

REVISED LAWS OF
MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
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1910

CHAPTER 13.

ROADS.

COUNTY ROADS.

1156. [Superseded.]

See section [1157—]1, and note thereunder.

1157. [Superseded.]

See section [1157—]1, and note thereunder.

[1157—]1. Roads in more than one county—In more than one district.—Whenever a petition praying for the location, alteration or vacation of any highway running into or through two or more counties, or on or partly on the line dividing two or more counties, in any judicial district in this state, signed by twenty legal voters and taxpayers resident in said counties, shall be presented to a judge of the district court in said district, or whenever a petition praying for the location, alteration or vacation of any highway running into or through two or more counties, or partly on the line dividing two or more counties in two or more judicial districts in this state, signed by twenty legal voters and taxpayers, resident in said counties, shall be presented to a judge of the district court of one of said districts, the said judge is hereby authorized to appoint three commissioners whose duty it shall be to meet at such times and places as may be necessary, and to immediately proceed to lay out, alter or vacate such road as directed by the judge in accordance with the prayer of the petition; provided, that no road shall be ordered by the judge to extend more than six miles outside of the judicial district in which the application is made, and such road shall be extended beyond the district only for the purpose of commencing or ending at some village or public road. Provided, however, that in cases where said road, if a new road, or if an old road, the part thereof to be altered or vacated runs through or into two or more counties situated in two or more judicial districts, the judge to whom the petition was presented shall appoint commissioners from each of the counties affected by said road, not exceeding five in all, and to 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. (G. S. 1894, § 1883, as amended by Laws 1895, c. 47, Laws 1901, c. 213, and Laws 1905, c. 245, § 1.)

Historical.—“An act to amend section 1883 of the General Statutes of 1894, as amended by chapter 47 of the General Laws of 1895, and chapter 213 of the General Laws of 1901, relating to laying out, altering or discontinuing judicial highways in certain cases.” Approved April 18, 1905.

G. S. 1894, § 1883, was Laws 1872, c. 40, § 1, as amended by Laws 1883, c. 21, § 2. Said acts, and the acts mentioned in the above title, were repealed by R. L. §§ 5525, 5535, 5541, 5544; the provisions of said amended section 1883 being incorporated in R. L. §§ 1156, 1157. The amended section above set forth, so far as it differs from said sections 1156, 1157, is to be construed, by virtue of section 5504, as amendatory or supplementary.

1158. Notice of presentation.—Three weeks' published and posted notice of the presentation of such petition shall be given in each of the counties affected, at least thirty days in advance thereof. Such notice shall contain a copy of the petition, the name of the judge to whom it will be presented, and the time and place of presentation; and proof of such notice shall be filed with the clerk before the hearing. Such notice shall also be served, in the same

manner as the service of the summons in a civil action, upon each county and organized town in which, or along the boundary of which, such proposed road is sought to be established, and proof of the service of such notice on such counties and towns shall be filed with the clerk of said court before the hearing. (R. L. § 1158, as amended by Laws 1909, c. 117, § 1.)

Historical.—"An act to amend section 1158, Revised Laws 1905, relating to the service of notice upon counties and towns of the establishment of judicial highways." Approved March 27, 1909.

Section 2 provides that the act shall not affect any action or proceeding pending in the courts.

1161. Report—Hearing.—Said commissioners shall report their proceedings at the term of the district court held in the county where such proceedings were begun, next after the completion of their duties, and any person aggrieved by their 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 shall transmit, within thirty days after filing the same, a certified copy of the order to the clerk of each town through or into which such road passes, upon receipt of which the town board shall proceed in accordance with its terms; but whenever thereafter it shall be made to appear to the satisfaction of the court making such order that the town board for any reason is unable to comply therewith, such court upon application, may revoke its former order, and enter its further order directing the time and manner of opening the same for public use, and the clerk of said court shall thereupon transmit within thirty days after the filing of the same, a certified copy of the order to the auditor of the county or counties, as the case may be, through or into which such road passes, and upon receipt of such order the county board shall proceed in accordance with its terms to open the same for public use within their respective counties. (R. L. § 1161, as amended by Laws 1907, c. 262, § 1.)

1165. Roads in more than one town—Petition.—Whenever twenty-four freeholders of any county containing one hundred or more voters, or twelve freeholders of any county containing less than one hundred voters, 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, of said county, or along the shore of any lake wholly or partly in such county, or into a town or towns and the unplatted part of any village or villages therein, such road or roads not being within a city, setting forth the beginning, course and termination, or beginnings, courses and terminations, of the road or roads, and the names of the owners of the land, if known, through which the same may pass, said petition shall be filed with the auditor, who shall forthwith lay the same before said 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. (R. L. § 1165, as amended by Laws 1909, c. 394, § 1.)

Jurisdiction.—Where the petition was not signed by 24 freeholders, the commissioners acquired no jurisdiction. Where a landowner appealed from an

order establishing a road, which was dismissed because not properly taken, and also appealed from an award of damages, he was not thereby estopped from proceeding in equity to enjoin the town authorities from opening the road on the ground that the commissioners had not acquired jurisdiction. *Johnson v. Town of Clontarf*, 98 Minn. 281, 108 N. W. 521.

1166. Proceedings.—On receiving such petition, if it appears reasonable on its face, the board shall order a hearing thereon, designating in such order the time and place, and shall 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 will meet for the purpose. At least twenty days before the time fixed for such committee meeting, and not less than thirty days before the time of said hearing the board shall cause posted notice of the time and place of such meeting and hearing to be given in each town affected, setting forth a copy of the petition. Proof of such notice shall be made by affidavit of the person posting the same. (R. L. § 1166, as amended by Laws 1909, c. 394, § 2.)

1167. View and report.—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 be proposed, the courses and distances thereof, and recommending the granting or rejection of the petition. (R. L. § 1167, as amended by Laws 1909, c. 394, § 3.)

1168. Hearing—Damages—Determination.—At the time and place designated, said board shall hear all parties interested, as to the necessity for, and as to the amount of damages to land owners by reason of such establishment, alteration or vacation, and may adjourn such hearing from time to time, if necessary. It shall determine the damages which will be sustained by the several owners through whose land such road or roads may pass, assessing each parcel separately. If the board determine that the same is necessary and of sufficient advantage to warrant the payment of the 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. If the petition be granted, the board shall direct the auditor to notify the boards of the several towns affected thereby, who shall carry out its determination with respect to that part of the road or roads within their respective towns. All damages resulting from the establishment, alteration, or vacation of any county road or roads shall be paid by the county. (R. L. § 1168, as amended by Laws 1909, c. 394, § 4.)

Damages to be paid or secured.—The owner of land which the authorities are proceeding to take for a highway without compliance with the provisions of statute and the Constitution with reference to damages may enjoin the proceedings until his damages are determined and paid or secured. *Johnson v. Town of Clontarf*, 98 Minn. 281, 108 N. W. 521.

1169. Assessment within three years.

Operation in general.—This section is not a substitute for the assessment of damages for the taking of land required to be paid or secured before the road is opened. *Johnson v. Town of Clontarf*, 98 Minn. 281, 108 N. W. 521.

[1170—]1. Constituting highways county roads in counties having 225,000 inhabitants.—That in any county of this state having two hundred and twenty-five thousand inhabitants or over, it shall be lawful for the county commissioners, and they are hereby authorized and empowered to make, 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 act shall be so construed as to relieve the supervisors or overseers of highways of any town in such county from any of the duties imposed upon them by existing laws relating to roads, cartways and bridges, nor to repeal any existing special law relating to roads, cartways and bridges applicable to such county. ('05 c. 116 § 1)

Historical.—"An act to authorize county commissioners in counties of two hundred and twenty-five thousand inhabitants or over to constitute certain public roads or highways therein county roads." Approved April 6, 1905.

[1170—]2. **Construction of certain roads legalized.**—Where the county commissioners of any county in this state, under and pursuant to the provisions of chapter 302, of the General Laws of 1895, have heretofore located, laid out, established and constructed, or attempted to locate, lay out, establish or construct any public road or highway, and such road or highway since its establishment and construction has been used and enjoyed by the public as a road or highway, then the proceedings of any such county commissioners are hereby legalized and declared to be valid and in full force and effect, and all such roads or highways are hereby declared to be valid and subsisting public roads or highways. ('09 c. 18 § 1)

Historical.—"An act to legalize certain proceedings heretofore taken by the county commissioners of the several counties of this state in laying out and constructing roads under the provisions of chapter 302 of the General Laws for the year 1895, as amended." Approved February 19, 1909.

[1170—]3. **Same—Pending actions.**—This act shall not apply to or in any manner affect any action or suit now pending and involving the legality of any such proceedings, or involving the legality of any such road or highway. ('09 c. 18 § 2)

TOWN ROADS.

[1171—]1. **Bridges and highways—Annual appropriation.**—That the sum of three hundred thousand dollars annually be, and the same is hereby appropriated out of any money in the state treasury belonging to the general revenue fund, not otherwise appropriated, to aid in building and repairing bridges and in constructing and repairing highways. (Laws 1907, c. 219, § 1, as amended by Laws 1909, c. 91, § 1.)

Historical.—"An act to appropriate money out of the general revenue fund to aid in building and repairing bridges and in constructing and repairing highways in this state." Approved April 16, 1907 (Laws 1907, c. 219, as amended by Laws 1909, c. 91, approved March 20, 1909).

[1171—]2. **Same—How expended.**—Such money shall be expended in such place or places as the legislature may designate, and under the supervision of such persons as the legislature may designate. (Laws 1907, c. 219, § 2, as amended by Laws 1909, c. 91, § 2.)

[1171—]3. **Same—Payment, how made.**—When the work in any location has been completed the persons under whose supervision said work has been carried on shall certify the same to the state auditor, who shall thereupon draw his warrant on the state treasurer payable to the county treasurer of the county where the work has been done, provided the same was carried on under the supervision of the county commissioners, and in all other cases the money shall be payable to the treasurer of the city, village or township where said work has been done. No such treasurer shall retain or be entitled to any portion of such appropriation as his fees

or compensation for handling the same. (Laws 1907, c. 219, § 3, as amended by Laws 1909, c. 91, § 3.)

1172. Filing petition—Notice.

Petition.—Sufficiency of petition. *Stevens v. Town of Sandnes*, 121 N. W. 902.

