. It shall be unlawful for any person to issue any such time check in the assumed capacity of overseer, superintendent or foreman, without first having been authorized so to do by the county board. It shall be unlawful for the overseer, superintendent or foreman to knowingly issue and deliver to any person any false or fraudulent time check. It shall be unlawful for any person to alter or change any time check issued by an overseer, su-

perintendent or foreman. Any person violating any of the provisions of this section shall be guilty of a felony and punished by imprisonment in the state prison for not more than five years.

Sec. 31. Power of town board.

Sub. 1. 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, that in counties having a population of one hundred and fifty thousand (150,000) or over the town board shall not have jurisdiction over county roads.

Sub. 2. 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 aid 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.

Sub. 3. 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 material, during the year, with an estimate of the amount required for the ensuing year.

4. A statement of the improvements made on roads, cartways and bridges during the preceding year, with a statement of expenditures therefor. A copy of such statement shall be filed with the county auditor.

Sec. 32. Town bonds for paving.

Sub. 1. 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 a 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.

Sub. 2. 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 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 the law relating to their issue have been complied with, shall register the same in his office and indorse his certificate of registration on said bonds; 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. 33. Taxation for road purposes by towns.

(a) All real and personal property in each town liable to taxation, other than "moneys and credits" so taxed, shall be taxed for road purposes, and all road taxes hereafter levied shall be paid in cash.

(b) 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.

(c) 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.

(d) 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. 34. Town dragging fund and tax.—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; in putting straw on sandy roads and removing snow from town and county roads; provided, however, that if on the first day of April in any year there shall be an unexpended balance in said fund, which unexpended balance exceeds in amount the sum of one hundred (\$100) dollars, the town board may transfer all or part of the amount in such dragging fund in excess of one hundred (\$100) dollars, to the town, road and bridge fund; provided, however, such transfer shall not be made until it shall first affirmatively appear that the town board has theretofore procured a suitable number of drags and that the roads of the town have been properly dragged.

The town board in each town, on recommendation of the town or district road overseer, may enter into contracts for the dragging of the roads of the town or district, giving preference to the main traveled roads and roads constituting mail routes with-

in 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. 35. Town road overseer.—Each town shall constitute one road district, except when otherwise provided. When directed so to do by the voters of the town at the annual town meeting, the town board shall divide each town into as many road districts, not exceeding four, as shall be directed by the voters at the annual town meeting. Provided, that, if a town constitutes but one road district the road overseer may appoint one or more competent assistants, subject to the approval of the town board. It shall be the duty of the town board to appoint a road overseer for each district, who shall have charge, under the supervision of the town board of the construction of all town roads in his district and the maintenance of all town and county roads therein. No member of the town board shall be eligible for appointment as town road overseer. The compensation of the road overseer shall be fixed by the town board for the time actually employed in the performance of his duties. Before entering upon his duties he shall give a bond to the town, sureties to be approved by the town board, in the sum of two hundred and fifty (\$250.00) dollars, 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 overseer 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.

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, in case of a town or county road, and to the county board in case of a state aid road.

Sec. 36. Lighting of highways.—The town board of any town is hereby authorized to light any public highway within its territorial jurisdiction where such lighting is necessary for the safety of travel upon such highway at night. The cost of the installation and maintenance of such lights shall be paid from the town road and bridge fund.

Sec. 37. Expense of township line roads.

Sub. 1. In all cases where a road other than a state aid road or trunk highway is on the line between two towns, whether such

towns are in the same county or not, it shall be the duty of such towns to bear jointly and in equal shares the expense of constructing and maintaining any bridge on such road, the construction of which is made necessary by the construction of a drainage ditch or by reason of the changing, widening or alteration of any drainage ditch, or by reason of the altering or changing of any water course.

Sub. 2. In any proceeding for the establishment and construction of any drainage ditch or the changing, widening or alteration of any such ditch, or the altering of any water course, as specified in Sub. 1 of this act, each of the towns charged by the provisions of this act with the obligation of constructing and maintaining any bridge because of any such improvements, shall be awarded and paid one-half of the total damages awarded on account of the obligation to construct and maintain any such bridge.

Sec. 38. Appropriation 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. Such municipalities may also engage in the manufacture of crushed rock for use on public highways and said crushed rock may be conveyed, by gift or sale, to other municipalities for such use.

Sec. 39. Fourth class city may delegate authority to improve highway to adjoining municipality.—Any city of the fourth class in this state may delegate to an adjoining municipality the authority to improve any public highway within such city connecting it with such an adjoining municipality or it may make a joint contract with such adjoining municipality for the improvement of such highway, under the joint supervision of both municipalities.

If the authority to improve such highways is delegated to any adjoining municipality by such city it may cause to be paid over from time to time for such improvement during the progress thereof or upon the completion thereof, to such municipality or such contractor as may make such improvement, any money that such city may have in its treasury available for the payment of such improvement.

