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GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

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1918

Any city or village, or two or more cities or villages jointly, in which an armory has been heretofore, is now or may hereafter be erected or authorized under the provisions of this act, may acquire and convey to the state of Minnesota, a site, and raise and appropriate money and funds in aid of the construction, repair or improvement thereof, and to that end may issue bonds payable not more than twenty years after their issue and bearing interest at a rate not exceeding five per cent. per annum, and may deposit such money and funds and the proceeds of the sale of such bonds with the state treasurer to the credit of the proper construction fund, and may make such further provision for the maintenance and improvement of such armory as may be deemed necessary; provided, that, whenever bonds have been heretofore issued by any city or village for any of the foregoing purposes, and the validity of such bonds is not now in question in the courts, the same are hereby validated and hereby declared to be legal obligations of any city or village issuing the same; and provided further that whenever the board deems it expedient, and in furtherance of the purposes of this act, it may purchase and finish armories already built or partly built, deducting, however, from the purchase price, the appraised value of the site. ('13 c. 226 § 2, amended '15 c. 118 § 1)

NAVAL MILITIA

2473. Organization—Battalion—The naval militia shall consist of one battalion not to exceed eight divisions or companies. (Amended '15 c. 353 § 1)

2474. Composition of militia under jurisdiction of secretary of navy—The naval militia shall be composed of such officers, warrant officers, petty officers and enlisted men as the secretary of the navy shall prescribe for a battalion and for a division of the naval militia. (Amended '15 c. 353 § 2)

2475. Number and grades—For the purpose of conforming the naval militia more closely to the organization of the Naval Militia of the United States as the same may be, from time to time, prescribed by the secretary of the navy and not otherwise, the governor may fix the number and grade of officers, warrant officers, petty officers and enlisted men therein. (Amended '15 c. 353 § 3)

CHAPTER 13

ROADS


DEFINITIONS—POWERS AND DUTIES OF MUNICIPALITIES

2488. Scope of act—State roads, county roads, and town roads defined—125-325, 146+1110; note under § 2605.

2489, subd. 3. Width of bridges and culverts—

Cited (122-126, 142+20).

161+506.

This section has no application to a street dedicated by plat (126-456, 148+501). Dedication, 51.

2490. State roads—All state roads shall be constructed, improved and maintained by the counties under rules and regulations to be made and promulgated by the commissioner of highways. ('13 c. 235 § 3, amended '17 c. 119 § 4)

2491. County roads—All county roads shall be established, constructed and improved by the several county boards. The county board of any county may appropriate from its road and bridge fund to any town in its county,

STATE HIGHWAY COMMISSION—STATE ROADS AND AID

2496. [Superseded.]

See §§ [2496—]1 to [2496—]2.

[2496—]1. State highway commission abolished—Appointment of commissioner of highways—To exercise powers and duties heretofore devolved on commission—Highway department—Deputy highway commissioner, etc.—That the state highway commission be and it is hereby abolished and the office of each of the persons constituting such commission is also hereby likewise abolished; that forthwith upon the passage of this act the Governor of the state is authorized and directed to appoint a commissioner of highways upon whom shall devolve all the powers, duties, rights, privileges and obligations heretofore imposed upon, granted to and vested in the state highway commission under the laws of this state, and especially chapter 235, Laws 1913, as amended by chapter 116, Laws 1915 [2488–2578]; it being the intention hereof to create the office of commissioner of highways; provide for the appointment of an incumbent thereof and that such person as such commissioner of highways shall hereafter exercise the powers and privileges and perform the duties heretofore devolved upon the state highway commission, and that except as hereinafter provided, that such commissioner of highways, shall hereafter continue and carry on the governmental work heretofore carried on by said state highway commission and that such officer shall be the successor of said state highway commission and shall take over the office equipment and organization thereof and continue the same, with power and authority, however, to make such changes therein and the personnel thereof, and the compensation of the present officers and employees thereof as to such commissioner of highways may seem desirable. Such organization shall be known and designated as the highway department.

The offices of "Secretary of the Highway Commission" and "State Engineer" are hereby abolished. The commissioner of highways shall preserve the records of the state highway commission as heretofore constituted and shall have the custody thereof. He shall cause a record of his official acts and determinations, which shall be denominated orders, to be made and preserved in his office. He shall appoint and may at pleasure remove, a deputy highway commissioner, which office is hereby created. The person so appointed shall be an experienced road builder and engineer. Such deputy shall have charge under the general supervision and control of the commissioner of highways, of the technical work of the assistant engineers. The compensation of such deputy commissioner shall be fixed and determined by the commissioner of highways and a certified copy of the order so fixing such compensation shall be filed with the state auditor; provided, however, that the salary of said deputy commissioner shall not exceed four thousand dollars (\$4000.00) per annum.

All rules and regulations heretofore promulgated by the state highway commission and in force at the time of the passage of this act shall thereafter continue in full force and effect as rules and regulations of the commissioner of highways until such time as the same shall be revoked or altered by him. ('17 c. 119 § 1)

Section 30 repeals inconsistent acts, etc.

[2496—]2. Commissioner of highways—Term—Salary—Bond—Seal—The office of the commissioner of highways, the incumbent whereof shall have the powers, duties and privileges herein declared, is hereby created; the term of such office shall be six years and the Governor of the state forthwith upon the passage of this act, shall appoint a suitable person thereto. The commissioner of highways may be removed from the office by the Governor for like cause and upon substantially the same proceedings as is prescribed by law with reference to the removal of county officers.

The commissioner of highways shall devote his entire time to the performance of his official duties and shall receive as compensation therefor a yearly salary of forty-five hundred dollars.

Such commissioner of highways shall before entering upon the performance of his official duties, give bond to the state, to be approved by the Governor, in the penal sum of \$25,000, conditioned for the faithful performance of his duties. If a surety company bond is given, the premium thereon may be paid from the funds appropriated for the payment of the expenses of the highway department; provided, however, that the amount of such premium so paid shall be approved as to amount by the state treasurer. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of said commissioner of highways in the performance of his official duties may maintain an action on such bond for the recovery of damages so sustained. The commissioner of highways shall have an official seal with which he shall authenticate his official acts. There shall be engraved on the margin thereof the words "COMMISSIONER OF HIGHWAYS—STATE OF MINNESOTA" and in the center thereof the same device as is engraved on the great seal of the state. ('17 c. 119 § 2)

[2496—]3. **Expenses—State road and bridge fund**—The expense of the highway department, including the salary of the commissioner of highways and of the deputy commissioner of highways, the salary of the several assistant engineers, the necessary clerical and technical assistants and employees, their necessary expenses and the expense of maintaining the office of said highway department shall be paid by the state treasurer from the moneys apportioned therefor from the state road and bridge fund upon vouchers approved by the commissioner of highways, after the same have been duly audited by the state auditor; provided, however, that the amount which may be so expended in any one year shall not exceed ten per cent of the total state road and bridge fund available for such year and so much of said state road and bridge fund as is necessary for said purpose, not exceeding said limitation, is hereby annually appropriated from said state road and bridge fund for said purpose; provided furthermore, that the expense of maintaining the office of said highway department, including the salary of the commissioner of highways and that of the deputy commissioner of highways and the necessary clerical and technical assistants and employees employed in such office, but exclusive of the salaries and necessary expenses of the assistant engineers employed by the commission outside of said office, shall in no year exceed the sum of twenty-five thousand dollars (\$25,000.00). ('17 c. 119 § 3)

2497. Assistant engineers—Compensation—Bonds—Duties of commissioner, deputy and assistants—Records—Duty of attorney general—Persons heretofore appointed—The commissioner of highways shall appoint a suitable number of assistant engineers and employ such other persons as he may from time to time require and shall fix their compensation. Provided that the maximum amount to be paid to any assistant engineer, except the first assistant road engineer and chief bridge engineer, shall not exceed the sum of two thousand (\$2,000.00) dollars per annum. The deputy commissioner of highways and the assistant engineers shall, before entering upon the duties of their offices, give bond to the state in the penal sum of \$3,000, to be approved by the Governor and conditioned for the faithful performance of their official duties. The state, the several governmental subdivisions thereof or any person damaged by any wrongful act or omission of said deputy commissioner of highways, or any of said assistant engineers in the performance of his official duties, may maintain an action on his bond for the recovery of the damages so sustained.

It shall be the duty of said commissioner of highways, his deputy and the assistant engineers, to give advice, assistance and supervision with regard to road and bridge construction and improvement throughout the state, as may be required and as the rules and regulations of the commissioner of highways may prescribe and to render such other engineering and surveying services as may be required by the Governor for any of the state departments.

The commissioner of highways, his deputy, the assistant engineers and other persons employed by said commissioner shall be allowed their neces-

sary expenses incurred in the performance of their official duties outside of the State Capitol or outside the county in which they reside.

All of the files and records of the highway department shall, under reasonable regulations, be open to public inspection, and copies thereof certified by the commissioner of highways as being true copies, shall be received in evidence in any court in this state with the same force and effect as the originals. The attorney general shall be ex-officio attorney for the commissioner and shall give him such legal counsel, advice and assistance as he may from time to time require.

All persons heretofore appointed to any office or employment by the state highway commission shall, after the passage of this act, unless the office to which such appointment was made is abolished by this act, continue in such office or employment and receive the compensation provided therefor until he or she shall be removed therefrom by the commissioner of highways and until his or her compensation shall be changed by order of the commissioner of highways. ('13 c. 235 § 10, amended '17 c. 119 § 6)

2498. Duties of commissioner—Annual report—Whenever practicable said commissioner shall investigate and determine the location of road material in the state, ascertain the most approved methods of construction and improvement of roads, investigate the most approved laws in relation to roads in other states and hold public meetings throughout the state when deemed advisable. On or before March 1st of each year he shall make a printed report to the Governor stating among other things, deemed by him expedient and of general interest on the subject of road building, as near as possible, the number of miles of state roads built or improved during the preceding year and their cost; the general character and location of material suitable for road construction; the general character and needs of the roads of the state; and recommend such legislation as he deems advisable. ('13 c. 235 § 11, amended '17 c. 119 § 7)

2500. Moneys, how expended—Vouchers, etc.—The moneys allotted by the commissioner of highways, the state treasurer and the state auditor from the state road and bridge fund for the expenses of the highway department shall be expended under the direction and supervision of the commissioner of highways; all vouchers for such expenditures shall be approved by the commissioner of highways and paid by the state treasurer upon warrants drawn by the state auditor. ('13 c. 235 § 13, amended '15 c. 116 § 2; '17 c. 119 § 8)

2501. Not to be interested in contracts—It shall be unlawful for the commissioner of highways, his deputy or any assistant engineer to be directly or indirectly interested in any contract for the construction or improvement of any road or bridge constructed or improved under the provisions of this act. Any such person violating this provision shall be deemed guilty of a gross misdemeanor. ('13 c. 235 § 14, amended '17 c. 119 § 9)

2502. Reserve maintenance fund—Apportionment of road and bridge fund, etc.—On or before the first Tuesday in April in the year 1917, and on or before the first Tuesday in January of subsequent years, the commissioner of highways, the state treasurer and the state auditor shall estimate the probable sum of money that will accrue to the state road and bridge fund during the current year and after first setting aside therefrom an amount not exceeding \$50,000 for a reserve maintenance fund, to be expended as herein-after provided, and also a sum not exceeding ten per cent of the sum it is estimated will accrue to the state road and bridge fund during the then current year, which sum shall constitute the expense fund of the highway department, shall apportion the balance of the state road and bridge fund among the different counties of the state as herein provided and shall immediately send a statement of such apportionment to the state auditor and to the county auditor of each county, showing the amount apportioned to each county for expenditure during such year.

Not less than one per cent nor more than three per cent of the state road and bridge fund available in any year and remaining after setting aside the two funds hereinbefore provided for, shall be apportioned to any county.

Any fund in excess of one-half of one per cent of the total state road and bridge fund available for allotment in any one year, which, for a period of two years after such allotment shall remain unused and unexpended by such county, or for work done in such county, shall revert to the unapportioned funds in the state road and bridge fund and be thereafter and during the next succeeding year apportioned the same as other funds added to such state road and bridge fund by taxation or otherwise. ('13 c. 235 § 15, amended '15 c. 116 § 3; '17 c. 119 § 10)

125-325, 146+1110; note under § 2605.

2503. Allotment, how used and expended—Duty of county boards—Preferences, etc.—Not less than twenty per cent nor more than thirty per cent of the allotment so made to any county shall be used for maintenance of state roads and bridges thereon. Payment shall be made by the state to a county only for such proportion of the cost of maintenance of any road as is hereinafter specified with reference to the payment of state aid to such county for the construction or improvement of a state road therein.