Notice.—Proceedings for establishing a highway are not rendered void by failure to serve notice upon all owners affected, and are valid as to owners who are served or waive service by appearing and taking part in the proceedings. *Town of Tyrone v. Burns*, 102 Minn. 318, 113 N. W. 695.

See note under section 1175.

— **Personal service.**—Service by reading to the party served all of the order except the description of the property, and by handing to and leaving with him a copy, correct except that the date of hearing was omitted, was personal service, within this section. *Damon v. Town Board of Baldwin*, 101 Minn. 414, 112 N. W. 536.

— **Posted notice.**—Posted notice and affidavit of posting held sufficient, although one notice was posted at a place which was not then a statutory place for posting within G. S. 1894, § 1030 (R. L. § 687). *Lutgen v. Board of Com'rs of Stearns County*, 99 Minn. 499, 110 N. W. 1.

See note under section 687 and section 5514, subd. 14.

1173. Hearing and determination.

Proof of service of notice.—Proof of notice of hearing a petition to lay out a road held to show sufficiently that the persons served were the occupants named in the notice. *Stevens v. Town of Sandnes*, 121 N. W. 902.

1175. Damages and benefits.

Damages.—The town may not recover back from an owner money paid as damages merely because notice of the proceedings was not served upon all other owners. The proceedings being valid as to him, a legal highway existed, and he was entitled to the money. *Town of Tyrone v. Burns*, 102 Minn. 318, 113 N. W. 695.

[1178—]1. **Certain orders establishing or vacating highway legalized.**—That, when any board of supervisors in any township in this state has by their order established or vacated any highway, and the proceedings had therein are in all respects valid except that the notice for the hearing on petition to establish or vacate such highway was posted in three public places in such town where such highway is so established or vacated, instead of the places designated at the annual town meeting for the posting of notices, and no appeal has been taken from such order within the time prescribed by law, such order is hereby legalized and made as valid and effectual for all purposes as though the notice for the hearing on such petition had been posted in the places so designated at the annual town meeting. ('07 c. 169 § 1)

Historical.—"An act to legalize certain town proceedings." Approved April 12, 1907.

1181. Cartways.

See section [1194—]1.

MISCELLANEOUS PROVISIONS.

1187. Appeals.

See note under section 1165.

1188. Notice of appeal.

Notice of appeal.—Findings that a notice of appeal had been properly filed with the auditor held sustained by the evidence. *Rosaaen v. Town of Black Hammer*, 101 Minn. 317, 112 N. W. 267.

Notice of appeal from order of town board denying a petition to establish a road held sufficient. *Stevens v. Town of Sandnes*, 121 N. W. 902.

Held that there was a sufficient "filing" of the notice with the clerk. *Appeal of Burkleo*, 121 N. W. 874.

1194. Width of roads and cartways.

See section [1194—]1.

[1194—]1. **Same—Dedication by user—Cost of cartways—Damages.**—All public roads to be laid out by the supervisors or

county commissioners may be four rods wide except where the petition calls for a road three rods wide, in which case such road shall be three rods in width, and that when any road or portion thereof shall have been used and kept in repair, and worked for six years continuously as a public highway, the same shall be deemed as having been dedicated to the public to the width of two rods on each side of the center line of said road, and be and remain until lawfully vacated, a public highway, whether the same has ever been laid out as a public highway or not. That the supervisors of the several towns have power to lay out public cartways not less than one or more than two rods wide, when petitioned for by five residents and freeholders of the town in which such cartway is to be laid out. The cost of surveying and locating such cartway shall be paid by the town as provided by law in laying out of public roads, and the damages to lands through or upon which cartways may be laid out, shall be paid by the town, provided that when a public cartway does not extend from one public highway to another, one-half the damages to the lands through or upon which such cartway may be laid out shall be paid by the person or persons benefited thereby; the proportion that each shall pay to be fixed by the board of supervisors if not otherwise agreed upon; and the damages in the section mentioned shall be assessed, and an appeal had, in the same manner as in the case of other public roads, and the town clerk shall record any cartway so laid out in the same manner and with like effect as other roads required to be recorded by him; provided, however, that when the petitioners or any of them propose in the petition their willingness to dedicate any land to which such petitioner has title for the purpose of such cartway, such land shall be deemed as so dedicated, and no damages shall be assessed therefor; that such cartway when so laid out and established, shall be deemed a public cartway for public use. (G. S. 1894, § 1832, as amended by Laws 1899, c. 152, Laws 1903, c. 242, and Laws 1905, c. 66, § 1.)

Historical.—"An act to amend section 1832 of the General Statutes of 1894, as amended by chapter 152 of the General Laws of 1899, and chapter 242 of the General Laws of 1903, relating to the width of public roads and laying out of public cartways." Approved March 23, 1905.

G. S. 1894, § 1832, was Laws 1873, c. 5, § 47, as amended by Laws 1877, c. 50, § 1, and Laws 1879, c. 51, § 2. Said acts, and the acts mentioned in the above title, were repealed by R. L. §§ 5526, 5530, 5532, 5543, 5546. The provisions of said section 1832 as amended were incorporated in R. L. §§ 1181, 1194, 1197. So far as the amended section above set forth differs from said sections 1181, 1194, 1197, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

Cited in *Meyer v. Town of Petersburg*, 99 Minn. 450, 109 N. W. 840.

1197. Dedication by user.

See section [1194—]1.

In general.—Where a strip of land has been claimed to be a highway by statutory user, and all provisions of the statute as to its use have been complied with, it is a legal highway, although the landowner and the public authorities have been mistaken as to the true location of a section line which they believed to be the center of the highway as used. *Meyer v. Town of Petersburg*, 99 Minn. 450, 109 N. W. 840.

Laws 1899, c. 152, providing that, when a road has been used, kept in repair, and worked for six years continuously as a public highway, the same shall be deemed to have been dedicated to the public to the width of two rods on each side of the center line of the road, had no application to roads which had become established highways by user prior to the time the act took effect. *Gilbert v. Village of White Bear*, 119 N. W. 1063.

[1199—]1. **Obstructing or injuring highway—Penalty—Duty of town board.**—Whoever at any time obstructs any of the public highways in this state, in any manner, with intent to prevent the free use thereof by the public, or who shall dig any holes or remove any dirt, sand or clay from any such highway or any part thereof, and thereby damage the same, shall be subject to a fine:

of not less than five nor more than twenty-five dollars, together with the costs attending such conviction, and, on failure to pay such fine and costs, may be committed to the county jail, there to remain until such fine and costs are paid, or until discharged, according to law; and it is hereby made the duty of the board of supervisors of the several towns of this state to make complaint and prosecute, in their official capacity, all violations of the provisions of this section. (G. S. 1894, § 1863, as amended by Laws 1905, c. 215, § 1.)

Historical.—"An act to amend section one thousand eight hundred sixty-three of the General Laws of 1894, relating to the obstruction of highways and the penalty therefor." Approved April 17, 1905.

Section 2 repeals inconsistent acts.

G. S. 1894, § 1863, was Laws 1873, c. 5, § 65, as amended by Laws 1878, c. 32, § 1. Said acts were repealed by R. L. §§ 5526, 5531. So far as the amended section above set forth differs from the Revised Laws, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

1202. Care of roads.

In general.—County commissioners have power to enter into a contract for the employment of such agents as may be necessary to oversee, superintend, and inspect work upon the highways for which they have appropriated money. *Armstrong v. Board of Comr's of St. Louis County*, 103 Minn. 1, 114 N. W. 89.

[1202—]1. **Ditching machines.**—That the several boards of county commissioners of the counties of this state, upon a petition signed by 10 per cent or more of the legal voters of their respective counties, are hereby authorized and empowered to purchase ditching machines, the expenditure of which shall not exceed three thousand dollars (\$3,000), to be used under the control of the board of county commissioners of their respective counties for making drainage ditches in and along the public highways thereof and in the making outlet ditches leading therefrom. ('07 c. 19 § 1)

Historical.—"An act to authorize boards of county commissioners to purchase ditching machines for highway purposes and control the use thereof." Approved February 16, 1907.

[1202—]2. **Same—Cost, how paid.**—The cost or purchase price of said machines so purchased as aforesaid, shall be charged to, and be paid out of the general road and bridge fund of the county purchasing the same. ('07 c. 19 § 2)

1203. **Road and bridge fund.**—The county board of each county shall provide and set apart a fund for the construction and maintenance of roads and bridges in such county, to be known as the "general road and bridge fund," upon which shall be drawn all warrants for the construction and maintenance of county and town roads and bridges in such county, as determined by such boards or as required by the provisions of this act. (R. L. § 1203, as amended by Laws 1907, c. 423, § 1.)

Historical.—"An act to amend sections 1203 and 1205, of the Revised Laws 1905, to authorize the creating of a county road and bridge fund and the expenditure thereof; providing that the cost of construction of certain bridges may be equally divided between townships and counties, and repealing chapters 80 and 195, of the General Laws of 1905." Approved April 25, 1907.

By section 3, Laws 1905, cc. 80, 195, are repealed.

Laws 1905, c. 80, was an act entitled "An act relating to expenditure of the county road and bridge fund, and to repeal sections one and three of chapter 287 of the General Laws of 1895." As to repeal of Laws 1895, c. 287, §§ 1, 3, and amendment of Laws 1905, c. 80, by Laws 1907, c. 361, see note under section [1204—]3.

Laws 1905, c. 195, was an act amending Laws 1895, c. 287, § 2, as amended by Laws 1899, c. 211. Laws 1905, c. 195, had previously been repealed by Laws 1907, c. 39, referred to in note under section 1205.

R. L. § 1203, cited in *Armstrong v. Board of Comr's of St. Louis County*, 103 Minn. 1, 114 N. W. 89.

[1204—]1. **Certain bridges—Cost divided between town, village or city and county—Not applicable to certain counties.**—Whenever any town board or village or city council, shall file its petition with the proper county board setting forth the fact that the said town,

village or city has voted to construct or repair any bridge of steel, stone, concrete or combination thereof, wholly or partly within such town, village or city, and which is not within the corporate limits of any city of the first, second or third class, designating as near as may be by the location of such bridge, and further stating that such town, village or city has provided for the payment of the one-half of the cost of such construction or repairs, and that the cost of such bridge or repairs exceeds one-eighth of one per centum of all of the taxable property in such town, village or city, according to its last equalized valuation, the said county board shall appropriate the other half of such cost from the county road and bridge fund provided by law, with the amount provided by said town, village or city, sufficient to defray the expenses of erecting or repairing each bridge so petitioned for and such money shall be paid out on the order of the chairman of the county board, and the county auditor, whenever the said town board and the commissioners hereinafter provided for shall notify them that the work has been completed and accepted. The county board shall at the time of acting upon said petition, designate two of its members as a committee, who shall co-operate with the board of such town, village or city, and such board and the said commissioners shall have full charge and authority to act in the letting, inspecting and acceptance of the work. This act shall not apply to those counties now authorized to create county road and bridge funds under and by virtue of any special law. ('07 c. 423 § 4)

See note under section 1203.