Sec. 40. Town road drainage tax.

(a) In any town wherein the voters shall at the annual meeting, vote as hereinafter provided to authorize the town board so to do, the town board may levy and assess on the real and personal property in the town, other than moneys and credits taxed

under the provisions of Chapter 285, Laws 1911, a tax not to exceed in amount ten mills on the dollar of the assessed value of such property, which tax so levied shall be known as the "Town Road Drainage Tax." Such tax shall be additional to all other taxes which the town is or may hereafter be authorized to levy and the amount of such tax so levied and collected shall be deemed to have been levied and collected for road and bridge purposes within the meaning of any law limiting the amount of taxes which may be levied or voted at the annual town meeting.

(b) Such tax shall be certified to the county auditor, extended and collected and paid over to the town treasurer in the same manner as other town taxes and payment thereof shall be enforced in the same manner and with like penalties and interest as other town taxes. The proceeds of such tax shall constitute the town road drainage fund, which shall be expended by the town board in paying the cost and expenses of draining the public roads within the town.

(c) When a petition signed by ten or more freeholders and voters of a town shall be presented to the town clerk at least twenty days before the time of holding the annual town meeting, praying that the question of the authorizing the town board to levy and assess a town road drainage tax be submitted to the voters of such town, the town clerk shall include in his notice of such annual town meeting a notice that such question will be voted on at such meeting. Such question shall be voted on by ballot and it shall be the duty of the clerk to provide, at the expense of the town, a suitable number of ballots which may be printed or written or partly printed and partly written in substantially the following form, to wit:

Shall the town board be authorized to levy and assess a "Town Road Drainage Tax?" (Yes.....
(No.....

(d) If a majority of the votes cast on the proposition be in the affirmative, the town board shall have authority to levy annually a tax as hereinbefore provided until such time as the electors at an annual town meeting upon like procedure shall have voted by a majority vote of those voting on the question to withdraw from the town board authority to levy such Town Road Drainage Tax. The votes on such question shall be canvassed and the result declared and recorded in the manner provided by law with reference to the election of town officers.

Sec. 41. Establishment of road by judicial proceedings.

Sub. 1. 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 when-

ever 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 the 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 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. At the time of filing of such petition, one or more of such petitioners shall give bond with good and sufficient surety, payable to the State of Minnesota to be approved as to amount and sureties by the judge to whom such petition is presented, such bond to be conditioned to pay all expenses and costs in case the court or judge thereof shall fail to establish such proposed road.

Sub. 2. 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.

Sub. 3. The commissioners shall appoint a surveyor, an axman, and two chainmen, to survey such road, if so directed by the court. 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.

Sub. 4. 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.

Sub. 5. 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.

Sub. 6. 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. 42. Establishment, alteration, or vacation by county boards.

Sub. 1. County roads, other than those established by judicial authority, shall be established, altered or vacated only by the county board. Damages resulting from the 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."

Sub. 2. *The county commissioners of any county 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 overseer 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.*

Sub. 3. 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 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.

Sub. 4. 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, or any road wholly within a town, which constitutes a direct connecting link with two or more roads in the towns, adjoining the town in which such road is or is to be located, setting forth the beginning, course and termination of the beginning, course 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.

Sub. 5. 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 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.

Sub. 6. 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 course and distances thereof, and recommending the granting or rejection of the petition.

Sub. 7. 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 hearings 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 dam-

ages, 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.

Sub. 8. 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.

Sub. 9. 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 carrying into effect the vacation of an existing road or roads, when such action is petitioned for.

Sub. 10. All damages resulting from the establishment, alteration or vacation of any county road shall be paid by the county.

Sub. 11. 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 herein-after provided.

Sec. 43. Establishment, alteration or vacation by town boards.

Sub. 1. 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 oc-

cupy 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.

Sub. 2. 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.

Sub. 3. 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.

Sub. 4. 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.

Sub. 5. 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.

Sub. 6. 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.

Sub. 7. 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.

Sub. 8. 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 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 date of such determination entertain a petition having the same or a similar object.

Sub. 9. 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. 44. Dedication of land for road.

Sub. 1. 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.

Sub. 2. Any person owning land to exceed forty acres constituting part of an island within any meandered lake may, at his

own expense, erect a wagon bridge across such portion of the lake as may separate his land from the nearest town road on shore, provided such structure shall not interfere with the use of that part of the lake for the passage of such water craft as would otherwise pass that point, but before proceeding with the construction of such bridge, proper plans and specifications therefor shall be prepared and submitted to and approved by the town board of the township in which such bridge is to be constructed. Upon the completion of any bridge constructed in accordance with the provisions of the preceding paragraph, the town board shall examine and approve the same and shall indorse such approval upon the plans and specifications therefor, and thereupon the same shall be filed in the office of the town clerk of the township in which such bridge is located and such bridge shall thereupon become a part of such town road and open to the use of the public as such.