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

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

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

In case the county board of any county fails or neglects to maintain any state road as to which it is hereinbefore directed preference shall be given in the expenditure of the funds set aside for maintenance purposes in accordance with rules and regulations promulgated by the commissioner of highways. He may cause the same to be maintained and to pay the expense thereof from the "Reserve Maintenance Fund." He shall have power to enter into contracts for the performance of work or he may purchase the necessary tools and materials and employ the necessary labor and cause the same to be done by day labor under the supervision of an assistant engineer; provided, however, that the amount so expended in any one county in any one year shall not, together with the funds allotted to such county during such year, exceed an amount equal to three per cent of the total state road and bridge fund available for allotment and expenditure during such year; and provided further, that an amount equal to any sum so expended by the commissioner of highways in any county during any one year shall at the time of the next allotment of the state road and bridge fund be deducted from the allotment which would otherwise be made to such county and the amount so deducted shall be credited to the reserve maintenance fund; provided further, however, that no county shall by reason of any such deduction receive in any one year less than one-half of one per cent of the total state road and bridge fund provided and expended during such year.

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

In counties where the assessed value of the property for taxation purposes is less than five million (\$5,000,000) dollars, 80 per cent; in counties with a taxable valuation of five million (\$5,000,000) dollars and less than ten million (\$10,000,000) dollars, 70 per cent; in counties with a taxable valu-

ation of ten million (\$10,000,000) dollars and not exceeding fifteen million (\$15,000,000) dollars, 60 per cent; in all other counties, 50 per cent. In determining the taxable valuation hereinbefore provided for, the assessed valuation of moneys and credits provided for in chapter 285, General Laws 1911 [2317-2328], shall be excluded. The proportion of the cost of constructing any road or bridge above specified shall be paid by the state only in case the funds apportioned to any given county, over and above the amount set aside for maintenance, as herein provided, shall be sufficient therefor. ('13 c. 235 § 16, amended '15 c. 116 § 4; '17 c. 119 § 11)

2504. Rules and regulations for construction—As soon as the commissioner of highways shall have ascertained the location of the available road material throughout the state, and the best methods of road and bridge construction, as far as the same may be practicable, he shall prepare and adopt such rules and regulations for the construction, maintenance and improvement of state roads as shall be most suitable to the requirements of, and bring the most practicable results to, the several parts of the state.

Such rules and regulations shall be printed and copies shall be forwarded to the county auditor of each county in the state for general distribution. Such rules and regulations may be amended from time to time, but such amendments must be printed and distributed not later than April 1st of each year. ('13 c. 235 § 17, amended '17 c. 119 § 12)

2505. Designation of state roads—Surveys—The county board of any county may, with the consent of the commissioner of highways, designate any established road, or specified portion thereof, in its county, not within the corporate limits of any borough, village or city, as a state road, and construct or improve the same in accordance with the regulations of the commissioner of highways relative to state roads.

Any such board may also, with the consent of the commissioner of highways, designate as a state road, any street or road not less than sixty feet in width and lying within the corporate limits of any village, borough or city of the fourth class and constituting a direct connecting line with the parts of a state road leading to and out of any such borough, city or village.

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

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

Whenever it shall be made to appear to the commissioner of highways that the board of county commissioners of any county has refused to grant an application to it made by at least ten freeholders, residents of such county, to designate any established road or part thereof as a state road, the commissioner of highways may consider such application de novo and if in his opinion, sufficient funds will be available for the improvement of such road, and its designation and improvement as a state road is desirable because of

the relation of such road to other state roads or traffic conditions in such county, the commissioner of highways may by his written order designate such road or part thereof as a state road without a prior designation thereof by the county board or its concurrence in such designation. A copy of such order shall be filed with the county auditor.

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

The commissioner of highways shall make or cause to be made all necessary surveys, establish grades and prepare plans and specifications for all state roads, except roads in counties which now have or hereafter may have a county superintendent of highways or other officer to superintend the construction and improvement of roads within its confines, and shall cause to be superintended all work done on such designated state roads. Such work may be done under contract or by day labor, as the county board and the commissioner of highways may direct, and a report thereof shall be made by the engineer in charge thereof in duplicate, as may be required by the commissioner of highways, one copy of which shall be delivered to the county auditor and one to the commissioner of highways. ('13 c. 235 § 18, amended '15 c. 116 § 5; '17 c. 119 § 13)

2506. Designation of road on county line as state road—Whenever the county boards of adjoining counties make application to the commissioner of highways for the designation of an established road running on or near the boundary line between two counties, as a state road, said commissioner of highways shall investigate the desirability of such designation and if he shall decide that it is desirable so to do, shall so designate such road and determine and fix the part of the cost of the improvement and maintenance thereof to be paid by each county. ('13 c. 235 § 19, amended '17 c. 119 § 14)

2507. Assistant engineers—Duties—The commissioner of highways shall appoint as many assistant engineers throughout the state as he may deem necessary for the purpose of properly superintending all work done on state roads. Such assistant engineers shall devote their entire time to their official duties; may be assigned by the commissioner of highways to one or more counties as deemed advisable and shall act under the instruction of the commissioner of highways and the rules and regulations promulgated by him. The commissioner of highways shall cause all necessary surveys, estimates, plans and specifications for work to be done on state roads to be made and prepared by the highway department. It shall be the duty of the assistant engineers upon request of the board of county commissioners of the county to which such assistant engineers are assigned, or any town board of supervisors in such county, to advise and consult with such county or town board in the construction or improvement of county or town roads, to make plans and specifications when so required; to exercise supervision over such construction or improvement when requested so to do by the county board or town board, as the case may be, and lend every possible assistance to the local road authorities in building and improving the public highways. All persons appointed by the commissioner of highways to any office or position shall be appointed solely on his or her merits and qualifications.

The commissioner of highways shall pay from the funds appropriated for the expenses of the highway department, all the expenses of the assistant engineers and all expenses incidental to the making by them of surveys, estimates, plans and specifications for work to be done on the public roads, including the expenses of such engineers incidental to the supervision by them of the construction or improvement of any public road. It shall be lawful, however, for a county board of any county to furnish a suitable office and office furniture and equipment at the county seat of its county for the use of an assistant engineer assigned to such county. ('13 c. 235 § 20, amended '15 c. 116 § 5A; '17 c. 119 § 15)

2508—Procedure of county board in constructing or improving state roads—Whenever the county board of any county shall determine to build

or improve any state road for which aid is to be claimed, they shall proceed as follows:

If the estimated cost of such work does not exceed five hundred dollars (\$500) the said board shall cause surveys, when necessary, to be made therefor, by an assistant engineer, and shall thereupon receive bids for all or part of said work and let the contract to the lowest responsible bidder, or may cause the same to be done by day labor under the supervision of said engineer. In case the estimated cost exceeds five hundred dollars (\$500) the said county shall cause surveys, plans and specifications therefor to be made by an assistant engineer and submit the same to the commissioner of highways for approval, and when such plans and specifications are approved, the said county board shall proceed to do said work by contract or day labor. The work shall be done under the supervision of an assistant engineer, who shall in all matters pertaining to such work act under the rules and regulations of the commissioner of highways.

The provisions of this section shall not apply to any county which now has or which may hereafter have a population of one hundred fifty thousand (150,000) inhabitants and over and a county superintendent of highways or other county officer to superintend the construction or improvement of roads within its confines. ('13 c. 235 § 21, amended '17 c. 119 § 16)

2509. State aid, how paid—After any county board shall have completed any work on a state road for which state aid is claimed, the auditor of such county shall make a statement to the commissioner of highways showing the location, nature and cost of such work and shall also submit a detailed report from the assistant engineer in charge showing all such details concerning the same as may be required by the commissioner of highways. On receipt thereof the said commissioner of highways shall proceed to examine such reports and if he finds the same satisfactory and that the work has been done in substantial compliance with the plans and specifications therefor, and the contract therefor, if any, he shall certify the same to the state auditor who shall issue a warrant for the state's share thereof as shown by said report, payable to the treasurer of such county, but in no case shall said warrant with all other warrants exceed the amounts allotted to such county, and it shall be the duty of the assistant engineer to report such work in duplicate to the county auditor with details and cost within thirty days after the completion thereof, one copy of which shall be sent to the commissioner of highways with the auditor's report.

The detailed report of the assistant engineer mentioned herein shall contain, among other things, a statement showing the municipal subdivision performing the work or expending the money on such highway, and if more than one such municipal subdivision has performed work or expended money on such highway, then the names of such municipal subdivisions and the portion of the work performed or money expended by each. The county auditor upon receipt of the money from the state shall pay or credit the same to the municipal subdivision entitled thereto, and if more than one such municipal subdivision has performed work and expended money upon such highway as shown by the assistant engineer's report, then to each of such municipal subdivisions in the proportion shown by such assistant engineer's report. ('13 c. 235 § 22, amended '17 c. 119 § 17)

[2510—]1. Highway commission empowered to aid in building bridges in certain cities and villages—The state highway commission is hereby authorized to pay into the treasury of a village or city of the third or fourth class a part of the allotment of the state road and bridge fund, made to any county situate as hereinafter specified, to aid such village or city in the construction, rebuilding or improvement of a bridge situate wholly or in part in such village or city and connecting with a state road, state rural highway or other public highway lying in the same or an adjoining county, when requested so to do by the county board of the county to which the allotment is made. ('15 c. 21 § 1)

[2510—]2. Same—County board to authorize payment of allotment—Whenever the council of any village or city of the third or fourth class shall

determine that it is necessary to build, rebuild or improve any bridge, including approaches thereto, upon or forming a part of the street or highway, either wholly or partly within its limits, when such bridge shall form a part or connect with any state road, state rural highway or public street leading into or through such village or city, the county commissioners of the county in which such village or city is situate and the county commissioners of an adjoining county in which the state road, state rural highway or other public highway with which such bridge will connect is situate, may by resolution authorize the state highway commission to pay to the village or city a designated amount out of the allotment of the state road and bridge fund made to such county or counties, to aid such village or city in the building, rebuilding or improving of such bridge, provided, however, that the aggregate amounts so to be paid from the allotment or allotments of such county or counties, shall not exceed one-half of the cost of the construction, rebuilding or improvement of such bridge, and provided, further that no payment shall be made by the state highway commission from such allotment or allotments on any bridge which is not constructed, rebuilt or improved under the general supervision of the state highway commission and in accordance with the plans and specifications approved by it. ('15 c. 21 § 2)

[2510—]3. **Same—Payments during consecutive years**—Such payments may be made by the state highway commission, on request of the board of county commissioners during two consecutive years. ('15 c. 21 § 3)

[2510—]4. **Same—Payments on estimates of state engineer**—Such payments not exceeding in the aggregate the amounts specified by the board of county commissioners may be made by the state highway commission from time to time as the work of construction progresses and on estimates made or approved by the state engineer, not exceeding however one-half of the amount of such estimates; final payment to be made to the village or city when the bridge is completed and accepted. ('15 c. 21 § 4)

ROADS ESTABLISHED BY JUDICIAL PROCEEDINGS

2511. **Highway in two or more counties, etc.—Petition—Commissioners—**

General appearance—A landowner held not to have submitted himself to the jurisdiction of the court by a general appearance or by taking part in the proceedings under this section (132-454, 157+706). Highways, ⚡31.

2512. **Notice of presentation of petition—**

That a notice under this section misstated the time of the appointed date of a special term was not an objection available to one who was not misled thereby, but was present at the presentation of the petition (132-454, 157+706). Highways, ⚡30(3).

[2516—]1. **Certain highway proceedings legalized**—That in any and all cases, where a proper petition for the establishment of a judicial highway under the provisions of chapter 13, General Statutes for 1913, has been presented to a judge of any district court in this state, and an order has been made and filed in said proceeding appointing highway commissioners and said commissioners have fully performed their duties and filed their report establishing the highway as ordered by said judge, and that notice of the presentation of said petition was given as required by law, except that such notice was not posted in three public places in each of the counties affected, such proceedings are hereby declared to be in all respects legal, valid and effective as though a notice of presentation of such petition was posted in each of such counties affected as required by law; provided, that nothing herein contained shall be construed to apply to actions now pending which involve the validity of any such proceeding. ('15 c. 302 § 1)

2517. **Powers of county board— * * ***

Subdivision (3). **Bridges in villages, boroughs and cities of the fourth class—**

Evidence held to justify finding of negligence of defendant village in failing to provide guard rails for bridge (128-47, 150+221). Bridges, ⚡46(9).