[1204—]2. Certain bridges—Curative.—In all cases where, under the provisions of chapter 423, General Laws for 1907, a county has, upon petition duly filed, heretofore appropriated one-half of the cost of the construction of a bridge, and the board of the town, village or city wherein such bridge is located has built such bridge without the letting of a contract therefor, and without the co-operation of the committee appointed by the county board, it shall be lawful for the county board to cause to be paid from the proper fund of said county one-half of the cost of the construction of said bridge, not exceeding the sum theretofore appropriated by said county board therefor. ('09 c. 324 § 1)

Historical.—"An act authorizing county boards to pay one-half the cost of certain bridges heretofore built." Approved April 21, 1909.

[1204—]3. Appropriations, how made.—Whenever the board of county commissioners of any county shall determine to expend any portion of the county road and bridge fund, not exceeding the sum of five hundred dollars to aid in the construction or repair of roads and bridges in any town, city or village of such county, the same shall be appropriated and expended as hereinafter provided, and not otherwise. ('07 c. 361 § 1)

Historical.—"An act to amend chapter 80 of the Laws of 1905 relating to the expenditures of the county road and bridge fund, and to repeal sections one and three of chapter 287 of the General Laws of 1895." Approved April 23, 1907.

By section 5, sections 1 and 3 of chapter 287, Laws 1895, and all acts or parts of acts inconsistent therewith, are repealed. In the official publication "Laws 1895" is printed "General Laws of 1905." As to repeal of Laws 1895, c. 287, §§ 1, 3, see note under section 1203.

[1204—]4. Same—Warrants, how drawn and payable.—Whenever any board of county commissioners shall make an appropriation, not exceeding the sum of five hundred dollars, out of the road and bridge fund of such county, to aid in the construction and repair of roads and bridges, or either, in any town, city or village of such county, the board of county commissioners making such appropriation shall direct the county auditor of such county to

draw a warrant on the treasurer of such county for the amount of such appropriation, making the same payable to the town, city or village treasurer of the town, city or village for which such appropriation is made. ('07 c. 361 § 2)

[1204—]5. **Same—Bond of treasurer.**—Before any town, city or village treasurer shall be entitled to receive from the county treasurer any money so provided to be paid by section two [1204—4] of this act, he shall execute to the board of county commissioners of such county a good and sufficient bond in a sum equal to double the amount of the appropriation so to be received by him, with at least two sureties, to be approved by the county auditor, conditioned that he shall not pay such moneys out for any purpose other than that for which the same shall have been appropriated by the board of county commissioners, and then only upon the order of the board of supervisors, city or village council of such town, city or village. ('07 c. 361 § 3)

[1204—]6. **Same—Appropriations, how expended—Within what time—Penalty.**—All appropriations hereafter made by any board of county commissioners, not exceeding the sum of five hundred dollars, to aid in the construction or repair of roads and bridges, or either, in any town, city or village of such county, shall be expended under the supervision and direction of the board of supervisors of the town, city or village council receiving such appropriation; provided, that no part of such appropriation shall be expended in the payment of supervisors' fees or per diem in letting any contract or superintending any work for which such appropriation shall have been made. Provided further, that when the county commissioners have appropriated any sum of money, not exceeding five hundred dollars, to any town, city or village, to be expended on any particular road or bridge, it shall be the duty of the said town supervisors, city or village council to expend the said sum appropriated upon the particular road or bridge within one year from the date of the receipt of written notice from the county auditor by registered mail to the town clerk and chairman of the board of supervisors, or the mayor and city clerk, or the village recorder and president of the village council, as the case may be, of such appropriation, unless the time for such expenditure is extended by the board of county commissioners upon due application made and for cause. And if the town supervisors, city or village council fail to use the said sum to be expended within said time upon the said particular road or bridge, unless the time is extended on due application for cause, they and each of them shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail for not less than thirty days nor more than sixty days. All fines which are collected under this provision are to be paid into the general road and bridge fund of the county wherein conviction is had. ('07 c. 361 § 4)

[1204—]7. **Connecting roads through villages in counties having over 200,000 and less than 275,000 inhabitants.**—Whenever, in any county now having, or which may hereafter have a population of over 200,000 and not over 275,000 inhabitants, the board of county commissioners shall have permanently improved any county road leading up to the limits of any village, and shall have also permanently improved any other public road leading up to the limits of such village at another point, and any public way or road within the limits of such village constitutes a natural or convenient connection between such improved roads, in such case the board of county commissioners, with the consent of the village council,

may cause such connecting way within the village limits to be permanently improved. ('09 c. 196 § 1)

Historical.—"An act relating to the expenditure of the county road and bridge fund in counties having a population of over 200,000 and not over 275,000 inhabitants, and authorizing the board of county commissioners in certain cases to improve roads through villages." Approved April 17, 1909.

[1204—]8. **Same—Cost, how paid.**—Such improvement shall be provided for and made in the same manner and under like conditions as are improvements to county roads, and the cost of making such improvement may be paid out of the county road and bridge fund. ('09 c. 196 § 2)

1205. **Tax levy.**—The county board at its July meeting may include in its annual tax levy, an amount not exceeding two mills on the dollar of the taxable valuation for the general road and bridge fund. Such taxes may be additional to the amount permitted by law to be levied for county purposes. (R. L. § 1205, as amended by Laws 1907, c. 423, § 2.)

Historical.—This section was amended, as above set forth, by section 2 of Laws 1907, c. 423 (approved April 25, 1907), referred to in note under section 1203.

By section 1 of an act entitled "An act authorizing certain counties to levy an additional tax for road and bridge purposes, amending section 1205 of the Revised Statutes of 1905, as amended by chapter 195 of the General Laws of 1905." Approved March 23, 1907 (Laws 1907, c. 39), R. L. § 1205, was amended so as to read as follows: "The county board at its July meeting may include in its annual tax levy an amount not exceeding one mill on the dollar of the taxable valuation for the general road and bridge fund. Such taxes may be additional to the amount permitted by law to be levied for county purposes. In counties with a taxable valuation of less than one million dollars, the board may levy for such fund an amount not exceeding two mills on the dollar. Provided, that in counties having a taxable valuation of more than one million and less than fifteen million dollars, and in which the road and bridge fund has been exhausted, and warrants have been issued to meet expenses for road and bridge purposes, the county board may levy an amount not exceeding one and one-half mills on the dollar each year for said fund until all outstanding warrants and the interest thereon have been paid, and may, thereafter, when such fund shall become depleted, levy such additional tax for one or more years, as the board may deem necessary."

By section 2 of said act, Laws 1905, c. 195, was repealed. Laws 1905, c. 195, was again repealed by Laws 1907, c. 423. See note under section 1203.

[1205—]1. **Certain payments to road and bridge fund legalized.**—That in any county in this state in which there have been heretofore duly issued and negotiated the bonds of such county for the purpose of building certain roads under and by virtue of chapter two hundred eighty-nine of the General Laws of Minnesota for the year 1895, and the sum realized from the sale of said bonds has heretofore been covered into the general road and bridge fund of said county by the county treasurer thereof, instead of into a special fund for the construction of the roads for which said bonds were voted, said deposit of said sum to the credit of said general road and bridge fund of said county shall be and the same is hereby legalized, and said sum so covered into said general road and bridge fund by said county treasurer shall be incorporated therewith and become a part thereof, and may hereafter be used and disbursed for any purpose for which said general road and bridge fund may be lawfully used and disbursed; Provided, however, that nothing herein contained shall operate to in any way invalidate any of said bonds so issued and negotiated. ('05 c. 226 § 1)

Historical.—"An act to legalize, in certain cases, a deposit by the county treasurer of money realized from the sale of county road bonds to the credit of the county general road and bridge fund and providing that any such sum heretofore so deposited shall become and may be used and disbursed as a part of such road and bridge fund." Approved April 17, 1905.

[1205—]2. **Road and bridge fund in counties having 200,000 inhabitants—Exclusive control.**—That the board of county commis-

sioners of all counties in this state now having, or which shall hereafter have a population of one hundred fifty thousand inhabitants or over, shall have the exclusive control of the expenditures of all moneys appropriated by such boards out of the general road and bridge fund of such counties for the purpose of constructing or repairing, or aiding in the construction or repair of roads and bridges, or either, in any township or village in such counties. ('05 c. 164 § 1)

Historical.—"An act giving the board of county commissioners in all counties of the state having a population of one hundred fifty thousand inhabitants or over, the exclusive control of the expenditure of all moneys appropriated by such board out of the general road and bridge fund of such counties, and regulating the expenditure thereof by such boards." Approved April 13, 1905.

By Laws 1909, c. 208, this act was made applicable only to counties having 200,000 inhabitants. See section [1205—]3.

By section 4 of Laws 1905, c. 164, Laws 1901, c. 240 (giving county commissioners in counties having 200,000 inhabitants exclusive control of road and bridge fund) is repealed. This act was not among the acts of that year repealed by R. L. § 5544.