Sec. 45. Cartways.

Sub. 1. 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.

Sub. 2. 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.

Sub. 3. Any town board may expend road or bridge funds upon a legally established cartway the same as on town roads if in the judgment of such board the public interests require it.

Sec. 46. 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. 47. Roads on town line.

Sub. 1. 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.

Sub. 2. 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.

Sub. 3. 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.

Sub. 4. 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.

Sub. 5. 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. 48. Appeal.

Sub. 1. Any person aggrieved by any determination of a county or town board or of a town board and city or 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 (\$250.00) 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.

Sub. 2. 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.

Sub. 3. 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.

Sub. 4. Such appeal shall be entered upon the calendar for trial at the next general term of the court occurring more than twenty (20) days after the appeal is perfected. Except where the parties otherwise agree, the court or jury shall reassess the damages, unless such reassessment 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 fixed and allowed as in other cases, and judgment entered therefor in like manner.

Sub. 5. 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, provided, however, that where an appeal is or has been taken involving only the amount of damages awarded by a coun-

ty board, the county board may, in its discretion, notwithstanding such appeal, proceed forthwith to establish, alter or vacate such road and open, construct, alter or change the same as though no such appeal had been taken, but in such case the county shall forthwith upon the final determination of such appeal pay to the person entitled thereto such damages and costs, as shall be awarded on such appeal. 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 the 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 for 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.

Sec. 49. **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.

Sec. 50. **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. 51. **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 railway 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 accrue to the public or any individual by such use.

Sec. 52. **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. 53. Field notes, plat, etc.

Sub. 1. 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 any territorial, state or 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.

Sub. 2. Upon the written request of the commissioner of highways, the clerk of any court, the auditor of any county, the town clerk of any town, or the recorder or clerk of any village, borough or city, shall furnish a copy of the proceedings, documents and plats, if any, relating to the establishment of any road or the procuring of the right of way of any such road, which has or may be taken over by the State of Minnesota as a trunk highway. Such copy shall be filed in the records of the commissioner of highways and shall be prima facie evidence of the existence of such road as described therein. The legal fee for such copy or copies may be paid from the trunk highway fund.

Sec. 54. Removal of fences.—Whenever a town or a 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.

Sec. 55. Contracts for bridges and roads.

Sub. 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 (\$500.00) dollars; 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 contract be let without first advertising for bids or proposals therefor in a legal newspaper, published in the county. Such advertisement shall be published once a week for three successive weeks, the last publication to be made at least ten (10) days and not more than thirty (30) days before (preceding) the time fixed for receiving bids and letting the con-

tract, 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.

At least three weeks before the time fixed for receiving bids, the county auditor, in case of a county contract, and the clerk of the town, village or city in case of a town, city or village contract, as the case may be, shall mail a copy of such printed notice, by registered mail to the commissioner of highways. The commissioner of highways shall file all such notices so received by him, and the same shall be subject to inspection by all persons interested therein. The commissioner of highways shall, from time to time, cause printed lists of such notices to be made and shall, without charge therefor, furnish copies thereof to interested persons on application.

Sub. 2. Roads.—No county or town shall contract for the construction or improvement of any road where the contract price exceeds five hundred (\$500.00) dollars, 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 have been published as therein provided for.

Sec. 56. Final payment on contracts.—Final payment shall not be made on any contract for road work by any county or town board until the county board or town board, as the case may be, has examined the work and certified that the same has been properly done and performed according to contract and a certificate to that effect, signed by a majority of the members of the board making the inspection, 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. 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 (\$200) 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.

Sec. 57. Warning signs by contractor.—Whenever a town board, county board or the commissioner of highways shall enter into a contract for the construction and improvement of any road, or any culvert, or bridge thereon, they shall as a condition of such contract, provide therein that the contractor shall place suitable warning signs, at the highways intersecting such road so to be constructed or improved, warning the public, if such is the case, that such road so under construction or improvement is impassable at a designated place or distance from such warning sign. Such signs shall be placed at such places as will obviate the necessity of unnecessary travel by persons not otherwise aware of the impassable condition of such roads. Provided, however, that nothing in the

provisions of this act shall make any town, county or the state liable in damages for the failure of a town or county board or the commissioner of highways to provide in any contract for the erection of a warning sign, such as is herein provided for; or the failure of any contractor to erect same in accordance with the provisions of this act.

Sec. 58. 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 (\$1,000) dollars and forms a 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. 59. Detours.—The commissioner of highways in the case of construction work on trunk highways, the county board in the case of construction work on state aid and county roads, and the town board in the case of construction work on town roads, may by suitable order or resolution, establish a temporary road around such construction work and may procure the necessary right of way by purchase or condemnation, in the manner provided by statute.

Sec. 60. Drainage of roads.

