

P391

# GOOD ROADS LAW

ADVANCE COPY OF AN ACT

OF THE

Legislature of West Virginia

REGULAR SESSION 1917



SENATE BILL NO. 284

(By MR. BURGESS, of Wetzel)



Passed February 22, 1917. Effective 90 days from passage

Became a Law without the approval of the Governor.

L-87



## ADVANCE COPY OF AN ACT

OF THE

## LEGISLATURE OF WEST VIRGINIA

Being Senate Bill No. 284. (By Mr. Burgess, of Wetzel.)

[Passed February 22, 1917. In effect ninety days from passage. Become a law without the approval of the Governor.]

---

AN ACT to amend and re-enact chapter forty-three, forty-three-*a* and forty-three-*b* of the code of one thousand nine hundred and thirteen, and chapter eight of the acts of the second extraordinary session of the legislature of one thousand nine hundred and fifteen, relating to the establishment, classification, construction and maintenance of public roads and the regulation of traffic thereon; giving assent to the provisions of an act of congress, approved July eleven, one thousand nine hundred and sixteen, relating to construction of rural post roads; creating a state road fund and appropriating certain revenues therefor; creating a state road commission and defining the powers and duties thereof.

*Be it enacted by the Legislature of West Virginia:*

That chapter forty-three, chapter forty-three-*a*, chapter forty-three-*b* of the code of one thousand nine hundred and thirteen, (serial sections one thousand seven hundred and twenty-eight to one thousand nine hundred and ninety-two inclusive) and chapter eight of the acts of the second extraordinary session of one thousand nine hundred and fifteen be, and the same are hereby amended and re-enacted to read as follows:

*Chapter Forty-three.*

Section 1. The purpose of this act is to amend, re-enact, 2 codify and embrace in one act all the general laws of this state 3 on the subject of public roads, ways and bridges, to provide a 4 complete system of law governing the construction and mainte-

5 nance of public roads and ways and the regulation of traffic  
 6 thereon, to classify such roads and provide for a connecting system  
 7 of highways throughout the state, to provide methods of raising  
 8 revenues for the construction and maintenance of such roads,  
 9 to provide for the co-operation of the state and federal govern-  
 10 ment in raising and expending such revenues, to create a state  
 11 road commission and prescribe the duties and define the powers  
 12 of such commission and of all state and local officers engaged  
 13 in the administration of the road laws of this state; and this act  
 14 shall be liberally construed, so as to effectuate the purposes thereof  
 15 as herein set out.

Sec. 2. The authority and control over the construction,  
 2 maintenance and regulation of all public roads within the state  
 3 is hereby vested in the state road commission and in the several  
 4 county courts, respectively, to the extent and under the pro-  
 5 visions and regulations herein prescribed. Such county courts,  
 6 under the regulations aforesaid, shall have the superintendence  
 7 and administration of the establishment and regulation of all  
 8 public roads, ways and bridges within their respective counties,  
 9 with authority to lay and disburse the county and district levies  
 10 applicable thereto. Said state road commission shall have and  
 11 exercise only such powers and authority as are in this act spe-  
 12 cified.

Sec. 3. The public roads of this state shall be divided into  
 2 two classes, to be known respectively as class A and class B.  
 3 The roads in class A shall include all main county roads to be  
 4 established as hereinafter provided and receiving federal or  
 5 state aid. Class B shall include all other roads which shall be  
 6 known and designated as district roads; *provided*, that such classi-  
 7 fication shall not apply to the streets and alleys of incorporated  
 8 cities and towns.

Sec. 4. The terms "public road", "highway" or "road" shall  
 2 be deemed to include the road-bed and all necessary culverts,  
 3 sluices, drains, ditches, water-ways, embankments, slopes, retain-  
 4 ing walls, bridges, tunnels and viaducts necessary for the conveni-  
 5 ence of travel, dispatch of freight and communication between  
 6 individuals and communities; and such public road or highway  
 7 shall be taken to include any road to which the public has access  
 8 and is not denied the right to use, or any road or way leading  
 9 from any other public road over the land of one or more persons  
 10 to the land of another person, and which shall have been established

11 pursuant to law. Any road shall be conclusively presumed to  
 12 have been so established when it has been used by the public  
 13 for a period of ten years or more, and public moneys or labor  
 14 have been expended thereon, whether there be any record of its  
 15 dedication or appropriation to public use or not. In the absence  
 16 of any other mark or record, the center of the traveled way shall  
 17 be taken as the center of the road, and the right of way shall  
 18 be designated therefrom an equal distance on each side, but a  
 19 road may be constructed on any part of the located right of way  
 20 when it is deemed advisable so to do; *provided*, the exact location  
 21 of such right of way shall be entered of record by the county  
 22 court.

Sec. 5. The legislature of the state of West Virginia hereby  
 2 assents to the provisions of the act of congress, approved July  
 3 eleven, one thousand nine hundred and sixteen, entitled "An Act  
 4 to provide that the United States shall aid the states in the  
 5 construction of rural post roads, and for other purposes." The  
 6 state road commission is hereby authorized to enter into all con-  
 7 tracts and agreements with the United States government relating  
 8 to the survey, construction and maintenance of roads under the  
 9 provisions of the said act of congress, to submit such scheme or  
 10 program of construction and maintenance as may be required by  
 11 the secretary of agriculture and to do all other things necessary  
 12 fully to carry out the co-operation contemplated and provided for  
 13 by the said act. For the construction and maintenance of rural  
 14 post roads the good faith of the state is hereby pledged to make  
 15 available funds sufficient to equal the sums apportioned to the  
 16 state by or under the United States government during each of  
 17 the five years for which federal funds are appropriated by section  
 18 three of the said act and to maintain the roads constructed with  
 19 the aid of funds so appropriated, and to make adequate provision  
 20 for carrying out such maintenance.

*State Road Commission; Powers and Duties.*

Sec. 6. The term "commission" when used in this or any  
 2 other section of this chapter, shall mean the state road commission,  
 3 unless otherwise specified or clearly intended.

4 There shall be, and there is hereby created, a state road com-  
 5 mission of the state of West Virginia, and by that name the com-  
 6 mission may sue and be sued; contract and be contracted with.  
 7 The state road commission shall consist of two members, who

8 shall be appointed by the governor with the advice and consent of  
9 the senate. Said commissioners shall have and possess all the  
10 powers and duties prescribed in this chapter, or which may here-  
11 after be given it by legislative enactment. As soon as may be  
12 after this act becomes effective, and before the first day of June,  
13 one thousand nine hundred and seventeen, the governor shall ap-  
14 point two commissioners, who shall be residents and citizens of  
15 this state, one each from the political parties casting the highest  
16 number of votes for governor at the last preceding general election,  
17 one of whom shall be a practical civil engineer of known busi-  
18 ness qualifications and who shall have had at least three years  
19 responsible charge of the construction and maintenance of public  
20 roads and highways. The other member shall be of known  
21 and successful business qualifications and one shall be desig-  
22 nated by the governor as secretary-treasurer of said com-  
23 mission. Said commissioners shall immediately enter upon their  
24 duties and hold office for two and four years, respectively,  
25 from the first day of June, one thousand nine hundred and  
26 seventeen, the term of each to be designated by the governor, but  
27 their successors shall be appointed for the term of four years, ex-  
28 cepting that any person appointed to fill a vacancy shall serve only  
29 for the unexpired term, but any commissioner shall be eligible for  
30 reappointment. Any commissioner appointed to succeed another  
31 whose term has expired, or to fill a vacancy, shall be appointed  
32 from one of the two political parties casting the highest number of  
33 votes for governor at the last preceding general election, but, *pro-*  
34 *vided, always,* that not more than one of the commissioners serving  
35 at any one time shall have been appointed from the same political  
36 party. The commissioners, before entering upon their duties, shall  
37 take, subscribe and file with the secretary of state the oath provid-  
38 ed by section five of article four of the constitution. The secretary-  
39 treasurer of said commission shall execute a bond with security to  
40 be approved by the governor, in the penalty of not less than fifty  
41 thousand dollars, conditioned for the faithful accounting and pay-  
42 ing over of all moneys that may come into his hands by virtue of  
43 his office, which bond shall be filed with the secretary of state and  
44 there preserved and recorded as other bonds required of state offi-  
45 cials. The governor may remove any commissioner for incom-  
46 petency, neglect of duty, gross immorality or malfeasance in of-  
47 fice, in the manner provided by law. No person while in the  
48 employ of, or holding any official relation to, any person,

49 firm or corporation selling or furnishing any materials entering  
50 into the construction or maintenance of any of the roads or high-  
51 ways of this state, or any part thereof, or who is pecunarily inte-  
52 rested therein, shall enter upon the duties of, or hold said office.  
53 Nor shall any of said commisisoners be a candidate for, or hold  
54 any other public office, or be a member of any political committee  
55 while acting as such commissioner. In case either of said commis-  
56 sioners shall become a candidate for any other public office, or  
57 shall be a member of any political committee, his office as com-  
58 missioner shall be *ipso facto* vacated.

Sec. 7. Upon the appointment and qualification of the  
2 members of the commission, they shall at once proceed to organize  
3 by the selection of one of their number as chairman, who shall  
4 serve for one year and shall be eligible for re-election as such.  
5 The commission shall make necessary rules and regulations for  
6 its own government, and shall have power and authority to select  
7 such assistants, agents and employees as may be necessary in the  
8 performance of its duties and for the purpose of carrying out the  
9 provisions of this act, and fix their compensation; *provided, how-*  
10 *ever,* that the total compensation paid for any such assistants,  
11 agents and employees shall not exceed in any one year the appro-  
12 priation made by the legislature for that purpose; and, *provided,*  
13 *further,* that any of the county courts of the several counties of  
14 the state making demand upon said commission, and entering in-  
15 to an agreement with it, by which services are rendered to such  
16 court by any such assistant, agent or employee, shall provide for  
17 the payment of the necessary expenses incident thereto. Each  
18 commissioner shall devote his entire time to the performance of  
19 the duties of his office, and shall receive a salary of three thousand  
20 five hundred dollars per annum and the actual expenses incurred  
21 in the discharge of the duties of his office, to be paid monthly.  
22 The chairman and secretary-treasurer of the commission shall cer-  
23 tify to the state auditor the amount due each member and each  
24 employee of said commission, and the auditor shall issue his war-  
25 rant therefor on the state treasury, payable out of the state road  
26 fund appropriated for such purpose.

Sec. 8. It shall be the duty of the secretary-treasurer to keep  
2 a full and true record of all proceedings of the commission, to is-  
3 sue all necessary notices, to keep all books, maps, documents and  
4 papers ordered filed by the commission, and all orders, rules and  
5 regulations made or approved by the commission. He shall also

6 be responsible for the safe custody and preservation of all such  
 7 documents and papers in his office. He may administer oaths in  
 8 all parts of the state, so far as the exercise of such power is prop-  
 9 erly incidental to the performance of his duty or that of the com-  
 10 mission. He shall issue all licenses, registration certificates, re-  
 11 cepts and other official documents provided for by this act, pub-  
 12 lish the rules and regulations of the commission when required, and  
 13 keep the proper records thereof. He shall receive all moneys col-  
 14 lected by the commission from license or other fees, and all moneys  
 15 and funds coming into the hands of the commission from any  
 16 source, and shall once each week make a full report of such re-  
 17 cepts to the auditor of the state and forthwith pay to such audi-  
 18 tor the amount thereof, taking proper receipts therefor, and per-  
 19 form such other duties as are incident to his position.

Sec. 9. The state road commission shall have power, by the  
 2 affirmative vote of a majority of its members, to establish and from  
 3 time to time amend rules and regulations not inconsistent with  
 4 law, concerning the duties of county road engineers and their  
 5 employees in relation to class A roads and concerning all such pub-  
 6 lic roads as may, under the provisions hereof, be under the super-  
 7 vision of the said commission; and said commission shall prescribe  
 8 other rules and regulations required of them to carry into effect the  
 9 provisions of this act.

10 Every general regulation adopted by the commission shall  
 11 state the date on which it takes effect, which shall be not less than  
 12 ten days after the date of publication. A copy of such rules and  
 13 regulations, duly signed by the chairman of the commission and  
 14 secretary-treasurer thereof, shall be filed in the office of the secre-  
 15 tary of state, and a copy thereof shall be sent by the secretary-  
 16 treasurer to each officer and to each county court affected there-  
 17 by, and shall be published in such manner as the said commission  
 18 may determine. Any violation of the regulations so promulgated,  
 19 when said regulations are reasonable and not inconsistent with  
 20 law, shall be a misdemeanor and punished by fine of not less than  
 21 ten dollars nor more than one hundred dollars.

Sec. 10. It shall be the duty of the state road commission  
 2 to supervise and furnish information as to location, construction  
 3 and maintenance of all Class A roads in this state; to provide  
 4 for giving instruction in road building, and to supervise the  
 5 construction of the main county roads. It shall further be the  
 6 duty of said commission to see to the enforcement of all laws,



7 rules and regulations relating to public roads, and especially  
8 their enforcement by the road officials; to aid when requested so  
9 to do, the county road engineers and their employees in establish-  
10 ing grades and preparing suitable systems of drainage, and to ad-  
11 vise with them as to the construction, improvement and mainten-  
12 ance of public roads in carrying out such arrangements as may be  
13 made respecting them with the several county courts; to cause  
14 plans, specifications and estimates to be prepared for the improve-  
15 ment of all such roads, when required so to do by the county court  
16 of any county or its county engineer; to investigate and determine  
17 the various methods of road construction adapted to the different  
18 sections of the state and the best methods of constructing, repair-  
19 ing and maintaining public roads and the bridges thereon.

Sec. 11. The said commission shall compile statistics con-  
2 cerning the public roads, and collect information in regard to  
3 them; shall gather and tabulate information and statistics re-  
4 lating to road building, improvement and maintenance and dis-  
5 seminate such information throughout the state by means of  
6 farmers' institutes or other meetings and such bulletins as may  
7 be issued by the colleges of agriculture and engineering, or by  
8 the commissioner of agriculture, and by such bulletins as the  
9 commission may see fit to issue; such public meetings to be held  
10 in each county under the general supervision and control of the  
11 commission, for the purpose of furnishing general information  
12 and instruction regarding the construction, improvement and  
13 maintenance of public roads and concerning the application of  
14 laws, rules and regulations relating to them. Reasonable notice  
15 shall be given the county court or road engineer of the time and  
16 place at which any such meeting is to be held.

Sec. 12. All materials of every kind used upon the main  
2 county roads receiving federal or state aid shall first be carefully  
3 analyzed by said commission, and no such material shall be used  
4 in the construction or maintenance of any such road until approved  
5 in writing by said commission. The county courts of the several  
6 counties may make arrangements with said commission for the  
7 analysis of materials in the construction of any other road or  
8 roads in class "B".

Sec. 13. The said commission shall have its office and head-  
2 quarters at Charleston, West Virginia. The said commission  
3 shall have authority to purchase all necessary stationery, supplies  
4 and equipment necessary for the efficient and economical conduct

5 of its respective duties, subject to the limitation of the appropria-  
 6 tion made by the legislature for that purpose, and may from time  
 7 to time draw its requisition upon the auditor in payment therefor.

Sec. 14. The said commission, or any member thereof, or  
 2 any person specially delegated by it so to do, shall have power and  
 3 authority to investigate all expenditures made by the several  
 4 county courts of this state in road construction and maintenance,  
 5 the methods adopted, and the inspection and supervision pro-  
 6 vided, and shall make report thereon to the county court and  
 7 bring the same to the attention of the prosecuting attorney and  
 8 the judge of the circuit court thereof, or any other official whose  
 9 duty it is to see that the laws are properly enforced, and may  
 10 make such recommendations respecting same as in their opinion  
 11 may be proper and right; and it shall be the duty of any such  
 12 prosecuting attorney to take such action in relation to any malfeas-  
 13 ance or misfeasance by any officer in the discharge of his official  
 14 duty as may be necessary to remove such person from office and  
 15 to subject him to such fines and penalties as by law are prescribed  
 16 for any offense that may have been committed by any such officer.

Sec. 15. The said commission shall have and possess all  
 2 powers necessary and requisite to carry into effect, as respects  
 3 this state, the provisions of the act of congress approved July  
 4 eleven, one thousand nine hundred and sixteen, entitled "An Act  
 5 to provide that the United States shall aid the states in the con-  
 6 struction of rural post roads, and for other purposes", and shall  
 7 have the power to enter into all contracts and agreements with  
 8 the United States government relating to the construction and  
 9 maintenance of rural post roads under the provisions of said  
 10 act of congress, and to carry into effect generally the provisions  
 11 of section five of this act.

Sec. 16. At the request of the state road commissioner,  
 2 it shall be the duty of the commissioner of agriculture, the  
 3 dean of the college of engineering of the state university, the  
 4 director of the experiment station of said university, and the  
 5 heads of the several departments of science of said institution,  
 6 to render to said commission all necessary aid and assist-  
 6-a ance in the performance of its duties, as the duties of their  
 7 respective offices and positions will permit, without extra charge  
 8 or compensation for such services.

Sec. 17. The state road commission shall succeed to the  
 2 office of the state road bureau, and all equipment, supplies, moneys,

3 and all papers, books, maps, files, records, documents and other  
4 property now belonging to or in the custody of said state road  
5 bureau shall upon the organization of the state road commission  
6 be immediately turned over to said commission. Any powers,  
7 duties and obligations imposed upon the state road bureau or  
8 any of its officers by virtue of any contract heretofore entered  
9 into by it or by the several county courts of the state with con-  
10 tractors or other persons, shall be carried out and exercised by the  
11 commission herein created, or by its legally constituted agents  
12 or employees.

Sec. 18. The said commission shall make an annual report  
2 to the governor of its conduct and work, and the expenses thereof,  
3 and may recommend needed improvements in the public roads;  
4 and shall make such other reports as may be required by the  
5 governor or in its judgment are beneficial to the general public.  
6 Said annual report shall show the quantity of earth and stone  
7 removed and material manufactured and prepared; the number  
8 of miles of road under construction and the number completed,  
9 and especially such roads as are under the immediate supervision  
10 and control of said commission; the cost of such construction  
11 and materials prepared and used therein; the condition and needed  
12 repairs of roads previously constructed, together with the result  
13 of their investigation respecting previously constructed roads and  
14 the materials used therein; and for the purpose of obtaining all  
15 necessary and detailed information to be used in the preparation  
16 of said report, the said commission may require the several county  
17 courts or local road authorities, in which work is done under  
18 arrangements with said commission, to furnish such monthly  
19 reports as may be prescribed by said commission. Said com-  
20 mission shall cause to be prepared and filed in the office of the  
21 clerk of the county court of each county and the state department  
22 of archives and history copies of maps showing the locations of  
23 all main county roads and highways in the state; the report herein  
24 provided to be filed with the governor shall be accompanied by  
25 a map or maps showing the location and improvement of all  
26 roads receiving federal or state aid up to the time of the com-  
27 pletion of said report. Copies of all maps and reports made  
28 and prepared by said commission shall be kept in its office for  
29 public inspection.