[1205—]3. **Same—Moneys, how expended—Contracts, how let—Other expenditures.**—That all moneys so appropriated shall be expended by and under the general direction and supervision of such board of county commissioners in the following manner: Sec. 2. That in all cases except as hereinafter provided, before expending any money for such purpose or purposes, such board of county commissioners shall require the county surveyor of such county, or his deputy, to furnish to such board a survey of the work for which it is proposed to expend such money, together with suitable plans and specifications thereof and estimated cost thereof, and that upon the receipt of the same by such board it shall be the duty of such board, if it shall deem such expenditure advisable, to invite bids for such work by posting notices for at least fifteen days prior to the letting of the contract for the same in at least three of the most public places in the township wherein such work is to be done, and in case any portion of such work is within the limits of any incorporated village, by also posting notices in three of the most public places in such village, and in all cases there shall be three publications of said notices in the official newspaper, and such notices shall contain a brief description of such work, and shall state the time and place of awarding the contract for the same, and at the time and place mentioned in such notices, it shall be the duty of such board to let such contract to the lowest responsible bidder, who shall in all cases be required to enter into a written contract evidencing the same, and said board shall require a satisfactory bond for the faithful performance of such contract, provided, nevertheless, that nothing herein contained shall be construed to prevent such board from rejecting all bids for such work and readvertise for new bids if in the judgment of such board all bids are excessive, and provided, further, that such board may, without advertising for bids and letting contracts as above required, expend, under the supervision of the county surveyor or his deputy for repairs and maintenance of roads and bridges or for the protection of travel thereon such sum or sums as such board may appropriate and may employ a repair crew for such purpose for a period not exceeding seven months during any one year, and may purchase and retain the necessary road machinery and tools for the purpose of making such repairs, but such expenditures shall not in any one year exceed one-quarter of the amount so appropriated for roads and bridges for said year in said county; and provided, further, that in case of any emergency rendering travel upon any highway unsafe or threatening the immediate injury or destruction thereof, and requiring immediate repair, an amount not exceeding five hundred dollars may be

expended in the repairs thereof without advertising for bids and letting a contract therefor, and the sum or sums so expended shall not exceed one thousand dollars in any one year and shall be included in the limit of one-quarter of the road and bridge fund so appropriated as hereinbefore mentioned. This act shall apply only to counties having two hundred thousand inhabitants or over. (Laws 1905, c. 164, § 2, as amended by Laws 1907, c. 224, and Laws 1909, c. 208, § 1.)

Historical.—"An act to amend section 2 of chapter 164 of the General Laws of the State of Minnesota for the year 1905, relating to the employment of repair crews on roads and bridges in counties having one hundred fifty thousand inhabitants or over." Approved April 17, 1909.

[1205—]4. **Same—Duties of county surveyor.**—The county surveyor shall keep a full official record of all work in his office, which record shall belong to the county. He shall report annually the character and condition of the county roads and bridges, together with a statement of all work done during the year, and such recommendations, statistics and other material as he may deem proper for such report. This report shall be printed by the county board. ('05 c. 164 § 3)

[1206—]1. **Town boards to erect culverts.**—That town boards of supervisors are hereby required to install one substantial culvert for an abutting owner in cases where by reason of grading a public highway, the same is rendered necessary for a suitable approach upon said highway over driveways from abutting lands. ('09 c. 291 § 1)

Historical.—"An act requiring town boards of supervisors to install one substantial culvert in cases where, by reason of grading a public highway, the same is rendered necessary for a suitable approach from abutting lands." Approved April 20, 1909.

[1206—]2. **Town board may cut down hedges and trees within road limits.**—That in addition to all powers granted to town boards of supervisors by the Revised Laws of 1905, and amendments thereof, such supervisors are hereby given the right and power to determine upon and order the cutting down of hedges and trees within road limits when the center of such trees or hedges is more than six feet from the side of any road as established by statutory proceeding or dedicated specifically to public use; provided, such trees or hedges, or either of them, interfere with keeping the surface of the road in good order, or cause the snow to drift on to or accumulate upon said road in quantities that materially obstruct travel. ('09 c. 432 § 1)

Historical.—"An act authorizing town boards of supervisors to cause trees or hedges within road limits to be cut down when the same are detrimental to said roads." Approved April 22, 1909.

[1206—]3. **Same—Notice—Timber, how disposed of.**—When the town board of any town in this state determine that such cutting down of hedges or trees within the limits of such roads is necessary, or that the same would aid materially in keeping such roads in repair or free from snow, they shall notify the owner or owners of the abutting lands of such decision and order the trees or hedges cut down within ninety days after such notice and order. If the said owner or owners fail or refuse to comply with such notice and order, the town board of supervisors shall have the power to cause such trees or hedges to be cut down at the expense of the town. The timber and wood of such trees shall belong to the said owner or owners of the abutting land, provided they remove the same from the roadside within sixty days. If such timber or wood is not removed within said time the town board shall sell the same as of value, and destroy the same if it cannot be sold at a profit.

If sold by the board, the proceeds shall be applied so far as necessary in defraying the expense of cutting said trees or hedges, and the balance, if any, be paid to the owner or owners of the abutting land. ('09 c. 432 § 2)

[1206—]4. **Same—Expenses, how paid—Slashings.**—The town boards of supervisors are hereby granted the farther right and power to appropriate and pay out of the road and bridge fund of their town, or from any other fund available, the cost of cutting down such trees and hedges and the removal or destruction of the same, if done at public expense. The slashings caused by cutting such trees and hedges shall be burned as soon as dry enough to burn. ('09 c. 432 § 3)

1224. Overseers of roads. [Superseded in part.]

See section [1224—]1.

As to the abolition of office of overseer of highways in counties having 150,000 inhabitants or over, see section [1239—]2.

Laws 1907, c. 458, entitled "An act providing for the appointment of a county superintendent of highways and a road inspector in towns, and defining their duties and powers; in all counties, this state, having less than 200,000 inhabitants," is unconstitutional. Population alone furnishes no proper basis for the classification of counties for the purpose of legislation of this character. *Hjelm v. Patterson*, 105 Minn. 256, 117 N. W. 610.

Curative.—Laws 1909, c. 300, "An act validating certain acts and claims arising under chapter 458, Laws of Minnesota for the year 1907, relating to county superintendents of highways and road inspectors," approved April 21, 1909, enacts as follows:

"Section 1. That the act of any officer, and the appropriation of any money under the provisions of said chapter 458, Laws of Minnesota for the year 1907, be and the same is hereby validated, ratified and confirmed, where such action and the appropriation of any such money would have been lawful if said act had not been declared unconstitutional as aforesaid.

"Sec. 2. That the proper officers of the respective counties and towns are hereby authorized and empowered to settle and pay any claim arising out of any act done under and by virtue of the provisions of chapter 458, Laws of Minnesota, 1907, where such claim could have been lawfully paid had not such act been declared unconstitutional as aforesaid."

[1224—]1. **Overseer of highways, how elected—Shall be appointed, when.**—That at the annual town meeting in each township wherein an overseer of highways is elected for each road district, the manner of electing such overseers shall be as follows: The qualified electors from each separate road district present at such town meeting shall elect, by ballot, a highway overseer for that district, and no person residing in any other road district than the one for which such overseer is to be elected shall take part in such ballot. If, for any cause, no highway overseer is elected for any road district at such annual town meeting, the town board, at its first session following such town meeting, shall appoint a highway overseer for such district for which no overseer was elected. ('05 c. 70 § 1)

Historical.—"An act providing for the manner of election of highway overseers at annual town meetings." Approved March 23, 1905.

Section 2 repeals inconsistent acts.

So far as the above section differs from R. L. § 1224, it is to be construed, by virtue of section 5504, as amendatory or supplementary. See note under section 1224.

1226. Persons and property assessable.

See section [1226—]1.

[1226—]1. **Same.**—Every male inhabitant, being above twenty-one years and under the age of fifty, excepting paupers, idiots, lunatics and such others as are exempt by law, shall be assessed not less than one nor more than four days in each year. Supervisors shall assess a road tax on all real estate and personal property liable to taxation in the town, to any amount they may deem necessary, not exceeding \$1 on each \$100 of value, as valued on the as-

assessment roll of the preceding year. (G. S. 1894, § 1783, as amended by Laws 1905, c. 324, § 1.)

Historical.—"An act to amend sections 1783, 1784, and 1785, of the General Statutes of 1894, relating to road taxes and road tax lists." Approved April 19, 1905.

G. S. 1894, §§ 1783, 1784, 1785, were Laws 1873, c. 5, §§ 9, 10, 11, which act was repealed by R. L. § 5526; the provisions of said section 1783, being incorporated in R. L. § 1226, and of said sections 1784, 1785, in R. L. § 1227. So far as said amended sections differ from said sections 1226, 1227, they are to be construed, by virtue of section 5504 as amendatory or supplementary, and the effect of the section above set forth is to supersede said section 1226.

1227. [Superseded in part.]

See two sections next following, and notes thereunder.

[1227—]1. Lists for road districts.—The supervisors shall make lists for each road district in the town containing:

First. The name of each person in such district liable to work on roads, with the number of days road labor assessed, set opposite thereto.

Second. The name of each person assessed for personal property, with the amount of such assessment set opposite thereto, in a separate column; which shall be subject to collection or commutation by labor the same as road taxes assessed on real estate.

Third. A description of all tracts of land in such district; the valuation of each, taken from the assessment roll of the preceding year, set opposite thereto; the name of the owner, if known; and the amount of road tax assessed thereon, all in separate columns. (G. S. 1894, § 1784, as amended by Laws 1905, c. 324, § 1.)

Historical.—This section supersedes in part the section next preceding. See note under section [1226—]1.

[1227—]2. Same—Form—How delivered.—Such lists shall be in book form and when completed shall be subscribed by the supervisors, and delivered by the town clerk to the respective overseer of each district, for which he shall receive a fee of 25 cents for each set of lists so delivered. (G. S. 1894, § 1785, as amended by Laws 1905, c. 324, § 1.)

Historical.—This section supersedes in part section 1227. See note under section [1226—]1.

1228. Notice to work—Commutation.—The overseer shall give at least three days' notice to all persons assessed for road labor, of the time and place when and where they shall appear for work, and with what teams or tools. Such persons may appear personally or by able-bodied substitutes, or they may elect to commute for the same or some part thereof. Commutation for labor shall be at the rate of one dollar and fifty cents per day, to be paid to the overseer within two days after notice to appear for work. Each able-bodied man shall be allowed for labor one dollar and fifty cents per day, and the like amount for the use of a team and a wagon, plow or scraper. Provided, that the town board may, in its discretion, at the meeting provided for in section 1227 pass a resolution authorizing the overseers of roads in the town to divide all the roads in their respective road districts into sections of not less than one mile in length, and to make contracts with persons assessed for road tax in their respective districts to maintain and keep in general repair one or more of said sections from the first day of May to the first day of October in each year upon such terms as said road overseer shall deem best. From time to time such road overseer shall inspect the sections of road under contract as above specified, to see that the work of repair and maintenance is properly done and that the contract is fulfilled, and on the first day of October in each year he shall file with the town clerk a certificate in writing stating which of the contracts made by him have been complied with by the persons liable thereunder, and he shall credit on

the road tax list the persons who have performed the obligations under their contracts with the amounts agreed upon in the contracts. In all cases where the contract has not been fulfilled he shall return the road taxes against such person delinquent, as provided in section 1230 of the General Laws of 1905. (R. L. § 1228, as amended by Laws 1909, c. 390, § 1.)