Sub. 1. Whenever a road, which has been or is to be constructed or improved, into, through or over a swamp, bog, or other low land, and it is necessary or expedient that a ditch or ditches should be constructed or opened across private lands a petition for such ditch or ditches may be made as hereinafter provided; which petition shall contain an affidavit setting forth the above named facts and the probable length, width and depth of such ditch or ditches, the termini and general course of the same, a description of the land or lands over which said ditch or ditches will pass, the names of the owners thereof, if known, and that such road cannot, without extraordinary expense, be made passable or maintained unless such ditch or ditches are constructed or opened.

(a) In the case of a town or county road, such petition may be made by the town road overseer, of the town, in which such road is located, or by two resident freeholders of such town and filed with the town clerk of such town, who shall notify the town board accordingly.

(b) In the case of a county or state aid road, such petition may be made by the county highway engineer, of the county in which such road is located, and filed with the county auditor of such county, who shall present the same to the county board at the next regular or special meeting.

(c) In case of a trunk highway such petition may be made by the commissioner of highways and filed with the clerk of the district court in the county where such ditch or the greater portion thereof is proposed to be located.

Sub. 2. Upon the filing of the petition as herein provided, the town board, the county board or the judge of the district court, as the case may be, shall appoint and order a competent civil engineer to make a survey of the proposed ditch or ditches and make a report thereupon to such board or court, as the case may be, which report shall include a map of the territory affected, showing the land and public roads or highways likely to be affected by the ditch or ditches proposed to be constructed to furnish drainage to such highways, and shall include the profile showing the depth and size of said ditch or ditches, and if a tile drain, the size and depth of tile. Said report shall also contain an estimate of the damages and benefits which will accrue to each tract of land or public road affected by reason of the construction of such ditch or ditches. The county board may appoint the county highway engineer, or the judge of the district court may appoint an employee of the highway department to make such survey and report.

Sub. 3. Upon the filing of said report, with the town clerk, the county auditor or clerk of the district court, as the case may be, the said auditor or clerk shall immediately notify the board or judge, as the case may be, of the filing of said report, and the said auditor or clerk with the approval of said board or judge, shall fix a time and place for a hearing thereon, not less than six nor more than sixty days from the date of filing of said report.

Sub. 4. The said auditor or clerk, as the case may be, shall, personally or by any person whom he shall authorize for that purpose, serve upon each owner of land which may be affected, if a resident of the county, upon the occupants of such lands where the owners are not residents of said county, a notice of such hearing together with a statement of the estimated damages or benefits against the land of such owner. The said auditor or clerk shall also send a copy of such notice, together with a statement of estimated damages or benefits to the chairman of any county or town board, or the commissioner of highways, charged with the supervision of any road or highway affected.

The person serving such notice shall make and file a report thereof, stating the facts, and if it appears from such returns that the owners of said lands or any of them are not residents of the county, or no occupant resides on the lands, then the said auditor or clerk shall cause three weeks' published notice to be given, which shall be deemed sufficient notice.

Sub. 5. At the time and place specified in the notice, the said board or court, as the case may be, shall hear any reasons for or against the laying out, location or construction of said ditch or

ditches, and all evidence offered by any interested person or persons, relative to the pecuniary advantage or disadvantage which shall accrue to any tract of land or public road by reason of the establishment and construction of such ditch or ditches and determine upon the advisability of opening or constructing such ditch or ditches. If the said board or court determines that it is expedient and advisable to open and construct such ditch, it shall make an order establishing and opening the same, and shall assess the money value of the damages in excess of the benefits, if such damages exceed the benefits, which damages in its judgment will be just and equitable compensation to the owner of any tract of land for the right to open or construct the ditch or ditches onto, through or over his land, including the right to enter upon such land whenever necessary for the purpose of cleaning out or repairing it. If the money value of the benefits which will accrue to any tract of land or public road by reason of the construction and maintenance of such ditch or ditches, shall exceed the damages, said board or court shall assess the difference as benefits to the lands, and the state, town, county, city or village liable for the maintenance of any road, as the case may be, benefited by the construction of said ditch or ditches. Such determination of benefits and damages shall be made in tabular form setting forth the description of the lands and of the roads benefited and the names of the owners thereof, if known, and the benefits and damages which will accrue to each. The damages or benefits in any case may be determined by stipulation between parties interested, made public at said hearing, and which stipulation shall be subject to approval by the board or court conducting the hearing.

Sub. 6. In case of such stipulation or determination of the amounts by such board or court, said board or court shall extend the benefits or damages, as the case may be, in such tabular statement. If such proceeding is before the town board or the county board, any land owner may appeal from the amount awarded as damages or benefits, in like manner as in the case of appeals from orders establishing or refusing to establish town or county roads. If such proceeding is in the district court any land owner deeming himself aggrieved by an order of the court determining the amount of his benefits or damages may demand a jury trial to determine the amount of such benefits or damages in the same manner as is provided by law in judicial ditch proceedings. Such tabular statement shall be attached to the order establishing the ditch, if such order be made, and filed with the said auditor or clerk and any person whose lands or any town, county, city or village or the state whose public roads are assessed for benefits may, within twenty days thereafter, pay the amount thereof to the town or county treasurer who shall issue a receipt therefor. On presentation of such receipt to the said auditor or clerk he shall mark the amount

of the assessment so paid with the words "Paid and Satisfied." After the expiration of twenty days, if no appeal shall have been taken the town clerk or the clerk of the district court in the case of such orders filed with them, shall certify such tabular statement of assessment to the county auditor.