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

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

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

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

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

The bonds so issued shall bear interest, evidenced by coupons, at a rate not exceeding six per cent per annum, payable annually; such bonds may be made payable in equal installments, the first of which shall become due and payable not less than five years after the date thereof and the last of which installments shall become due and payable not more than twenty years after the date thereof. Said bonds shall not be sold for less than par and accrued interest and the proceeds thereof shall be used by the county only for making the improvements specified in the proposition as submitted to the voters; such bond shall not be valid until registered by the county auditor and his certificate of registration endorsed thereon. The county auditor shall thereafter levy a sufficient tax to pay the interest and principal of said bonds as the same shall accrue, which tax shall be collected as other taxes are collected; provided, however, that no such bonds shall be issued by any county when the issuance of the same would make the entire indebtedness of the county exceed fifteen per cent of the assessed valuation of the taxable real property of the county; provided, that in computing the indebtedness of any county, any indebtedness created by the issue of bonds of such county for the construction of drainage ditches the cost of which is assessed against the benefited property, shall not be included. ('13 c. 235 § 30 subd. 5, amended '17 c. 119 § 18)

2518. County road and bridge fund—Tax levy—The county board at its July meeting may include in its annual tax levy, an amount not exceeding

five mills on the dollar of the taxable valuation for the county road and bridge fund. Such taxes may be additional to the amount permitted by law to be levied for other county purposes. ('13 c. 235 § 31, amended '17 c. 119 § 19)

[2518—]1. **Road and bridge tax on unorganized territory**—The county boards of the several counties in which there may be situated any territory not organized for township purposes are hereby authorized to, and they may in their discretion, annually levy a tax for road and bridge purposes on all the real and personal property in such unorganized territory, exclusive of moneys and credits taxed under the provisions of Chapter 285, Laws 1911 [2316-2328], not exceeding, however, fifteen mills on the dollar of the assessed value of such property. Such tax, if levied, shall be additional to the tax which the counties are authorized to levy for county road and bridge purposes. ('15 c. 44 § 1)

[2518—]2. **Same—Resolution—Duty of auditor**—If any county board deems it desirable to levy such a tax on such property, it may at the time it levies the county taxes, by resolution reciting such fact, determine the amount so to be levied in each congressional township of such unorganized territory for the then current year. It shall be the duty of the auditor to extend such tax so levied upon the tax books of the county, at the same time and in the same manner as other taxes for county purposes are extended, as to property in such unorganized territory, and the same shall be collected and the payment thereof enforced at the same time and in the same manner as other county taxes on such property, and with like penalties for non-payment at the time prescribed by law. ('15 c. 44 § 2)

[2518—]3. **Same—Separate funds**—Such tax, when collected, shall be set apart in separate funds in the county treasury; such funds shall be designated in such a manner as to describe each thereof, as the road and bridge fund for the congressional township the property of which is so taxed to create such fund. ('15 c. 44 § 3)

[2518—]4. **Same—How expended**—Such fund shall be expended under the direction of the county board for the construction, improvement, maintenance and repair of roads and bridges in the congressional township, the property of which was so taxed to create such fund. ('15 c. 44 § 4)

[2518—]5. **Same—Tax on what territory levied**—The tax above provided for may be levied on all or only a part of the unorganized territory in any county, provided, however, that no part of such unorganized territory less than a congressional township shall be so taxed. ('15 c. 44 § 5)

[2518—]6. **Road and bridge fund in counties having 300,000 inhabitants, etc.**—In all counties in this State now or hereafter having a population of 300,000 or more inhabitants where the maximum rate of taxation for county purposes is fixed by a board of tax levy, or other corresponding body, the annual estimate of the county board for the road and bridge fund of such county as filed with such board of tax levy, or other corresponding body, to an amount not exceeding two mills on the dollar of the taxable valuation of such county, shall be allowed in full, for the years 1917 and 1918 and shall be included in the tax levy and shall not for any reason be reduced, altered or amended. Provided that not more than four-tenths (4-10) of a mill of such tax levy may be used for the repair, maintenance and upkeep of highways and bridges and that the balance of such tax levy shall be used solely and only for the construction of main arterial roads. ('17 c. 339 § 1)

Section 2 repeals inconsistent acts, etc.

COUNTY ROADS OTHER THAN THOSE ESTABLISHED BY JUDICIAL PROCEEDINGS

2519. **Powers of county board—Counties having 200,000 inhabitants**—County roads, other than those established by judicial authority, shall be established, altered or vacated only by the county board. Damages resulting

from the establishing, altering or vacating such roads shall be determined in the manner hereinafter provided, and shall be paid by the counties through which they pass. All proceedings in establishing, altering or vacating roads shall be recorded in a public record book, designated as the "Book of County Roads."

The county commissioners of any county are hereby authorized and empowered to constitute and declare any public highway or road in such county outside of the corporate limits of any incorporated city or village therein, a county road; and they are hereby given general supervision over such roads, with full power to appropriate such sums of money from the county treasury of such county as they may deem advisable for improving the same; provided, that nothing contained in this section shall be so construed as to relieve the supervisors or town overseer of highways of any town in such county from any of the duties imposed upon them by existing laws relating to roads, cartways and bridges, nor to repeal any existing special law relating to roads, cartways and bridges applicable to such county.

In any county of this state having two hundred thousand (200,000) inhabitants or over, or which may hereafter have two hundred thousand (200,000) inhabitants or over, the county commissioners thereof are hereby authorized and empowered to extend any street or avenue beyond the city or village limits of any city or village in such county to connect with any road or highway in any adjoining county, which extension, however, shall not exceed one mile in length; and said county commissioners are given full power to change, alter, improve or repair such extension of road within such county, and to appropriate such sum or sums of money from the county treasury of such county as they may deem advisable therefor; provided, that in no case shall the location of such road wherewith such extension shall be connected, be changed at the point where the same now crosses the county line between such county and such adjacent county or counties. ('13 c. 235 § 32, amended '15 c. 116 § 6)

2520. Roads in more than one town, etc.—Petition—Whenever twenty-four freeholders of any county petition the county board for the establishment, alteration or vacation of any road or of any roads which connect with each other running into more than one town, or partly in one or more towns and partly on the line between one or more towns, or on the line between two or more towns, in such county, or along the shore of any lake wholly or partly in such county, or into a town or towns and the unplatted part of any village or villages therein, such road or roads not being within a city, or any road wholly within a town, which constitutes a direct connecting link with two or more roads in the towns adjoining the town in which such road is, or is to be located, setting forth the beginning, course and termination or the beginnings, courses and terminations of the road or roads, and the names of the owners of the land, if known, through which the same may pass, and file the same with the auditor, he shall forthwith lay the same before the board, if in session, and if not, at their first session thereafter. If the petition relate to a road or roads, partly in a town or towns, and partly in the unplatted portion of a village or villages, before it shall be acted upon by the county board it shall have attached thereto a certified copy of a resolution of the village council or of each village council, as the case may be, approving the same. ('13 c. 235 § 33, amended '15 c. 116 § 7)

TOWN ROADS

2525. General supervision in town board—The town board of each town shall have general care and supervision of all town roads therein, and such care and supervision of county roads therein as is prescribed by the provisions of this act, and shall procure machinery, implements, tools, stone, gravel, and other material required for the construction and repair thereof, provided, that in counties having a population of one hundred fifty thousand (150,000) or over and which now have or hereafter may have a county superintendent of

highways or other officer to superintend the construction or improvement of roads within its confines, the town board shall not have jurisdiction over county roads. ('13 c. 235 § 38, amended '15 c. 116 § 8)

Town officers are not liable to one injured on a highway owing to their failure to keep it in repair (134-41, 158+725). Highways, ↪198.

While mandamus may lie to compel the town board to repair a public road, where such board refuses to exercise its discretion, the person seeking the remedy must show a clear right to the relief demanded (133-160, 157+1092). Mandamus, ↪94.

In mandamus to compel the repair of public roads, the persons composing the town board may properly be made defendants (133-160, 157+1092). Mandamus, ↪151(2).

2527. Taxation—Subdivision (1). All real and personal property in each town liable to taxation, other than "moneys and credits" taxed under Chapter 285, Laws 1911 [2316-2328], shall be taxed for road purposes, and except as provided in subdivision 2 of this section all road taxes hereafter levied shall be paid in cash. The electors of each town shall have power at their annual town meeting to determine the amount of money which shall be raised by taxation for road and bridge purposes, not exceeding, however, fifteen (15) mills per dollar on the taxable property of the town. The tax so voted shall be extended, collected and payment thereof enforced in the same manner and at the same time as is provided by law for the extension, collection and enforcement of other town taxes.

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

The town board may thereafter pledge the credit of the town by issuing town orders not exceeding, however, the amount of the additional tax so levied by the town board for road and bridge purposes, in payment for work done or material used on the roads within the town. ('13 c. 235 § 40, amended '17 c. 119 § 20)

Subdivision (2). (a) In any town wherein the voters shall at the annual town meeting vote, as hereinafter provided, to authorize the town board so to do, the town board may levy and assess on the property subject to taxation under the provisions of subdivision (1) of this section, an additional tax for road and bridge purposes, not exceeding in amount ten mills on the dollar of the assessed value of such property, which tax so levied shall be known as the optional road tax and which may be paid by the person whose property is so taxed in labor or by furnishing the use of a team for road work at the following rates, to-wit: for each day of work actually performed in labor on the roads of the town under the supervision of the road overseer, two dollars, for the furnishing of a team, two dollars and fifty cents per day. Provided that no optional road tax shall be levied in any year unless there is also levied in such year at least a three mills tax payable in cash, as provided in subdivision one of this section.

(b) When a petition signed by ten or more freeholders and voters of a town shall be presented to the town clerk at least twenty (20) days before the time of the holding of the annual town meeting, praying that the question of authorizing the town-board to levy and assess an optional road tax be submitted to the voters of such town, the town clerk shall include in his notice of such annual meeting a notice that such question will be voted on at such meeting. Such question shall be voted on by ballot and it shall be the duty of the clerk to provide, at the expense of the town, a suitable number of ballots which may be printed or written or partly printed and partly written in substantially the following form, to-wit:

Shall the Town Board be authorized to levy and assess an }
 "Optional Road Tax?" } No.....
 Yes.....

If a majority of the votes cast on the proposition be in the affirmative, the town board shall have authority to levy a tax as provided in paragraph (a)

of this subdivision, until such time as the electors at an annual town meeting, upon like procedure, shall have voted by a majority vote of those voting on the question to withdraw from the town board authority to levy an optional road tax. The votes on such question shall be canvassed and the result declared and recorded in the manner provided by law with reference to the election of town officers.

(c) Forthwith upon the granting of authority to levy the optional road tax the town clerk shall make application to the county auditor for a certified copy of the assessment list of the real and personal property taxable by the town, and it shall be the duty of the county auditor to thereupon and annually thereafter furnish the town clerk upon request with such list. Such list so furnished by the auditor shall set forth in tabular form the name of each person taxable in the town, the description of the real property owned by such person and the assessed value thereof and the value of the personal property owned by each person as shown by the assessment list last theretofore corrected and equalized.

(d) Within twenty (20) days after the annual town meeting, the town board shall meet and levy a tax on the property taxable in the town as shown by such list so furnished by the auditor, not exceeding ten mills on the dollar of the assessed value thereof, and extend the amount of the tax so levied and assessed opposite the name of each owner thereof. It shall be the duty of the clerk to forthwith make and deliver to each road overseer in the town a list in book form of the names of the taxpayers as shown by such list and resident in his district, together with the amount of the tax so levied and assessed against such taxpayer.

(e) It shall be the duty of each overseer to give notice in writing to each taxpayer named in his list of the time and place when and where such taxpayer can appear, either by himself or an able-bodied substitute, and perform labor on the roads of the town, or furnish a team for such purpose, in payment of such tax at the rates hereinbefore specified. Any taxpayer unable to appear at the time and place specified in the notice of the overseer may thereafter and prior to October 15th of such year, with the consent of the overseer, perform road labor or furnish a team for road work in payment of such tax.