1231. Delinquent road taxes.—On or before November first in each year the clerk shall deliver to the county auditor a list containing a description of each tract of land on which the road tax is delinquent, and the amount of such tax, together with the name of the owner of each tract, if known, and, if not known, a statement of that fact. Said list shall also contain a statement of all unpaid road taxes upon personal property with the names of the owners of such property, as shown by the corrected list on file in his office. Opposite each amount of unpaid taxes in said list said clerk shall enter the number of the road district in which such road tax was levied. He shall append to said list his certificate that the same is a correct list of all road taxes remaining delinquent for the year therein stated. The auditor shall extend such unpaid taxes and penalties upon the tax list of the current year, setting opposite each amount the number of the road district in which said tax was levied. Such road taxes, when collected, shall be paid to the town treasurer upon the certificate of said auditor, and applied to the construction and repair of roads and bridges in the road district in which such tax was levied, upon the order of the town board; provided, that no part thereof shall be paid out for the services of the town board. Immediately after every tax settlement the auditor shall mail to each town clerk a statement showing the total amount of road taxes collected in each of the several road districts of said town, since the last tax settlement. The town clerk shall keep a proper record showing the collections and expenditures of such road taxes in each road district, and shall, at the annual town meeting, present a complete report of such collection and expenditures for the previous year. In towns containing two or more congressional townships said road taxes shall be expended in the township in which the said taxes are levied. (R. L. § 1231, as amended by Laws 1907, c. 285, § 1.)

Laws 1907, c. 285, § 2, provides that the act shall only apply to such road taxes as are levied during the year 1907 and thereafter.

1239. [Superseded.]

See section [1239—]1, and note thereunder.

[1239—]1. Road taxes in counties having 150,000 inhabitants.—That in all counties of this state now having or which shall hereafter have, a population of 150,000 inhabitants or more, there shall hereafter be no highway labor assessed and all road taxes hereafter assessed by the township board of supervisors shall be paid in cash and shall be expended under the supervision and direction of the town board. ('09 c. 50 § 1)

Historical.—"An act relating to the assessment and payment of road taxes in counties now or hereafter having a population of 150,000 inhabitants or more, and to provide for the construction, repair and maintenance of roads in the towns of such counties, under the direction and supervision of the town boards of such towns." Approved March 6, 1909.

By section 4, Laws 1901, c. 256, Laws 1903, c. 109, Laws 1905, c. 151, and all other acts and parts of acts, in so far as the same are inconsistent with the provisions of this act, are repealed.

Laws 1901, c. 256, and Laws 1903, c. 109, amendatory thereof, were repealed by R. L. §§ 5544, 5546; the provisions of said acts being incorporated in section 1239.

[1239—]2. Same—District overseer abolished—Overseers for town, how appointed.—In all towns in such counties no overseer of highways shall be elected as provided for by section 1224, Re-

vised Laws 1905; but in lieu thereof the supervisors of each town in such counties shall appoint not less than one or more than four overseers of highways for their respective towns, which overseers shall hold office during the pleasure of said town boards, and shall, under the direction of the town boards of their respective towns, have supervision of the construction, maintenance and repair of all highways and bridges under the control of the town board of their respective towns. ('09 c. 50 § 2)

[1239—]3. **Same—Compensation of overseers.**—Each overseer so appointed shall receive as full compensation for his services such sum as may be fixed by the town board, not to exceed the sum of two and one-half dollars per day for the time actually employed in the performance of his duties. ('09 c. 50 § 3)

[1240—]1. **Road districts in counties having 75,000 inhabitants and 5,000 square miles—Road foreman.**—In any county in this state now or hereafter having a population of more than 75,000 inhabitants according to the then next preceding state or national census and an area of more than 5,000 square miles, the county commissioners of such county may divide the same into two or more road districts and appoint by a majority vote of the board one or more road foreman for each district whose duties shall be those fixed by this act, and in addition thereto such other and further duties as such board of county commissioners may from time to time see fit to impose. ('05 c. 131 § 1)

Historical.—“An act providing for the employment of road foremen in counties of the state having a population of more than 75,000 inhabitants and an area of more than 5,000 square miles, specifying the duties of such foremen and providing for the auditing and payment of their bills and the bills of the men employed under them against the county.” Approved April 11, 1905.

[1240—]2. **Same—Duties of foreman.**—Any such foreman so employed shall have charge of the construction or repair of the county roads in his district or such portions of them as are entrusted by the county board to his supervision and shall see that the orders of the board with reference to such construction and repair are carried out; shall keep the time of the men employed upon such road work and shall direct them in their labor; shall have the charge and care of the tools and implements belonging to the county used in such road work, shall keep an inventory thereof and at the completion or suspension of the work shall return to such board a list of such tools and implements remaining in his care and make such disposition of the same as he may be directed to do by the board; shall, in addition to directing the work of the men so employed, work with them so far as practicable in cases where the number of men employed is less than fifteen; but such foreman shall not be paid for any time not actually employed in and about said work and in carrying out the orders of the board. ('05 c. 131 § 2)

[1240—]3. **Same—Monthly statements—How audited and paid.**—Each road foreman so appointed shall present to such board on or before the second day of each month a statement showing his own name, the name of each workman employed under him during the month previous, each day of the month on which any work was done and the number of hours of work performed by himself and each of such workmen during each such day; and indicating what time checks, if any, have been issued for any of said work. Said statement shall be verified by the oath of such foreman to the effect that the same is just and true in all respects; that the services therein set forth were actually rendered by the persons and at the times therein stated and were of the value therein charged; and that no part of the claims therein referred to or any of them has been

paid. When any such statement, duly verified and containing the particulars in this act provided, is presented to the board of county commissioners of any such county, said board shall audit such statement or so much thereof as may seem to them just and proper and so much of the same as is audited and allowed shall be paid to the foreman and the individual workmen or their assigns by warrants upon the county treasurer in the same manner as other bills against the county are audited and allowed, but no sworn statement shall be required except that of the foreman herein provided. ('05 c. 131 § 3)

[1240—]4. Same—Time checks—How assigned and paid.—At the end of the month, or at the date of his discharge, the foreman may issue to any workman employed under him during the month a time check, showing the date of its issuance, the name of the workman to whom issued, the number of days and hours of work, the rate of wages, the full amount due and any offsets or deductions. Said time check may be assigned by endorsement upon the back thereof, and such endorsement if agreeing with the name of the party to whom such time check is issued and if witnessed by at least one witness shall be prima facie genuine. Any time check so issued shall be subject to correction to conform to the sworn statement hereinbefore provided and shall not be paid until such sworn statement has been audited and allowed as in this act provided. In case a time check has been given, no warrant shall be issued for the work covered by it unless the time check is presented to the county auditor except in cases where the time check has been lost or destroyed; in which case the party to whom the same was issued, or his assignee, before he is entitled to payment shall make affidavit to the facts relating thereto and file the same, together with a bond to the county with sureties satisfactory to the county auditor in an amount not less than double the amount of his claim. ('05 c. 131 § 4)

[1240—]5. Same — False statement — Penalty.—Any foreman who, with intent to defraud such county either to his own advantage or to the advantage of any other person or persons, shall make, swear to, or present or cause to be presented to the board of county commissioners of any such county any statement called for by the provisions of this act and containing any false or inaccurate particulars, items or charges, either as to his own work or that of any workman or workmen employed under him, shall be guilty of a felony; and the making, swearing to or presenting or causing to be presented of any such statement shall be prima facie evidence of such intent to defraud. ('05 c. 131 § 5)

[1241—]1. Road taxes paid in cash, when—Submission to voters—Assessment.—All road taxes, except poll taxes, may be required to be paid in cash in any village in this state whenever a majority of the voters of such village voting by ballot upon the question shall so determine. Such question shall not be voted upon unless a petition signed by at least ten voting tax payers of such village, praying for the payment in cash of all road taxes, is filed with the clerk or recorder of such village ten days before the annual election in such village, in which case the clerk or recorder shall specify in the notice of such annual election that such question will be voted upon. If such question is decided in the affirmative, all taxes thereafter assessed for the maintenance and repair of roads and bridges in such village shall be paid in money and disbursed by the village council or governing board of such village as other village taxes. The village council or governing board of such village may assess all the property of such village not to exceed six mills on the dollar on the last assessed valuation there-

of, and if they so assess, they shall certify the same to the county auditor for extension and collection, the same as other village taxes, and before such taxes are collected, such village council or governing board of such village may pledge the credit of the village by issuing village orders not to exceed the taxes so assessed, to the expense of road and bridge work. Provided, however, that for the year 1909, upon a petition as above provided for, being filed with the village clerk or recorder on or before the last Tuesday in March of said year, the village council may cause a special election to be held for the purpose of voting upon said question, by giving the notice required in the case of special elections in villages. ('09 c. 435 § 1)

Historical.—"An act relating to the collection and expenditure of road taxes in all villages in this state." Approved April 22, 1909.

[1241—]2. **Highway inspectors in towns where road taxes are payable in cash.**—The township board of any township of any county of this state which has heretofore voted, or hereafter may vote, to require all road taxes therein to be paid in cash, may appoint and employ a competent road builder as the township highway inspector of the roads and bridges of the said township. ('09 c. 484 § 1)

Historical.—"An act authorizing towns in which road taxes are required to be paid in cash to appoint a highway inspector." Approved April 23, 1909.