Sub. 7. The county auditor shall, after the expiration of the time for appeals, extend any such assessments which have been so certified to him, or which may have been filed with him, which are not marked "Paid and Satisfied" against the respective tracts of land therein described, on the tax lists for the year next ensuing after such tabular statement shall have been so certified to him, together with interest on such assessment at the rate of six per cent per annum from the time such assessment was made until the tax list shall be delivered to the county treasurer for collection. The assessments so made shall be a lien on the land and shall be collected, and the payment thereof enforced, in the same manner and with like penalties and interest as other taxes. Such assessments when paid or collected shall be paid into the town treasury in case such ditch is ordered by the town board, into the county road and bridge fund if such ditch is ordered by the county board, and into the state treasury for credit to the trunk highway fund, if such ditch is ordered by the district court, and shall be expended in paying the cost of constructing and maintaining such ditch.

Sub. 8. All assessments against any public road as shown in tabular statement shall constitute a valid claim against the road and bridge fund of any town, county, village or city, or trunk highway fund of the state, responsible for the maintenance of any public highway improved by such ditch or drain, and may be enforced as other valid claims against such municipal corporation.

Sub. 9. 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 or the county board, as the case may be, in the case of such ditch or ditches being ordered by such town or county board, and the commissioner of highways, in the case of such ditch or ditches being ordered by the court, shall provide for and make payment in such manner as may be provided by law for the payment of damages taken for a public road.

Sub. 10. The word ditch as used in this act shall be held to include any open, covered, or tile drain.

Sub. 11. If an order establishing such ditch or ditches is not appealed from within twenty days after the filing of such order, the town board, the county board or the commissioner of highways, who may have charge of the road affected as the case may be, shall proceed to construct such ditch or ditches. After such ditch has been opened and constructed the said authorities shall keep the same in good condition and free from obstructions, and for that

purpose may enter upon the lands through which it passes and whenever it becomes necessary.

Sub. 12. 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.

Sec. 61. **Strength of bridges.**—All bridges hereafter constructed on any public street or highway in any county, township, town or village in the State of Minnesota, shall be of sufficient strength to support, with perfect safety, any wagon, engine or other vehicle with a weight of twenty tons on two axles with ten foot centers, with not to exceed three-fourths of said weight concentrated on one axle, when driven at a speed of not to exceed three miles an hour.

Sec. 62. **Bridges and rates of toll.**

Sub. 1. Any corporation organized for the purpose, or any counties, towns, cities or villages interested, may jointly or separately lease or erect and operate or repair a bridge or bridges over any navigable stream constituting a boundary thereof and construct suitable approaches thereto, and such approaches may include the improvement of main highways for a distance not exceeding ten miles from the bridge. A county, town, city or village shall be deemed interested in bridges located outside of and within three miles of its corporate boundaries as well as those within or along its boundaries. Before any such bridge is erected over the Minnesota or Mississippi rivers the location and plan thereof shall be approved by the governor. Bridges over the Minnesota river below the city of Le Sueur shall be built with a suitable draw of not less than eighty foot opening, or in lieu of such opening shall be built at such clear height above the ordinary highwater stage as shall be sufficient to accommodate the ordinary navigation of the river. All bridges over navigable waters of the United States shall receive the approval of the secretary of war before construction. All draws shall be opened on reasonable signal or notice to allow the passage of vessels.

Sub. 2. The county board of any county interested shall have power to levy, at or after the time of making a contract for the construction or repair of any such bridge, a tax on all the taxable property of the county, sufficient to pay such county's agreed share of the cost of the construction or repair of such bridge and approaches and interest thereon. Such tax shall be collected in annual installments corresponding to the amounts of interest and principal of certificates or bonds as herein provided falling due from year to year. The county board may issue and sell from time to time special bridge certificates of indebtedness or bonds of the county sufficient in amount to pay the county's agreed share of the cost of the construction or repair of such bridge and ap-

proaches and engineering and other expenses incidental thereto, the principal of which certificates of indebtedness of bonds shall mature and be payable in not more than fifteen annual installments as nearly equal as practicable, and the first annual installment of principal shall mature not more than five years after the contract is ordered. Such certificates or bonds shall be sold in the manner provided by section 1856, General Statutes 1913, to the purchaser who will pay the par value thereof, at the lowest interest rate, and the certificates or bonds shall be drawn accordingly, but the rate of interest shall in no case exceed six per cent per annum, payable annually or semi-annually. The county auditor shall extend the tax so levied by the county board in sufficient amounts from year to year to cover the interest and principal as they mature. The credit of the county shall be pledged to the payment of the principal and interest of such certificates or bonds. Certificates or bonds under this section may be issued by a four-fifths vote of the Board of County Commissioners without submission to the voters of the county; provided that the aggregate amount of certificates and bonds so issued after April 1, 1921, shall not exceed one-fourth of one per cent of the assessed valuation of the taxable property of the county exclusive of moneys and credits.