(f) On or before the 15th day of October in each year each overseer shall return to the town clerk such list so theretofore delivered to him with the word "Paid" marked opposite the name of each person therein named who has performed labor or furnished a team for road work, to an amount sufficient to pay such tax, and if only in part, then the words "Delinquent to the extent of \$....." He shall also mark the word "Delinquent" opposite the name of each person who has not done any work, or furnished a team as herein provided. On or before the first of November in each year the town clerk of each such town shall transcribe all such entries from the lists so returned by the overseers on to the list theretofore furnished to him by the county auditor and transmit the said list to the county auditor, and shall append thereto a certificate to be signed by him, reciting that the same contains a correct list of the optional road taxes delinquent for the year therein stated. The auditor shall thereupon extend such delinquent optional road tax upon the tax list of the current year and the same shall be collected and the payment thereof enforced with and in the same manner and subject to the same penalties and interest as other town taxes. Such tax when collected shall be paid to the town treasurer and credited to the town road and bridge fund. ('13 c. 235 § 40, amended '17 c. 119 § 21)

1917 c. 119 § 21 further amends 1913 c. 235 § 40, by adding a subdivision to be known as subdivision (2), as above set forth.

2528. Dragging roads—Tax—Dragging fund—The county auditor of each county shall annually extend upon the tax lists of his county, in the same manner as is provided by law for extending the county school tax, a tax of one mill on the dollar of the taxable property in each town, outside the cor-

porate limits of any borough, village or city in any such town; provided, that in towns having an assessed valuation of one million (\$1,000,000) dollars or more, the amount of such tax shall not exceed one thousand (\$1,000) dollars. The tax so levied shall be collected and the payment thereof enforced in the same manner as is provided by law for the collection and enforcement of other town taxes extended by the county auditor. The county treasurer shall settle with and pay over to the town treasurer such taxes when collected at the time and in the manner now provided by law with reference to other town taxes.

The proceeds of such tax levy shall be kept in a separate fund to be known as the "dragging fund" and shall be expended by the town board only for the expense of procuring a suitable number of drags and dragging the roads of the town; in putting straw on sandy roads and removing snow from town and county roads, provided, however, that if on the first day of April in any year there shall be an unexpended balance in said fund, which unexpended balance exceeds in amount the sum of one hundred dollars, the town board may transfer all or a part of the amount in such dragging fund in excess of one hundred dollars, to the town, road and bridge fund, provided, however, such transfer shall not be made until it shall first affirmatively appear that the town board has theretofore procured a suitable number of drags and that the roads of the town have been properly dragged.

The town board in each town, on recommendation of the town or district road overseer may enter into contracts for the dragging of the roads of the town or district, giving preference to the main traveled road and roads constituting mail routes within their respective towns; provided, however, that the compensation which may be agreed to be paid for each time a road is dragged shall not exceed one dollar per mile for each mile of road dragged.

The contract price shall be paid from the "dragging fund" in the same manner as other claims against the town, after approval by the road overseer. ('13 c. 235 § 41, amended '15 c. 116 § 9; '17 c. 259 § 1)

2529. Town overseers—Assistants—Each town shall constitute one road district, except when otherwise provided. When directed so to do by the voters of the town at the annual town meeting, the town board shall divide each town into as many road districts, not exceeding four, as shall be directed by the voters at the annual town meeting. Provided that for the year 1915 the town board may of its own volition divide the township into such road districts. Provided further, if a town constitutes but one road district the road overseer may appoint one or more competent assistants, subject to the approval of the town board. It shall be the duty of the town board to appoint a road overseer for each district, who shall have charge, under the supervision of the town board of the construction of all town roads in his district and the maintenance of all town and county roads therein. No member of the town board shall be eligible for appointment as town road overseer. The compensation of the road overseer shall be fixed by the town board at a sum not to exceed three dollars (\$3.00) per day for the time actually employed in the performance of his duties. Before entering upon his duties he shall give a bond to the town with sureties to be approved by the town board, in the sum of two hundred fifty dollars (\$250.00) conditioned for the faithful discharge of his duties and to return to the town all the property of the town which may come into his custody. The overseer shall hold office at the pleasure of the town board.

Provided, that such road overseer shall have no jurisdiction over county roads in any county which now has or hereafter may have a population of one hundred fifty thousand (150,000) inhabitants, or over, and a county superintendent of highways or other officer to superintend the construction and improvement of roads within its confines. ('13 c. 235 § 42, amended '15 c. 116 § 10)

Town officers are not liable for injuries resulting from their failure to keep a highway in repair (134-41, 158+725). Highways, ~~198~~.

2530. Establishment, alteration or vacation—Petition—

Inaccuracies in courses and distances in description in petition to alter a road is not fatal, where from designated fixed lines and points the location can be determined (122-20, 141+810). Highways, [↔](#)72(2).

A description which is impossible of location renders the proceeding void, and the failure of a landowner to appeal does not obviate the invalidity (125-359, 147+240). Highways, [↔](#)29(5), 55.

2532. Hearing and determination—

A town board, under R. L. 1905 §§ 1171-1174, might exercise reasonable discretion in varying the route proposed in a petition, as public interest might require, but the order must adhere substantially to the petition as to the point of beginning, general course, and termination. A variance of thirty rods at the point of termination is fatal (125-359, 147+240). Highways, [↔](#)44(2).

2538. Appeals—

Under R. L. 1905 § 1199, a receipt by a landowner of money as damages, upon being informed and in the belief that a road had been legally laid out on a definite location, does not estop him from asserting that the description was impossible and void (125-359, 147+240). Highways, [↔](#)55.

2542. Cartways—Any town board may establish a cartway two rods wide on petition of not less than five voters, freeholders of such town. All their proceedings shall be the same as provided in this act for establishing town roads. The cost and expenses thereof, and the damages awarded for lands taken therefor, shall be paid by the town, as in the case of town roads, and a record of such cartway shall be filed with the town clerk; provided, that, when a road or cartway is established which will not be a continuous road from one highway to another, one-half of the damages to the land through which it passes shall be paid by the persons benefited thereby.

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

Any town board may expend road or bridge funds upon a legally established cartway the same as on town roads if in the judgment of such board the public interests require it. ('13 c. 235 § 55, amended '15 c. 116 § 10½)

Not evidence of boundary between lands (121-468, 141+788). Boundaries, [↔](#)35(1).

The town board is not obliged to lay out the road on the route selected by the petitioner, construing Laws 1911 c. 217, amending R. L. 1905 § 1171 (122-134, 141+1115). Private Roads, [↔](#)2.

A description in a highway petition is sufficient, if monuments be designated which enable persons familiar with the locality to locate the way upon the ground with reasonable certainty. A petition locating the way by reference to a bridge, a railroad track, a section line highway, and a private road held sufficient (129-392, 152+761). Highways, [↔](#)29(5).

2543. Dedication of land for road—Wagon bridge to island—One or more owners may dedicate land for a road or cartway by making application therefor, in writing, to the town board, describing the land and the purpose of its dedication, and filing such application with the clerk. The clerk shall present the same to the town board which, within ten days after such filing, may make an order declaring the land described to be a public road or cartway. When so declared, such land shall be deemed duly dedicated for the purpose expressed in the application, and no damages shall be assessed therefor. Any person owning land to exceed forty acres constituting part of an island within any meandered lake may, at his own expense, erect a wagon bridge across such portion of the lake as may separate his land from the nearest town road on shore, provided such structure shall not interfere with the use of that part of the lake for the passage of such water craft as would otherwise pass that point, but before proceeding with the construction of such bridge, proper plans and specifications therefor shall be prepared and submitted to and approved by the town board of the township in which such bridge is to be constructed.

Upon the completion of any bridge constructed in accordance with the provisions of the preceding paragraph, the town board shall examine and approve the same and shall indorse such approval upon the plans and specifications therefor, and thereupon the same shall be filed in the office of the

town clerk of the township in which such bridge is located and such bridge shall thereupon become a part of such town road and open to the use of the public as such. (Amended '17 c. 479 § 1)

2546. Drainage of town roads—Subdivision (1). Affidavit and notice—Whenever the town overseer of roads shall file with the town board his affidavit, or if two resident freeholders of the town file their affidavit stating that a road to be constructed or any road already constructed, passing through or into said town runs into or through a swamp, bog, or other low land, and that it is necessary or expedient that a ditch should be opened through private lands, the probable length, width and depth of such ditch, the termini and general course of the same, a description of the land over which said ditch will pass, the names of the owners thereof, if known, and that such road through such low ground cannot, without extraordinary expense, be made passable unless such ditch or ditches are opened, the chairman of said board shall prepare a notice therein fixing a time, not less than six nor more than sixty days from the date thereof, when said board will meet at a place to be designated in the notice and personally examine the premises. Such chairman shall cause said notice, together with the affidavit, to be filed in the office of the town clerk, who shall make true copies of such notice and deliver them to said town overseer. Said overseer shall personally serve the same upon each of said land owners, if residents of the county, and upon the occupants of such lands where the owners are not residents of such county. Such ditch or ditches shall be laid out upon said lines as the owners of the land desire, when it is practicable and can be done without extra cost. The word ditch as used in this act shall be held to include any open, covered or tile drain. The town board may also appoint three freeholders of the town to act as viewers in laying out the proposed ditch, and shall receive the same compensation as the board for similar work. ('13 c. 235 § 59 subd. 1, amended '15 c. 116 § 11; '17 c. 259 § 2)

Subdivision (3). Hearing and assessment—At the time and place specified in the notice, the town board shall examine the road and premises over which such ditch must pass, and hear any reasons for or against laying out the same, and all evidence offered by any interested party relative to the pecuniary advantage or disadvantage which will accrue to any tract of land by reason of the establishment of such ditch, and determine upon the advisability of opening such ditch. If it determine that it is expedient and advisable to open such ditch, it shall assess the damages, if the damages exceed the benefits, which in its judgment will be just and equitable compensation to the owner of any tract of land for the right to open the ditch through his land, including the right to enter upon such land whenever necessary for the purpose of cleaning out or repairing it, awarding in such case as damages the difference between the damages and benefits.

It shall also determine the money value of the benefits which will accrue to any tract of land by reason of the construction and maintenance of such ditch and in case the benefits exceed the damages, shall assess the difference as benefits to the lands. Such determination of benefits and damages shall be made in tabular form setting forth the description of the lands and the names of the owners thereof, if known, and the benefits or damages which will accrue to each tract. The damages or benefits may be determined by agreement between the land owners and the town board.

In case of such an agreement the town board shall extend the benefits or damages, as the case may be, in such tabular statement. Any land owner may appeal, as hereinafter provided, from the amount awarded as damages or benefits. Such tabular statement shall be attached to the order establishing the ditch, if such order be made, and filed with the town clerk and any person whose lands are assessed for benefits may, within twenty days thereafter, pay the amount thereof to the town treasurer who shall issue a receipt therefor. On presentation of such receipt to the town clerk he shall mark the amount of the assessment so paid with the words "Paid and Satisfied." After the expiration of twenty days, if no appeal shall have been taken, the clerk shall certify each tabular statement to the county auditor, who shall

thereupon extend such assessment of benefits not marked "Paid and Satisfied" against the respective tracts of land therein described, of the tax lists of the town for the year next ensuing after such tabular statement shall have been so certified to him, together with interest on such assessment at the rate of six per cent per annum from the time such assessment was made until the tax list shall be delivered to the county treasurer for collection. The assessments so made shall be a lien on the land and shall be collected with, and the payment thereof enforced, in the same manner and with like penalties and interest as town taxes. Such assessments when paid or collected shall be paid into the town treasury at the time of payment of other taxes and shall be expended in paying the cost of constructing and maintaining such ditch. ('13 c. 235 § 59 subd. 3, amended '17 c. 259 § 3)

Subdivision 8. **State roads**—The foregoing provisions of this section shall be applicable to state roads, and in such cases the powers and duties hereinbefore conferred and imposed upon town boards, shall be and they are hereby conferred and imposed upon county boards; the powers and duties conferred and imposed upon a town clerk are hereby conferred and imposed upon the county auditor. The affidavit referred to in subdivision 1 may be made by any member of the county board. It shall be the duty of the county board to keep any ditch opened by it under the provisions of this section, in good condition and free from obstructions. The notices specified in the foregoing subdivisions may be served by any person designated by the county board for that purpose. ('13 c. 235 § 59, amended '15 c. 116 § 12)

1915 c. 116 § 12 amends 1913 c. 235 § 59, by adding a new subdivision (8), as above set forth.