Sec. 19. The attorney general of this state shall be the legal  
2 adviser and representative of said state road commission and

3 shall prepare for it all contracts, forms and other documents  
4 when required by said commission.

*Class A, Main County, Federal Aid and State Aid Roads.*

Sec. 20. The terms "main county road," "federal aid road"  
2 or "state aid road," when used in this or any other section of  
3 this act, unless otherwise stated or clearly intended, shall mean  
4 any road constructed and maintained in whole or in part by funds  
5 derived from the county road levy supplemented by federal aid or  
6 the state road fund, and which are established as such with the ap-  
7 proval of the state road commission. All such main county roads  
8 and all roads receiving federal or state aid, shall be included in and  
9 constitute "Class A."

10 The county court of each county shall establish two or more  
11 main thoroughfares, highways or roads through said county, at least  
12 one of which roads shall pass through or connect with the county  
13 seat, and such roads shall be known as "main county roads," and  
14 shall be constructed and maintained in each county by taxation  
15 upon all the taxable property of the county, and by apportionments  
16 from the federal aid and state road fund.

17 Such main county roads shall be so located as to lead to the  
18 county seat of an adjoining or adjacent county, or to an impor-  
19 tant commercial center thereof, or of an adjoining state, and so  
20 that each of such roads will connect at the border of said county  
21 with a like road established or designated by the county court of  
22 another county under the provisions hereof, or connect at such  
23 border with a road of an adjoining state, and so far as practicable  
24 pass through or near important towns. In establishing any such  
25 main county road the same may include a road already estab-  
26 lished or such parts thereof as the court may deem proper, and  
27 one of said roads may traverse any part of the other of such roads.  
28 When practical, in the opinion of the county court, no such  
29 main county road shall have a grade exceeding five feet rise in  
30 each one hundred feet, unless it shall be found necessary to  
31 have a steeper grade; and in no case shall such steeper grade  
31-a exceed nine feet rise per hundred feet, and such grade shall be  
32 for as short a distance as may be practicable, and the right of way  
33 for such roads shall not be less than forty feet in width, with  
34 necessary slopes for cuts and fills. All such main county roads  
35 shall have drainage structures of permanent construction, and all  
36 "breakers" shall be eliminated.

37 The method of establishing such main county roads shall be  
38 as follows: As soon as practicable after this act goes into effect,  
39 the state road commission shall prepare a map of this state show-  
40 ing a suggested general statewide system of inter-county roads,  
41 and shall send to the county court of each county a copy of such  
42 map or of such portion thereof as may relate to said county and  
43 the counties bordering thereon. The county court of each county  
44 shall, as soon as practicable after receiving such map, and not to  
45 exceed ninety days thereafter, designate to be established as "main  
46 county roads" two or more main thoroughfares, roads, highways,  
47 or routes for the location of same, through said county and ex-  
48 tending to the borders thereof, but one of said routes may traverse  
49 or include a portion of any other designated road or route. The  
50 court shall certify such designations to the state road commis-  
51 sion for approval or rejection. If the said commission shall as-  
52 certain that each of the roads or routes so designated is so lo-  
53 cated as to lead to the county seat of an adjoining or adjacent  
54 county, or to an important commercial center thereof, or to an  
55 adjoining state, and that each of such roads will connect at the  
56 border of said county with a like road so designated or established  
57 by the county court of another county under the provisions here-  
58 of, or connect at such border with the road of an adjoining state,  
59 and shall also ascertain that such roads or routes are practical,  
60 and that the same are located with due regard to the development  
61 of a state-wide system of inter-county roads, the commission shall  
62 approve two of the roads so designated in each county and certify  
63 its approval to the county court; or the commission, if it finds  
64 that the roads or routes so designated by said court are not prac-  
65 tical and do not comply with the provisions of this act, may sub-  
66 mit to said court, roads and routes which it will approve.

67 The county court shall thereupon order said roads or routes  
68 to be surveyed and located, under the direction and supervision  
69 of the said commission, or some one designated by it, unless such  
70 survey and location, satisfactory to the commission, shall have been  
71 already made, and said court shall enter an order establishing  
72 the roads so approved or designated by the commission and sur-  
73 veyed and located as aforesaid, as "main county roads."

74 If the county court of any county shall fail or refuse to es-  
75 tablish the roads or routes designated and approved by the state  
76 road commission, then the county, whose court so failed or re-  
77 fused, shall not participate in the distribution of the federal or

78 state aid funds hereinafter provided, until said court shall have  
 79 established the main county roads as designated and approved by  
 80 said commission, save and accept that the county shall participate  
 80-a in the distribution of the federal and state aid funds to the ex-  
 80-b tent such roads are designated and approved by both the commis-  
 80-c sion and the county court.

81 The several county courts and the state road commission in  
 82 the designation and establishment of the main county roads afore-  
 83 said, shall have due regard for, and shall as far as practicable lo-  
 84 cate such main county roads along the general routes by which  
 85 the old turnpike roads traverse the several counties.

86 In the location and establishment of said main county roads,  
 87 the county courts of the several counties shall have power to ex-  
 88 ercise the right of eminent domain for condemnation of rights of  
 89 way in accordance with the law governing the location, changes  
 90 and re-location of other roads; *provided*, that when any such road  
 91 shall have been once established, its location shall not be changed  
 92 or altered without the written consent and approval of the state  
 93 road commission first having been given and made a matter of  
 94 record by the court desiring such alteration.

Sec. 21. The county court shall have authority to designate  
 2 as a connecting part of a "main county road" or a district  
 2-a road any street, or portion of street, in any incorporated  
 3 city, town or village, and may expend labor money,  
 4 so far as may be necessary to put the same in good  
 5 condition, but the municipality shall thereafter  
 6 maintain in good condition, such "main county road" lying within  
 7 its corporate limits. In any case where any municipality is un-  
 8 able financially to construct and maintain the bridges on any  
 9 main county road within its corporate limits, the county court  
 10 may construct and maintain the same. And the county court of  
 11 any county may take over any bridge or bridges heretofore built  
 12 by any municipality on any main county road, when requested to  
 13 do so by the authorities of such municipality, and thereafter  
 14 maintain the same. Such "main county roads" shall be laid off  
 15 into sections not exceeding two miles in length, and each section  
 16 shall be numbered.

Sec. 22. In addition to the general county and district levy,  
 2 the county court shall lay a county road levy not to exceed twenty-  
 3 five cents on each one hundred dollars assessed valuation of all tax-  
 4 able property in the county, the proceeds of which shall be known

5 as the "county road fund," and shall be expended only for the  
 6 construction, improvement and maintenance of the "main county  
 7 roads" and for the construction and maintenance of the bridges  
 8 thereon after said roads are properly located; *provided*, that the  
 8-a proceeds from said levy shall be expended under the authority  
 8-b and direction of the county court, except where state or federal  
 8-c aid is extended under the provisions of this act, when the ex-  
 8-d penditure of said proceeds shall be under the direction of the  
 8-e state road commission. In case of calamity, such as floods  
 9 and the like, which shall result in unusual damage, or the  
 10 washing away of bridges or roads, the county court of any  
 11 county, with the written approval of the state tax commissioner  
 12 and the state road commission, may lay a special emergency  
 13 levy in excess of the special levy hereinbefore provided, not to  
 14 exceed ten cents on each one hundred dollars assessed valuation  
 15 of the taxable property of the county for such year or years as may  
 16 be named in such approval; but in no case shall the combined  
 17 special road levy and emergency levy exceed thirty-five cents on  
 18 each one hundred dollars valuation of the taxable property of the  
 19 county; *provided*, that in any county where the county court has  
 20 already subscribed for or purchased, or contracted to purchase  
 21 the whole or a portion only of the stock or bonds, or both, of  
 22 any bridge or road company, the county court, for the purpose  
 23 of carrying into effect such contract or option, may lay any levy  
 24 or levies provided for by law before this act takes effect; and  
 25 *provided, further*, that if in any one year the county road levy  
 26 herein authorized produces a revenue in excess of the amount  
 27 necessary to be expended on the main county roads, such excess  
 28 may by the court be applied to the construction or repair of any  
 29 of the important district roads, or roads in Class "B."

Sec. 23. The county court of any county may contract or  
 2 pay for making, improving and keeping in order, the whole or  
 3 any part of any main county or district road within the county.  
 4 The court may permanently improve by the use of asphaltum, con-  
 5 crete, brick, stone, block or by macadamizing, or other process of  
 6 equal merit, the main county or district roads within their county  
 7 and may contract therefor with any contractor for the use of any of  
 8 these foregoing systems, and take bonds and security in a penalty  
 9 equal to fifty per centum of the estimated cost of the work in  
 10 question, from any such contractor for the faithful performance  
 11 of his contract.

12 The state road commission shall prepare general plans and  
 13 specifications for the construction and repair of the main county  
 14 roads by means of the various kinds of materials, including therein  
 15 the grading and improvement of the dirt or earth road, and trans-  
 16 mit copies thereof to the several county courts of the state for their  
 17 information. The county court in making application for state or  
 18 federal aid shall specify therein, the character or kind of road to  
 19 to be constructed or repaired, the materials to be used, (which may  
 20 be the grade, improved dirt or earth road, that it has provided reve-  
 21 nue to supplement the fund applied for, which application shall  
 22 be made a matter or record by the court and certified to the  
 23 commission by the clerk of said court. If the commission approve  
 24 the proposed work it shall, upon request of the county court,  
 25 prepare plans and specifications for the same and certify  
 26 them to the court for its adoption. When the court shall  
 27 have, by an order duly entered, adopted said plans and speci-  
 28 fications or other plans agreed upon by the court and commis-  
 28-a sion, and provided the revenue to supplement the aid fund  
 29 apportioned to its county, then the court shall be entitled to  
 30 apply for and receive the aid mentioned in the next succeeding  
 31 section; *provided*, that nothing in this act contained shall be so  
 32 construed as to give the state road commission authority or super-  
 33 vision over district roads or roads in class B, unless by special  
 34 contract with the county court.

*Road Bond Issues; Road Levies; Road Funds.*

Sec. 24. There is hereby created a "state road fund" which  
 2 shall consist of the net proceeds of all state license taxes imposed  
 3 and collected upon automobiles, motor or steam driven vehicles,  
 4 and the registration fees imposed on chauffeurs on or after the  
 5 first day of January, one thousand nine hundred and seventeen,  
 6 and which may hereafter be imposed and collected thereon, and  
 7 all sums of money which may be donated to such fund, or appro-  
 8 priated to it by the legislature, or by the congress of the United  
 9 States, as provided by section five of this act, or from any other  
 10 source. The auditor shall set aside said moneys as the "state road  
 11 fund" and it shall be used only for the purposes named in this  
 12 act. Said state road fund shall be used for the purpose of pay-  
 13 ing the expenses of the state road commission as appropriated by  
 14 the legislature, and the balance thereof shall be distributed among  
 15 the counties annually, in proportion to the mileage of the main



16 county roads in each county; *provided*, the said county court sup-  
17 plement the same by a like fund. The treasurer of the state shall  
18 be the custodian of the state road fund, and all disbursements  
19 therefrom shall be paid by him upon order or voucher, approved  
19-a and signed by the chairman and secretary of the commission, and  
20 directed to the auditor, who shall draw his warrant therefor. All  
21 moneys accruing to the state road fund, as aforesaid, are hereby  
22 appropriated out of said fund for the purposes and to be paid as  
23 aforesaid.

Sec. 25. It shall be the duty of the state road commission  
2 at the beginning of each fiscal year, to apportion to the several  
3 counties of the state which have complied with the provisions of  
4 this act in the establishment of main county roads, and which  
5 agree to supplement said apportionment by a like sum, the state  
6 road fund, in proportion to the number of miles of main county  
7 roads in the several counties approved by the commission, and  
8 certify the same to the several county courts.

9 Any county court which has complied with all the provisions  
10 of this act and agrees to supplement said apportionment with a  
11 like sum, shall enter an order of record stating such fact and  
12 agreeing to contribute a like sum for the construction and main-  
13 tenance of main county roads, and apply to the state road com-  
14 mission for its distributable share thereof.

15 It shall then be the duty of the said road commission to set  
16 apart for the use and to be paid to said county its distributable  
17 share, and certify the same to the auditor of the state. The said  
18 commission making said distribution may in its discretion distribute  
19 to any county wholly federal or wholly state funds; in either event  
20 such distribution shall be taken and considered as the distribut-  
21 able share to which each county is entitled, regardless of whether  
22 it be state or federal aid. When said county court has contracted  
23 to improve its main county roads, or made provisions therefor, it  
24 shall be the duty of the state road commission to pay to said court,  
25 by requisition upon the auditor from time to time, such parts of  
26 said apportionment as shown, by proper estimates made by  
27 the engineer in charge of said work or construction, to be properly  
28 due upon such work, not exceeding one-half of the cost thereof.

Sec. 26. Subject to the limitations of section seven and eight  
2 of article ten of the constitution, and when in the opinion of the  
3 county court the levies provided by law, together with any funds  
4 appropriated by the state or federal government, are insufficient to

5 construct any main county or district road, and the bridges there-  
6 on, the said court, upon filing with the clerk thereof of a petition  
7 praying for the construction of such improvement, signed by twen-  
8 ty-five per cent. of the legal voters within any magisterial district,  
9 or in each of two or more magisterial districts in which such im-  
10 provement is located, or in such county, (such percentage to be  
11 determined on the basis of the aggregate county or magisterial  
12 district, or districts, vote cast for governor at the last preceding  
12-a general election as the case may be) the county court  
13 shall make an investigation of the proposed improvement as herein  
14 provided and, on approval of the same by the state road commis-  
15 sion, as to main county roads, shall submit the propositions of the  
16 issuance of bonds or for the authorization of a special road fund  
17 levy for a period of years, not to exceed ten, to the legal voters of  
18 the county, district or districts, as the case may be. Such peti-  
19 tion shall contain a statement specifying the roads to be built  
20 and improved, and a prayer for the submission of a road bond pro-  
21 position or a special road fund levy proposition to provide funds  
22 for such improvement; question of bond issues and special levies  
22-a for main county roads and district roads may, in the discretion  
22-b of the county court, be submitted at the same election.  
22-c Upon the filing of such petition with the clerk  
22-d of the county court, said court shall without delay instruct  
23 the county engineer, or some other engineer specially employed by  
24 it, or apply to the state road commission for an engineer to make an  
25 investigation and to report to the court an estimate of the prob-  
26 able cost of the proposed improvement. In case such investiga-  
27 tion and report are made by the county engineer or any specially  
28 employed engineer, the same shall be submitted to the state road  
29 commission for approval. Upon the approval of such proposed  
30 plan of improvement by said commission, as to main  
30-a county roads only, certified to the county court,  
31 said court shall submit to the legal voters of the county,  
32 district or districts, a proposition for such issue and sale of bonds,  
33 or for such special road fund levy, as the case may be. The order  
34 of the county court submitting such proposition shall contain a  
35 summary of the report herein provided for, setting forth the ap-  
36 proximate extent and estimated cost of the proposed road im-  
37 provement, the kind and class of work, the valuation of  
37-a all the property of the county, district or districts  
38 as the case may be, and the existing indebt-

39 edness. Such order shall specify the work for which the money  
 40 to be raised by the sale of bonds or the laying of a special road  
 41 fund levy is to be appropriated, and shall provide that no part of  
 42 the proceeds of such bonds or levy shall be used for any other  
 43 purpose than the improvement of the road or roads specified in  
 44 such order; subject to the power and right of the county court  
 44-a to alter or change the location of any district road so as to  
 44-b obtain a better grade or alignment thereof or to reduce the  
 44-c cost of construction, improvement or maintenance.  
 44-d The county court shall cause a vote to be taken upon  
 45 the question of such bond issue or such levy at the several voting  
 46 places in said county, district or districts, at the succeeding general  
 47 election for state and county officers, or any special election which  
 48 is first held in the county after such vote is ordered taken; or, if  
 49 the petition so specifies, the court shall order a special election for  
 50 the purpose within ninety days from the certification of approval of  
 50-a the engineer's report herein provided for; but such order for any  
 51 election on the question of a bond issue or a special road fund levy  
 52 together with a summary of the engineer's report herein provided  
 53 for, shall be published throughout the said county, district or dis-  
 54 tricts, in which said vote is to be taken, in the following manner:

55 The clerk of the county court shall cause as many copies of  
 56 such order to be made or printed as may be necessary, and sign  
 57 the same; he shall forthwith post one in a conspicuous place in  
 58 his office, and one at the front door of the court house.

59 The court shall direct a copy to be published once each week  
 60 for four consecutive weeks prior to the date of said election in two  
 61 newspapers of opposite politics, if such there be, published in said  
 62 county, district or districts.

Sec. 27. A vote shall thereupon be taken and the result  
 2 ascertained under the regulations prescribed for a general election  
 3 of county and district officers; or, if the said vote is taken at a  
 4 special election ordered for the purpose, the same shall be held  
 5 by commissioners appointed for the purpose by the county court  
 6 at the time said election is ordered, and the result shall be ascer-  
 7 tained and certified according to the regulations prescribed by  
 8 law for ascertaining and certifying the election of county and  
 9 district officers.

10 The ballots used in taking such poll shall be the same as  
 11 those used in voting for officers at the general election for state  
 12 and county officers, except, when the same is taken at a special

13 election, as hereinbefore provided, and there shall be written  
 14 or printed thereon a brief statement of the question submitted,  
 15 such as, in the case of a bond election:

16 "Special election to authorize a bond issue for the construc-  
 17 tion of main county roads, according to the order of the.....  
 18 entered on the..... day of....."; and directly  
 19 underneath, in two separate lines, shall be printed the words:

20 "For Road Bond Issue and levy for Payment.

21 Against Road Bond Issue and Levy for Payment."

22 and in the case of an election on a special road fund levy propo-  
 23 sition:

24 "Special election to authorize a special road fund levy of.....  
 25 cents annually for a period not to exceed ..... years,  
 26 according to the order of the ..... entered on  
 27 the ..... day of ....."; and directly underneath,  
 28 in two separate lines, shall be printed the words:

29 "For Special Road Fund Levy

30 Against Special Road Fund Levy."

31 If it shall appear by said poll that not less than three-fifths  
 32 of the voters of the county or magisterial district or group of  
 33 districts, who voted upon the proposed issuance of bonds or the  
 34 proposed special road fund levy, have voted in favor of the same,  
 35 the county court shall then have authority to issue the amount  
 36 of the bonds or to lay the levy so voted in the name of the county,  
 37 magisterial district or magisterial districts grouped together for  
 38 the purpose of making one improvement, or any less amount,  
 39 on any such terms as they may deem advisable, and provide for  
 40 the payment of such bonds by taxation on the county, district  
 41 or group of districts, or to lay such levy, as the case may be.

42 The county court shall have authority to issue and shall issue,  
 43 as provided by law, said bonds for and in the name of said county,  
 44 district or group of districts, and shall make provision for the  
 45 payment of principal and interest of the same by said county,  
 46 district or group of districts as is specified in the order under  
 47 which said vote is taken, or shall lay such levy on all the taxable  
 48 property of such county, district or group of districts, as the case  
 49 may be.