Sub. 3. Any corporation maintaining a bridge under this section 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. 63. **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. 64. **Bridges over certain ditches.**—That in all cases in this state where a public drainage ditch has been or shall hereafter be constructed wholly or partly along a boundary line between towns or counties and the excavated material or a portion thereof has been or shall hereafter be deposited on the said boundary line or within two rods on either side thereof, the cost of construction and maintenance of all bridges heretofore or hereafter constructed across any such ditch along said boundary line shall be paid for

and borne equally by the town or county wherein such bridges are or shall be constructed and situated, and the town or county adjoining said boundary line.

Sec. 65. Bridges over state drainage ditches at intersection of town roads.—Whenever the State Drainage Commission shall have heretofore constructed, or partly constructed an outlet for a state ditch under the provisions of Chapter 138 of the General Laws of Minnesota for 1911, and which state ditch was constructed under the provisions of Chapter 221 of the General Laws of Minnesota for 1893, which outlet has been constructed across a town road at a point other than where the channel of a stream or river which has been widened and straightened and used for such outlet, crosses such town road, the county board of a county in which such outlet has been so constructed, is hereby authorized, empowered and directed to construct a substantial bridge suitable for public travel across such outlet ditch on such town road, at the place where such outlet ditch is constructed across such town road, and such bridge shall be paid for out of the road and bridge fund of such county.

Sec. 66. Reconstruction, repairs and maintenance of bridges on county and town roads.

Sub. 1. It shall be the duty of the county to reconstruct, repair and maintain all bridges on county roads, more than fifty feet in length. In case any bridge on a county road more than fifty feet in length is totally wrecked or destroyed and the county charged with the duty of reconstructing, repairing and maintaining such bridge has not sufficient money in its road and bridge fund to defray the cost and expense of reconstructing, repairing and maintaining such bridge the county board may borrow money therefor by the issuance of certificates of indebtedness, which certificates shall be payable in not more than five years from the date thereof and shall bear interest at not to exceed six per cent per annum. Such certificates shall be sold to the highest bidder. The same shall not be sold for less than par and accrued interest, if any, and the principal and interest thereof shall be paid from the road and bridge fund.

Sub. 2. Whenever it shall become necessary to reconstruct or repair a bridge on any town road, or a bridge not more than fifty feet in length on any county road, in any town or towns or upon any town line in this state and such bridge is unsafe for travel, or has been condemned by the proper authorities and the town or towns charged with the duty of maintaining such bridge fails, neglects or omits to construct, reconstruct or repair the same, or provide for the expense or 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 to reconstruct and repair any such bridge upon giving notice to the town board of said town or towns of their intention to do so and fixing the time

and place for a hearing as to the necessity and advisability of such reconstruction or repair.

Sub. 3. 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 15, 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 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. 67. **Impassable roads—Complaint by freeholders.**

Sub. 1. Whenever five or more freeholders and voters of the town present a complaint in writing to the county board of the county reciting that a described road therein is neglected by the town and that by reason of such neglect such road is impassable, the county board shall by resolution fix a time and place when and where it will consider such complaint and thereupon the county auditor shall mail a copy of the complaint, together with a notice of the time and place when and where the county board will meet to consider the complaint, to the town clerk of the town, and shall also notify the persons signing the complaint of the time and place of such meeting. At the designated time and place the county board shall consider such complaint and hear and consider such tes-

timony as may be offered by the officers of the town, or the persons filing the complaint, relative to the truth of the matters therein set forth. The chairman of the board or the presiding officer thereof may administer oaths to witnesses and require them to testify under oath.

Sub. 2. If upon such hearing the county board shall be of the opinion that the complaint is well founded, it shall by resolution direct the town board to do such work or to make such improvements as it shall deem necessary to put such road in a passable condition. Such resolution shall specify generally the work which it is so deemed necessary to do. The county auditor shall cause a copy of such resolution to be mailed to the town clerk of the town complained of, and if such town for a period of thirty (30) days after the mailing of such notice shall fail or neglect to do the work or make the improvements set forth in such resolution, the county board may cause such work to be done or improvement made and pay therefor from the county road and bridge fund; provided, however, that the amount annually spent by any county board in any town under the provisions of this act shall not exceed one mill on the dollar of the taxable valuation of said town.