Subdivision (9). **Town road drainage tax**—In any town wherein the voters shall at the annual meeting vote as hereinafter provided to authorize the town board so to do, the town board may levy and assess on the real and personal property in the town, other than moneys and credits taxed under the provisions of chapter 285, Laws 1911 [2316-2328], a tax not to exceed in amount ten mills on the dollar of the assessed value of such property, which tax so levied shall be known as the "Town Road Drainage Tax." Such tax shall be additional to all other taxes which the town is or may hereafter be authorized to levy and the amount of such tax so levied and collected shall be deemed to have been levied and collected for road and bridge purposes within the meaning of any law limiting the amount of taxes which may be levied or voted at the annual town meeting.

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

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

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

If a majority of the votes cast on the proposition be in the affirmative, the town board shall have authority to levy annually a tax as hereinbefore provided until such time as the electors at an annual town meeting upon like procedure shall have voted by a majority vote of those voting on the question to withdraw from the town board authority to levy such town

road drainage tax. The votes on such question shall be canvassed and the result declared and recorded in the manner provided by law with reference to the election of town officers. ('13 c. 235 § 59, amended '17 c. 259 § 4)

1917 c. 259 § 4 amends 1913 c. 235, § 59, by adding a new subdivision (9), as above set forth.

2547. Special duties of overseer—Whenever any public road in a town becomes obstructed or unsafe from any cause, the overseer shall immediately repair such road, and render his account therefor to the town board, in case of a town or county road, and to the county board in case of a state road. ('13 c. 235 § 60, amended '15 c. 116 § 13)

Liability of township highway officers for injuries resulting from an open culvert without lights, guards, or warnings' (125-507, 147+648, 52 L. R. A. [N. S.] 142). Highways, 198.

APPEALS FROM COUNTY AND TOWN BOARDS

2548. Who may appeal—Bond—Notice—

Cited (129-392, 152+761).

2550. Proceedings on appeal—

The case is tried on appeal on the facts as they exist at the time of the trial (122-134, 141+1115). Private Roads, 2.

Requested instructions held covered by the general charge, and properly refused (122-20, 141+810). Trial, 260(1).

Evidence held to sustain verdict as to propriety and necessity for alteration of highway (122-20, 141+810). Highways, 72(4).

GENERAL PROVISIONS APPLICABLE TO ALL ROADS

2552. Requirements for vehicles on highways—Subdivision (1). When persons meet on any road or bridge, traveling with vehicles, each shall seasonably drive to the right of the middle of the traveled part of such road or bridge, so that the vehicles may pass without interference.

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

Subdivision (2). The driver of any vehicle approaching or crossing a street or highway intersection shall give the right of way to any other vehicle approaching from his right on the intersecting street or highway, and shall have the right of way at such crossing over any vehicle approaching from his left on such intersecting street or highway. The provisions of this subdivision shall be applicable in boroughs, villages and cities, except at such street intersections therein where and when a police officer shall be in actual charge of the regulation of traffic at any such intersection of streets. ('13 c. 235 § 65, amended '17 c. 119 § 22)

REGULATIONS AFFECTING ABUTTING OWNERS

2557. Removal of fences—Whenever a town or county board has established a road through inclosed, cultivated or improved lands, under any of the provisions of this act, and its decision has not been appealed from, or, if appealed from, its order has been sustained, it shall give each owner or occupant of land through which such road is established twenty days' notice, in writing, to remove his fences, and if he does not remove them within such time, it shall cause them to be removed and the road to be opened and worked. ('13 c. 235 § 70, amended '17 c. 119 § 23)

2558. Seeding roads—Trees—

Rights and duties of abutting owner and telephone company in respect to trees planted in the street (122-424, 142+807). Telegraphs and Telephones, 10(15), 15(3).

2560. Hedges and trees within road limits—Subdivision (1). The town boards of supervisors, as to town and county roads, and the county board as

to state roads, are hereby given the right and power to determine upon the necessity and order the cutting down of hedges and trees within the road limits. Provided, that trees, other than willow trees, shall not be so cut down unless the center of such trees is more than six (6) feet inside the limits of any road established by statutory proceedings or dedicated specifically to public use; provided such trees or hedges, or either of them interfere with keeping the surface of the road in good order, or cause the snow to drift on to or accumulate upon said road in quantities that materially obstructs travel.

Subdivision (2). **Owner to be notified, etc.**—When a board shall determine that such cutting down of hedges or trees within the limits of such roads is necessary or that the same would aid materially in keeping such roads in repair or free from snow, it shall notify the owner or owners of the abutting lands of such decision and order the trees or hedges cut down within thirty days after such notice. If the said owner or owners fail or refuse to comply with such notice and order within the time specified, the said board shall have the power to cause such trees or hedges to be cut down at the expense of the town or county. The timber and wood of such trees shall belong to the said owner or owners of the abutting land, provided they pay the expense of cutting down said trees or hedges and remove the same from the roadside within thirty days. If such timber or wood is not removed within said time; the board shall sell the same or destroy it if it cannot be sold at a profit, and if sold, pay the proceeds thereof into the road and bridge fund of said town or county as the case may be. ('13 c. 235 § 73 subs. 1, 2, amended '15 c. 116 § 14; '17 c. 119 § 24)

Subdivision (3). **Expenses, how to be paid**—The town boards of supervisors and the county boards are hereby granted the further right and power to appropriate and pay out of their respective road and bridge fund, or from any other fund available the cost of cutting down such trees and hedges and the removal or destruction of the same, if done at public expense. ('13 c. 235 § 73, amended '15 c. 116 § 14)

2562. Road on mineral lands—Whenever a public road crosses mineral land or other lands outside the limits of any city, village or borough, which the owner or lessee desires to mine in such way as to remove the supports of the road or to improve said land by building any structure or building thereon, he may, at his own expense, change such road to other land, and make a new road thereon suitable for public travel; provided that no such change of road on lands other than mineral lands shall be made unless the same be first approved by the town board and the commissioner of highways, and the new road be first constructed and approved by said town board and said commissioner of highways, and, if he cannot obtain such land upon reasonable terms, the county or town board or the city or village council, as the case may be, upon requisite petition, shall make such change under the provisions of law for establishing roads. Provided, however, that before any such road is changed a sixty days notice of the intention of the owner or lessee thereof to change the same shall be served upon the board of the municipality in which the road is situate, by filing with the clerk thereof a declaration of such intention in the form of said notice; and provided, however, that the said owner or lessee shall be liable to the owner or occupant of any land abutting upon said road or any affected by such change to the extent of the damage sustained by reason of such change, and for the recovery of which an action may be brought after such change is made. In case such board or council desire to establish a road over mineral lands, it may agree with the owner or lessee of the land that, in case he shall consent to its establishment, its location shall be changed upon his request. Provided, however, that before such road will be changed by any such board or council, ninety days notice thereof shall be posted in three conspicuous places along said road, which said notice shall state the time when said road shall be changed. ('13 c. 235 § 75, amended '17 c. 119 § 25)

2563. Dedication by user—

To establish a highway under this section the proof must show not only travel by the public, but that it has been worked or kept in repair by the public for a prescribed period (125-353, 147+244). Highways, \S 5.

Where a four-rod road was established on a section line, and before the road was laid out plaintiff built a fence more than four rods north of the center of the road as laid out, and public travel deviated to the north of the four-rod road limit, but at no place less than a rod from the fence, the deviation was not notice to the landowner, setting in motion the statute, the travel and use by the public having been with reference to a legal highway laid out on the section line (132-460, 157+715). Highways, \S 7(3).

Evidence held to establish a highway by statutory user (125-353, 147+244). Highways, \S 17.

2567. Town and county boards to construct culverts—The town boards, as to town roads, and the county boards, as to county and state roads, are hereby required to install one substantial culvert for an abutting owner in cases where by reason of grading a public highway, the same is rendered necessary for a suitable approach upon said highway over driveways from abutting lands. ('13 c. 235 § 80, amended '15 c. 116 § 15)

MISCELLANEOUS PROVISIONS

2568. Condemnation of gravel beds, etc.—Whenever any county or town board or common council of any village or city shall deem it necessary for the purpose of building or repairing public roads or streets within its jurisdiction, it may procure by purchase or condemnation, in the manner provided by law (the procedure in such condemnation proceeding shall, as near as practicable, be that provided in chapter 41 of the Revised Laws of Minnesota for 1905 and such procedure shall apply to condemnation proceedings under this section), any plot of ground, not exceeding twenty acres, containing gravel or stone, or clay, or sand or one or more of such road materials, suitable for road purposes, together with the right of way to the same of sufficient width to allow teams to pass, and on the most practicable route to the nearest public road. ('13 c. 235 § 81, amended '17 c. 119 § 26)

2570. Bridges over navigable streams, etc.—Rates of toll—Any corporation organized for the purpose, or any counties, towns, cities or villages interested, may jointly or separately erect and operate a bridge or bridges over any navigable stream constituting a boundary thereof together with suitable approaches, and such approaches may include the improvement of main highways for a distance not exceeding ten miles from the bridge. A county, town, city or village shall be deemed interested in bridges located outside of and within three miles of its corporate boundaries as well as those within or along its boundaries. Before any such bridge is erected over the Minnesota or the Mississippi river, the location and plan thereof shall be approved by the Governor. Bridges over the Minnesota river below the borough of Le Sueur shall be built with a suitable draw of not less than eighty foot opening, or in lieu of such opening shall be built at such clear height above the ordinary high water stage as shall be sufficient to accommodate the ordinary navigation of the river. All bridges over navigable waters of the United States shall receive the approval of the Secretary of War before construction. All draws shall be opened on reasonable signal or notice to allow the passage of vessels.

The county board of each county interested shall have power to levy, at or after the time of making a contract for any such bridge, a tax on all the taxable property of the county, sufficient to pay such county's agreed share of the cost of the bridge and approaches and interest thereon. Such tax shall be collected in annual installments corresponding to the amounts of interest and principal of certificates or bonds as herein provided falling due from year to year. The county board may issue and sell special bridge certificates of indebtedness or bonds of the county sufficient in amount to pay the county's agreed share of the cost of the bridge and approaches and engineering and other expenses incidental thereto, the principal of which certificates of indebtedness or bonds shall mature and be payable in not more than fifteen annual installments as nearly equal as practicable, and the first annual installment of principal shall mature not more than five years after the contract is ordered.

Such certificates or bonds shall be sold in the manner provided by Section 1856, General Statutes 1913, to the purchaser who will pay the par value thereof, at the lowest interest rate, and the certificates or bonds shall be drawn accordingly, but the rate of interest shall in no case exceed four and one half per cent per annum, payable annually or semi-annually. The county auditor shall extend the tax so levied by the county board in sufficient amounts from year to year to cover the interest and principal as they mature. The credit of the county shall be pledged to the payment of the principal and interest of such certificates or bonds. Certificates or bonds not exceeding in principal amount one-fifth of one per cent of the assessed valuation of the taxable property of the county, not including the valuation of moneys and credits, may be issued and sold without submission to the vote of the people.

Any corporation maintaining a bridge under this section may charge and receive the following rates of toll from all persons using the same: For each foot passenger or bicycle rider, five cents; for each hog, sheep or calf, two cents; for each head of cattle, five cents; for each vehicle or sleigh drawn by one animal, twenty cents; for each additional animal used, five cents; for each automobile, twenty cents; for any other vehicle or animal, a reasonable rate of toll. Such rates of toll may be changed by law whenever the net annual income from such bridge shall exceed a reasonable percentage of the cost thereof. ('13 c. 235 § 83, amended '17 c. 43 § 1)

2573. Final payment on road contract.—Final payment shall not be made on any contract for road work by any county or town board until the county board or town board, as the case may be, has examined the work and certified that the same has been properly done and performed according to contract and a certificate to that effect, signed by a majority of the members of the board making the inspection, shall have been filed in the office of the county auditor of the county, or town clerk of the town, as the case may be. Any county auditor or any town clerk who issues a warrant or an order in final payment upon a road contract where the amount involved in such contract exceeds the sum of two hundred dollars, until such certificate shall have been filed, shall be deemed guilty of a misdemeanor. The provisions of this section shall not apply to any county now having or which may hereafter have a population of one hundred fifty thousand (150,000) inhabitants or over and a county superintendent of highways, or other officer to superintend the construction or improvement of roads within its confines. ('13 c. 235 § 86, amended '15 c. 116 § 16)

2574. Commissioner of highways to inspect bridges, etc.—The commissioner of highways shall each year, so far as time and conditions permit, cause an inspection of all bridges exceeding thirty (30) feet in length, to be made by an assistant engineer. The assistant engineer shall report to the commissioner the conditions found to exist affecting the safety of the bridge and such other matters as to him shall seem important, together with his recommendations in reference thereto. The commissioner shall cause a copy of such report and recommendations to be transmitted to the county auditor of the county in which the bridge is situate. ('13 c. 235 § 87, amended '17 c. 119 § 27)

2575. Reconstruction or repair of certain bridges and roads— * * *

Subdivision (3). Roads, etc.—Whenever five or more freeholders and voters of a town present a complaint in writing to the county board of the county reciting that a described road therein is neglected by the town and that by reason of such neglect such road is impassable, the county board shall by resolution fix a time and place when and where it will consider such complaint and thereupon the county auditor shall mail a copy of the complaint, together with a notice of the time and place when and where the county board will meet to consider the complaint, to the town clerk of the town, and shall also notify the persons signing the complaint of the time and place of such meeting. At the designated time and place the county board shall consider such complaint and hear and consider such testimony as may be offered by the officers of the town, or the persons filing the complaint, rela-

tive to the truth of the matters therein set forth. The chairman of the board or the presiding officer thereof may administer oaths to witnesses and require them to testify under oath.