50 The president of the county court shall have power, when so  
 51 directed by such court, by an order entered of record therein, to  
 52 execute, sell and deliver the bonds of said county, district or dis-  
 53 tricts and receive the proceeds therefrom, the said bonds of said

54 county, district or group of districts shall be valid and binding  
 55 thereon when signed by the president of the county court of such  
 56 county and countersigned by the clerk thereof, with the seal of  
 57 the county attached thereto.

Sec. 28. The proceeds of such bond issue or of such special  
 2 road fund levy shall constitute a fund to be expended by the  
 3 county court for the purpose specified in the order under which  
 4 said vote was taken, and for no other purpose. This section and  
 5 the two sections hereof immediately preceding shall be so con-  
 6 strued as to permit a single district or a group of districts to  
 7 issue bonds or authorize such levy for the construction and im-  
 8 provement of main county roads and roads in class A, as well  
 9 as roads in class B in such district or districts, *provided, however,*  
 10 that the interest accruing from the deposit of funds derived from  
 11 the sale of road district bonds in any and all county depositories  
 12 shall be credited to the district road fund by the sheriff of the  
 13 county.

Sec. 29. No county wherein any magisterial district or  
 2 districts have heretofore issued bonds for the construction of  
 3 roads, and such district bonds, or any part thereof, are still out-  
 4 standing and unpaid, shall authorize the issuance of county road  
 5 bonds or authorize a special county road fund levy as provided  
 6 in section twenty-seven and section twenty-eight of this act,  
 7 unless three-fifths of the voters of each of such district or districts,  
 8 who vote on any such county or district bond proposition or such  
 9 county or district proposition for a special road fund levy, shall  
 10 vote in favor of such bond proposition, or such special road fund  
 11 levy proposition in an election at which such county or district  
 12 proposition may be submitted under the provisions of this act.

Sec. 30. Nothing in this act contained shall effect the  
 2 validity of any bond issues or special levies heretofore made or  
 3 authorized, nor prevent or affect the performance of any  
 4 contract heretofore entered into by any county court relating  
 5 to the improvement of roads. And notwithstanding anything  
 6 herein contained, any and all moneys now or hereafter to come  
 7 into the hands of any county court as the proceeds of any bond  
 8 issue or special levy heretofore voted or authorized to be voted  
 8-a in any county or district for road improvement or construc-  
 9 tion, shall be paid out and expended by such court in the manner  
 10 provided therefor at the time such bond issue or special levy  
 11 was authorized.

Sec. 31. In addition to the general county and district levy, 2 the county court shall lay a district levy not to exceed fifteen 3 cents on each one hundred dollars' assessed valuation of all taxa- 4 ble property in each of the several districts of said county, the 5 proceeds of which shall be known as the district road fund of 6 such district, and shall be expended only for the construction, 7 improvement and maintenance of the district roads and parts 8 thereof in said district, and for the construction and maintenance 9 of bridges thereon after said roads are properly located. In case 10 of calamity, such as floods and the like, which shall result in 11 unusual damage, or the washing away of bridges or roads, the 12 county court of any county, with the written approval of the 13 state tax commissioner, may lay a special emergency district 14 levy in excess of the district road levy hereinbefore provided, not 15 to exceed ten cents on each one hundred dollars' assessed valua- 16 tion of the taxable property of the district, for such year or years 17 as may be named in such approval, but in no case shall the com- 18 bined district road levy and emergency district levy exceed 19 twenty-five cents on each one hundred dollars' assessed valuation 20 of the taxable property of said district. Nothing contained in 21 section two of chapter twenty-eight-a of the code shall be so con- 22 strued as to limit the power and authority of the county court 23 to lay the respective county and district road levies provided for 24 in this act, though by so doing the total levies laid may exceed the 25 limit provided by said section.

Sec. 32. Notwithstanding anything herein contained, any 2 and all moneys now or hereafter to come into the hands of any 3 county court as the proceeds of any county or district road levy 4 laid for the fiscal year ending June thirtieth, one thousand nine 5 hundred and seventeen, or for any preceding year, shall be ex- 6 pended by said county court for the construction and mainte- 7 nance of county and district roads in the manner provided by 8 law previous to the taking effect of this act.

Sec. 33. The county court of each county shall levy for 2 road purposes a capitation tax of one dollar on each male inhabi- 3 tant of the county who has attained the age of twenty-one years 3-a and not liable to labor on the roads or pay the commuta- 3-b tion mentioned in section sixty of this act. Such 4 capitation tax for road purposes shall be collected by the 5 assessor as provided by section fifty-three of chapter twenty-nine

6 of the code, and the proceeds thereof shall be credited to the  
7 district road fund of the district in which the tax was collected.

*County Road Engineers and Supervisors.*

Sec. 34. There is hereby created in the several counties of  
2 the state the office of county road engineer. The county court  
3 in each of the counties in this state may appoint as county road  
4 engineer some engineer who is a practical road builder and com-  
5 petent to perform the duties relating to the roads and keeping  
6 records prescribed by this act. In the event that the county court  
7 shall not appoint a county road engineer as herein provided, then  
8 it may appoint a competent man as road supervisor for such  
9 county; but if a county road engineer be appointed he shall be *ex-*  
10 *officio* the road supervisor for his county, and any such official  
11 so appointed or designated by the county court to have charge of  
12 road work in any county shall be deemed a surveyor of roads  
13 within the meaning of the constitution. Every county road en-  
14 gineer and road supervisor provided for in this act shall, before  
15 entering upon the duties of his office, give bond, with security to  
16 be approved by the county court of the county, in such sum as  
17 may be required by said court, the same to be payable to the  
18 county court of the county, and to be conditioned for the faith-  
19 ful performance of his duties. The county court of any county  
20 not appointing an engineer, as in this section provided, may em-  
21 ploy a competent engineer for such time, and for such purpose,  
22 and upon such terms as may be agreed upon between the said  
23 court and said engineer.

Sec. 35. Such county road engineer shall hold office for the  
2 term of two years from and after the first day of January follow-  
3 ing his appointment, and until his successor is appointed and  
4 qualified. He shall receive such compensation, either by salary  
5 or per diem as may be fixed by order of the county court of the  
6 county, *provided*, that the same shall not be less than nine hundred  
7 dollars, nor more than thirty-five hundred dollars per year. The  
8 county surveyor of the county shall be eligible to the office of  
9 county road engineer, and may hold both offices at the same  
10 time, provided he is competent and qualified under the provisions  
11 of this act. Vacancies in the office of county road engineer shall  
12 be filled by appointment for the unexpired term. It shall be  
13 the duty of the clerk of the county court to give written notice  
14 to county road engineers and road supervisors of their appoint-

15 ment, as soon thereafter as practicable; and each person so ap-  
 16 pointed shall, within ten days after having been notified of such  
 17 appointment, qualify by giving bond as provided in the preceding  
 18 section, and by taking the oath prescribed by section five of  
 19 article four of the constitution. Such road engineer or super-  
 20 visor shall be provided with office room in the court house of  
 21 their county.

Sec. 36. Any county road engineer or road supervisor may  
 2 be removed at any time by the county court of the county, upon  
 3 its own volition or upon complaint by the state road commission,  
 4 for incompetency, malfeasance or misfeasance in office, upon  
 5 written charges after a hearing, of which ten days' notice shall  
 6 be given by serving a copy of such charges upon such officer.  
 7 Said hearing shall be held in the office of the county court of the  
 8 county, and if upon such hearing it appears that the charges are  
 9 sustained, the county court shall remove such officer, and forth-  
 10 with serve notice thereof upon him by mail. Such notice shall  
 11 state specifically the grounds for such removal, and the record  
 12 of the proceedings shall be filed in the office of such county court.

Sec. 37. The county road supervisor shall hold office for  
 2 the term of two years from and after the first day of January  
 3 following his appointment, and until his successor is appointed  
 4 and qualified. He shall be allowed a reasonable compensation  
 5 by the court for the time in which he is actually engaged in his  
 6 official capacity, but not to exceed three dollars per day, with  
 7 actual traveling expenses when necessarily called out on emergency  
 8 cases. He may be removed in the manner provided for the re-  
 9 moval of county road engineers, and vacancies shall be filled by  
 10 the court for the unexpired term.

Sec. 38. The county road engineer or road supervisor ap-  
 2 pointed as provided in this act shall in all matters pertaining to  
 3 class A, roads, co-operate with the state road commission in mat-  
 3-a ters pertaining to class A roads, in such manner and to such ex-  
 4 tent as may be required by said commission in its rules and regu-  
 5 lations, and shall at the same time act as the agent of the county  
 6 court of the county for which he was appointed, as to the supervis-  
 7 ion of roads and other duties provided herein. He shall be subject  
 8 to the general authority of the county court and to the rules and  
 9 regulations prescribed by the state road commission, have general  
 10 charge and supervision of all the roads, and bridges thereon, within  
 11 his county, and shall see that the same are improved, repaired



12 and maintained as provided by law, and shall have the general  
13 supervision of the work of constructing, repairing and improving  
14 such roads and bridges in his county; shall superintend the con-  
15 struction and improvements made upon said roads and bridges  
16 under the provisions of this act, and other work of like nature  
17 undertaken by the county court of the county, and shall make  
18 reports thereon from time to time as the court may direct; shall  
19 advise and direct those employed by or under him including the  
20 road patrolman herein provided for, as to the best methods of  
21 repairing, maintaining and improving such roads and bridges;  
22 shall examine the various formations and deposits of gravel and  
23 stone in his county for the purpose of ascertaining the materials  
24 which are most available and best suited for the improvement of  
25 the public roads therein, and when required by the state road  
26 commission shall submit samples of such materials and make a  
27 written report in respect thereto; shall establish or cause to be  
28 established such grades and recommend such means of drainage,  
29 repair and improvement as may seem to him necessary, when  
30 requested by the county court; shall cause to be placed and kept  
31 at the forks or crossings of such roads a guide board, on which  
32 shall be stated in plain letters the most noted place to which  
33 each road leads and the number of miles thereto; and shall, under  
34 the direction of the county court and state road commission, as  
35 aforesaid, perform all such duties as may be required to keep  
36 such roads in open and passable condition and in the best repair  
37 possible with the means at his disposal; and shall perform such  
38 other duties, regarding roads in class A, as may be required by  
39 the state commission.

Sec. 39. Whenever a public meeting in the interest of good  
2 roads for a county or district shall have been called by the state  
3 road commission, the county road engineer or supervisor as the  
4 case may be shall cause due notice thereof to be given through news-  
5 paper publications and otherwise, in such manner as may be pro-  
6 vided by the rules and regulations of such commission, and shall  
7 co-operate with such commission in holding any such meeting.

Sec. 40. By and with the advice and consent of the county  
2 court, the county road engineer or supervisor may employ such  
3 agents and employees as he may deem necessary to properly main-  
4 tain and care for the roads under his charge, and may discharge  
5 such agents and employees at pleasure. Such agents and em-  
6 ployees may receive such compensation per day as may be deter-

7 mined by the county court of the county; *provided*, that such  
 8 compensation shall be as nearly as can be ascertained the same  
 9 as the prevailing wages in the vicinity for work of like kind, not  
 10 to be less than one dollar nor more than two dollars and fifty  
 11 cents per day, according to services rendered; except in the case  
 12 of assistant engineers required for special work, who shall receive  
 13 not more than five dollars per day.

Sec. 41. If directed by the county court, such county road  
 2 engineer or supervisor shall divide the main county or district  
 3 roads of his county into convenient sections, not exceeding two  
 4 miles in length, and shall annually, after two weeks' notice by  
 5 publication in some newspaper published in the county, and by  
 6 posting printed hand bills at one public place at least in each  
 7 district of the county, let to contract the maintenance and repair  
 8 of said roads, by contract for the period of one year, to the lowest  
 9 responsible bidder, taking bond from the contractor in a penalty  
 10 to be fixed by the court, and with condition for the faithful per-  
 11 formance of the duties of said contract or under his said contract;  
 12 and every such contract shall be promptly reported by the county  
 13 court and approved by it before the same shall become effective.  
 14 The road engineer or supervisor shall furnish to any person desir-  
 15 ing to bid upon any such road contract, specifications of the work  
 16 required to be done; or the engineer with the approval of the  
 17 court may require the district patrolman to look after such roads  
 18 as may be in his district.

Sec. 42. If any section or sections be not sold at any sale  
 2 or sales, made under the provisions of this section, for want of  
 3 a bidder or because of the rejection of any bids as provided for  
 4 in this act, it shall be the duty of the county road engineer  
 5 to sell such section or sections or new roads at private sale or  
 6 have the same kept in repair, or such new roads opened, as pro-  
 7 vided in this act, or in any other manner the county court  
 8 may direct. To this end he may employ and procure all necessary  
 9 hands, horses and material for the proper discharge of his duties,  
 10 at such compensation as the county court may determine accord-  
 11 ing to the provisions set forth in this act. It shall be unlawful  
 12 for any county road engineer to appoint or employ, under the  
 13 provisions of this section, as a laborer on the public roads, his  
 14 father, son, son-in-law, grandson, brother, brother-in-law, nephew  
 15 or first cousin by blood; *provided*, a sufficient amount of other  
 16 efficient labor can be secured within the vicinity. Each county

17 road engineer shall report to the county court at each regular  
 18 term thereof and at such other time as the court may require, a  
 19 full itemized statement of the expenditures made by him since  
 20 his last report, giving number and names of hands and number  
 21 of horses employed by him, the time each was employed, the  
 22 amount paid to or for each, and such other matter as he may  
 23 deem necessary or the court may require. Such statements of  
 24 account shall first have been prepared according to the public  
 25 accounting laws of this state and have been certified to by the  
 26 agent or agents of the county road engineer having charge of the  
 27 work.

Sec. 43. The county road engineer or supervisor shall make,  
 2 or co-operate with the state road commission in making, the neces-  
 3 sary surveys, grades, maps, plans and estimates for the permanent  
 4 improvements of any main county road upon which the county  
 5 court may desire to expend Federal or state aid funds as provided  
 6 in this act; and shall supervise the work of constructing such  
 7 permanent improvements as provided in section thirty-nine  
 8 hereof, making such reports concerning the progress of such work  
 9 as the state road commission or the county court may require.

Sec. 44. The county road engineer or supervisor may pur-  
 2 chase for the use of the county upon main county roads, or other  
 3 roads, stone crushers, road rollers, traction engines, road machines  
 4 for grading and scraping, tools and other implements, which shall  
 5 be paid for from the county road funds; but any contract for  
 6 the purpose of such equipment shall not be valid until approved  
 7 by the county court. Such engineer or supervisor may in like  
 8 manner lease or hire any of such equipment, same to be paid for  
 9 out of said county road fund.

Sec. 45. The county road engineer, or any county or district  
 2 supervisor may, with the approval of the county court of the  
 3 county, purchase any gravel, stone, earth or wood necessary in  
 4 the construction, repair or maintenance of a public road, from any  
 5 owner of such materials within the county. If such officer and  
 6 the county court shall not be able to agree with such owner upon  
 7 the price to be paid for such material, the officer by direction of  
 8 said court may proceed to acquire such property and the right to  
 9 take and remove the same by condemnation proceedings; except  
 10 that no gravel, stone or earth shall be so taken within one thousand  
 11 feet of any house or barn, or from any lawn, orchard or vineyard.  
 12 Any such road officer shall also be authorized to enter upon any

13 land adjacent to a public road for the purpose of opening any  
 14 existing drain or ditch or for digging a new ditch or drain for  
 15 the free passage of water in order to drain such road; and to  
 16 enter upon any land adjoining rivers, streams or creeks to drive  
 17 piles, throw up embankments or perform any other labor necessary  
 18 to keep such rivers, streams or creeks within their proper channel  
 19 and prevent their encroachment upon public roads or abutments  
 20 of bridges, or any other damage to such roads or bridges; and  
 21 for any damage done to such lands by entry thereon as aforesaid,  
 22 the county court may make a reasonable and proper allowance  
 23 to the owner. All moneys provided by this section to be paid by  
 24 the county court as compensation or damages shall be paid from  
 25 the respective funds applicable to the maintenance of the roads  
 26 benefited.

Sec. 46. It shall be the duty of the county road engineer or  
 2 supervisor, at the end of each fiscal year to ascertain and report  
 3 in writing to the county court of the county, the amount of money  
 4 necessary to open and keep in repair all main county roads, and  
 5 the roads of each of the magisterial districts of the county, payable  
 6 during the next ensuing fiscal year, and it shall be the duty of  
 7 the said court to carefully examine such reports and estimates  
 8 therein contained, and to make such alterations and corrections  
 9 therein as the court may think proper. Said report shall show  
 10 the amounts estimated respectively for the maintenance of main  
 11 county and of district roads, and the same shall be used by the  
 12 court as the basis of laying all levies provided for in this act.

Sec. 47. Wherever in regard to the provisions of this act  
 2 the same powers or duties have been conferred on, or prescribed  
 3 for, two or more officials or agencies, or whenever any question  
 4 as to a conflict of authority shall arise, the power and authority of  
 5 the state road commission shall prevail over that of the county  
 6 court, in matters pertaining to class A roads, the county court over  
 7 the county engineer or supervisor, and the county engineer or super-  
 8 visor over the district road patrolman or other official or employe  
 9 engaged in work on the district roads.

*District Road Patrolman.*

Sec. 48. The office of district road patrolman is hereby  
 2 created. The county court of each county may, between the first  
 3 day of March and the first day of April of each year, appoint a  
 4 road patrolman for each magisterial district, who shall be an

5 able-bodied man between the age of twenty-one and fifty years, and  
 6 a resident of such district or county. The term of office of such  
 7 patrolman shall begin on the first day of April and continue for  
 8 one year.

Sec. 49. The county court may fill any vacancy occurring in  
 2 said office, and may remove a patrolman for good cause. Each  
 3 patrolman of roads shall enter into a bond with the county court,  
 4 with security to be approved by the court, in the sum of not less  
 5 than five hundred dollars, conditioned for the faithful perform-  
 6 ance of his duties, and to account for and pay over all moneys,  
 7 tools and materials that may come into his hands by virtue of his  
 8 office.

Sec. 50. The clerk of the county court shall, upon the ap-  
 2 pointment of a road patrolman by the county court, make out and  
 3 deliver to said road patrolman a certificate showing his appoint-  
 4 ment, upon which certificate shall be printed a statement of the  
 5 general duties of said patrolman as hereinafter provided.

Sec. 51. It shall be the duty of each road patrolman, at his  
 2 own expense to provide himself with a mattock, shovel and such  
 3 other tools as may be necessary in the performance of his duty;  
 4 patrol the roads in his district daily except Sunday, and, with the  
 5 labor and funds at his command, keep all drains and culverts  
 6 open; see that all roads are well drained and kept clear of rocks,  
 7 fallen timber, land slides, unnecessary shade, and other obstruc-  
 8 tion of every kind and character. He shall have police supervi-  
 9 sion and control over the placing of private foot crossings across  
 10 any road in his district; shall remove or cause to be removed all  
 11 dead timber standing within fifty feet of the road. Across each  
 12 stream, where necessary, said patrolman shall see that there is  
 13 placed and kept a sufficient bridge, bench or log for the accom-  
 14 modation of foot passengers; shall inspect all bridges within his  
 15 district and see that the same are in a safe condition; inspect the  
 16 railing on said bridges; and see that the same is kept in good re-  
 17 pair; shall notify, or cause to be notified, all persons who by law  
 18 are liable to work on the roads, of the time and place at which  
 19 they are required to attend for that purpose; shall direct and su-  
 20 perintend their work and keep an account of their time; and, sub-  
 21 ject to the direction of the county road engineer or county road  
 22 supervisor, as the case may be, said patrolman shall perform such  
 23 other duties with respect to the roads of his district as the county  
 24 court may prescribe.