[1241—]3. **Same—Duties.**—The said township highway inspector so appointed and employed shall have the charge of and the supervision of the construction and the maintenance of all the roads and bridges of the said township which are not under the care and jurisdiction of the county board of the said county or under the care and jurisdiction of the state highway commission of this state. ('09 c. 484 § 2)

[1241—]4. **Same—Compensation.**—The said township highway inspector shall hold his said office at the will of the said township board and his compensation shall be fixed by the said board. ('09 c. 484 § 3)

[1241—]5. **Same—Bond.**—Before entering upon his duties, the said township highway inspector shall give a bond to the said township in the penal sum of two hundred dollars, with two sureties thereon, to be approved by the said township board, and said bond shall be conditioned for the faithful discharge of the duties of the said township highway inspector. ('09 c. 484 § 4)

[1245—]1. **Bridges over navigable river.**—Whenever in the opinion of the board of county commissioners of any county or supervisors of any town, or the board of trustees or council of any city or village of this state, it becomes necessary, for the purpose of accommodating travel on any highway, to erect a bridge over any river or waterway within their respective jurisdictions the navigable portions of which river or waterway lie wholly within the limits of the state, such board or council may cause the erection of a fixed bridge over such river or waterway, without a draw; provided the clear height above the ordinary high water stage of such waterway and the clear width of the opening, shall be sufficient to accommodate the ordinary navigation of such waterway; and provided further, that the location and plans thereof are submitted to and approved by the chief of engineers of the United States army and by the secretary of war, before construction is commenced. ('05 c. 63 § 1)

Historical.—"An act to authorize boards of county commissioners, city or village councils or trustees to erect fixed bridges or highways over navigable streams on certain conditions." Approved March 23, 1905.

See R. L. § 5504.

[1245—]2. **Bridges over stream forming state boundary—Municipalities may unite.**—Counties, towns, cities and villages bordering upon streams of water which form the boundary line of this state may construct and maintain foot and wagon bridges across any such stream the same as if such stream was wholly within the limits of the county, town, city or village constructing the same; and any such local subdivision within which such bridge may be desired may singly or in conjunction with other such subdivisions unite in the construction and maintenance of said bridge with any one or more of the local subdivisions in the adjoining state or province into which any such bridge may extend; provided, that in such construction and maintenance the rights of adjoining states and provinces shall in no wise be infringed. ('07 c. 399 § 1)

Historical.—“An act authorizing the construction and maintenance of bridges across streams of water forming the boundary line of this state.” Approved April 24, 1907.

[1245—]3. **Bridges over navigable river forming state boundary—Appropriation by county board of not over one-half cost—Proceedings.**—Whenever one-half the resident taxpayers of any county, whose county line is the boundary line of a state, as appears by the last preceding assessment roll of such county, shall petition the board of county commissioners of such county, praying for an appropriation to build a bridge across any navigable river on the line of any such county, when the county line is the boundary line of a state, setting forth therein the location of such bridge as near as may be, its estimated cost and the necessity therefor to accommodate the general traveling public, the manner in which it is proposed to pay for such structure, and the time when it will be completed, such petition to be duly verified by the affidavits of at least fifteen of the petitioners therein named, it shall be the duty of the board of county commissioners to publish a notice in the official paper of the county, once each week for three consecutive weeks, briefly stating the object of such petition and that the same will be heard and considered at the next regular meeting of such board. At the time appointed for the hearing of such petition, the board of county commissioners shall investigate the need for such bridge, and if they find the same to be necessary shall, by resolution duly entered upon the minutes of the board, appropriate towards the building of such bridge, from the county treasury a sum not exceeding one-half of the estimated cost of such bridge to be paid as hereinafter provided; provided, however, the appropriation hereinbefore mentioned shall be upon condition that a sufficient bond be given, conditioned that the remaining one-half or more, as the case may be, of the cost of such bridge will be paid; provided, further, that the consent of the general government to span such river shall first have been obtained. ('09 c. 425 § 1)

Historical.—“An act to provide for the building of bridges across navigable rivers on county lines which are the boundary lines of the state and to provide for the bonding of the county for such purpose.” Approved April 22, 1909.

[1245—]4. **Same—Committee to confer with neighboring state or municipality, etc.**—If the remaining one-half of the cost of such bridge shall be made up by an appropriation from any neighboring state or by a municipality in this state, to be expended under a commission or through any other agency, the board of county commissioners shall appoint a committee from its own number, of three or more, to meet such other municipal agency, confer with its members and advise and assist in the accomplishment of such improvement in the best possible manner, and when the work is completed and approved jointly by such agency and committee, which approval shall be in writing and duly reported to such board and recorded in the minutes thereof, the board shall thereupon direct the county

auditor to draw his warrant upon the treasurer in favor of the contractor for the amount due him from such county. ('09 c. 425 § 2)

[1245—]5. Same—Bonds, when may be issued—Tax levy.—When one-half or such other proportion as may be, of the cost of such improvement shall be provided for by any municipality within this state, it shall be lawful for such municipal corporation, by a majority vote of the legal voters thereof after ten days' notice, to meet the necessary expense by the issuance of bonds bearing interest not to exceed seven per cent per annum and not to run longer than twenty years after the date of issue, nor to be sold for less than par value, interest payable semi-annually; provided, that the limit of indebtedness of such corporation prescribed in the constitution is not thereby exceeded. In case the limit of indebtedness of such municipality would be thereby exceeded, then it shall be lawful for such municipality to make a sufficient tax levy for general purposes to meet the necessary expenditure in the construction of such bridge, and when the same shall be completed and accepted the share of the cost thereof to be borne by such municipality shall be paid out of the general fund by orders drawn in the usual form and manner. ('09 c. 425 § 3)

[1245—]6. Same—Not more than one wagon bridge—Limit of cost.—Not more than one wagon bridge across a navigable river in each county shall be built under this article, and the total cost of such bridge shall in no case exceed the sum of fifty thousand dollars. ('09 c. 425 § 4)

[1245—]7. Free public use of toll bridges.—Any counties, towns, cities or villages interested may secure the free public use of any toll bridge now or hereafter built across any stream 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. ('09 c. 31 § 1)

Historical.—"An act to secure the free public use of toll bridges." Approved February 27, 1909.

STATE HIGHWAY COMMISSION.

[1257—]1. Members — Term — Compensation — Vacancies. — Within a reasonable time after January first, nineteen hundred and six, the governor shall appoint a board of three commissioners, one from the First, Second, Third or Fourth congressional districts, one from the Fifth, Sixth or Seventh, and one from the Eighth or Ninth, to be known as the state highway commission; one shall serve one, one two, and the other three years, each year thereafter he shall appoint one commissioner for three years, or until his successor has qualified, but not more than two members shall belong to the same political party. Such commissioners shall serve without compensation except their actual personal expenses while in the performance of their official duties. The governor shall fill all vacancies and may remove a member for inefficiency, malfeasance or neglect of duty. All questions shall be determined by a majority vote of such commissioners. ('05 c. 163 § 1)

Historical.—"An act to provide for the appointment of a state highway commission and defining its powers and duties and providing for the construction and repair of public highways by extending state aid for that purpose to the several counties therein, and the levying of a tax therefor." Approved April 13, 1905.

By section 13 the act took effect January 1, 1906.

[1257—]2. Chairman, etc.—Secretary—Salary—Bond—Duties—Records—Attorney.—Said highway commission shall elect from its

members a chairman, it shall have a common seal, the members thereof shall have the power to administer oaths, and it shall be provided with a suitable office at the capitol of the state where it shall hold regular meetings not less than once in every two months. Said commission shall appoint a secretary, who shall be a civil engineer and practical road builder, who shall be known as the state engineer and who shall hold his office subject to the pleasure of said commission and whose salary shall be eighteen hundred dollars per annum, and it may also employ a stenographer at fifty dollars per month, and such expert road builders and assistants as it may from time to time require and fix their compensation. Said state engineer shall, before entering upon the duties of his office, subscribe to, execute and file an oath of office and a bond in the penal sum of three thousand dollars with sufficient sureties, to be approved by the attorney general, conditioned on the faithful performance of his official duties. He shall keep a record of every vote and official act of said commission, shall file and safely keep all maps and papers belonging to it, shall devote all of his time in the interest of the state as prescribed by said commission, and shall be in charge of the office of the commission at the state capitol. It shall also be the duty of said state engineer and his assistants to give such advice, assistance and supervision with regard to road construction throughout the state, as time and conditions will permit and as the rules and regulations of the commission may prescribe, and he and his assistants may be required by the commission to attend any public meeting held by the commission or other parties in the interest of road improvements in this state, provided that the state engineer, expert road builders or assistants shall be allowed necessary traveling expenses while performing their official duties outside the state capitol. All of the files and records of said commission shall, under reasonable regulations, be kept open for public inspection and certified copies thereof shall be received in evidence in any court of this state. The attorney general of the state shall be ex-officio attorney for the commission and shall give the commission such legal counsel, advice and service as it may from time to time require. ('05 c. 163 § 2)

[1257—]3. Duties of commission—Annual report.—Whenever practicable said commission shall investigate and determine the location of road material in the state, ascertain the most approved methods of construction and improvement of roads, investigate the most approved laws in relation to roads in other states, and hold public meetings throughout the state when deemed advisable. On or before December 15th of each year it shall make a printed report to the governor, stating as near as possible, the number of miles of state roads built or improved during the year, their cost, and the general character and location of material suitable for road construction, the general character and needs of the roads of the state and recommend such legislation as it deems advisable, and any other information concerning road improvement as it deems expedient. ('05 c. 163 § 3)

[1257—]4. Tax levy—State road and bridge fund.—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-twentieth of a 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 investment of the internal improvement land fund after all appropriations that shall have been made prior to May 1, 1905, have been provided for, shall constitute the state road and bridge fund. ('05 c. 163 § 4)

[1257—]5. **Annual appropriation.**—There is hereby appropriated out of the general funds of the state six thousand dollars, or so much thereof as shall be necessary, for the year 1906, and the sum of six thousand dollars, or so much thereof as shall be necessary, each year thereafter to pay the expenses of said commission, including the salary and traveling expenses of the state engineer, and all other persons employed by the commission, but in no year shall the expenses of the commission, engineer, assistants, stenographer, office supplies and other expenses exceed the sum herein appropriated, or which may hereafter be appropriated for any one year. All accounts and expenditures shall be certified by the chairman of said commission, and paid by the state treasurer upon orders drawn by the state auditor. ('05 c. 163 § 5)

[1257—]6. **Not to be interested in contracts.**—No member of the highway commission, the state engineer, or any other person in the employ of the highway commission, shall be, either directly or indirectly, interested in any contract for constructing or improving any road under this act. ('05 c. 163 § 6)

[1257—]7. **Apportionment of state fund—Estimate.**—On or before the first Tuesday in March of each year the highway commission shall estimate the probable sum of money that will accrue to the state road and bridge fund during that year, and apportion the same among the different counties of the state, as herein provided, and shall immediately send a notice to the board of county commissioners of each county stating the amount that such county shall be entitled to receive for said year out of said fund. In making an estimate of the amount of the state road and bridge fund accruing to the several counties in the state, no county shall receive in one year more than three per cent nor less than one-half of one per cent of said fund, to be expended during such year, and in determining the percentage accruing to any one county, the said highway commission shall take into consideration the extent of the area of such county, the amount of money expended by it in road construction, the difficulty and expense of such road construction and the extraordinary expense connected with the development of new territory. ('05 c. 163 § 7)