If upon such hearing the county board shall be of the opinion that the complaint is well founded, it shall by resolution direct the town board to do such work or make such improvements as it shall deem necessary to put such road in a passable condition. Such resolution shall specify generally the work which it is so deemed necessary to do. The county auditor shall cause a copy of such resolution to be mailed to the town clerk of the town complained of, and if such town for a period of thirty days after the mailing of such notice shall fail or neglect to do the work or make the improvements set forth in such resolution, the county board may cause such work to be done or improvement made and pay therefor from the county road and bridge fund; provided, however, that the amount annually spent by any county board in any town under the provisions of subdivision three, section 28 of this act shall not exceed one mill on the dollar of the taxable valuation of said town.

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

Performance by the town board and the town clerk of the respective duties hereby imposed on them may be enforced by mandamus. ('13 c. 235 § 88, amended '17 c. 119 § 28)

1917 c. 119 § 28 adds the above subdivision.

Town officers are not liable for injuries resulting from their failure to keep a highway in repair (134-41, 158+725). Highways, ~~198~~.

2576. Obstruction of or damage to highways—Penalty—Any person who shall obstruct any of the public highways of this state in any manner, or who shall dig any holes therein, or remove any earth, gravel or rock therefrom, or any part thereof, or who shall in any manner obstruct any ditch on the side of any such highways, and thereby damage the same, shall be guilty of a misdemeanor. It is hereby made the duty of the county attorney to prosecute all violations of the provisions of this section, occurring in his county. ('13 c. 235 § 89, amended '15 c. 116 § 17)

Civil liability to abutting owner (see 127-440, 149+669).

2577. Removing snow—It shall be the duty of the town board of each town, so far as funds are available for the expense thereof, to keep all town, county and judicial roads therein in a passable condition by the removal of snow therefrom; and for that purpose the road overseer is authorized to employ, by and with the consent of the town board, such men and teams as may be necessary for the purpose. The town board may also provide for the erection of snow fences when deemed advisable.

It shall be the duty of the county board, so far as funds are available for the expense thereof, to keep all state roads and state rural highways therein in a passable condition by the removal of snow therefrom. ('13 c. 235 § 90, amended '17 c. 119 § 29)

2578. Laws repealed—

125-325, 146+1110; note under § 2605.

OTHER MISCELLANEOUS PROVISIONS

2584. Road and bridge fund in certain counties—Exclusive control—

161+222; note under § 2585.

This section gives counties having more than 150,000 population authority to construct bridges and approaches within villages without the consent and concurrence of the village, and hence the county and not the village is liable for damages to private property from the construction of an embankment in the highway (130-359, 153+738). Bridges, ⇨7.

2585. Same—Moneys, how expended—Contracts, how let—

130-359, 153+738; note under § 2584, ante.

In the improvement of highways, the acts of the county board, within the general scope of its powers and duties, are the acts of the county; so that, if such acts result in damage to adjacent lands, for which a private owner would be liable if caused by acts done by him on his own lands, such county would be liable (161+222). Highways, ⇨118.

2586. Same—Duties of county surveyor—

161+222; note under § 2585.

[2593—]1. **Roads and bridges within villages, boroughs and towns, etc., in counties having valuation of more than \$200,000 and less than \$300,000—Powers of county board—**That in any county of this state, now or hereafter having a total assessed valuation of all its taxable property, as fixed by the state tax commission, of more than two hundred million dollars (\$200,000,000) and less than three hundred million dollars (\$300,000,000) the board of county commissioners shall have the authority to appropriate and expend within the limits of any village, borough or town located in such county, or upon any road, highway or bridge located upon or immediately adjacent to the boundary line between any city, village, borough or town and any other city, village, borough or town within such county, such sum or sums of money from the county road and bridge fund as said board shall deem proper, for the building, repairing or otherwise improving of any road or highway, including the construction and repairing of any bridge thereon. ('15 c. 73 § 1)

Section 2 repeals inconsistent acts, etc.

[2599—]1. **Bridges across Mississippi river in certain counties—Aid to cities of fourth class—**In all counties in this state bordering, in any part, on the Mississippi River, the county commissioners of any such county may by resolution duly adopted, aid and assist any city of the fourth class, situated on such river, and in or adjoining such county, in paying for, improving and keeping in repair, any bridge across such river, including approaches thereto, located upon or forming a part of any street or highway, either wholly or partly within its limits, when such bridge, street or highway shall form a part of, or connect with, any state road, state rural highway or public street or highway leading into or through such city or into or through such county or counties. ('15 c. 94 § 1)

[2599—]2. **Same—Aid, how paid, etc.—**Such aid may be given once in each year and shall be paid into the city treasury of such city out of the Road and Bridge fund or funds of such county or counties or out of the allotment to such county or counties from the State Road and Bridge fund, and shall not in any one year exceed \$5,000.00 from any one of such counties. ('15 c. 94 § 2)

[2599—]3. **Same—Resolution—**Where the county commissioners of any such county decide to aid and assist any such city in paying for, improving or keeping in repair any such bridge as herein specified, they may at any regular or special meeting thereof adopt a resolution for that purpose, which

resolution may be in substantially the following form: "Be it resolved by the county commissioners of the county of— That the sum of \$— be and the same hereby is appropriated out of the Road and Bridge fund of this county (or out of the allotment for this county from the State Road and Bridge fund) to aid and assist the city of—, in the county of—, in paying for, improving and keeping in repair the bridge across the Mississippi River at the city of—; and the county treasurer of this county (or the State Highway Commission) is hereby directed to pay into the city treasury of said city of— said sum of \$— out of any moneys belonging to said funds.

Chairman."

('15 c. 94 § 3)

[2599—]4. **Same—By and to whom paid—**Upon receipt of a certified copy of any such resolution by the State Highway Commission, or by the county treasurer of the county adopting the same, it shall be the duty of such State Highway Commission or such county treasurer, as the case may be, to pay the sum therein stated into the city treasury of such city and to charge the amount so paid to the fund or funds stated in such resolution. ('15 c. 94 § 4)

[2599—]5. **Same—How expended, etc.—**All money appropriated to any city under the provisions of this act shall be expended thereby for the purposes herein authorized, and it shall be the duty of the clerk of such city, on or before the first day of January of each year, to prepare and file with the county auditor of the county making the appropriation, an itemized statement showing to whom and for what purposes the same had been used or expended. ('15 c. 94 § 5)

[2602—]1. **Constructing, etc., roads by day labor in counties having less than 200,000 inhabitants—Claims, how allowed—**Where any county having a population of less than two hundred thousand inhabitants is engaged in constructing, improving, maintaining or repairing any public road by day labor, it shall be lawful for the county auditor and county treasurer to pay the claims of the laborers who have performed manual labor on said roads, for such labor, and the claims of persons who have furnished teams and wagons or plows or scrapers in the performance of work on such roads for the use of such teams and such equipment, without such claims having first been audited and allowed by the county board, provided such claims shall be evidenced and authenticated as herein provided, and be in the form as hereinafter provided. ('15 c. 182 § 1, amended '17 c. 69 § 2)

Section 1 amends the title of 1915 c. 182.

[2602—]2. **Same—Time checks—**The county board may authorize the overseer, superintendent or foreman designated by it to have charge of the construction, improvement or maintenance of any road, to issue time checks with reference to such road work, which time checks shall be issued and be in the form hereinafter prescribed, provided, however, that the aggregate amount of the time checks so issued by any overseer, superintendent or foreman, as to any one road, shall not exceed such amount as shall have been previously specified by resolution of the county board.

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

Such time check shall be substantially in the form hereinafter set forth, to-wit:

MINNESOTA STATUTES 1917 SUPPLEMENT

§ [2602—]2

ROADS.

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TIME CHECK

To the County Auditor and County Treasurer of County, Minn.

This is to certify that..... is entitled to have and receive from County, Minnesota, the sum of dollars for labor performed and for team.... furnished on and in and about the construction, improvement or maintenance of Road No. as shown by the hereto attached schedule.

Beginning, Ending, 191.....

(Here indicate hours of employment of labor or teams on each date.)

Date		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Tot'l Hrs.	Rate	Amounts		
Con- struc- tion	Man hours																																				
	Team hours																																				
		Total																																			
Date		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Tot'l Hrs.	Rate	Amounts		
Mainte- nance	Man hours																																				
	Team hours																																				
		Total																																			

and I further certify that the foregoing is true and correct and that the labor above specified was actually performed and that the team or teams therein specified were actually used and employed in and on the work of constructing, improving or maintaining said road and that no time check has heretofore been issued to said person for said labor or for the hire of said team.... for the time above specified.

Dated at this day of 191.....
.....
Overseer, Superintendent or Foreman.

State of Minnesota }
County of } ss.

..... being first duly sworn, deposes and says that the within account is just and true that the labor has been performed and is of the value stated, that no part thereof has been paid.

Subscribed and sworn to before me this day of 191.....
.....
.....

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

If any person who would otherwise be entitled to the issuance to him of a time check on the 15th or last day of any month quits the employment of the county, or is discharged therefrom before such dates, the overseer, superin-

tendent or foreman, as the case may be, shall thereafter and within twenty-four hours after the termination of such employment, issue to such person a time check as herein provided. ('15 c. 182 § 2)

[2602—]3. **Same—Fraudulent issue of time checks—Penalty**—It shall be unlawful for any person to issue any such time check in the assumed capacity of overseer, superintendent or foreman without first having been authorized so to do by the county board. It shall be unlawful for the overseer, superintendent or foreman to knowingly issue and deliver to any person any false or fraudulent time check. It shall be unlawful for any person to alter or change any time check issued by any overseer, superintendent or foreman. Any person violating any of the provisions of this section shall be guilty of a felony and punished by imprisonment in the state prison for not more than five years. ('15 c. 182 § 3)

[2602—]4. **Conditions of federal aid road law accepted—Duty of state highway department**—That the State of Minnesota hereby accepts and assents to the provisions and conditions of the federal aid road law approved July 11, 1916, being an act entitled, "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes" as required of section 1 of said act, and the state highway department is hereby authorized and directed to co-operate with the secretary of agriculture of the United States in the construction of rural post roads. ('17 c. 75 § 1)

[2602—]5. **Same—County boards to levy tax, etc.**—The board of county commissioners of any county in this state may at any regular or special meeting ascertain and levy a tax for the construction and maintenance of roads in an amount sufficient to meet the sum required for such road by the federal aid road law. Such levy shall not exceed 5 mills in counties having a valuation of less than \$10,000,000; and shall not exceed 3 mills in counties having a valuation of \$10,000,000 and not over \$25,000,000; and shall not exceed 1 mill in counties having a valuation of more than \$25,000,000. Such taxes shall be levied, extended and collected the same as other taxes are levied, extended and collected. The sum so raised shall be used solely to comply with requirements of the federal government. ('17 c. 75 § 2)

[2602—]6. **Federal aid in certain counties—Resolution of county board**—That whenever the county board of any county now or hereafter having a population of 150,000, or more, inhabitants, and a county superintendent of highways or other county officer, to superintend the construction or improvement of roads within its confines, desires to construct or improve any state road or part thereof, and receive aid on account thereof from the United States government under the provisions of the act of Congress entitled, "An act to provide that the United States shall aid states in the construction of rural post roads and for other purposes," approved July 11, 1916; the said county board shall by resolution designate the road or part thereof which it desires to so construct and improve and also set forth in said resolution, in a general way, the general nature of the construction or improvement which it desires to make thereon, and also in and by such resolution request the commissioner of highways to submit a project statement thereon setting forth such proposed construction or improvement, to the secretary of agriculture of the United States government for his approval. ('17 c. 433 § 1)