Sub. 3. When any county board shall have performed any work or made any improvement on any such road it shall cause to be prepared in duplicate an itemized statement of the cost of such work or improvement. One of such statements shall be filed with the county auditor and the other copy thereof shall be by the county auditor mailed to the town clerk of said town. The town clerk shall forthwith notify the several members of the town board that such a statement has been filed and that a meeting of the town board to act thereon will be held at a time to be specified in such notice, not later than ten days after the receipt of such notice from the county auditor. The town board shall meet at the time and place specified in the notice so given by the clerk and levy a special tax upon all the taxable property in the town in an amount sufficient to pay the amount expended by the county in performing such work or making the improvement. Such tax so levied shall be certified to the county auditor on or before October 15 next succeeding, and the county auditor shall extend the same with other town taxes upon the tax list of such town. Provided, however, if the town board shall for any reason, fail to act as herein provided, the county auditor is hereby authorized and directed to levy such tax and extend the same with other town taxes upon the tax list of such town. Such tax shall be collected and the payment thereof enforced in the same manner and subject to the same penalties and interest as other town taxes. When collected such tax shall be paid into the county treasury to the credit of the county road and bridge fund and in making his settlements with the town, the county treas-

urer is hereby authorized to withhold from payment to the town the amount of such special tax theretofore collected.

Sec. 68. Seeding along highways.—Any person living upon or owning land fronting on a public rural highway, 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. Any person, other than one having supervision of the road under authority of the town or county board, or commissioner of highways, who shall plow up or dig up any part of the road, except as above specified, shall be guilty of a misdemeanor.

Sec. 69. Hedges and trees.

Sub. (1) The town boards of supervisors, as to town and county roads, outside the corporate limits of cities and villages, the county boards as to state aid roads, and the commissioner of highways as to trunk highways, are hereby given the right and power to determine upon the necessity and order the cutting down of hedges and trees within the road limits after having given ten days written notice to the owner or owners of the abutting land and an opportunity to be heard. Provided, that trees, other than willow trees, shall not be so cut down unless 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. The said boards and commissioner, respectively shall also have power to properly mark or light dangerous places on the public highways, and take such measures as may be necessary to protect travel thereon.

Sub. (2). When the respective board or the commissioner of highways, 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, it shall notify the owner or owners of the abutting lands by written notice, of such decision and order the trees or hedges cut down within thirty 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 board or commissioner of highways, shall have the power to cause such trees or hedges to be cut down. 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 said thirty days. If such timber or wood is not removed within said time the board or commissioner of highways as the case may be, shall have the power to sell or dispose of the same or destroy it if it cannot be sold, and if sold, shall pay the

proceeds thereof to the owner or owners of the abutting lands after deducting the cost of such cutting and sale.

Sub. (3) The town boards of supervisors and the county boards are hereby granted the further right and power to appropriate and pay out of their respective road and bridge fund, 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, and the cost of marking or lighting dangerous places on said highways.

Sec. 70. **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 if the road is a town road, or from the county board of the county in which it is located, if the road is a county or state aid road, or from the commission of highways, if the road is a trunk highway, an approval of the place, the kind of tunnel, and the manner of its construction. Bridges over tunnels shall be not less than sixteen feet wide, properly protected with railings, and constructed of such materials as shall be agreed upon by the respective board or commissioner of highways, as the case may be, and if, within one year after the construction of such bridge, the board or commissioner of highways, as the case may be, 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 or commissioner of highways 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 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 as aforesaid, which tunnel the owner shall maintain at his own expense for the first year and which shall be thereafter maintained by the town, county, or state, as the case may be.

Sec. 71. **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 land 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 change of road on lands other than mineral lands shall be made unless the same be first approved by the town board and

the commissioner of highways, and the new road be first constructed and approved by said town board and said commissioner of highways, 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 provisions 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 situated, 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 or the commissioner of highways, desire to establish a road over mineral lands, it or he 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, council or commissioner of highways, 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. 72. Town and county boards to construct culverts.—The town boards as to town roads, and the county boards, as to county and state aid roads, 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 highways over driveways from abutting lands.

Sec. 73. Condemnation of gravel beds.—Whenever the commissioner of highways, or 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 his or its jurisdiction, he or it may procure by purchase or condemnation, in the manner provided by law, any plot of ground, not exceeding twenty 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. 74. Special railroad rates for road materials.—The railroad and warehouse commission is hereby authorized to make schedules of intra-state rates for railroads for the transportation of sand, gravel, crushed rock and other materials,

to be used in the construction or maintenance of public roads and streets by or under the direction of public authorities, which rates may be lower than those charged for transporting the same kind of freight for all other purposes.

Sec. 75. Obstruction of or damage to highways.

Sub. 1. Any person who shall 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 highways, and thereby damage the same, shall be guilty of a misdemeanor. It is hereby made the duty of the county attorney to prosecute all violations of the provisions of this section, occurring in his county.