[1257—]8. **Rules for road construction—How distributed.**—As soon as the highway commission shall have ascertained the location of the available road material throughout the several parts of the state, and the best methods of road construction, as far as the same may be practicable, it shall prepare and adopt such rules and regulations for the construction and improvement of state roads as shall be most suitable to the requirements of, and bring the most practical results to the several parts of the state. Such rules and regulations shall be printed and several copies shall be forwarded to the county auditor of each county in the state for general distribution. Such rules and regulations may be amended from time to time, but such amendments must be printed and distributed not later than March 1st of each year. ('05 c. 163 § 8)

[1257—]9. **State roads—Surveys—Contracts—Superintendent.**—Any county board may designate any road, or specified portion thereof, in its county as a state road, and construct or improve the same in accordance with the regulations of said highway commission relative to state roads. Said state engineer shall, when practicable, make the necessary surveys, establish grades and prepare plans and specifications for all state roads. But when he is unable to do so, said board may employ its county surveyor or some other competent surveyor or road builder to do the work and report to said state engineer. Said county board may receive bids for all or

part of said work and let the contract to the lowest responsible bidder, reserving the right to reject any or all bids, or may appoint a superintendent of construction and fix his compensation. Under his supervision the work or part of it may be done by day labor. Such superintendent shall prepare an itemized statement in duplicate of the cost of such construction or improvement as soon as completed, file one copy with the county board and the other with said state engineer. ('05 c. 163 § 9)

[1257—]10. **Duties of county and state auditors—Warrants.**—On or before the first Monday of December in each year every county auditor shall certify to said highway commission the amount of money expended for road purposes in his county during that year, and said commission shall forthwith certify to the state auditor the amount due such county from the state road and bridge fund, whereupon said auditor shall draw his warrant upon the state treasurer against said fund in favor of the treasurer of such county; but in no case shall said warrant exceed one-third the amount so expended in said county. If any person or board in any county having charge of the construction or improvement of any road shall wilfully neglect or refuse to comply with the directions of said highway commission, state engineer or road expert as to the method of construction or improvement of any such road, the amount expended thereon shall be deducted from the amount reported by the auditor of such county. ('05 c. 163 § 10)

[1257—]11. **Roads between counties.**—Whenever any county board make application to the state highway commission for the establishment of a state road between its and an adjoining county, said commission shall investigate the need for such road and if it shall decide that it is necessary, shall order its establishment and determine and fix the part of the cost thereof to be paid by each county. The work shall be done by the joint action of the two county boards if they can agree, and if not, then said commission may cause the work to be done and at the time of the next tax levy the auditors of the respective counties shall include in such tax levy the part of the cost of said road construction or improvement fixed by said commission. ('05 c. 163 § 11)

[1257—]12. **Bridges.**—The word "road" or "highway" whenever used in this act shall be construed to include all bridges upon, or which form a part of, the road or highway to be improved or constructed, provided, that in no case shall more than one-third of the cost of constructing any road or bridge be paid by the state from such fund. (Laws 1905, c. 163, § 12, as amended by Laws 1909, c. 463, § 1.)

MOTOR VEHICLES.

1273-1278. [Repealed.]

See note under section [1278—]1.

1277. **Operator of vehicle to stop, when.**

Operation in general.—R. L. § 1277, did not impose the absolute duty upon signal to stop the motive power in addition to stopping the vehicle itself. Whether failure to stop the power was negligence must be determined by the circumstances of each case. *Mahoney v. Maxfield*, 102 Minn. 377, 113 N. W. 904, 14 L. R. A. (N. S.) 251.

[1278—]1. **Definitions.**—The term "motor vehicle" as used in this act, except where otherwise expressly provided, shall include all vehicles propelled by any other than muscular power, except traction engines, road rollers, fire wagons and engines, police patrol wagons, ambulances, and such vehicles as run only upon rails or tracks. The term "Local Authorities" shall include all officials of counties, cities, towns or villages. The term "Chauffeur" shall

mean any person operating a motor vehicle for hire, or as the employé of the owner thereof, and will include all persons who receive compensation for services in connection with motor cars, whether directly or indirectly. The term "State" as used in this act, except where otherwise provided, shall also include the territories and the federal districts of the United States. The term "owner" shall also include any person, firm, association or corporation owning or renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days. The term "public highway" shall include any highway, town road, county road, state road, public street, avenue, alley, park, parkway, or public place in any county, city, town or village, except any speedway which may have been or may be expressly set apart by law for the exclusive use of horses and light carriages. ('09 c. 259 § 1.)

Historical.—"An act to license and define the road regulations of motor and other vehicles and appropriating money therefor." Approved April 19, 1909.

By section 25, R. L. §§ 1273-1277, and all other acts or parts of acts inconsistent herewith, are repealed.

By section 27 the act took effect May 15, 1909.

[1278—]2. Application for registration.—Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state, for each motor vehicle owned, except as herein otherwise provided, shall cause to be filed, by mail or otherwise, in the office of the secretary of state, a verified application for registration on a blank to be furnished by the secretary of state for that purpose, containing:

(1) A brief description of the motor vehicle to be registered including the name of the manufacturer, the factory number and model, if such number or model there be.

(2) The name, residence and business address of the owner of such motor vehicle and the name of the county in which he resides; provided, that if such motor vehicle is used solely for commercial purposes the applicant shall so certify and also state the business in connection with which such vehicle is so used or to be used. ('09 c. 259 § 2)

[1278—]3. Sale of registered vehicle—Notification by vendee—Fee.—Upon the sale of a motor vehicle registered in accordance with this section, the vendee shall, within ten days after the date of such sale, notify the secretary of state of the same upon a blank furnished him for that purpose, stating the name and business address of the previous owner, if known, the number under which such vehicle is registered and the name, residence and business address of such vendee. Upon filing such statement such vendee shall pay to the secretary of state a fee of one dollar: and upon receipt of such statement and fee the secretary of state shall file such statement in his office and note in the registration book or index such change in ownership. ('09 c. 259 § 3)

[1278—]4. Registration book.—Upon receipt of an application for registration of a motor vehicle or vehicles as provided in section two [1278—2] and in section eleven [1278—11] of this act, the secretary of state shall file such application in his office and register such motor vehicle, or vehicles with the name and residence and business address of the owner, manufacturer or dealer as the case may be, together with the facts stated in such application in a book or index to be kept for that purpose, under the distinctive number assigned to such motor vehicle by the secretary of state, which book or index shall be open to inspection during reasonable business hours. ('09 c. 259 § 4)

[1278—]5. Number and tags.—Upon the filing of such application and the payment of the fee provided in section seven [1278—7]

the secretary of state shall assign to such motor vehicle a distinctive number, and without other fee, issue and deliver to the owner a set of two tags of registration, upon each of which shall be displayed the distinctive number assigned in the form and size provided in section ten [1278—10], which shall be evidence of payment of license fee of such registration. In the event of the loss, mutilation or destruction of a certificate of registration, the owner of a registered motor vehicle may obtain from the secretary of state an affidavit showing the fact and the payment of a fee of one dollar for each set of duplicates. ('09 c. 259 § 5)

[1278—]6. **Re-registration annually.**—Such registration shall be renewed annually, and upon the payment of the same fee as provided in this act for original registration, such renewal to take effect on the first day of January of each year. ('09 c. 259 § 6)

[1278—]7. **Registration fees.**—A fee of one and 50-100 dollars shall be paid to the secretary of state upon the registration or re-registration of a motor vehicle in accordance with the provisions of this act. ('09 c. 259 § 7)

[1278—]8. **Tag to be displayed on vehicle.**—No person shall operate or drive a motor vehicle on the public highways of this state after thirty days after this act takes effect, unless such vehicle shall have been registered in accordance with this act and shall have the tag of registration assigned to it by the secretary of state conspicuously displayed on the rear of such vehicle, securely fastened. No person shall display on such vehicle at the same time any number assigned to it under any other motor vehicle law or ordinance. ('09 c. 259 § 8)

[1278—]9. **Color of number plate to be changed annually.**—Such certificate shall be of a distinctly different color or shade each year, there being at all times a marked contrast between the color of the number plate and that of the numerals or letters thereon. ('09 c. 259 § 9)

[1278—]10. **Form of certificate.**—Such certificate of registration shall be substantially of the following size and form, namely: A plate or placard of metal or enamel with metal letters eight and one-half inches in length and five inches in width for one or two numerals; ten inches in length and five inches in width for three numerals; twelve inches in length and five inches in width for four or more numerals; on the left end of this plate with letters running vertically from the top, there shall be the four letters, "MINN.," each letter of which shall be approximately one inch in length, and on the right end, arranged in the same manner and of the same size, there shall be the four numerals of the year in which the license is issued; and on the body of such plate there shall be the distinctive numbers assigned to the vehicle in numerals four inches long, each stroke of which shall be at least one-half inch in width; provided, that motor cycles shall be assigned tags three inches in width and of a height to permit numerals to be placed vertically; across the top of this tag with letters running horizontally there shall be the four letters, "MINN.," and across the bottom, arranged in the same manner, there shall be the four numerals of the year in which the license is issued; except that the letters shall be in proportionate size to the small plate; provided, further, that in the case of a motor vehicle registered under section eleven of this act; there shall be, in addition to the foregoing, the letter "M" preceding the numeral or numerals for the manufacturer of vehicles and the letter "D" preceding the numeral or numerals for the dealer in vehicles. The letter in this instance to be approximately three and one-half inches in length and four inches in width, and to be added to the length of

the registration certificates heretofore specified. Provided, further, that the owner, in lieu of such registration tag, may use a tail lamp with the registration number, the word "MINN." and the numerals of the year, displayed in the lens, the registration numerals to be of the size displayed above. ('09 c. 259 § 10)

[1278—]11. Registration by manufacturers and dealers.—Every person, firm, association or corporation manufacturing or dealing in motor vehicles may, instead of registering each motor vehicle so manufactured or dealt in, make a verified application upon a blank to be furnished by the secretary of state for a general distinctive number for all motor vehicles owned or controlled by such manufacturer or dealer, such application to contain:

(1) A brief description of each style or type or vehicle manufactured or dealt in by such manufacturer or dealer and,

(2) The name, residence and business address of such manufacturer or dealer.