[2602—]7. **Same—Duty of commissioner of highways**—If the commissioner of highways deems such proposed construction or improvement of such a nature as to probably meet with the approval of the said secretary of agriculture, he shall submit a project statement with reference thereto to the said secretary of agriculture, with such recommendations as he deems advisable, having regard to the equitable division among the several counties of this state of the federal aid apportioned to this state by the secretary of agriculture under the provisions of said act of congress, and available during any given year. ('17 c. 433 § 2)

[2602—]8. **Same—County board to enter into contracts, etc.**—If any such project statement so submitted to the secretary of agriculture, shall be approved by the secretary, the county board may, in the name of the county, enter into all necessary contracts or agreements with said secretary of agriculture of the United States, as may be required or necessary to make such construction or improvement and receive federal aid thereon or therefrom; provided, however, that all plans and specifications for any such construction or improvement shall be prepared by, or approved by the commissioner of highways of this state, and the work and labor incidental to the making of such construction or improvement shall be done and performed under the direct supervision of the state highway department. ('17 c. 433 § 3)

[2602—]9. **Removing buildings upon roads, etc.—Interference with bridges, trees, poles, etc.**—Any person, firm or corporation moving or causing to be moved, any building or structure upon, across or along any public road, street, alley or highway, whether within or without any city, village or borough of the state, shall so move such building or structure as not to unnecessarily interfere with, damage or destroy any bridges, trees, hedges, fences, telephone or electric power poles, wires, or cables upon such road, street, alley or highway. ('17 c. 366 § 1)

[2602—]10. **Same—Temporary removal—Payment of costs, etc.**—Whenever it shall be necessary to displace or temporarily remove any guard rails on any bridge, or any fence, telephone or electric power poles, wires, or cables to permit the moving of any building or structure upon, along or across any such public road, street, alley or highway, the person, firm or corporation owning or maintaining such fence, poles, wires or cables, shall not be required to displace or temporarily remove the same nor shall any guard rails on any bridge be displaced or removed until the reasonable costs of such displacement or temporary removal have been paid or tendered by the person, firm or corporation, requiring such displacement or temporary removal; provided, however, that nothing in this section shall apply to any work being done upon any such public road, street, alley or highway by or for any municipality, nor to the moving of any building or structure 18 feet in height or less within the limits of any incorporated city. ('17 c. 366 § 2)

[2602—]11. **Payment for excess work on certain contracts authorized**—The board of county commissioners in any county of this state, wherein a road has been constructed at a contract price in excess of seventy-five thousand dollars, and the estimates furnished by the engineer in charge show that more than seventy-five per cent of the work covered by such contract has been completed, may, and is hereby authorized by unanimous vote to pay over to the contractor performing such work, not to exceed seventy-five per cent of any amount retained by the county on any such contract; provided, however, that no such payment shall be made to any such contractor until the surety or sureties on his bond shall consent to such payment; and provided further, that any such payment shall not be construed as a final acceptance of the whole or any portion of said work. ('17 c. 181 § 1)

STATE RURAL HIGHWAYS

2603-2609. [Repealed.]

See § [2609—]1.

2603—Liability on bond of contractor (see 133-336, 158+432; note under § 8245, post).

Under this section the county commissioners can neither omit assessments of benefits upon property subject thereto under the act, and obligate the county to pay one-half of the cost of the road, nor pay, in whole or in part, such assessments when made (125-325, 146+1110). Highways, ☞140.

This act is not invalid for uncertainty (129-165, 151+899). Statutes, ☞47.

This act is not unconstitutional, as conferring legislative powers on the judiciary (129-165, 151+899). Constitutional Law, ☞61.

The act is not invalid because it places no limit on expenditure or issuance of bonds. The bonds may be issued serially. Bonds issued are general obligations of the county (129-165, 151+899). Counties, ☞150(1), 183(1), 184.

The act is not invalid in respect to the mode of distribution of the cost of the improvement, though there is no provision for interest to be paid by the county and state, and the act permits the state to pay in annual installments, or when funds became available (129-165, 151+899). Counties, [↔](#)174.

The viewers need not determine special and general benefits, it being enough that the special benefits exceed one-fourth of the cost of construction (129-165, 151+899). Highways, [↔](#)140.

2605—129-165, 151+899; notes under § 2603.

The state highway commission is required to approve the petition, but not the order of the county board establishing the highway; but, the petition being approved, a subsequent order approving the order of the board is not prejudicial error (132-36, 155+1048). Appeal and Error, [↔](#)1050(2); Highways, [↔](#)53(1).

An issue of bonds by the county commissioners establishing a state rural highway under this law is not affected by the amount to the county's credit in the state road and bridge fund for the current year (125-325, 146+1110). Highways, [↔](#)99.

2606—125-325, 146+1110; note under § 2605.

An issue of bonds by the county for the cost of the whole construction is not invalid. That the county is made a taxing district, and that persons residing in municipalities within the county are taxed for the cost of the highway, does not render the act invalid (129-165, 151+899). Counties, [↔](#)149, 174; Highways, [↔](#)126.

2609—129-165, 151+899; notes under § 2603.

This section, in view of § 2603 et seq., does not permit the county commissioners to omit assessments upon property benefited, and obligate the county to pay one-half of the cost of the road, to pay, in whole or in part, assessments made (125-325, 146+1110). Highways, [↔](#)140.

[2609—]1. 1911 c. 254 repealed—Highways heretofore constructed—Pending proceedings—That Chapter 254, General Laws of Minnesota for 1911 [2603-2609], entitled, "An Act providing for the laying out and construction of highways outside of cities and villages and for the substantial improvement of the same and for the payment for the same by the state and county and by the assessment of benefited lands," be and the same is hereby repealed; provided, however, that said act shall continue and remain in full force and effect with respect to all state rural highways heretofore constructed thereunder, or in process of construction thereunder and in all proceedings now pending thereunder where the petition for any such rural state highway has been filed with the county auditor, and the first hearing thereon has been held by the county board or judge of the district court as in said act provided. ('15 c. 52 § 1)

[2609—]2. Certain proceedings under 1911 c. 254 legalized—In all cases where a petition for the laying out, construction or substantial improvement of a state rural highway has heretofore been approved by the appropriate county board or county boards and by the State Highway Commission in attempted compliance with the provisions of Chapter 254, General Laws, 1911 [2603-2609], such petition and approval, and all subsequent proceedings in reference to such highway, and to the laying out, construction or substantial improvement thereof whether taken by such county board or county boards, or by the county auditor of any such county, by said State Highway Commission or by any district court, are hereby legalized and declared valid. ('15 c. 126 § 1)

[2609—]3. Same—Pending appeals, actions, etc.—This act shall not apply to or affect the right of appeal from said proceedings as now provided by law, or any actions or appeals now pending in which the validity of said proceedings is called in question. ('15 c. 126 § 2)

[HIGHWAY TRAILS]

[2609—]4. Registration—Power of state highway commissioner—Any corporation or association organized to promote the improvement, marking or blazing of any continuous highway, not less than twenty-five miles of which is in the state of Minnesota, may, by making application to the state highway commission, register in the office of said commission the name, detailed route, color, combination and design used in marking said highway as a trail. The highway commission shall have the power to determine priority

of right in the use of the said name, color, combination and design. ('17 c. 318 § 1)

[2609—]5. **Application—Fee**—The application shall be in the form prescribed by the highway commission upon blanks furnished by it, and shall be properly acknowledged by the president and secretary of the corporation or association before any officer authorized to administer oaths. Each such application shall be accompanied by a registration fee of \$5.00, which fee shall be returned if the application be not granted. ('17 c. 318 § 2)

[2609—]6. **Certificate—Records**—If the state highway commission shall after investigation adjudge the application to be meritorious and the highway and trail to be worthy of the protection of this act, it shall issue to the corporation or association a certificate which shall designate in detail the starting and the terminal points, the color, combination and design to be used in marking and designating such highway as a trail; all such facts shall be recorded as a part of the permanent records of the commission, in a book to be kept for that purpose. Said corporation or association shall have the exclusive right to the use of such name, color, combination and design in trail or highway designation and marking. ('17 c. 318 § 3)

[2609—]7. **Use of same name, color, etc., prohibited**—It shall be unlawful for anyone other than the corporation or association to whom such certificate is issued, to use for similar or like purpose the name or any recorded color, combination and design herein referred to. ('17 c. 318 § 4)

[2609—]8. **Injuring or defacing sign boards, etc.—Penalty—Forfeiture, etc.**—Any person who shall injure or deface any signboard, distance marker, design or other marking designating highways or trails established in accordance with this act, shall be guilty of a misdemeanor. It shall be the duty of the state highway commission, on satisfactory proof that any signboard, distance marker or other marking established by any such association under the provisions of this act is misleading or untrue, to order the removal of such signboard, distance marker or other marking, and any association which shall fail to comply with any such order within thirty days after notice thereof shall forfeit its right to the exclusive use of any design registered under the provisions of this act. ('17 c. 318 § 5)

[2609—]9. **Cancellation of registration, etc.**—When any such corporation or association shall cease to exist, or when the interest in any such designated highway or trail, name and markings has ceased, the state highway commission may, after proper investigation, cancel the records and registration herein referred to, and re-assign such name, color, combination, designs or other markings to any other corporation or association making application for their use. ('17 c. 318 § 6)

[2609—]10. **Fees credited to road and bridge fund**—All fees received by the state highway commission under this act shall be turned into the state treasury, and shall be credited to the state road and bridge fund. ('17 c. 318 § 7)

[2609—]11. **Penalty for violation**—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. ('17 c. 318 § 8)

MOTOR VEHICLES

2619. **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 and villages. The term "Chauffeur" shall mean any person operating or driving a motor vehicle as an employee, but shall not include automobile salesmen, or mechanics, while demonstrating or testing automobiles. 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 (30) days. The term "public highway" shall include any highway, town road, country road, state road, public street, avenue, alley, park, parkway or public road 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. (Amended '15 c. 33 § 1)

The fire apparatus of a city, while on its way to a fire, is excepted from this section, though the fire be outside the city limits (131-361, 155+204). Municipal Corporations, 703(4).

2623. Number and tags—Upon the filing of such application and the payment of the fee as provided in section 2625, the Secretary of State shall assign to such motor vehicle owner 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 2628, which shall be evidence of payment of license fee of such registration. In case the owner disposes of such motor vehicle following this registration and desires the number to accompany the motor vehicle, the purchaser must cause said registration to be transferred in the office of the Secretary of State, for which a fee of \$1.00 shall be charged. 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 a duplicate thereof upon filing with the Secretary of State an affidavit showing such fact and upon the payment of a fee of one dollar (\$1.00). (Amended '15 c. 33 § 2)

2625. Registration fees—

See § [2625—]1.

[2625—]1. **Fees on and after January 1, 1918**—On and after January 1st, 1918, the fee for registering motor vehicles under the provisions of this act and referred to in Section 2625, General Statutes of Minnesota for 1913, shall be five dollars (\$5.00) for each motor vehicle for the triennial period commencing on January 1st, 1918; after January 1st, 1919, the fee for the remaining two years of said triennial period shall be three dollars and fifty cents (\$3.50); and on and after January 1st, 1920, the fee for the remaining one year of said triennial period shall be two dollars (\$2.00) for each motor vehicle; no license for registering a motor vehicle shall be issued for less than two dollars (\$2.00); and the fee for registering manufacturers and dealers referred to under section 2629, General Statutes for 1913, shall be twenty dollars (\$20.00) for each manufacturer or dealer for the full triennial period, extra tags to be furnished for one dollar (\$1.00) per set. For each triennial period commencing with January 1st, 1921, the above schedule of license fees shall be in effect. ('15 c. 33 § 7)

2626. Tag to be displayed on vehicles, etc.—

That an automobile is not registered does not prevent recovery by the owner for injuries inflicted by the negligence of another, to which such failure to register in no way contributed (129-34, 151+542, L. R. A. 1915D, 628). Municipal Corporations, 705(4).

2629. 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, duly sworn to before a notary public of the county in which such person resides, or firm, association, or corporation has its principal place of business, 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 of 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 (\$10.00), such application shall be filed and registered in the office of the Secretary of State in the manner provided in section 2620 of the statutes. There shall thereupon be assigned and issued to such manufacturer or dealer a general distinctive number of registration in the manner provided by said section 2620, which shall be in the form of plates, as provided for in said section 2628, 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 (\$1.00) for each set of duplicates. Nothing in this sub-division shall be construed to apply to the motor-vehicle operated by a manufacturer or dealer for private use or for hire. (Amended '15 c. 33 § 3)

2632. Brakes, horns, lamps, mufflers, etc.—Not to stand unattended, etc.—

Violation of this and the other section of this act relating to the care to be exercised by operators of motor vehicles is negligence per se (128-460, 151+275). Highways, ⚡181(3).