Sub. 2. Any person or persons who wilfully, maliciously, or with intent to annoy, shall in any manner deface, damage or tamper with any structure, work, material, equipment, tools, signs, marker, signals, paving, guard rails, drains, or any other highway appurtenances, on or along any public highway or road or the right of way thereof, shall be guilty of a misdemeanor, provided that nothing herein shall restrict the actions of persons who shall or may have proper authority therefor.

Sec. 76. Moving buildings over roads.—Any person, firm or corporation moving or causing to be moved, any building or structure upon, across or along any public road, street, alley or highway, whether within or without any city, village or borough of the state, shall so move such building or structure as not to unnecessarily interfere with, damage or destroy any bridges, trees, hedges, fences, telephone or electric power poles, wires, or cables upon such road, street, alley or highway.

Whenever it shall be necessary to displace or temporarily remove any guard rails on any bridge, or any fence, telephone or electric power poles, wires, or cables to permit the moving of any building or structure upon, along or across any such public road, street, alley or highway, the person, firm or corporation owning or maintaining such fence, poles, wires or cables, shall not be required to displace or temporarily remove the same nor shall any guard rails on any bridge be displaced or removed until the reasonable costs of such displacement or temporary removal have been paid or tendered by the person, firm or corporation, requiring such displacement or temporary removal; provided, however, that nothing in this section shall apply to any work being done upon any such public road, street, alley or highway by or for any municipality, nor to the moving of any building or structure 18 feet in height or less within the limits of any incorporated city.

Sec. 77. Removing snow.—It shall be the duty of the town board of each town, so far as funds are available for the ex-

pense thereof, to keep all town, county and judicial roads therein 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 and other equipment as may be necessary for the purpose. The town board may also provide for the erection of snow fences when deemed advisable.

It shall be the duty of the county board, so far as funds are available for the expense thereof, to keep all state aid roads and state rural highways therein in a passable condition by the removal of snow therefrom.

Sec. 78. Marking of trails by associations.

Sub. 1. Any corporation or association organized to promote the improvement, marking or blazing of any continuous highway, may apply to the commissioner of highways for the permission to mark or blaze such highway within the state.

Sub. 2. The application shall be in the form prescribed by the commissioner of highways, and shall give the proposed name, route, color combination and design to be used in such marking or blazing. Said application shall be accompanied by a fee of \$25.00 which shall be paid into the trunk highway fund.

Sub. 3. The commissioner of highways shall consider such application, and if he deems it advisable, shall by order, give permission for such marking or blazing, with such changes in design or route, as he may specify. Such order shall specify the name, color combination and design, and the route which is to be used. Thereupon said corporation or association shall have the exclusive right to the use of such name, color combination and design in trail or highway designation and marking, provided that nothing herein shall limit the right of the commissioner of highways, to move, remove or change any such markings on the trunk highways.

Sub. 4. Any person or persons, other than the corporation or association to whom such permit has been issued, who shall use for similar or like purpose this name or color combination and design for the use of which permission has been so given, shall be guilty of a misdemeanor.

Sub. 5. When any such corporation or association shall cease to exist, or when the interest in any such designated highway or trail, name and markings has ceased, the commissioner of highways may, after investigation, by order cancel such permit and right.

Sec. 79. 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:

Sub. (1) Sections 2488 to 2551 inclusive, Sections 2557 to

2577 inclusive, Sections 2590 to 2593 inclusive, and Section 2600 of the General Statutes 1913.

Sub. (2) All of Chapter 235 General Laws 1913, except Sections 65, 66, 67, 68, and 69. Also all of Chapter 508 of the General Laws 1913.

Sub. (3) All of Chapters 21, 100, 116, 160, 180, 182, 252 and 330 of the General Laws 1915.

Sub. (4) All of Chapters 43, 52, 181, 259, 318, 366, 479 and 495 of the General Laws 1917 and also all of Chapter 119 General Laws 1917 except Section 22 thereof.

Sub. (5) All of Chapters 24, 67, 172, 200, 209, 263, 264, 265, 273, 285, 307, 323, 349, 362, 450, 482 and 484 of the General Laws 1919.

Sub. (6) All of Chapters 15 and 18 of the Special Session Laws 1919.

Sub. (7) All laws and parts of laws not herein expressly repealed are hereby continued in full force and effect.

Sub. (8) In the event that any provision or paragraph or part of this act shall be questioned in any Court and shall be held to be invalid the remainder of the act shall not be invalidated but shall remain in full force and effect.

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 proceedings 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.

Sec. 80. This act may be referred to and cited as "The Public Highways Act of Minnesota."

Approved April 14, 1921.

CHAPTER 324—S. F. No. 254.

An act fixing the salary of the attorney general, the deputy attorney general, the assistant attorneys general, and the law clerk and department clerk in the office of the attorney general.

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

Section 1. **Salaries of attorney general and assistants.**—The annual salary of the attorney general is hereby fixed at six thousand