Sec. 52. Such patrolman shall have general police supervision over all roads within his magisterial district; including the streets and alleys of unincorporated villages, and shall have authority to require abutting property owners to remove and keep removed all garbage, refuse and filth of every kind and character that may accumulate on said streets and alleys, and order opened any street or alley on any town plat which is of record in the clerk's office of the county court.

Sec. 53. The owner or tenants of land fronting on the public roads shall construct and keep in repair all approaches and drive-ways to and over the public roads, under the direction of the patrolman, and it shall be unlawful for such owner or tenant to fill up any ditch, or place any material of any kind or character in any ditch so as in any manner to obstruct such ditch or to interfere with the purposes for which it was made.

Sec. 54. The county court may provide the road patrolman with such equipment and supplies, in addition to his regular equipment, as may be necessary to the proper discharge of his duties under this act, the same to be paid for out of any district road funds applicable thereto.

Sec. 55. Every patrolman of roads shall keep an exact account of the number of days work done on the roads in his district by each person liable to work thereon; and may require any person performing labor not under the immediate supervision of the patrolman to swear to his account, and said patrolman, by virtue of his office, is authorized to administer such oath.

Sec. 56. Said patrolman shall, before the fifteenth day of June of each year, expend upon the roads of his district seventy-five per cent of all the labor and commutation funds under his control, and fifteen per cent of said labor and funds between the fifteenth day of June and the first day of November; the remaining ten per cent to be reserved by him as an emergency fund to be used at his discretion, or during the winter months. Said patrolman shall report quarterly to the county court the condition of the roads and bridges in his district, and render an itemized account of all money and labor expended during said quarter, with the names of the persons performing the labor, and the amount and condition of all equipment and materials. He shall pay to the treasurer of the county, to be placed to the credit of the district road fund, such portion of any quarterly balance of commutation funds unexpended as the court may order. He shall

16 also, on or before the first day of November of each year, report  
 17 to the county court the names of all persons who are liable to pay  
 18 commutation. He shall recommend from time to time to the  
 19 court such improvements upon the district roads in his district,  
 20 and alterations therein, or such new roads as he thinks ought to  
 21 be made, and the probable cost thereof. All reports shall be made  
 22 in duplicate and one copy transmitted to the state road commis-  
 23 sion.

Sec. 57. Every patrolman of roads shall turn over all ac-  
 2 counts, moneys and papers pertaining to his office, and all ma-  
 3 terials, tools and equipment belonging to the said district or  
 4 county, to his successor, taking receipts therefor in duplicate, one  
 5 of which shall be kept by the outgoing patrolman and the other  
 6 filed with the clerk of the county court; if he fails to do so, he  
 7 shall be liable to a fine and imprisonment as provided in the next  
 8 section.

Sec. 58. Any patrolman who has been duly appointed and  
 2 accepted the office, failing to perform the duties as prescribed in  
 3 this act, without just cause therefor, shall be guilty of a misde-  
 4 meanor; and upon conviction thereof, shall be fined not less than  
 5 twenty-five nor more than one hundred dollars, and, moreover,  
 6 shall be liable on his official bond for the breach of any of its  
 7 terms and conditions.

Sec. 59. The county court of every county may require, by  
 2 order duly entered, every male person, not under twenty-one nor  
 3 over fifty years of age, who resides in any magisterial district and  
 4 is not a pauper or insane person, having had at least three days'  
 5 notice, to attend in person or by sufficient substitute, with proper  
 6 tools and work on the roads in such magisterial district, under  
 7 the direction of the patrolman thereof, at such places and on such  
 8 days as the said patrolman may appoint, not less than one nor  
 9 more than four days in each year; but if the person liable under  
 10 this section neglects to perform said work in person or by sub-  
 11 stitute, or if he elects so to do, he shall then pay to said patrol-  
 12 man the sum of two dollars for each day he so fails to work,  
 13 which shall be payable upon such failure or election. Such labor  
 14 and commutation shall be used wholly for the construction, main-  
 15 tenance and up-keep of the roads in said district. The pro-  
 16 visions of this section shall not apply to persons residing in any  
 17 incorporated city or town which, by its chartèr or ordinances  
 18 is required to construct and maintain its streets and alleys.

Sec. 60. Every person coming within the purview of this  
 2 act who shall fail to attend and perform the labor required of  
 3 him, or to pay the commutation required in this act, or if he  
 4 attends at the time and place he is notified to attend, and shall  
 5 refuse to obey any lawful order or direction of the patrolman, or  
 6 shall spend his time in idleness or inattention to the work as-  
 7 signed to him, he shall be proceeded against as follows: The pa-  
 8 trolman shall keep a book for that purpose and assess him two  
 9 dollars for each day he fails to properly perform such work; *pro-*  
 10 *vided*, that such delinquent shall not have paid the commutation  
 11 aforesaid. The county court shall provide said patrolman with  
 12 blanks in form and effect as follows: ".....,  
 13 in the district of....., in the county of.....,  
 14 Dr. to road tax for failing to perform.....days work on road,  
 15 \$.....," and shall place a duplicate of such assessment in  
 16 the hands of a constable in the county for collection within ten  
 17 days after the neglect or refusal, and take his receipt therefor.  
 18 Such receipt shall be in form or effect as follows: "Received  
 19 this.....day of....., 19...., of.....,  
 20 patrolman of roads of.....district, county of  
 21 ....., assessment of road tax for collection  
 22 as follows: against....., for..... days  
 23 work, \$.....," reciting the names of each person and the  
 24 number of days charged against him and the amount thereof.  
 25 Said patrolman shall file such receipt in his office, and shall enter  
 26 the amount thereof against said constable in a book kept for that  
 27 purpose. If said tax be paid to the constable he shall write  
 28 on said assessment blank the words "Received payment," and  
 29 sign the same in his official character and deliver to the person  
 30 so charged with said tax, but if the said tax be not paid on de-  
 31 mand, the constable may collect the same by distraint or other-  
 32 wise, in the same manner as a sheriff may distrain for and collect  
 33 county and state taxes. Any person claiming to be improperly  
 34 assessed with such tax may apply to the county court at its first  
 35 or second session after the same comes to his knowledge but not  
 36 afterwards, to have it corrected; but he shall give to the patrol-  
 37 man of roads at least five days' notice in writing of such appli-  
 38 cation. If the court, after hearing such matter, be satisfied that  
 39 the applicant has been improperly assessed with such tax, it shall  
 40 correct the assessment accordingly; otherwise, it shall confirm the  
 41 same. The application shall be heard and determined without cost.



42 If the constable be unable to collect such tax within sixty days  
 43 after the same is placed in his hands, he shall return the dupli-  
 44 cate to the patrolman of roads from whom he received it, or to  
 45 his successor in office, with the return thereon that he was un-  
 46 able to make such collection, and for what reason; and any con-  
 47 stable who shall falsely return such tax uncollected in whole or  
 48 in part shall be guilty of a misdemeanor, and upon conviction  
 49 thereof, fined not less than ten nor more than fifty dollars.

Sec. 61. Every patrolman of roads shall be allowed for his  
 2 services by the county not less than two dollars nor more  
 3 than three dollars for every day necessarily employed by him  
 4 in performing his official duties, and his own affidavit, shall  
 5 be *prima facie* evidence thereof; and such account, when  
 6 audited and allowed by the court, shall be paid as here-  
 7 inbefore provided, out of the taxes collected for district road  
 8 purposes, and constituting the district road fund; *provided*, that  
 9 the patrolman of roads shall not be exempted from two days'  
 10 labor on the roads each year, or commutation therefor, as herein-  
 11 before provided in section sixty of this act. No road patrol-  
 12 man shall engage in any other business which would prevent his  
 13 giving his time and attention to the roads of his district, in ac-  
 14 cordance with such regulations as may be prescribed by the county  
 15 court.

*Location, Establishment and Discontinuance.*

Sec. 62. The interest which belonged to the state on the  
 2 first day of July, one thousand eight hundred and sixty-eight  
 3 (whether as owner or one of the several owners, or a shareholder  
 4 or stockholder) in any road, (including turnpikes and plank  
 5 roads) bridge or public landing lying wholly or in part within  
 6 the limits of a county is transferred to and shall continue vested  
 7 in such county so far as such road, bridge or public landing is  
 8 within the said county; together with all the rights and powers of  
 9 the state pertaining thereto as such owner, or one of several owners  
 10 or as a shareholder or stockholder. But this section and the fol-  
 11 lowing one shall not apply to any railroad or canal, lock or dam,  
 12 slackwater, or other improvement of a river or a navigable stream  
 13 or to the suspension bridges across the Monongahela river at Fair-  
 14 mont and Morgantown or to the Cumberland road, or to Maryland

15 and Virginia Bridge Company, or to any bridge, toll-house or  
16 other property of that part of said last mentioned road.

17 A county may acquire, by agreement, condemnation, or other-  
18 wise, and hold the interest of the owners, shareholders, or stock-  
19 holders, or any one or more of them other than the state, in any  
20 road, bridge, or public landing, so far as the same is within the  
21 limits of said county.

Sec. 63. Every public road, bridge or landing, and every  
2 street or alley, in any incorporated city, town or village hereto-  
3 fore established and opened pursuant to law and which has not  
4 been lawfully discontinued or vacated, shall continue as such,  
5 until properly discontinued, and every road, street or alley, used  
6 and occupied as a public road, street or alley, shall in all courts  
7 and places be taken and deemed to be a public road, street or alley  
8 (as the case may be) whenever the establishment thereof as such  
9 may come in question.

Sec. 64. The roads, bridges and landings transferred by the  
2 state to the several counties in which they are located shall here-  
3 after be regarded as public roads, bridges and landings.

Sec. 65. No public road shall be established or discontinued  
2 or the location thereof changed without due notice thereof having  
3 been given according to the provisions of this act, except in case  
4 of changes made under section seventy-three hereof.

Sec. 66. The grade of any road to be hereafter estab-  
2 lished shall not exceed five feet rise per hundred feet, unless es-  
3 pecially authorized by the county court when such grade is im-  
4 practicable as to distance or cost of construction, and in no case  
5 shall a public road be established having a grade exceeding nine  
6 feet rise per hundred feet.

Sec. 67. All notices and advertisements for the establish-  
2 ment, alteration or discontinuance of any road, bridge or landing,  
3 shall be published at least two consecutive weeks in two news-  
4 papers of general circulation and of different politics, if there  
5 be such within the county.

Sec. 68. No bridge unless it be exclusively for footmen, shall  
2 be less than fourteen feet wide. All public roads which are now  
3 established in any of the counties of this state as public roads shall  
4 occupy a right of way not less than thirty feet wide, unless the  
5 county court shall have made a special order for a different width,  
6 which order shall be a matter of record in the office of the county  
7 clerk. All public roads which may hereafter be established in any

8 of the counties of this state, except main county roads, shall oc-  
9 cupy a right of way not less than thirty feet wide and the neces-  
10 sary slopes.

Sec. 69. Not more than two acres of land shall be con-  
2 demned for any landing, and no road or landing shall be estab-  
3 lished by the county court of the county upon or through any lot  
4 of any incorporated city, town or village, without the consent of  
5 the owner thereof, except as herein otherwise provided.

Sec. 70. When any road is altered, the former road shall be  
2 discontinued to the extent of such alteration, and no further, and  
3 the new one established.

Sec. 71. Nothing in this act shall be so construed as to pre-  
2 vent any county court from acquiring by right any land for pub-  
3 lic road purposes as provided in this chapter, but the title to all  
4 rights of way, whether secured by gift, purchase or condemnation  
5 and all discontinuances of public roads, shall be reported by the  
6 county engineer to the county clerk and made a matter of record  
7 in the county clerk's office.

Sec. 72. With the consent of the owner of land in which a  
2 change is proposed to be made given in writing, setting forth the  
3 exact changes proposed, the county road engineer or supervisor  
4 may change any public road in this county, except main county  
5 roads, and turnpikes; *provided*, such change does not materially  
6 increase the length or grade or require more work to keep the  
7 road in repair, or place the same on worse ground than it was be-  
8 fore such change, or render the said road in any respect worse  
9 than it was before the change. Any county road engineer who shall  
10 make such change otherwise than that prescribed in this chapter  
11 shall be guilty of a misdemeanor and on conviction thereof shall be  
12 fined not less than twenty-five dollars nor more than one hundred  
13 dollars. And in case such change is made in violation of the pro-  
14 visions of this section, the part of the road thus altered, shall not  
15 be established as a public road, and the former location shall be  
16 continued as such.

Sec. 73. The county court of the county, may upon peti-  
2 tion, direct any public road, bridge or landing other than a turn-  
3 pike, bridge or landing in which private citizens may hold a  
4 majority of the stock, or any main county road, or road to be  
5 discontinued, but notice of such petition must be published  
6 according to the provisions of this act, and in addition, notices  
7 must be placed at three public places in every district in which

8 any part of the said road or landing may be. Upon such petition,  
9 after notice given as aforesaid, the county court shall appoint  
10 two or more viewers or a committee of their own body, who,  
11 together with the county road engineer, shall view such road or  
12 landing and report in writing, whether in their opinion, and if  
13 any, what inconvenience would result from discontinuing the  
14 same. Upon such report and other evidence, if any, the court  
15 may discontinue the road, bridge or landing, taking care in every  
16 case which is an established post road, not to discontinue the same  
17 until another has been established; and in case of a road which may  
18 have been established by means of state aid the consent of the  
19 state road commission must have been obtained in writing, setting  
20 forth the changes allowed.

Sec. 74. When any person desires the establishment or alter-  
2 ation of a public road, bridge or landing in any county, or a  
3 public road leading from any public road or roads, he shall petition  
4 the county court of the county in which the road, bridge or  
5 landing is situated, setting forth in his petition specifically the  
6 nature and location of the proposed work, and the county court  
7 shall thereupon (and they may do so without such petition in  
8 any case in which they deem the interests of the people of the  
9 county require it) appoint two or more viewers, or a committee  
10 of their own body, who, together with the county road engineer,  
11 shall view the ground and report in writing the advantages and  
12 disadvantages which, in their opinion, will result as well to in-  
13 dividuals as to the public from the proposed work and the grades  
14 and bearings of the proposed roads and the facts and circum-  
15 stances that may be useful to enable the county court to determine  
16 whether such work ought to be undertaken by the county, or if  
17 the petition be for the establishment or alteration of a public  
18 road leading from another public road or roads, whether such  
19 road should be established, stating specifically, whether it would  
20 be necessary to take any burying ground, garden, yard, orchard  
21 or any part thereof or to injure or destroy any buildings and the  
22 probable cost of the work, the names of the land owners whose  
23 property would have to be taken or injured, which of them would  
24 require compensation and the probable amount to which each  
25 of them would be entitled. They shall make careful examination  
26 of other routes or locations than that proposed or petitioned for,  
27 keeping in view at all times the possible future development of the  
28 country and the accommodation of the general traveling public,

29 and shall report in favor of the one they prefer, with the reasons  
 30 for their preference. A map giving the grades and bearings of  
 31 the routes and locations shall be returned with the report. The  
 32 report may be recommitted by the court, with or without special  
 33 instructions, or upon petition, or upon their own motion the  
 34 court may appoint a special committee of viewers, who shall make  
 35 examination and report according to the provisions of this section.  
 36 In any case where it shall appear to the county court that the  
 37 interests of the general public may be furthered thereby, they  
 38 shall personally examine the proposed work, or shall appoint a  
 39 committee of their own body to make examination as herein pro-  
 40 vided. But in no case shall the county court alter or change the  
 41 location of any main county road, or road in which the state or  
 42 federal government shall have invested any money, according to  
 43 any plan of state or federal aid, without the consent of the state  
 44 road commission. If the court decide to undertake the proposed  
 45 work, they shall appoint a day for hearing the parties interested  
 46 and cause notice thereof to be given to the proprietors and tenants  
 47 of the property which would have to be taken or injured to show  
 48 cause against the same. Such notice shall be served on such of  
 49 them as are found within the county and on any agent therein  
 50 of any proprietor not so found and by sending another copy by  
 51 mail, postage paid, to the last known postoffice address of any  
 52 party interested who is not found in the county, and by giving  
 53 notice through the public press as provided in this act.

54 Nothing in this act contained shall be so construed as to  
 55 authorize the county court to establish main county roads other  
 56 than in the manner provided in sections twenty-one and twenty-  
 57 two of this act.

Sec. 75. If the court at any time have sufficient evidence  
 2 before them to enable them to ascertain what would be a just  
 3 compensation to the proprietors and tenants, and if such pro-  
 4 prietors and tenants are willing to accept what the court deems  
 5 just, the said court upon such acceptance, being reduced to writ-  
 6 ing and signed by the proprietors and tenants may determine to  
 7 undertake the work.

Sec. 76. Upon hearing the parties interested in an applica-  
 2 tion for a public road, said county court shall decide for or against  
 3 undertaking the proposed work on behalf of the county. If it  
 4 decides in favor of the same, and the compensation to be paid to  
 5 any proprietor or tenant be not fixed by agreement, it shall order

6 proceedings to be instituted and presented in its corporate name  
7 in the circuit court of the county, pursuant to the forty-second  
8 chapter of the code of West Virginia, to ascertain what will be  
9 a just compensation to each proprietor or tenant for the land  
10 proposed to be taken, and the said court shall lay a sufficient levy  
11 for that purpose. But, when such compensation shall be so ascer-  
12 tained, it shall be at the option of the county court to pay the  
13 same or to abandon the proposed undertaking. If it decides to  
14 pay the same, it shall lay a sufficient levy for the purpose as  
15 provided in this act. In any case where the petition is for the  
16 establishment or alteration of a public road leading from the  
17 main public road or roads, the court may refuse to undertake  
18 the proposed work, unless the petitioner or some one for him,  
19 shall deposit with said county court a sufficient sum to pay all  
20 damages and costs sustained by reason of the establishment or  
21 alteration of such public road. In such case, if it seems proper so  
22 to do, the court may establish any such public road, upon condi-  
23 tions that the petitioner shall pay all costs and damages as afore-  
24 said, and make and keep in repair such road, and erect and main-  
25 tain in good repair one or more gates across such public road  
26 where the road passes through a fence or fences, as is provided  
27 in section one hundred and fifty-six of this act; and the court may  
28 also impose upon such petitioner, his heirs or assigns, and upon the  
29 public such other conditions in reference to such road as the court  
30 may deem just. In the event that any of the conditions, so  
31 imposed by the court are not fully complied with, the court at  
32 any time, after giving at least sixty days' notice to the public and  
33 to the petitioner, his heirs or assigns, in such manner as the court  
34 may prescribe, may discontinue or abandon such road.