Contributory negligence of driver of an automobile truck, which came into collision with street car (125-399, 147+430). Street Railroads, ⚡114(15).

(2) Stopping on signal, and other regulations—

Operating without lights—Finding of negligence in operating an automobile at night without a light, rendering the operator liable for injuries to a pedestrian in the street, held sustained by the evidence (130-134, 153+267). Municipal Corporations, ⚡706(5).

Duty as to horses—Signals—When it is apparent that a team is frightened, it is the duty of an automobile driver to stop, though the driver of the team, whose attention is taken up in controlling his horses, does not signal the automobile to stop (127-188, 149+194). Highways, ⚡181(3).

The operator of a motor vehicle must stop on signal of a person in a vehicle, though such person is not driving (128-460, 151+275). Highways, ⚡181(3).

Passing street cars—The conductor of a street car, while standing in the street adjusting the trolley, is within the class of persons for whose benefit this section requires motor vehicles to slow down, and, "if necessary for the safety of the public," to stop not less than ten feet from a street car which is receiving and discharging passengers. While a street car is receiving and discharging passengers, pedestrians to and from the car have the right of way, and it is the duty of an automobile driver to stop, if necessary for their safety, and, if he does not stop, to exercise such care in the management of his machine as, under the circumstances, shall appear to be reasonably necessary to guard against injury to any one. Requisites of charge on duty of automobile driver in passing street car receiving or discharging passengers stated (127-468, 149+947). Municipal Corporations, ⚡705(4).

In view of the provision of this section as to passing or approaching street cars, one alighting from a standing street car is not obliged to keep a lookout for automobiles to avoid the imputation of contributory negligence (127-462, 149+940). Municipal Corporations, ⚡705(10).

Pedestrians—Evidence held to support a finding of negligence of an automobile driver in running down a pedestrian in the street (130-134, 153+267). Municipal Corporations, ⚡706(5).

The driver of a motor vehicle, who fails to observe the requirement as to slowing down and giving a signal on observing a pedestrian in the traveled part of the roadway, and not on a sidewalk, is liable for injuries proximately resulting from such failure, though his conduct may not have been negligent in the absence of statute (133-346, 158+426). Municipal Corporations, ⚡705(4).

2633. Speeds and signals at cross roads outside of cities and villages—

161+715.

2634. Road rules—

161+715.

The provision of this section limiting speed to four miles an hour in passing vehicles is not invalid as class legislation (128-460, 151+275). Constitutional Law, ⚡208(3).

Violation of this section constitutes negligence, rendering the operator of a motor vehicle liable for injuries proximately resulting therefrom (128-460, 151+275). Highways, ⚡181(3).

Where a motor vehicle, through no fault of its driver, skids on a slippery pavement, and is thus thrown across the center line of the street, the provision of this section as to keeping to the right of the center of the street is not applicable, so as to cast on defendant the burden of disproving negligence (127-401, 149+654). Municipal Corporations, ⚡702, 706(3).

Where defendant, in a sleigh, was coming up a hill on the left-hand side of the street, and collided with plaintiff's child, who was coasting, the provision of this section, requiring that "all vehicles must keep to the right of the center of the street," applied, and defendant's

act was evidence of negligence (130-46, 153+136, L. R. A. 1915E, 1028). Municipal Corporations, Ⓒ706(5).

A boy's sled is not a "motor vehicle," within the provisions of this section as to speed of motor vehicles, so as to impute contributory negligence to a boy coasting down a hill on a city street (130-46, 153+136, L. R. A. 1915E, 1028). Municipal Corporations, Ⓒ703(1).

2635. Rates of speed—No person shall drive a motor-vehicle upon any public highway of this state at a speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb or injure the property of any person. If the rate of speed of any motor-vehicle, operated on any public highway in this state, where the same passes through the closely built up portions of any incorporated city, town or village, or where the traffic is more or less congested, exceeds ten (10) miles an hour for a distance of one-tenth of a mile, or if the rate of speed of any motor vehicle, operated on any public highway of this state, where the same passes through the residence portions of any city, town or village, exceeds fifteen (15) miles an hour for a distance of one-tenth of a mile, or if the rate of speed of any motor-vehicle operated on any public highway in this state, outside the closely built up business portions, and the residence portions of any incorporated city, town or village, exceeds twenty-five (25) miles an hour for a distance of one-quarter of a mile, such rates of speed shall be prima facie evidence that the person operating such motor-vehicle is running at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the way, or so as to endanger the life or limb or injure the property of any person.

If the rate of speed of a motor-vehicle, operated on any public highway in this state, in going around a corner or curve in a highway, where the operator's view of the road traffic is obstructed, exceeds six (6) miles per hour, such rate of speed shall be prima facie evidence that the person operating such motor-vehicle is running at a rate of speed greater than is reasonable and proper, having regard to the traffic and the use of the way, or so as to endanger the life or limb or injure the property of any person.

If a licensed physician shall have his motor-vehicle stopped for exceeding the speed limit, while he is in the act of responding to an emergency call, the registration number of the vehicle, and the driver's license number may be inspected and noted, and the physician shall then be allowed to proceed in the vehicle to his destination, and subsequently such proceedings shall be taken as would have been proper had the person violating the provisions as to speed not been a physician. (Amended '17 c. 475 § 1)

127-401, 149+654; 130-134, 153+267.

The provision of this section as to speed is, for the benefit of all who may be injured in person or property from unreasonable or excessive speed of automobiles, and it is a rule of evidence of general application whenever the question of unreasonable speed is involved (125-431, 147+434). Highways, Ⓒ166.

Contributory negligence of driver of an automobile truck in collision with street car (125-399, 147+430). Street Railroads, Ⓒ114(15).

2636. Duty of driver in case of accident—

125-466, 147+441.

2637. Local regulations prohibited—Exceptions—

The imposition of a wheel tax by a city, the proceeds of which were to be used for the maintenance and repair of highways within the city, is not forbidden by this section (134-296, 159+627). Licenses, Ⓒ5.

Violation of a speed ordinance by the driver of an automobile is negligence per se, and it is not rendered any the less so because the police of a city resolve not to enforce the ordinance (162+520). Municipal Corporations, Ⓒ705(4).

2638. Board of automobile examiners—Examination and licensing of chauffeurs—Revocation of license—Numbers and badges—Non-resident chauffeurs—There is hereby created a board of automobile examiners of three members, to be designated by the governor, who shall be men possessing a technical and practical knowledge of the construction, mechanism and operation of motor-vehicles, whose term of office shall be for two years, said first terms to expire on the first Tuesday of January, 1917. Said board members are to receive a compensation of five dollars per day and actual expenses, while

in session, and all traveling expenses. Blanks, books, etc., for the use of said board are to be furnished by the Secretary of State. It shall be the duty of said board to conduct the examination of all applicants for chauffeur's licenses herein provided for, at such times and such places as shall be designated by the Secretary of State; to pass upon the qualification of such applicants, and to issue to those having a practical knowledge of the construction, mechanism and operation of motor-vehicles, a license to be known as a chauffeur's license; provided that no such license shall be issued to any person under eighteen years of age, or who is an habitual and excessive user of intoxicating liquors or to any person of defective eye-sight, or other physical infirmity, which in the judgment of said board renders such person incompetent to manage and care for a motor-vehicle. Such licenses shall expire on December 31st of each year, and a new license shall be issued to the holder of the expired license upon the payment of one dollar; provided further, that upon the third conviction by any court of a violation of any of the provisions of this act the Secretary of State is hereby empowered and directed to revoke the license of any chauffeur so convicted, and said chauffeur shall not be entitled to receive a new license, or to have an expired license renewed or re-issued within six months after the revocation and expiration of his license, and then only upon and after he has been re-examined by the board, who shall, in their discretion, have the power to refuse to grant such license, if in their opinion the applicant is incompetent to manage and operate a motor vehicle. Application for license to operate a motor vehicle as chauffeur may be made by mail, or otherwise, to the Secretary of State, or his duly authorized agent, upon blanks prepared under his authority. Every such application shall be accompanied by a fee of one dollar and fifty cents (\$1.50). In case said applicant upon examination by the board of examiners shall have been found competent, and such fact has been certified to, the Secretary of State, the latter shall furnish to every chauffeur so licensed and whose license has been renewed, a suitable metal badge with the coat-of-arms of the State of Minnesota thereon, and with the distinguishing number or mark assigned to him thereon, said number to be of a different color each year, and the year to be embossed thereon, without extra charge therefor. This badge shall be thereafter worn by such chauffeur pinned upon the outside of his clothing, either upon his breast about midway between his shoulders; or upon the front of his hat or cap, at all times while he is operating or driving a motor-vehicle on public highways. Said license shall be valid only during the term of the license of the chauffeur to whom it is issued, as aforesaid. It shall also be the duty of said licensee to have said license at all times in his possession while operating a motor-vehicle in this state. Upon the receipt of such an application, the Secretary of State shall thereupon file the same in his office and register the applicant in a book or index which shall be kept in the same manner as the book or index for the registration of motor vehicles, and when the applicant shall have passed the examination provided for in the preceding section, the number or mark assigned to such applicant, together with the fact that such applicant has passed such examination, shall be noted in said book or index. No chauffeur having been licensed as herein provided shall voluntarily permit any other person to possess or use his license or badge, nor shall any person while operating or driving a motor-vehicle, use or possess any license or badge belonging to another provided, however, that a non-resident chauffeur, who has registered under the provisions of law of the foreign country, state, territory or federal district of his residence, substantially equivalent to the provisions of this section, shall be exempt from license under this section; and provided further, that he shall wear the badge assigned to him in the foreign country, state, territory or federal district of his residence in the manner provided in this section; provided further, that in case said chauffeur remains in this state for sixty (60) days or more, he shall be required to comply with all of the provisions of section 19 hereof. (Amended '15 c. 33 § 4)

2640. Intoxication of driver—Penalty.—Whoever operates a motor vehicle while in an intoxicated condition shall be guilty of a misdemeanor.

Provided that any person convicted under this section shall forfeit any license which he may have to operate a motor vehicle under the laws of this state and shall also be disqualified to operate any motor vehicle for a period of three months after the date of such conviction, and provided further that any violation of this provision shall be a misdemeanor. (Amended '17 c. 320 § 1)

2641. Tampering with or damaging vehicle, 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 into 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 signalling 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, nor shall any person place upon any street, avenue or highway of this state any glass, tacks, nails or other articles tending to injure automobile tires. (Amended '15 c. 33 § 5)

2642. Disposition of fees—Appropriation—Expenses.—At the end of each month the Secretary of State shall pay into the state treasury, to the account of the general revenue 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. On or before the tenth of each month, the Secretary of State shall file a statement and certify to the State Auditor the items and amounts of all expenses necessarily incurred by him or board of examiners in the carrying out of this act, and such items and amounts, being duly audited, shall be paid by the state. The State Treasurer shall keep a separate account of all moneys received from motor vehicle licenses, and on the last day of each fiscal year shall transfer any balance in such account from the Revenue Fund to the Road and Bridge Fund. (Amended '15 c. 33 § 6)

2643. Suit for damages—Evidence, etc.—

The owner of an automobile is not liable for injuries to third persons from the negligence of his chauffeur, committed when wrongfully operating the automobile outside the scope of his employment, and contrary to the directions of the employer not to use the machine in his own personal affairs (130-412, 153+753). Master and Servant, [↔](#)302(1, 6).

CHAPTER 14

EDUCATION

DISTRICT SCHOOLS

2676. Appeal from order.—

Cited (131-79, 154+669).

Section 675, providing for pleadings on appeals from orders of the board allowing or disallowing claims against the county, has no application to appeals under this section (135-439, 161+152). Schools and School Districts, [↔](#)39.

An appeal from an order denying a new trial in proceedings for a consolidation of school districts, under § 2688, held to have been taken in time; the order of the district court directing a dismissal of the appeal not being a final order (122-383, 142+723). Schools and School Districts, [↔](#)39.

The county superintendent of schools held not personally liable for costs in defending an appeal in consolidation proceedings (142+928). Costs, [↔](#)96.

Scope of review on appeal to district court from order of county board changing boundaries of school district (see 135-439, 161+152; note under § 2677, post).