On the payment of a registration fee of ten dollars such application shall be filed and registered in the office of the secretary of state in the manner provided in section 2 [1278—2] of this act. There shall thereupon be assigned and issued to such manufacturer or dealer a general distinctive number and duplicate tags of registration in the manner provided by section 2 [1278—2], which shall be in the form of plates as provided in section ten [1278—10], duplicates of which shall be carried or displayed by every motor vehicle of such manufacturer or dealer so registered when the same is driven or operated on the public highways. Such manufacturer or dealer may obtain as many duplicate sets of such tags of registration as may be desired upon payment to the secretary of state of one dollar for each such duplicate. ('09 c. 259 § 11)

[1278—]12. Brakes, horns, lamps, etc.—Every motor vehicle operated upon the public highways of this state, shall be provided with adequate brakes sufficient to control the vehicles at all times, and a suitable adequate bell, horn or other device for signaling, and shall, during the period from one hour after sunset to one hour before sunrise, display at least two lighted lamps visible from the front and one on the rear of such vehicle, which shall also display a red light visible from the rear. The white rays of such lamp shall shine upon the number plate carried on the rear of such vehicle. The light of the front lamps shall be visible at least two hundred feet in the direction in which the motor vehicle is proceeding. And every such motor vehicle using gasoline as motive power shall use a "muffler," so called, and the same shall not be cut out or disconnected within the limits of any city or village within the state. ('09 c. 259 § 12)

[1278—]13. Stopping on signal, etc.—Obstructing travel.—A person operating a motor vehicle, at request or on signal by putting up the hand from a person riding, leading or driving a restive horse or horses or other draft animals, or on any evidence of fright of any animal so ridden, led or driven sufficient to attract the attention of the operator of a motor vehicle, shall bring such motor vehicle immediately to a stop, and, if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass and if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal; provided, that in case such horse or animal appears badly frightened, or the person operating such motor vehicle is requested to do so, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of others; provided, however, that no person shall unreason-

ably obstruct or impede the right of travel upon the public highways of a driver of a motor vehicle or of a horse, and any one so doing shall be held amenable under this act. ('09 c. 259 § 13)

[1278—]14. Road rules.—Whenever a person walking in the traveled portion of a public highway, or a person riding, driving or leading a horse or other animal therein, or driving or operating a vehicle therein, shall meet another person thus walking or thus riding, driving or leading a horse or other animal, or thus driving or operating a vehicle, if such persons are moving in opposite directions, each shall slacken his pace, if necessary, and seasonable turn to the right so as to give half of the traveled road, if practicable, and a fair and equal opportunity to pass, to the other; or, if they are moving in the same direction, the person overtaking shall pass on the left side of the person overtaken, and the person overtaken shall, as soon as practicable, turn to the right so as to give half of the traveled road to the other. Any such person shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the right of such intersection when turning to the left. In cities or villages or any place where traffic is large, or on streets usually congested with traffic of horse drawn vehicles or street cars, slow moving vehicles must keep near the right curb, allowing those moving more rapidly to keep nearer the center of the street. All vehicles, however, must keep to the right of the center of the street. ('09 c. 259 § 14)

[1278—]15. Non-resident owners.—The provisions of the foregoing sections in regard to registration shall not apply to a motor vehicle owned by a non-resident of this state, who is temporarily within the state while passing into or through this state from an adjoining state, provided, that such non-resident shall have displayed in a conspicuous way on the motor vehicle he is operating, a number and tag which shall make it and the place from which it comes easily identified. ('09 c. 259 § 15)

[1278—]16. Speed permitted.—No person shall operate a motor vehicle on the public highways of this state at a rate of speed greater than is reasonable and proper, having regard to the width, condition and use of the highway at the time and the general and usual rules of the road, or so as to endanger property or the life or limb of any person. Provided, that upon approaching a dam, bridge, sharp curve or steep descent, and also in traversing such dam, bridge, sharp curve or descent, and upon approaching a crossing or intersecting highway or in passing from a side street into a main thoroughfare where persons or vehicles are not plainly discernable, a person operating a motor vehicle shall have such vehicle under perfect control and the rate of speed shall not exceed one mile in eight minutes, nor on any street or highway shall the rate of speed exceed twenty-five miles per hour. ('09 c. 259 § 16)

[1278—]17. Chauffeurs—Application for registration—Fees.—Every person hereafter desiring to operate a motor vehicle as a chauffeur shall file in the office of the secretary of state, upon the payment of a registration fee of two dollars for the first certificate and one dollar for renewal thereafter, annually, a verified application for registration on a blank to be furnished by the secretary of state for that purpose, containing:

- (1) The name and address of the applicant and that he is competent to operate a motor vehicle.
- (2) The trade name and motor power of the motor vehicle or vehicles he is competent to operate.
- (3) Whether or not the applicant has been convicted of violation of any of the provisions of this or any other motor vehicle law or

ordinance, giving the date and place of such conviction and the provision or provisions of the law or ordinance violated. ('09 c. 259 § 17)

[1278—]18. **Chauffeur's registration book.**—Upon the receipt of such an application the secretary of state shall thereupon file the same in his office, assign the applicant a number and register him in a book or index which shall be kept in the same manner as the book or index for the registration of motor vehicles. ('09 c. 259 § 18)

[1278—]19. **Chauffeur's badge.**—The secretary of state shall forthwith, upon registering such chauffeur, and without other fee, issue and deliver to him a badge of aluminum or other suitable metal, which shall be oval in form with its greater diameter not more than two inches, upon which shall be stamped the words "Registered Chauffeur Number, State of Minnesota," with the number inserted therein. The badge shall thereafter be worn by such chauffeur, pinned upon his clothing in a conspicuous place, and at all times while he is operating a motor vehicle upon the public highways of this state. ('09 c. 259 § 19)

[1278—]20. **Fictitious badge, etc.**—No chauffeur, having registered as hereinbefore provided, shall voluntarily permit any other person to wear his badge; nor shall any person while operating a motor vehicle upon the public highways of this state wear a chauffeur's badge belonging to another person, or a fictitious chauffeur's badge. ('09 c. 259 § 20)

[1278—]21. **Unregistered chauffeurs—Non-residents.**—No person shall operate or drive a motor vehicle as chauffeur, upon the public highways of this state thirty days after this act takes effect, unless such person shall have complied in all respects with the requirements of this act, provided, however, that a non-resident chauffeur, who has registered under the provisions of the law of the state of his residence which are substantially similar to the provisions of this section, shall be exempt from registration under this section; and provided, further, he shall wear the badge assigned him in the state of his residence in the manner provided in section 19 [1278—19] of this act. ('09 c. 259 § 21)

[1278—]22. **Tampering with machines, etc.**—No person shall tamper with or drive or operate, or use a motor vehicle without the permission of the owner, and no person shall, without authority of the person in charge, climb upon or in any automobile, whether while the same is in motion or at rest, or hurl stones or any other missiles at the same, or occupants thereof, or shall, while such motor vehicle is at rest and unattended, sound the horn or other signaling device, or attempt to manipulate any of the levers, starting crank, brakes or machinery thereof, or set such vehicle in motion or otherwise damage or interfere with the same. ('09 c. 259 § 22)

[1278—]23. **Disposition of fees—Clerk—Annual appropriation.**—At the end of each month, the secretary of state shall pay into the state treasury to the account of the general fund of the state, all moneys received by him under this act, and file with the state auditor a verified statement of the amount and sources thereof. For the purchase of tags, books of registration and the salary of an additional clerk in the office of the secretary of state, and not to exceed \$1,200 per annum, and the other necessary expenses provided in this act, the sum of \$10,000, or so much thereof as may be necessary, is annually appropriated out of the general fund of the state. On or before the 10th of each month, the secretary of state shall certify to the state auditor the items and amounts of all expenses necessarily incurred by him in the carrying out of this act, and such items

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and amounts being duly audited shall be paid by the state. ('09 c. 259 § 23)

[1278—]24. **Suit for damages—Evidence, etc.**—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil suit for damages by reason of injuries to persons or property resulting from the negligent use of the highways by a motor vehicle or its owner or his employé or agent, and in all actions and proceedings against the registered owner of a motor vehicle for negligence in the operation of such vehicle or for any violation of this act, the fact that such motor vehicle had upon it the registration number assigned to such owner under this act, shall be prima facie evidence that such motor vehicle belonged to such registered owner. In case of accident to any person or property on the public highway, due to the operation thereof of a motor vehicle, the person operating such motor vehicle shall stop and, upon request of any person injured, or any person present, give such person his name and address. ('09 c. 259 § 24)

[1278—]25. **Penalty for violation.**—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. ('09 c. 259 § 26)

[1278—]26. **Taking and removing without consent a misdemeanor—Penalty.**—Any person who enters any warehouse, garage or building of any kind and takes and removes therefrom, for his own use or that of others, any automobile or motor vehicle, without the knowledge and consent, expressed or implied, of the owner thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished accordingly. The fact that such automobile or motor vehicle was voluntarily returned to its original place by the party taking the same before or after the owner discovers such removal, or the fact that the party taking the same was then and there in the employ of the owner of such property shall not be deemed a defense in the prosecution of such offender. ('09 c. 265 § 1)

Historical.—"An act making it a misdemeanor to take and remove automobiles and motor vehicles from any warehouse, garage or building, without the knowledge and consent of the owners." Approved April 20, 1909.

[CHAPTER 13A.]

[VESSELS NAVIGATING LAKES AND RIVERS.]

[1278—]27. **Definitions.**—That the following regulations for preventing collisions shall be followed by all vessels navigating all lakes and rivers of the state of Minnesota:

In the following rules every steam vessel which is under sail and not under steam is to be considered a sailing vessel, and

Every vessel under steam, whether under sail or not, is to be considered a steam vessel.

The word "steam vessel," shall include any vessel propelled by machinery.

A vessel is "under way" within the meaning of these rules, when she is not at anchor, or made fast to the shore, or ground.

The word "visible" in these rules, when applied to lights, shall mean visible on a dark night with a clear atmosphere. ('09 c. 278 § 1)

Historical.—"An act to adopt regulations for preventing collisions upon the lakes and rivers of the state of Minnesota." Approved April 20, 1909.

Section 20 repeals inconsistent acts. See section [1278—]47.