35 But the court, instead of proceeding in the manner hereinabove  
36 provided in this section, is authorized to enter upon any lands,  
37 other than those prohibited by law, and locate and build said road,  
38 and sixty days after said road is completed, cause to be sum-  
39 moned thirteen freeholders, to be nominated by the court, of  
40 whom the court may strike off four or any less number from  
41 the list, and the property owners or their representatives, or such  
42 of them as appear, may also strike off four or any less number,  
43 and after eight names are stricken from the list the remaining  
44 five shall be commissioners appointed to assess the damages here-  
45 inafter provided. But where there is no appearance for the  
46 property owners, or if they appear and do not agree as to any

47 one or more of the names to be stricken off on their behalf, or  
48 the right to strike off any one or more names is waived on the  
49 part of either of the property owners, or their representatives,  
50 or from any cause the full number shall not be stricken off by  
51 the court or parties aforesaid, the names or additional names, as  
52 the case may be, to be stricken from the list in order to reduce  
53 the number to five, shall be ascertained by lot under the direction  
54 of the court. Vacancies shall be filled, and any commissioner,  
55 for good cause shown, may be removed by the court.

56 The said freeholders or commissioners shall go upon the land  
57 and assess the damages and benefits, taking into consideration  
58 the benefits accruing to the property and the damages sustained  
59 to it, and shall fix the compensation or damages as said com-  
60 missioners may see proper, and the amount so fixed shall be paid  
61 out of the road fund of the county, in case of a main county  
62 road, or the road fund of a district, in case of a district road.

63 If the damages so assessed be not satisfactory to the property  
64 owner or owners, proprietor or tenant, or to the court, he or  
65 they, or said court, may, within six months after the assessment  
66 aforesaid, appeal or apply to the circuit court of the county and  
67 demand a trial therein, as in other condemnation proceedings;  
68 *provided, however,* before entering upon said land as authorized  
69 by this section, it shall be the duty of the county court or its  
70 representative to serve notice upon the owner or owners of said  
71 land, as provided by law, notifying such owner or owners that  
72 the road is to be located upon their land under the authority of  
73 this section. Any person who shall obstruct said road while in  
74 process of construction, or repair, or interfere with the engineer  
75 or other persons in charge of said work or construction, their  
76 agents or employees, shall be guilty of a misdemeanor and upon  
77 conviction thereof shall be fined not to exceed fifty dollars, and  
78 may be imprisoned not to exceed one month, or both, in the dis-  
79 cretion of the court.

80 In any proceeding authorized by this section, the revenues  
81 applicable to the payment of any damages assessed shall be  
82 deemed sufficient security, and to have been pledged for the pay-  
83 ment thereof.

Sec. 77. When it is necessary to build or repair a bridge, or  
2 to purchase any existing toll bridge within any county or within  
3 any magisterial district, or across the boundary thereof, the county  
4 court of the county may contract for the same, or any part thereof

5 on such terms as may be agreed upon and take bond and security  
 6 from the contractors in the sum of fifty per cent. of the amount  
 7 of such contract, for its faithful performance, and pay for the  
 8 work in full or in part, out of the county treasury or out of funds  
 9 of the district or districts in which said improvement is located,  
 10 or by issuing bonds or other evidence of debt for the amount as  
 11 may be agreed upon and to this end they shall appoint a competent  
 12 engineer to make a thorough investigation and estimate of the cost  
 13 of said improvement. Upon receiving the estimate of cost, the  
 14 court, being satisfied with the correctness of same and the neces-  
 15 sity and importance of such improvement, may advertise for and  
 16 receive proposals and make such other order in the premises from  
 17 time to time as shall be necessary and proper.

Sec. 78. When it becomes necessary to build or repair any  
 2 bridge across any stream on the line between two counties, or to  
 3 construct or improve according to any plan of state aid, or to keep  
 4 in repair any road or roads between two counties, or along the  
 5 boundary lines thereof, the county courts of such counties may  
 6 enter into such agreement therefor, as to them shall seem best,  
 7 but if they disagree in relation thereto, it shall be the duty of the  
 8 county court of each county to appoint two special commissioners,  
 9 who, together with the county engineer of each county, shall meet  
 10 and arrange the matter, and if they should disagree, they shall  
 11 call to their aid one or more special commissioners from another  
 12 county to assist them in their decision and whenever a decision is  
 13 arrived at and if it is confirmed by the court of each county, sit-  
 14 ting separate, it shall be binding. If the county court of any  
 15 county, upon being required so to do, shall fail to appoint com-  
 16 missioners, or if either court shall fail in any respect to fulfill its  
 17 part of the agreement with respect to the work, the remedy by  
 18 mandamus shall lie before the circuit court of the county whose  
 19 county court is complained of on behalf of the county court of the  
 20 other county, and the circuit court shall compel the county court  
 21 complained of, to do what ought to be done in the matter.

Sec. 79. If the county courts shall determine to make im-  
 2 provements, they shall have prepared plans and specifications of  
 3 such work, and shall advertise for bids as provided in section  
 4 eighty-eight of this act in each of the counties, and the contract  
 5 shall be awarded to the lowest responsible bidder who shall furnish  
 6 satisfactory security to be approved by said county courts and said



7 county courts voting separately shall approve of the plans and  
8 specifications, and shall jointly award the contract.

9 The commissioners appointed by the county courts as pro-  
10 vided in section seventy-nine hereof together with the county road  
11 engineer of each of the counties, shall constitute a  
12 joint committee and such joint committee shall receive the bids  
13 at the time and place specified in the advertisement and shall open  
14 and publicly announce the items comprising each bid according to  
15 the provisions of section eighty-eight of this act, and the  
16 members of the committee from each county shall forthwith re-  
17 port such bids to their respective county courts for action thereon.

Sec. 80. The contract for such work shall specify such share  
2 or portion of the costs thereof to be borne and paid by each county  
3 court, and each county court shall be severally liable for such  
4 share or proportions.

Sec. 81. If in the opinion of said county courts, or either  
2 of them, it be determined by resolution passed by either of said  
3 courts separately, to place in the tax levy for any one fiscal year  
4 its share or proportion of the costs of acquiring said lands, doing  
5 the work and making the improvements herein authorized, would  
6 be too burdensome on the taxpayers of such county or counties,  
7 then it shall be lawful for such county court to issue the bonds  
8 of such county according to law, to raise the funds wherewith to  
9 defray the cost aforesaid.

Sec. 82. After the completion of the work, the improvement  
2 so made shall be maintained by the county court or courts or other  
3 authorities of the counties or other political divisions joining in  
4 the improvement, who shall bear and pay the same share and cost  
5 of maintenance and repair that they severally bore toward the cost  
6 of improvement.

Sec. 83. It shall be the duty of the clerk of the county court  
2 to keep on convenient file or in books prepared for such purpose, a  
3 complete record of all titles to rights of way, all maps, plats and  
4 surveys, and all discontinuances of public roads within the county,  
5 which are now, or may hereafter be reported to the county court  
6 of the county.

Sec. 84. Any person or persons who may desire to do so,  
2 may build a sidewalk, composed of plank, gravel, concrete or  
3 other suitable material, along the side of any public road in this  
4 state; *provided*, that the said walk does not exceed thirty-six  
5 inches in width and that the construction and repairing of the

6 same and the use thereof shall be without expense of any kind  
 7 to the public or to any person who may want to use the same;  
 8 and, *provided, further*, that all persons who may desire, be per-  
 9 mitted to use the same and that said sidewalk does not in any  
 10 way interfere with the traveling public on any public road;  
 11 *provided, further*, that if it is desired to build any such walk in a  
 12 city or corporate town, the consent of the council of such city or  
 13 town shall be obtained before such walk is built.

Sec. 85. Any person or persons who shall in any manner de-  
 2 stroy, take up, or in any way injure any sidewalk already con-  
 3 structed, or that may hereafter be constructed according to the  
 4 provisions of the foregoing section, and shall fail to repair the  
 5 same, shall be deemed guilty of a misdemeanor, and on convic-  
 6 tion thereof, shall be fined not less than five nor more than fifty  
 7 dollars.

Sec. 86. Nothing contained in this act shall be construed  
 2 to take from the jurisdiction, charge or control of the council,  
 3 trustees or other authority of any incorporated city, town or vil-  
 4 lage, so much of any road, bridge, landing or wharf, or any other  
 5 thing, as by the laws now in force, is exclusively under such juris-  
 6 diction, charge or control.

#### *Bids and Contracts*

Sec. 87. All bids for work to be let by contract under the  
 2 provisions of this act, whether for construction or maintenance,  
 3 shall be received at the court house of the county in which such  
 4 road is to be constructed and maintained at the time specified in  
 5 the advertisements and shall be opened only in open court and the  
 6 amount and items comprising each bid shall be publicly announced  
 7 and the contract, if let, shall be let to the lowest responsible bidder  
 8 who shall give bond with satisfactory security in an amount equal  
 8-a to fifty per cent of the amount of such contract, conditioned  
 9 for its faithful performance.

10 After such bids have been opened, as herein provided, it  
 11 shall be the duty of the county court or other tribunal acting  
 12 in lieu thereof, to publish in some newspaper published in the  
 13 county, and if there be no paper published in the county, then  
 14 in some newspaper of general circulation therein, which publi-  
 15 cation shall be made in the first issue of such newspaper after  
 16 the bids are opened, the names of all persons bidding on such  
 17 contract, together with the itemized amount of their respective

18 bids, designating the person to whom such contract was awarded,  
19 if awarded, together with the amount of his bid.

20 Any person who shall open any of the bids, at any other  
21 time or place than herein provided, or shall make known the  
22 name of the bidder, or the amount of his bid, otherwise than  
23 herein provided, shall be guilty of a misdemeanor, and fined  
24 not less than fifty nor more than two hundred dollars, and be  
25 imprisoned in the county jail not less than one nor more than  
26 six months. And any member of the county court, or other tri-  
27 bunal acting in lieu thereof, who shall violate the provisions of  
28 this act, shall be deemed guilty of misconduct in office, and  
29 shall forfeit his office, and in addition thereto shall be guilty  
30 of a misdemeanor, and upon conviction thereof shall be fined  
31 not less than fifty nor more than two hundred dollars and im-  
32 prisoned in the county jail not to exceed six months.

33 The county court may reserve from payment not more than  
34 twenty per cent of the amount accruing on said contract until  
35 the completion of said work and the approval thereof.

36 The court may reject any and all bids and may thereafter  
37 have the work done in any other manner that may seem advisable.  
38 In the event there shall be two bids of the same amount for any  
39 section of road or any other improvement thereon, the bid of  
40 the person owning the greatest amount of frontage or real estate  
41 abutting on said road on the section where the improvement  
42 is to be made shall be accepted. In the event that neither bid-  
43 der owns property abutting on said section to be improved, then  
44 in case of such equal bids, the bidder owning property nearest  
45 the section to be improved shall be given preference.

46 In the event the county court shall decide to have the work  
47 done otherwise than by contract, then the work shall be done  
48 under the direction of the county road engineer, or the court may  
49 appoint a competent superintendent who under the direction  
50 of the county road engineer who shall have the supervision of the  
51 road or roads of the district or section for which he was  
52 appointed. He shall devote his entire time and attention to the  
53 work or so much thereof as the court may direct, and he shall re-  
54 ceive such compensation for his services as may be determined  
55 by said court, or in case the court does not have a county road  
56 engineer or for any reason the court deems it advisable, where  
57 there is a county road engineer, to appoint a special, competent,  
58 district engineer to take charge of any district, special or par-

59 ticular piece of work or to assist in any state aid work, the court  
60 shall have the power so to do and fix the compensation of said  
61 district engineer.

62 All notices and advertisements for the letting to contract of  
63 public roads or any part thereof, under the provisions of this  
64 act, whether for construction or maintenance, or for the purposes  
65 of any supplies, equipment or material, shall, unless otherwise  
66 provided, be published for at least four consecutive weeks pre-  
67 ceding the date of the letting of said contract, at least once each  
68 week in two newspapers of general circulation and different  
69 politics, if there be such, within the county, if not then in one  
70 paper of general circulation; the county court shall, if the proposed  
71 construction or maintenance is on Class A roads, notify the state  
72 road commission by copy of such advertisement and give the loca-  
73 tion in the county of the road and improvement to be made, to be  
73-a included in its reports, and if on Class A roads, furnish a copy of  
74 the plans and specifications submitted and if requested it shall be  
75 the duty of said road commission, prior to the final acceptance of  
76 any proposal by the county court, to report upon the plans and  
77 specifications for the contract, as to the sufficiency of all require-  
78 ments and on request of the court shall also furnish the county  
79 court for its private use an estimate of the reasonable cost of said  
80 improvements and to submit its recommendation in writing to the  
81 county court which recommendation after considering all bids  
82 shall be made apart of the records of said county.

83 No such contract shall be let to any person, association or  
83-a persons, company or corporation, who or which, is connected di-  
84 rectly, indirectly or otherwise, with any combination in the form of  
85 an unlawful trust in restraint of trade, or who, or which enters into  
86 any understanding, directly or indirectly, to limit in any manner  
87 competition in bidding upon the construction of any road or  
88 bridge, or for furnishing any materials used thereon and entering  
89 therein. Any such combination or unlawful trust is hereby  
90 prohibited; any person, association of persons, company or cor-  
91 poration entering into, or being a part of any such combination  
92 or unlawful trust, shall be guilty of a misdemeanor, and, upon  
93 conviction thereof, shall be fined not exceeding one thousand  
94 dollars; and every person, county or state officer or any employee  
95 of any county or the state, including the officers or members of  
96 any corporation, who shall be engaged in any way in promoting  
97 any such combination or unlawful trust or aiding or abetting

98 the same, or knowingly committing any acts in pursuance there-  
 99 of, in addition to being subject to the fine aforesaid, may in the  
 100 discretion of the court, be imprisoned not exceeding six months.

Sec. 88. Any person, firm or corporation offering for sale  
 2 or selling any paints, metal or metal culverts, fence or fencing or  
 3 any other materials or supplies for use upon or in the construction  
 4 of any road or bridge or part thereof of any county,  
 4-a city or town within the state, shall furnish there-  
 5 with a certificate of its purity showing its chem-  
 6 ical constituents and the percentage of impurities contained there-  
 7 in. Any person, firm or corporation making of furnishing a  
 8 false certificate shall be guilty of perjury and upon conviction shall  
 9 be fined not less than twenty-five dollars nor more than two hundred  
 10 dollars, and may be imprisoned not less than one month nor more  
 11 than twelve months and any contract made by reason of any false  
 12 statement or representation may be cancelled by the court.

Sec. 89. All claims of any contractor or con-  
 2 tractors or others, which may under the provisions  
 2-a of this act be due to such contractor or  
 3 contractors or other persons, shall when certified by the county road  
 4 engineer, be presented to the county court at the proper session  
 5 thereof and if by them found correct, shall, upon the order or war-  
 6 rent of said court, signed by the president and clerk thereof, be paid  
 7 by the sheriff; *provided*, that it shall be the duty of the said road  
 8 engineer to furnish the county court at such time as he may be  
 9 directed by them so to do, with a certified statement showing  
 10 the amount of each claim so due each contractor or contractors;  
 11 except that in contracts for the construction of new roads, the  
 12 payment shall be conditioned as set out in the original contract  
 13 therefor, with the privilege to the court of reserving not more  
 14 than twenty per cent. of payments on all estimates until the work  
 15 is completed; and *provided, further*, that no county road engineer  
 16 shall certify the claim of any such contractor or contractors until  
 17 upon examination, he shall find that the provisions of the contract  
 18 have been strictly complied with.

Sec. 90. If it shall appear necessary to the engineer or other  
 2 representative of the county court in charge to close a public road,  
 3 which is being constructed or repaired under this act, so as to  
 4 permit a proper completion of such work, he shall execute a  
 5 notice in duplicate, stating the necessity for closing such public  
 6 road, and describing the portion to be closed; he shall cause to

7 be posted at each end of the portion to be closed a copy of said  
8 notice and may have the same published in one or more news-  
9 papers in the county one week and shall thereupon close the same  
10 to public travel by erecting suitable obstructions and posting  
11 conspicuous notices. In the event the public road is closed, the  
12 engineer or other representative of the county court in charge  
13 may direct a detour or provide a new location by the construction  
14 of a temporary road to be used by the traveling public in lieu of  
15 the closed public road and may erect temporary bridges when  
16 necessary. For the purpose of locating and constructing such  
17 temporary road and bridge, the engineer or other representative  
18 of the county court in charge may enter upon the land adjoining  
19 or near to the closed public road and may, with the approval of  
20 the county court, agree with the owner of such lands, for the  
21 damages, if any, caused thereby; if the engineer or other repre-  
22 sentative of the county court in charge is unable to agree with  
23 such owner for the amount of damages, if any, the amount thereof  
24 shall be ascertained, determined and paid as provided in this act.  
25 When such public road shall have been closed to the public as  
26 provided herein, any person who disregards the obstruction and  
27 notice and drives or rides over the portion of the public road  
28 so closed, shall be liable for the damages done to any section or  
29 portion of the road being constructed, and shall be guilty of a  
30 misdemeanor and upon conviction thereof may be fined not less  
31 than five dollars nor more than fifty dollars.

Sec. 91. The county court, for the purpose of meeting and  
2 taking care of the necessary charges and expenses which may be  
3 incurred by the county road engineer or other representative of  
4 the county court having any road work in charge during the  
5 recess of the court, in performing the duties required of him  
6 under the provisions of this act, may at any regular term of the  
7 court set apart and appropriate out of the road fund of the county  
8 or any magisterial district thereof, and not otherwise appropri-  
9 ated, funds sufficient to pay said expenses. Said appropriation  
10 shall be based on a written itemized estimate to be certified and  
11 furnished to the county court by said engineer or other represen-  
12 tative of the court having said work in charge.

13 After the appropriation shall have been made as aforesaid,  
14 the said engineer, or other representative having said work in  
15 charge, shall certify to the clerk of the county court the amount  
16 each and every person is entitled to receive by virtue of any work

17 or labor performed or materials furnished, and sign the same in  
18 his official capacity; whereupon, the clerk shall have authority to  
19 issue an order payable out of the proper fund to the person entitled  
20 thereto, which order shall be paid as other orders issued by the  
21 clerk, payable out of the several road funds of the county or  
22 district.

23 The clerk shall keep a record of all claims so issued, showing  
24 the amount thereof, to whom issued, upon the authority of what  
25 road official and for what purpose, and make report thereof to  
26 the court at each of its regular sessions.

27 The clerk shall not issue orders or drafts in excess of the  
28 amount of the money appropriated by the court for the particular  
29 work mentioned in the estimates aforesaid.

30 It shall be the duty of the road engineer, or other represen-  
31 tative of the court having said work in charge, at each successive  
32 regular session of the court, to make a report in writing, showing  
33 what orders he has given authorizing the clerk to issue drafts or  
34 orders as aforesaid, under the provisions of this act, to whom  
35 payable and for what services. The said report of the county  
36 clerk and that of the road engineer, or other representative of  
37 the county court, shall be audited by said court, filed, and recorded  
38 in its order book, or appropriation record, or such other record  
39 as the court may provide. Said county road engineer, or other  
40 representative of the court having the said work in charge, is  
41 hereby prohibited from expending money or issuing orders to  
42 the clerk, in excess of the amount appropriated by the court for  
43 the purpose or purposes aforesaid. If any county road engineer,  
44 or other representative of the county court, or the clerk of said  
45 court, shall issue, or cause to be issued, any order or orders herein  
46 authorized, in excess of said appropriation, or improperly issue  
47 any such orders, or cause the same to be done, which are paid  
48 in the manner provided by law, said county road engineer, or  
49 other representative, or the clerk of said court, shall be liable  
50 for the same on his or their official bond. Nothing herein con-  
51 tained shall be construed as authorizing the payment to any road  
52 contractor, or contractors, of any sum which may be due to such  
53 contractor, or contractors, under the terms or provisions of his  
54 contract, or under the provisions of this act, until the estimate  
55 provided by such contract or contracts, and by law, has been made  
56 and certified, as in said contract, or the law, is provided, and  
57 approved by the county court. It shall be unlawful for the county

58 road engineer, or other representative of the county court having  
 59 said work in charge, to directly or indirectly, discount any of  
 60 the claims or orders authorized under this section. Any one  
 61 violating this section shall be guilty of a misdemeanor, and upon  
 62 conviction thereof shall be fined not less than ten nor more than  
 63 twenty-five dollars.

64 It shall be the duty of the county to furnish to the county  
 65 road engineer, or other representative having said work in charge,  
 66 proper blank forms upon which to certify to the clerk of the  
 67 county court the amounts which the several persons performing  
 68 labor or furnishing material by virtue of this section are entitled  
 69 to receive.

#### *Prison Labor.*

Sec. 92. Whenever the county court of any county proposes  
 2 to improve permanently any road, or part thereof, in their county,  
 3 and desires to use prison labor thereon, it may apply to the state  
 4 road commission for a competent engineer to view the proposed  
 5 road. Upon receipt of such application, the commission shall  
 6 send such county court a blank form for the purpose of eliciting  
 7 from the said county court such information touching the pro-  
 8 posed road and improvement as it may desire, which blank form  
 9 said county court shall fill out to the best of its ability and return  
 10 to the commission. If the commission shall be satisfied that the  
 11 proposed improvement will be permanent, and that the plans  
 12 proposed by the local road authorities for such improvement are  
 13 adequate and practicable, it shall cause said road or part thereof,  
 14 proposed to be improved, to be viewed by a member of the com-  
 15 mission, or its agent, and shall carefully prepare plans, specifi-  
 16 cations and estimates of the cost of construction, with the mate-  
 17 rials agreed upon by the commission. A copy of said plans,  
 18 specifications and estimates of cost shall be submitted to the  
 19 county court and a copy filed in the office of said commission.  
 20 The expenses incurred by the commission or its assistants in per-  
 21 forming the duties required under this section shall be paid by  
 22 the county whose local road authorities requested the same to be  
 23 done.

Sec. 93. Whenever any county court shall have decided to  
 2 construct or improve the said road, or any part thereof, in accord-  
 3 ance with the plans and specifications of the state road commission,  
 4 and shall have agreed with the commission respecting the location,



5 construction and material of such road, which agreement shall  
6 be reduced to writing and recorded in the county clerk's office,  
7 then such county court may apply to the state board of control  
8 to send convicts to such county to be worked upon such road.  
9 Such application shall be in form prescribed by the board of  
10 control, and shall state the number of convicts desired, which shall  
11 not be less than ten, and the length of time for which the county  
12 court desired to contract. If the number of prisoners in the  
13 penitentiary available shall suffice to meet all the applications  
14 which may be before it, the board of control shall grant all such  
15 applications which are satisfactory to the board. If the number  
16 of prisoners available shall not be sufficient to fill all such appli-  
17 cations, the board of control shall file the applications, and fill  
18 them in the order in which they were received. The board shall,  
19 however, as far as possible, give equal service to all the counties  
20 making application, subject, however, to the judgment of the  
21 board as to the merits of the respective applications. The board  
22 of control may, for good cause, refuse any or all such applications,  
23 in which event the cause of such refusal shall be specified to the  
24 applicant.

Sec. 94. The board of control, with the advice and assistance  
2 of the warden of the penitentiary, shall determine what prisoners  
3 therein confined may, with safety and convenience, be assigned  
4 to such work, selecting preferably such prisoners as are believed  
5 to be most trustworthy.

Sec. 95. Whenever any such application shall be granted  
2 by the board of control in its original or modified form, a con-  
3 tract in writing, based thereon, shall be entered into between  
4 the board of control and the county court making such applica-  
5 tion, which shall set forth the terms of the agreement based on  
6 such application.

Sec. 96. The state road commission shall have authority,  
2 under proper rules and regulations, to establish and maintain  
3 stone quarries, crushers and brick kilns at places in the state  
4 where suitable materials may be obtained, to be furnished to the  
5 counties desiring to use the same in constructing and maintaining  
6 public roads and bridges, and to the state and counties for public  
7 buildings, and for any other purpose for which the state or county  
8 may desire to use such stone or brick. No brick kilns shall be  
9 established until the materials available therefor have been care-  
10 fully analyzed by the commission and approved by it, and no

11 material shall be used in the manufacture of brick or the building  
12 or improving of roads until after like analysis and approval. In  
13 selecting the location for said brick kilns, due regard shall be  
14 had to transportation facilities. The state convict road force may  
15 be employed by said commission at and about said kilns in the  
16 manufacture of brick under the same rules and regulations pro-  
17 vided herein for working said force on the public roads.

Sec. 97. The state prison road force shall be guarded when  
2 working on the roads of the state and in making road materials  
3 by guards detailed by the warden of the penitentiary, who shall  
4 designate one guard as the superior and the other or others as  
5 assistants; and such superior may by agreement with the county  
6 court act as and be the foreman in charge of such work. The  
7 state guards shall obey the rules prescribed for the maintenance  
8 of such camps. Any guard not obeying such rules shall, upon  
9 recommendation of the engineer in charge of the work, be imme-  
10 diately recalled and some other person detailed in his stead. The  
11 guards so detailed shall not exceed one guard and an assistant  
12 for thirty men, and one guard and two assistants for fifty men.  
13 The wages of every such guard shall be fixed by the warden of  
14 the penitentiary, but said wages for the superior shall not exceed  
15 seventy-five dollars per month and board, and for an assistant  
16 guard, not over sixty dollars per month and board. The warden  
17 of the penitentiary, his assistants or guards, at the request of the  
18 state road commission, may, so far as practicable, make trustees  
19 of the said state prison road force employed under this act. All  
20 guards and prisoners shall be under the direction of the state  
21 road commission or its engineer in charge, and shall work not  
22 to exceed ten hours per day, and each prisoner shall be paid for  
23 such time in excess of nine hours per day at the contract rate  
24 paid by the county for such prisoner's labor. The state board of  
25 health, state board of control and the state road commission shall  
26 jointly formulate rules and regulations governing such camps,  
27 and the state board of control shall allow such good time and  
28 other allowances as may be deemed wise for the government of  
29 state prisoners and prison camps, in addition to that allowed  
30 by law.

Sec. 98. The warden of the penitentiary shall provide suit-  
2 able and movable quarters, said quarters to be built, so far as  
3 can be, with convict labor; and shall supply all necessary cooking  
4 utensils, beds and bedding and wagons for transporting the

5 convicts, and camp fixtures for the camps or stations of said  
6 prison and road force.

Sec. 99. All convicts forming the state prison road force  
2 shall be transferred to and from the jails and the penitentiary, and  
3 the expense of such transfer shall be paid in the same way as  
4 is now provided by law for transporting convicts to the peniten-  
5 tiary, except that the prisoners of the state prison road force may  
6 be transported anywhere in the state, under the direction of the  
7 warden of the penitentiary.

Sec. 100. The warden of the penitentiary shall provide, in  
2 the same manner as he now provides, for convicts in the peniten-  
3 tiary, all clothing, food, quarters and guards for the state prison  
4 road force when at work on the public roads of any county in  
5 the state.

Sec. 101. Whenever any prisoner working on such roads  
2 shall become sick, or shall be disabled by accident or otherwise,  
3 he shall be attended by the physician employed by the county  
4 court to take care of the poor in the county, or by the jail physi-  
5 cian in such county, and the fees of such physician shall be paid  
6 by the county at such sum as may be agreed by the county court  
7 with such physician. In any case of emergency, the physician who  
8 can be most conveniently reached shall attend such prisoner until  
9 the physician for the poor or the jail physician can attend, and  
10 the reasonable fees of the physician first called shall be paid by  
11 the county court of such county.

Sec 102. Any county court desiring to obtain convict labor  
2 on its roads, under the provisions of this act, shall agree to sup-  
3 ply all necessary material, to be approved by said state road com-  
4 mission, with tools and and teams as required by the plans and  
5 specifications of the commission.

Sec. 103. After the expiration of all contracts now existing  
2 between the state and any person, firm, or corporation, for the  
3 employment of convict labor at the penitentiary, only such con-  
4 tracts shall be renewed or new contracts made under the provisions  
5 of law as may be necessary to employ all convicts not otherwise  
6 employed under the provisions of this act.

Sec. 104. If the local road authorities of any county propose  
2 to improve permanently any road, or part thereof, and desire to  
3 make use of the services of the state road commission under the  
4 terms of this chapter, and to have the benefit of the provisions  
5 of this chapter creating a state convict road force, but shall prefer

6 to make such improvements by contract, then the said commission  
7 may, upon request, furnish such local county road authorities, in  
8 advance of the letting of the contract, an estimate of the number  
9 of convicts available for use upon such proposed permanent road  
10 improvements, providing that such number of convicts to be so  
11 supplied by the said state road commission shall not exceed such  
12 number as that, estimating their labor at one dollar per day,  
13 per convict, exclusive of Sundays, and a reasonable allowance for  
14 bad weather, will amount to a contribution on the part of the  
15 state of more than fifty per cent of the total contract price of  
16 such proposed improvements. The convicts so employed upon  
17 construction work shall be and remain under the direct supervision  
18 and care of the warden of the penitentiary, and may be worked  
19 only for such hours and under such humane and reasonable rules,  
20 regulations and conditions as may be jointly prescribed and en-  
21 forced by the warden of the penitentiary and the state road com-  
22 mission, which said hours, rules, regulations and conditions shal'  
23 be stated and promulgated in advance of the letting of the  
24 contract.

Sec. 105. If any convict escape from the state convict road  
2 force, he shall be punished as now prescribed by law for convicts  
3 escaping from the penitentiary.

Sec. 106. The warden of the penitentiary shall have power  
2 to discharge any of said prisoners working on said state convict  
3 road force, wherever they may be in the state, when the term  
4 of said prisoner shall have expired; and section twenty-two of  
5 chapter one hundred and sixty-three of the code of West Vir-  
6 ginia shall apply to all convicts working on said state road force.

Sec. 107. It shall be the duty of the governor to designate  
2 some competent physician, or physicians, to make monthly in-  
3 spection of all camps where convict road force is employed; and  
4 it shall be the duty of such physician to make monthly, a thorough  
5 investigation of the sanitary conditions of such camps, and make  
6 a regular report of each inspection to the governor, together with  
7 such recommendations as he may deem necessary; and to fur-  
8 nish a copy thereof to the warden of the penitentiary, to the state  
9 board of health, and to the local board of health of the county  
10 in which such camp may be located. Said physician for his ser-  
11 vices shall receive the same allowance, and be paid in the man-  
12 ner as provided in section one hundred and two of this chapter.

Sec. 108. Whenever, hereafter, any male person over the

2 age of sixteen years shall be convicted of an offense, the punish-  
 3 ment of which by law is confinement in the county jail, before  
 4 any court or justice of the peace, and sentenced by such court or  
 5 justice of the peace to imprisonment in the county jail and to  
 6 pay a fine and costs, he shall be sentenced by such court or justice  
 7 of the peace to labor on the public roads of the county under the  
 8 direction of the county road engineer or other representative of  
 9 the county court having such work in charge, during the time  
 10 of such imprisonment and until said fine and costs are satisfied;  
 11 whenever any person is imprisoned by virtue of section ten of  
 12 chapter thirty-six of the code and fails to execute the bond as  
 13 therein provided, then he shall be required to work on said roads  
 14 until said fine and costs are paid, under the regulations in this  
 15 act prescribed; *provided*, said work shall not be required to be  
 16 done on the streets or alleys of a city, town or village, which  
 17 under its charter keeps its own streets and alleys in order, un-  
 18 less the corporate authorities thereof shall first arrange with the  
 19 county authorities to pay for such work to the keeper of the jail  
 20 of said county the amount to which he shall be entitled for the  
 21 board of such prisoners.

Sec. 109. The county court of each county shall provide  
 2 for the working of such prisoners and shall provide for the safe  
 3 keeping of such prisoners while performing such work, and to  
 4 this end the border line of each county shall constitute and be  
 5 considered the walls of the jail of such county, and the county  
 6 engineer or other such representatives of the county court having  
 7 such work in charge, shall be and is hereby empowered to adopt  
 8 safe and humane methods of discipline and protection to en-  
 9 force the provisions of this chapter and prevent escape of pris-  
 10 oners.

Sec. 110. The court or justice of the peace before whom  
 2 any such prisoner is convicted, for good cause appearing and en-  
 3 tered of record, may omit from the sentence that part of the  
 4 penalty requiring such person to work on the public roads of  
 5 the county.

Sec. 111. Whenever any such person shall escape while  
 2 working on such public roads and be recaptured he shall be  
 3 taken by the officer having him in custody before any justice of  
 4 the peace in the county where such escape was made, who shall,  
 5 after a trial and upon conviction for such escape, sentence him  
 6 to labor on the public roads of said county, in addition to fines

7 and sentences imposed at his previous trial, not less than sixty  
 8 days nor more than six months and to pay the cost of making  
 9 the arrest, including all costs of trials, and in default of the  
 10 payment shall sentence said prisoner to work out said costs on  
 11 said public roads as herein provided.

Sec. 112. The sheriff upon recommendation of the county  
 2 engineer or other representatives of the county court having the  
 3 work in charge, and with the approval of the county court, shall  
 4 employ a sufficient number of persons to guard such prisoners,  
 5 not to exceed one for every ten prisoners so employed on such  
 6 county roads, and the wages of such guards shall be paid out of  
 7 the county treasury when allowed by the county court, and shall  
 8 not exceed two dollars and fifty cents per day for each guard.  
 9 Such guards when employed shall be subject to, and under the  
 10 direction of, the county road engineer or other representative of  
 11 the county court having the work in charge. The keeper of the  
 12 jail shall file with the clerk of the county court a monthly state-  
 13 ment showing the number of prisoners in jail awaiting trial, the  
 14 number of prisoners sentenced to work upon the public roads,  
 15 the number of days work performed, the number of days idle, the  
 16 reason therefor, and shall furnish a duplicate copy to the state  
 17 road commission. Whenever prisoners are worked from camps or  
 18 kept outside of the jail, the person in charge of the camp shall  
 19 furnish the jailer with the information herein required, or file  
 20 the same with the clerk of the county court under the direction  
 21 of the county road engineer, or other such representative of the  
 22 court.

Sec. 113. The clerk of every court, or the justice of the  
 2 peace before whom any person is convicted of an offense and sen-  
 3 tenced to be confined in the county jail or sentenced to pay a  
 4 fine and is confined for non-payment thereof, shall certify to the  
 5 jailer the length of sentence and the amount of fine in the man-  
 6 ner and form following:

7 "Commitment by.....for imprisonment  
 8 for.....sentence, fine and costs.  
 9 State of West Virginia,  
 10 County of....., SS:

11 To the sheriff or any constable of said county, and to the  
 12 jailer of said county:

13 Whereas, .....was this day convicted of  
 14 the crime of....., and was sentenced to

15 confinement in the county jail for the period of.....days  
16 (or months) from this date, and to pay the state a fine of.....  
17 .....dollars and costs incurred, amounting to the  
18 sum of.....dollars, itemized on the back here-  
19 of, and to labor on the public roads in said county until said  
20 fine and costs are paid, as provided in chapter.....of  
21 the acts of the legislature of the said state for the year.....:

22 You, the said sheriff or constable, are hereby commanded in  
23 the name of the state to forthwith safely convey the said.....  
24 ..... and deliver him to the said jailer with  
25 this process; and you, the said jailer, are hereby commanded in  
26 the name of the said state to receive and confine the said.....  
27 .....in said jail and to see that the said....  
28 .....labors according to law on the public  
29 roads until said sentence, fine and costs have been satisfied or  
30 until he is discharged according to law.

31 Given under my hand and seal this the.....day of  
32 ....., 19.....

33 .....  
34 Clerk of Court, or  
35 Justice of the Peace.”

2 Sec. 114. The circuit, criminal or intermediate court  
3 wherein the said person was sentenced, or the judge thereof in  
4 vacation, or a justice before whom any such person was convicted,  
5 may, for good cause shown, release such defendant from such  
6 imprisonment and suspend the payment of fine and costs, but  
7 no such order shall be made by a justice or a judge in vacation  
8 of his court, until at least ten days notice in writing be given  
9 to the prosecuting attorney of the time and place at which the  
10 motion therefor shall be made.

2 Sec. 115. A person charged with misdemeanor, who is un-  
3 able to furnish a recognizance, or bail bond with satisfactory  
4 securities, according to law, or who is refused bail, may after be-  
5 ing committed to jail, elect to labor upon the public roads of the  
6 county in which such crime is alleged to have been committed;  
7 and in such case the circuit, criminal or intermediate court of  
8 such county, or the judge thereof in vacation, may, in its dis-  
9 cretion, enter an order in the order book of such court permit-  
10 ting such person to labor on the public roads of said county, as  
herein provided, until such time as may be fixed by such court, or

11 judge thereof in vacation. If, at his trial, such person is con-  
 12 victed and sentenced to imprisonment in the county jail, or to la-  
 13 bor on the public roads of such county, he shall be credited on  
 14 his term by the number of days he has labored on such public  
 15 roads; if fined, he shall be credited on the amount of fine and  
 16 costs with one dollar and fifty cents per day for each day he  
 17 labored on such road; and if acquitted, he shall be paid seventy-  
 18 five cents for each day he labored on said roads, to be paid out  
 19 of the road funds of the county or district in which such work  
 20 is chargeable, when allowed by the county court.

Sec. 116. Every person sentenced to labor on the county  
 2 roads under the provisions of this act, who faithfully complies  
 3 with all the rules and regulations which may be prescribed by  
 4 the county road authorities, governing the working of prisoners  
 5 on the public roads, shall be entitled to a deduction from his sen-  
 6 tence of five days for each month, on every jail sentence that may  
 7 be imposed upon him.

*Traffic Regulations—Automobile Registration—Chauffeurs' Licenses*

Sec. 117. For the purposes of this act, unless the same be  
 2 contrary to, and inconsistent with the context, the words and  
 3 phrases used in this act shall be construed as follows:

4 "Motor vehicle" shall include all vehicles propelled by any  
 5 power other than muscular power, excepting such motor vehicles  
 6 as run only upon rails and tracks. "Closely built up" shall mean  
 7 (a) the territory of a city, village or town contiguous to the pub-  
 8 lic highway which is at that point built up with structures de-  
 9 voted to business; (b) the territory of a city, village or town,  
 10 contiguous to a public highway not devoted to business, where  
 11 for not less than one-quarter of a mile, the dwelling houses on  
 12 such highway average less than one hundred feet apart; and, also,  
 13 (c) the territory outside of a city or village contiguous to a pub-  
 14 lic highway within a distance of one-half mile from any post  
 15 office; *provided*, that for a distance of at least one-quarter of a  
 16 mile within such limits the dwelling houses on such highway  
 17 average less than one hundred feet apart; and, *provided, further*,  
 18 that the local authorities having charge of such highways shall  
 19 have conspicuously placed thereon signs of a sufficient size to be  
 20 easily readable by a person using the highway, bearing the words,  
 21 "Slow down," and also an arrow pointing in the direction where  
 22 the speed should be reduced. "Local authorities" shall include  
 23 all officers of counties, cities, villages or towns, as well as all



24 boards, committees, and other public officials of such counties,  
25 cities, villages or towns. "Chauffeur" shall mean any person  
26 operating a motor vehicle as mechanic, employee or for hire.

Sec. 118. No person shall operate a motor vehicle on any  
2 public road or street at a greater rate of speed than thirty-five  
3 miles per hour, and at no time shall such person use a greater  
4 rate of speed than will permit of absolute control of such vehicle  
5 at all times, so as not to endanger life or limb of any person, or  
6 the safety of any property, and shall not pass through, by or over  
7 a closely built up section, city, village, bridge, dam, summit of  
8 a hill, steep descent, street or road intersection, railroad or in-  
9 terurban crossing or curve, at a greater rate of speed than will  
10 permit of bringing the vehicle to a full stop in one-half the dis-  
11 tance that the road is in full view, the objective point being  
12 construed as the distance viewed. Any person driving such ve-  
12-a hicle at a greater rate of speed than permitted by this act, or  
12-b in violation of any of the safety provisions thereof, shall be  
12-c deemed guilty of reckless driving and shall be punished as  
12-d hereinafter provided. If such reckless driving result in the  
12-e death of any person, or in injury to person or property, the  
12-f person guilty thereof shall be punishable as for homicide or  
12-g for unlawful or malicious wounding as the case may be;  
12-h and shall also be liable in damages for any injury of any kind  
12-i resulting from such reckless driving. But nothing herein con-  
13 tain shall be construed as prohibiting any city, village or town  
14 from prescribing regulations not inconsisitent herewith, relative  
15 to the speed at which such vehicles shall be operated.

Sec. 119. No person shall drive or operate any vehicle, mo-  
2 tor driven or otherwise, upon any public road or street of this  
3 state, when intoxicated or under the influence of liquor, drugs or  
4 narcotics; and any person so driving or operating any vehicle up-  
5 on any public road or street of this state while intoxicated or  
6 under the influence of drugs or narcotics shall be guilty of a mis-  
7 demeanor and upon conviction thereof shall be fined not less than  
8 five nor more than fifty dollars, and may be imprisoned not less  
9 than ten nor more than sixty days, at the discretion of the court  
10 or justice trying the offense; and upon a second conviction for  
11 the like offense at any time within three years from the first,  
12 shall be fined as aforesaid and imprisoned not less than ten nor  
13 more than sixty days, and shall thereby be prohibited from oper-  
14 ating or driving a motor vehicle in this state for a period of

15 one year. The court or justice before whom any such person may  
16 be convicted as aforesaid, shall forthwith notify the state road  
17 commission of such conviction, giving the name of the person  
18 convicted and the number of the car or vehicle driven by him.

Sec. 120. Every person using or driving any motor vehicle,  
2 buggy, wagon or other vehicle on any street or alley of any city,  
3 town or village, or in any "closely built up" territory, shall op-  
4 erate or drive the same on the right of the center of such street  
5 or alley. Every vehicle meeting another vehicle, person or ani-  
6 mal, shall pass on the right; every vehicle overtaking another  
7 vehicle, person or animal shall pass on the left. Every vehicle  
7-a turning from a street or alley into another street or alley  
8 to the right shall turn as near the right hand curb or side as  
9 possible; every vehicle turning into another street or alley to  
10 the left shall not turn until the front wheels thereof shall, if  
11 possible, have passed beyond the center of the intersecting streets  
12 or alleys. No vehicle, except on signal from a traffic officer, or  
13 in case of emergency or to allow another vehicle, person or animal  
14 to cross the highway, shall stop in any street or alley except on  
15 the right hand side thereof, and then in such manner as not to  
16 obstruct a crossing or interfere with traffic or the access to any  
17 fire plug, gasoline or oil station, or other place of public service  
18 or resort; nor shall any vehicle back or turn in any street or  
19 alley if it will thereby interfere with or retard traffic; *provided*,  
20 such turn can be made by going around a block. The driver of  
21 every vehicle approaching any street or passenger car which has  
22 stopped or is about to stop for the purpose of receiving or dis-  
23 charging passengers, shall have such vehicle under control and  
24 shall reduce its speed to a reasonable and proper rate for safety,  
25 and shall not pass a vehicle or street car while unloading or  
26 taking on passengers unless it be an established safety zone or he  
27 be signaled by the operator of said vehicle or street car so to  
28 pass.

Sec. 121. No person shall race any vehicle or animal or  
2 place any wager upon any race upon any of the public roads or  
3 streets of this state, nor shall any person carry on the business  
4 of horse trading upon any road or street within one mile of any  
5 fair, religious meeting or any other religious association during  
6 the days and times such fair, religious meeting or association is  
7 being held. Any person violating the provisions of this section  
8 shall be deemed guilty of a misdemeanor and upon conviction

9 thereof shall be fined not less than ten nor more than fifty dol-  
10 lars for each offense, and may be required to enter into a recog-  
11 nizance in the sum of three hundred dollars for continued good  
12 behavior for twelve months, and in default of entering into such  
13 recognizance may be committed to jail for not less than ten nor  
14 more than sixty days, or until said bond be filed and approved  
15 by a justice in the county.

Sec. 122. The driver or operator of any vehicle upon ap-  
2 proaching any person walking, riding, leading or driving any  
3 horse or animal shall sound a proper signal or warning, and if  
4 such animal being ridden, led or driven, shall appear to be fright-  
5 ened, or if the person in charge thereof shall signal by raising  
6 his or her hand, the driver of such vehicle shall bring the same  
7 to a stop and if traveling in an opposite direction shall remain  
8 stationary so long as may be necessary to reasonably allow such  
9 horse or other animal to pass. If traveling in the same direction  
10 such driver or operator shall use due diligence and care in pass-  
11 ing such animal; but no person riding, driving or leading any  
12 animal upon the public roads or streets of this state shall signal  
13 for such stop unless necessary.

Sec. 123. In case of any accident, such as collision with a  
2 person, animal or vehicle, all parties concerned must stop and  
3 render such assistance as may be reasonable and necessary within  
4 their power, and upon request all parties concerned shall exchange  
5 their names, addresses and numbers of operating licenses.

Sec. 124. Every motor vehicle operated or driven upon the  
2 public highways of this state shall be provided with adequate  
3 brakes in good working order and sufficient to control such vehicle  
4 when the same is in use, and an adequate horn or other device for  
5 signaling, sufficient under all conditions to give timely warning  
6 of the approach of the motor vehicle; and shall during the period  
7 from thirty minutes after sunset to thirty minutes before sunrise,  
8 display at least one lighted lamp on the front and one on the rear  
9 of such vehicle, which shall also display a red light visible from  
10 the rear; and white rays of such rear lamp shall shine upon and  
11 illuminate the number plate carried on the rear of such vehicle  
12 so that the said number will be clearly visible. Every such vehicle  
13 shall have devices to prevent excessive noise, annoying smoke,  
14 or escape of gasoline or steam, as well as the falling out of embers  
15 or residue from fuel; and all exhaust pipes carrying exhaust

16 from the engine shall be directed parallel to the ground or slightly  
17 upward.

Sec. 125. No vehicle shall be left standing upon any high-  
2 way without first tying, locking or taking other reasonable pre-  
3 caution to prevent such vehicle being started in itself, or by unau-  
4 thorized persons. And no person shall without authority of the  
5 owner or person in charge thereof, climb upon or into any vehicle,  
6 whether the same is in motion or at rest, or hurl stones or other  
7 missiles at the same, or at the occupants thereof, or, while such  
8 vehicle is at rest and unriden, sound any signal device or attempt  
9 to manipulate any of the levers or machinery thereof, or set said  
10 vehicle in motion or otherwise damage, hinder or interfere with  
11 the same.

Sec. 126. No vehicle in excess of ninety inches in width  
2 shall be operated upon the highways of this state unless authorized  
3 by special permit from the state road commission, the county court  
4 of the county, the county or district engineer or patrolman, and  
5 then only upon highways of extra width; nor shall any vehicle,  
6 including load, exceeding thirty thousand pounds in weight, or  
7 on which the weight of the load is more than six hundred pounds  
8 per inch width of tire, the total width of the four tires being  
9 included in computing the weight thereof, be operated upon the  
10 highways of this state unless by special permit from one of the  
11 authorities hereinbefore designated, and then only upon highways  
12 specially constructed for heavy traffic. Any person operating any  
13 such vehicle under such a special permit shall be required to pay  
14 to the county court of the county the amount of any and all  
15 damages which may be caused to any highway by reason of the  
16 operation of such vehicle thereon, and the possession of said  
17 permit shall not relieve any person from liability for such  
18 damages.

Sec. 127.- No person under the age of fourteen years  
2 shall operate any motor vehicle upon the highways of this state  
3 unless accompanied by the owner thereof or a duly licensed chauff-  
4 eur. No person shall act as chauffeur without first having ob-  
5 tained a license so to do, in accordance with the next succeeding  
6 section.

Sec. 128. Every person desiring to operate a motor vehicle  
2 either as a chauffeur or carrying on the business of transporting  
3 passengers or freight for hire, shall file in the office of the state  
4 road commission, on a blank to be provided by such commission,

5 an application, which shall state the name of the applicant, his  
6 address, and the trade name and motor power of the vehicle or  
7 vehicles he is able to operate, and shall pay a registration or license  
8 fee of three dollars. Such application shall be verified by the  
9 signature of two citizens of this state of at least two years prac-  
10 tical experience in operating motor vehicles, and be accompanied  
11 by a photograph of the applicant taken within thirty days prior  
12 to the filing of the application. The commission shall thereupon  
13 file the application and photograph in its office, register such  
14 chauffeur in a book or index to be kept for that purpose and assign  
15 to him a number; and the commission shall thereupon further  
16 issue and deliver to such chauffeur a certificate of registration and  
17 an enameled metal badge, corresponding in color with the license  
18 tags issued for the same year for motor vehicles, with the follow-  
19 ing words stamped thereon: "Registered Chauffeur, No. . . . .  
20 W. Va.", with the registration number inserted thereon, together  
21 with the year for which such license is issued, which badge shall  
22 be worn by such chauffeur in a conspicuous place upon his clothes  
23 at all times while driving a motor vehicle upon the highways.  
24 No such chauffeur shall voluntarily permit another person to wear  
25 his badge, nor shall any person while operating a motor vehicle  
26 wear any badge belonging to another person, or a fictitious badge.  
27 Duplicate badges, in case of loss, may be issued under such regu-  
28 lations as the state road commission may prescribe. Any person  
29 violating the provisions of this section shall be guilty of a mis-  
30 demeanor, and upon conviction thereof before any justice or court  
31 shall be fined not less than five nor more than twenty-five dollars.

Sec. 129. No motor vehicle shall be driven upon the public  
2 roads of this state, or upon any road or street within any incor-  
3 porated city, town or village within the state, without the owner  
4 first having obtained from the state road commission, as herein  
5 provided, a certificate of registration therefor. Such license or  
6 certificate may be obtained by causing to be filed with the com-  
7 mission, by mail or otherwise, a statement setting forth the  
8 character of the vehicle to be licensed, including the name of the  
9 manufacturer, the style, type and factory number of such vehicle,  
10 the character of the motor power and the amount of such motor  
11 power stated in figures of horse-power as advertised by the man-  
12 ufacturer, the name, age, residence and business address of the  
13 owner of such motor vehicle, and the name of the county in which  
14 he resides; *provided*, that if such motor vehicle is a taxi-cab or

15 motor truck, or motor vehicle used or to be used solely for com-  
 16 mercial purposes, the applicant shall so certify, and state in the  
 17 application the factory rated useful load capacity thereof.

Sec. 130. Upon receipt of any application for registration of  
 2 a motor vehicle, as provided in the preceding section, the commis-  
 3 sion shall cause such application to be filed, and upon the payment  
 4 of the fee hereinafter provided, the commission shall assign to  
 5 such vehicle a distinctive number and deliver to the owner a  
 6 certificate of registration and number plate or plates as herein  
 7 provided; and in the event of loss or destruction the owner may  
 8 obtain a duplicate of such plates upon the payment of a fee of  
 9 one dollar, and giving satisfactory evidence of such loss or de-  
 10 struction. No motor vehicle shall be driven upon the highways  
 11 of this state without the proper license or registration tag fastened  
 12 thereon; an automobile shall be required to carry two such tags,  
 13 and any other motor vehicle required to be licensed under the  
 14 provisions of this chapter shall carry one such license tag.

Sec. 131. The commission may refuse to license any vehicle  
 2 which is so constructed as to be a menace to the safety of its occu-  
 3 pants or to the traveling public, or for the violation of any of the  
 4 provisions of this chapter; and may revoke any license already  
 5 granted for like reason.

Sec. 132. The annual registration fee for issuing such cer-  
 2 tificate and furnishing such plates for all motor vehicles other  
 3 than motor cycles shall be ten dollars for each vehicle weighing  
 4 two thousand pounds or less, and an additional twenty-five cents for  
 5 each one hundred pounds of weight, or fraction thereof, in excess  
 6 of said two thousand pounds.

Sec. 133. For each set of registration tags issued to a man-  
 2 ufacturer or dealer in motor vehicles other than motor cycles,  
 3 a fee of fifteen dollars per year shall be charged. Such tags shall  
 4 be marked "Dealer's Tag" and shall be interchangeable among  
 5 the cars owned and used by such manufacturer or dealer during  
 6 the fiscal year in which issued; but no such dealer's tag shall be  
 7 used on any car engaged in transportation for hire, or livery busi-  
 8 ness. The annual license fee for motor-bicycles, tricycles and  
 9 motorcycles shall be five dollars, and for each dealer's tag issued  
 10 to a dealer handling such motor bicycles, tricycles and motorcycles,  
 11 a like fee. Tags issued to such dealers shall be marked "Dealer's  
 12 Tag", and shall be interchangeable as in the case of dealer's tags  
 13 for other motor vehicles.

Sec. 134. All number plates, markers or tags shall show the  
 2 name of the state, license number and year for which issued, and  
 3 shall be of a distinctly different color each year; and all vehicles  
 4 requiring one number plate or tag shall have the same attached  
 5 to the rider's or driver's seat in such a manner as to be in full  
 6 view at all times; and all vehicles requiring two number plates  
 7 or tags shall have one in front and one in the rear, so attached  
 8 as to be in plain view day and night; and all number plates shall  
 9 be kept clean so as to be readable without any obscurity.

Sec. 135. Upon the transfer of ownership, destruction or  
 2 permanent removal from the state of any motor vehicle, its certifi-  
 3 cates of registration and the right to use the number plates or  
 4 markers aforesaid shall expire; *provided*, that the commission shall  
 5 permit the person to whom such plates or markers were originally  
 6 issued either to surrender the same upon terms for refund, based  
 7 on quarterly periods of use, or use the same on a new car by  
 8 paying a transfer fee of one dollar, with an adjustment of addi-  
 9 tional payments or refund, on a quarterly basis. And the com-  
 10 mission shall make proper and equitable regulations for the ex-  
 11 change or transfer of registration certificates and markers, and  
 12 for the temporary use of any such plates or markers pending  
 13 application to the commission for a transfer.

Sec. 136. Any foreign vehicle bearing legal native tag or  
 2 mark showing that it has complied with the laws of the state or  
 3 country from which it came, relating to the registration and  
 4 licensing of vehicles, may use the roads and streets of this state  
 5 without obtaining additional license or registration within this  
 6 state, for such a period as the state or country from which such  
 7 vehicle came permits vehicles from other states to remain within  
 8 that state or country without re-licensing therein; *provided*, such  
 9 state or country extends like consideration to vehicles from this  
 10 state.

Sec. 137. All fees collected under the provisions of this act  
 2 shall be paid by said state road commission to the state auditor,  
 3 and by him placed to the credit of the state road fund.

*Motor Vehicles Used for Transportation of Passengers and Freight  
 for Hire.*

Sec. 138. It shall be the duty of each owner of a motor  
 2 vehicle to be used in public transportation of passengers for hire,  
 3 or in public transportation of freight or merchandise for hire, or

4 in the transportation of private merchandise or freight over any  
 5 wholesale or retail delivery district, operating over state aid, fed-  
 6 eral aid, main county and district roads, or over such roads and  
 7 the streets and roads within the corporate limits of any city or  
 8 town, in this state, to procure a permit from the state road com-  
 9 mission to operate said vehicle over said roads and streets, and  
 10 to pay into the state treasury, to the credit of the state road fund,  
 11 such annual privilege tax therefor as may be prescribed by said  
 12 state road commission for the privilege of operating such motor  
 13 vehicle over said roads and streets; *provided*, that the require-  
 14 ments of this section shall not apply to such motor vehicles when  
 15 used for such transportation purposes wholly within the limits of  
 16 any incorporated city or town. Application for such permit shall  
 17 be made by such owner or operator on a blank to be prepared and  
 18 furnished by the state road commission, and shall set forth all  
 19 such facts as to the business to be carried on, the vehicles to be  
 20 used, distances, routes, schedules, and such other information as  
 21 the state road commission may require.

Sec. 139. The state road commission shall have full  
 2 power to make and enforce rules and regulations for the protec-  
 3 tion of all streets and roads from unnecessary damage by the op-  
 4 eration of such vehicles, and shall levy and collect such privilege  
 5 tax on each permit granted, as will lay upon the owners or oper-  
 6 ators of each class of such vehicles an equitable share of the bur-  
 7 den of cost for the upkeep and maintenance of such streets and  
 8 roads. In carrying out the purposes of this act, the state road  
 9 commission shall classify such motor vehicles and fix the amount  
 10 of the privilege tax to be paid for a permit on vehicles of each  
 11 class and shall prescribe rules and methods for the computation  
 12 of such tax.

Sec. 140. It shall be deemed a misdemeanor for any person  
 2 to operate without such permit any vehicle coming within the  
 3 classification fixed by said commission as requiring such permit,  
 4 and any person found guilty thereof shall be fined not less than  
 5 ten and not more than one hundred dollars for each offense. The  
 6 state road commission shall have the power to assess and collect  
 7 fines and penalties from holders of permits who fail or refuse to  
 8 conform to the rules and regulations of said commission, and may  
 9 revoke the permit of any person who violate such rules and regu-  
 10 lations.



Sec. 141. The state road commission shall devise a system of  
 2 keeping a separate account of all moneys collected and remitted  
 3 to the auditor under the provisions of section eight, and shall  
 4 on or before the first day of January and July of each year, pre-  
 5 pare a statement showing the amount so collected, for the use  
 6 of state aid, federal aid, main county and district roads, and  
 7 streets and roads within each county, district and incorporated  
 8 city and town, within this state, and said state road commission  
 9 shall from time to time cause such roads and streets to be in-  
 10 spected, and if the respective authorities have kept such roads  
 11 and streets in repair and said commission shall certify such facts  
 12 to the auditor who shall upon receipt of such certificate transmit  
 13 his warrant, drawn upon the treasurer, payable to the proper  
 14 town, city or county official, for ninety per cent. of the amount  
 15 so collected for the use of such streets or roads other than state  
 16 aid and federal aid roads, within the respective jurisdiction, to  
 17 to be used in repair and maintenance of streets and roads upon  
 18 which such motor vehicles for the transportation of passengers  
 19 or freight were operated. The amount so to be distributed for  
 20 the maintenance of streets and roads within any county, dis-  
 21 trict, incorporated city, or town, shall be computed upon a pro rata  
 22 mileage basis, in accordance with rules to be prescribed by the  
 23 state road commission.

24 All moneys collected from the licensing of such vehicles and  
 25 credited under said rules to their operation over state aid, federal  
 26 aid, and inter-county roads, including ten per cent. of all moneys  
 27 collected for the use of main county and district roads, and streets  
 28 and roads within incorporated towns and cities, shall be paid into  
 29 a general state road fund, to be used as the state road commission  
 30 may direct in the maintenance and repair of state aid, federal  
 31 aid, and inter-county roads.

Sec. 142. The privilege tax provided for in section one hun-  
 2 dred and thirty-nine of this act, shall be levied in addition to the  
 3 prescribed regular state tax on motor vehicles, and no other license  
 4 fee or tax shall be charged by the state or any municipality or  
 5 other political subdivision thereon, except the regular property tax,  
 6 with respect to such vehicles and their operation.

#### *Toll Roads and Bridges.*

Sec. 143. When any joint stock company incorporated by  
 2 this state shall have been formed to construct a road or bridge,

3 wholly or in part in any county, the county court of such county  
4 may subscribe for, take, hold and dispose of stock in such company  
5 under the regulations, and subject to the restrictions prescribed  
6 by law.

Sec. 144. No tolls other than for maintenance of such  
2 road or bridge shall be charged or collected for traveling upon any  
3 of the public roads or over any of the public bridges of this state,  
4 except those which are now collecting such tolls according to the  
5 laws of this state.

Sec. 145. A collector of tolls on any turnpike authorized by  
2 law to receive tolls, may refuse to allow any person, animal or  
3 vehicle to pass on such road until the lawful toll is paid. If any  
4 person, animal or vehicle pass a toll gate on such roads, or other  
5 proper place for payment, without paying or tendering the toll, or  
6 if any person misrepresent the distance he may have traveled on  
7 such road, such person in possession of such animal or vehicle shall  
8 be fined not exceeding twenty dollars, and the like penalty shall  
9 be incurred when any person, animal or vehicle subject to toll  
10 is passed through any private gate, bars or fence for the purpose  
11 of evading the payment of toll. Whoever shall defraud or at-  
12 tempt to defraud the company by evading or attempting to evade  
13 the payment of toll for crossing a bridge, or aid another to do  
14 so, shall for every such offense, upon conviction, be fined ten dol-  
15 lars.

16 A gatekeeper on any toll bridge shall keep such money of  
17 small denomination on hand, as may reasonably be required in  
18 the ordinary course of the business, for making change for pas-  
19 senger, and it is the duty of passengers to offer money for passage  
20 of a denomination as nearly as possible to the amount charged  
21 for such passage. This section shall not apply to persons now  
22 having a lawful right to pass on such roads without the payment  
23 of toll.

Sec. 146. On all turnpikes now owned wholly or in part by  
2 individuals or corporations in this state tolls not exceeding the  
3 following rates may be received in every section of five miles  
4 which has been completed, to-wit: For a single horse, mare,  
5 gelding, mule, jack or jennet, three cents; and for every horse,  
6 mare, gelding, mule, jack or jennet, in addition, one cent, if the  
7 same be not hitched to any vehicle; for twenty sheep or hogs,  
8 five cents; and for twenty cattle, ten cents, and so on in propor-  
9 tion for a greater or less number; for a riding carriage, whether

10 two or four wheeled, if the road be a macadamized road or a brick  
 11 road or some other permanently improved road, ten cents; but if  
 12 not macadamized or not a brick road or other permanently im-  
 13 proved road, five cents; and for a cart or wagon, if the tires of  
 14 the wheels are less than four inches wide, three cents for each  
 15 animal drawing it. For a fractional part of a section, tolls may  
 16 be received bearing the same proportion to the tolls for a full sec-  
 17 tion that the said fractional part bears to such full section; *pro-*  
 18 *vided*, that when the toll from the fractional part would be less  
 19 than one cent, they may charge and receive one cent; *provided*,  
 20 *further*, that all coaches, carriages, vehicles and horses used by per-  
 21 sons in going to and from divine worship, funerals, and grist mills  
 22 for the purpose of having grinding done, shall be exempt from  
 23 tolls.

Sec. 147. The said tolls may be demanded and collected of  
 2 every person passing the toll gate, whether he shall have traveled  
 3 the whole or only a part of the section or fractional part; *pro-*  
 4 *vided*, that the said toll road or turnpike shall be made so as to  
 5 conform to the following specifications: All roads or turnpikes  
 6 shall have a smooth road bed of not less than fifteen feet in width,  
 7 exclusive of ditches, and shall be well side-ditched and drained.  
 8 All cross-drains shall be under-drained or ripped when nec-  
 9 essary. All running streams requiring bridges of fifty feet in  
 10 length or less, and such others as the county court of the county  
 11 may direct, shall have a bridge or culvert across the same suffi-  
 12 ciently strong and sufficiently wide to insure safe passage to all  
 13 kinds of vehicles; *provided, further*, that no toll shall be collected  
 14 unless said toll road or turnpike be constructed in accordance with  
 15 this section, but no such tolls shall hereafter be imposed and col-  
 16 lected in Ohio county, Jefferson county or in Brooke county; and  
 17 *provided, further*, that any citizen of this state may bring an ac-  
 18 tion or suit to prevent the unlawful collection of such tolls.

Sec. 148. Whenever the collection of tolls for traveling  
 2 over or upon any toll road or turnpike has been abandoned by  
 3 any county, person, company or corporation, or is prevented by  
 4 law or by final order of any court having competent jurisdiction,  
 5 or whenever any of the main public roads are improved under  
 6 the provision of section twenty-five of this act, it shall be the duty  
 7 of the county court of the county wherein such road or turnpike,  
 8 or any part thereof, is located, to keep the same macadamized and

9 piked and in good repair, and to pay for the work and all  
10 expenses incident thereto out of the county road fund.

Sec. 149. Whenever complaint in writing on oath shall be  
2 made to the county road engineer of the county in which there  
3 shall be, in whole or in part, any toll bridge, belonging to any  
4 person or corporation, representing that such toll bridge has be-  
5 come, or is unsafe for public use, the county road engineer shall  
6 forthwith cause to be made a careful and thorough examination of  
7-8 such toll bridge, and if upon examination thereof, he shall be of  
9 the opinion that the same has, from any cause, become danger-  
10 ous or unsafe for public use, he shall thereupon give immediate  
11 notice to the owner of such toll bridge or to any agent of such  
12 owner acting as the agent, in respect to such bridge, that he has  
13 on complaint made, carefully and thoroughly examined the bridge  
14 and found it to be unsafe for public use. Such owner shall there-  
15 upon immediately commence repairing the same and cause such  
16 repairs to be made within one week from the day of such notice  
17 given, or within reasonable time thereafter as may be necessary  
18 to thoroughly repair the bridge, so as to make it in all respects  
19 safe and convenient for public use. For neglect to take proper  
20 and effective measures to repair such bridge, its owner shall for-  
21 feit fifty dollars and shall not demand or receive any toll for using  
22 the same until it shall be fully repaired. The county road engi-  
23 neer shall cause such repairs to be made and the owners of the  
24 bridge shall be liable for the expense thereof and for the service  
25 of a foreman at three dollars per day, and upon the neglect or re-  
26 fusal to pay the same upon presentation of an account thereof, the  
27 county road engineer may recover the same by action in the name  
28 of the county.

Sec. 150. Any person desiring the privilege of erecting a  
2 wharf at or on any public landing, may present a petition to the  
3 court of such county for such privilege; but notice of the peti-  
4 tion or his intention to present the same, must be posted at the  
5 front door of the court house and at three public places in the  
6 district in which it is proposed to erect such wharf, three weeks  
7 at least before the petition is acted upon. The said court upon  
8 petition and notice, may grant such privilege upon such condi-  
9 tions and limitations, and fix such rates and charges for wharf-  
10 age as it sees fit. But it may at any time afterwards, upon ten  
11 days' notice to the owner of such wharf, or his tenants, revoke

12 such privilege or alter such conditions or limitations, or regulate  
13 the rates of charges.

Sec. 151. Any person owning land upon a water course may  
2 erect a wharf on the same, or a pier or bulkhead in such water  
3 course, opposite his land, so that the navigation be not obstructed  
4 thereby, and so that such wharf, pier or bulkhead shall not other-  
5 wise injure the private rights of any person. But the county  
6 court of the county in which such wharf, pier or bulkhead shall  
7 be, after causing ten days' notice to be given to the owner there-  
8 of of its intention to consider the subject, if it be satisfied that  
9 such wharf, pier or bulkhead obstructs the navigation of the  
10 water course, or so encroaches on any public landing as to pre-  
11 vent the free use thereof, may abate the same.

*General Provisions.*

Sec. 152. So far as any road, bridge, or public landing be  
2 longs to or is under the care or control of a county, it shall be  
3 the duty of the county court to cause the same to be kept in good  
4 repair and condition. And when any county acquires the interest  
5 of the state, or any other stockholder in any road, bridge or pub-  
6 lic landing, under either of the two preceding sections, the county  
7 court of such county shall have all powers, rights and privileges,  
8 perform all the duties and be subject to the same liabilities that  
9 were vested in, held, exercised or required to be performed by or  
10 imposed upon the state or other former stockholders therein.

Sec. 153. Any person who sustains an injury to his person  
2 or property by reason of a public road, bridge, street, sidewalk  
3 or alley in any incorporated city, town or village, being out  
4 of repair, may recover all damages sustained by him by reason  
5 of such injury, in an action on the case in any court of compe-  
6 tent jurisdiction, against the county court, city, town or village  
7 in which such road, bridge, street, sidewalk or alley may be,  
8 except that such city, town or village shall not be subject to such  
9 action, unless it is required by its charter to keep the road, bridge,  
10 street, sidewalk or alley therein, at the place where such injury  
11 is sustained, in repair. If it is not so required, the action and  
12 remedy shall be against the county court. When judgment is  
13 obtained against county court, such court shall levy upon the  
14 taxable property of the district in which such injury is sustained,  
15 a sufficient sum to pay such judgment with interest and costs,  
16 and the cost of collecting the same, and when it is obtained

17 against a city, town or village, the proper corporate authorities  
 18 thereof shall lay such levy on the property subject to taxation in  
 19 such city, town or village. And in case of a failure by either  
 20 so to do, or to pay the judgment as required by law, the circuit  
 21 court of the county shall compel the laying of such levy, or the  
 22 payment of such judgment, or both, by mandamus. The sum-  
 23 mons in such case against the county, shall issue against such  
 24 court and be served as provided by chapter thirty-nine of the  
 25 code of West Virginia, and if the case be against a city, town or  
 26 village, it shall issue against the same by its corporate name and  
 27 be served on the mayor, recorder, treasurer or two councilmen.

Sec. 154. Any person who may be injured as aforesaid by  
 2 reason of a turnpike, road or bridge, belonging to any com-  
 3 pany or person, or to any county in its corporate capacity, being  
 4 out of repair, may recover all damages sustained by him by reason  
 5 of such injury, in the manner prescribed in the preceding section,  
 6 against such company, person or county, or against the lessee for  
 7 the time being of any such road or bridge. Any judgment  
 8 against a city, town or village or county under this section,  
 9 may be enforced by the circuit court by writ of mandamus. The  
 10 enactment of this section shall not affect any action or suit now  
 11 pending for any such company as is mentioned herein, but the  
 12 same may be prosecuted and judgment enforced with like effect,  
 13 as if this section had not been enacted.

Sec. 155. The county court of a county may, upon petition,  
 2 permit gates to be erected across any county road therein, or cause  
 3 any gate erected across a county road to be removed, but notice of  
 4 every petition for that purpose must be first posted at the front  
 5 door of the court house, and at three public places in the vicinity  
 6 of the gate proposed to be erected or removed, at least three weeks  
 7 before the meeting at which such order is made.

Sec. 156. The owner or occupier of every dam shall, as  
 2 far as the road passes over the same, keep such dam in good order  
 3 at least fourteen feet wide at the top; and also keep in good  
 4 order a bridge of like width over the pier-head, flood gates or  
 5 any waste cut through or around the dam; and shall erect and  
 6 keep in good order, a strong railing on both sides of such bridge  
 7 or dam. If he fails to comply with this section he shall pay a  
 8 fine for every twenty-four hours failure, of two dollars, but the  
 9 fines shall not in any one prosecution exceed fifty dollars; and  
 10 where a mill dam is carried away or destroyed, the owner or occu-

11 pier thereof shall not henceforth be subject to such fine until one  
 12 month after the mill shall have been put in operation. And every  
 13 owner of a dam hereafter built, which dam, by the backing of  
 14 water or otherwise, obstructs any public road, or if any race or  
 15 ditch connected therewith shall materially obstruct any such road,  
 16 shall, whenever it may be necessary for the safe and convenient  
 17 crossing of the same, or the pond created thereby, build and keep  
 18 in repair over and across the said dam, pond, race or ditch, a  
 19 bridge of like kind and description as hereinbefore specified, and  
 20 for the failure to do so every such owner or occupier shall be fined  
 21 as hereinbefore provided.

Sec. 157. Any person owning land upon a water course  
 2 may erect a wharf on the same, or a pier or bulkhead in such  
 3 water course, opposite his land, so that the navigation be not ob-  
 4 structed thereby, and so that such wharf, pier or bulkhead shall  
 5 not otherwise injure the private rights of any person. But the  
 6 county court of the county in which such wharf, pier or bulkhead  
 7 shall be, after causing ten days' notice to be given to the owner  
 8 thereof of its intention to consider the subject, if it be satisfied  
 9 that such wharf, pier or bulkhead obstructs the navigation of the  
 10 water course, or so encroaches on any public landing as to prevent  
 11 the free use thereof, may abate the same.

Sec. 158. Any person desiring the privilege of erecting a  
 2 wharf at or on any public landing, may present a petition to the  
 3 court of such county for such privilege; but notice of the petition,  
 4 or his intention to present the same, must be posted at the front  
 5 door of the court house and at three public places in the district  
 6 in which it is proposed to erect such wharf, three weeks at least  
 7 before the petition is acted upon. The said court upon petition  
 8 and notice, may grant such privilege upon such conditions and  
 9 limitations, and fix such rates and charges for wharfage as it  
 10 seems fit. But it may at any time afterwards, upon ten days  
 11 notice to the owner of such wharf, or his tenants, revoke such  
 12 privilege or alter such conditions or limitations, or regulate the  
 13 rates of charges.

Sec. 159. The county court of any county in the state of  
 2 West Virginia, through which the Shenandoah river runs, may  
 3 establish on and across said river not more than three free ferries;  
 4 and such ferries shall be provided with sufficient landings and  
 5 boats, and such attendants of said boats as may be necessary to  
 6 accommodate public travel. The court shall pay all expenses of

7 establishing such ferries, providing and maintaining the necessary  
8 boats and the necessary attendants thereof out of the county treas-  
9 ury.

Sec. 160. Delinquent lists of taxes uncollected under the  
2 provisions of this act shall be returned and disposed of as school  
3 and other district levies are returned and disposed of according to  
4 law.

Sec. 161. It shall be the duty of the owner or occupant of  
2 land situated along the public road, to remove all obstructions  
3 within the bounds of the road which have been placed there either  
4 by himself or by his consent.

Sec. 162. It shall be the duty of all telephone, telegraph,  
2 electric railway or other electrical companies, to remove and re-  
3 set, telephone, telegraph, trolley and other poles and the wires  
4 connected therewith when the same constitute obstructions to  
5 the use of the public road by the traveling public.

Sec. 163. It shall be the duty of all pipe line companies  
2 whose lines shall have been laid across or along any public road  
3 in this state for the purpose of transporting any natural gas, oils,  
4 or water or any other substance, to fill up all excavations made  
5 thereby and to make the public road in all respects as good as it  
6 was before the excavation was made and to keep the same. If  
7 such obstructions are not removed or such poles or wires are not  
8 removed, or re-set, or such excavations are not properly filled and  
9 maintained, within thirty days after the serving of a notice, by  
10 the county road engineer personally or by mail upon such owner  
11 or occupant or upon such company at its principal place of busi-  
12 ness or an agent of the company within the county, requesting the  
13 same to be done, the county road engineer shall cause such ob-  
14 structions to be removed and such poles and wires to be re-set  
15 and such repairs on the excavation to be made as may be neces-  
16 sary to place the same in its original condition. The expenses  
17 thereby incurred shall be paid, in the first instance, out of the  
18 moneys levied and collected and available therefor, and the amount  
19 thereof shall be charged against such owner, occupant or company  
20 and levied and collected, as provided in section one hundred and  
21 sixty-four of this chapter.

Sec. 163-a It shall be unlawful for the county court of any  
2 county in this state or any other tribunal, acting in lieu thereof,  
3 to grant any permit or franchise to any corporation, individual or  
4 person in this state, or to any foreign corporation, the right to op-



5 erate or maintain any gas main line or lines along any of the pub-  
6 lic roads or highways in this state, with a diameter exceeding four  
7 inches; *provided, however*, that this act shall not prevent any oil  
8 company or other person transporting oil or gasoline along the  
9 public highways of this state, and that nothing herein contained  
10 shall be construed to give such company, an unlimited franchise  
11 without paying to the land owners through whose lands such road  
12 runs or passes, the usual and customary right of way paid therefor,  
13 or to be paid to the land owners for such right of way; such  
14 grant, if made, shall only be construed to give such company or  
15 person the right to use the easement in said public road and not  
16 to vest any right of eminent domain therein. The purpose of  
17 this act being to secure to the people of this state, the free and un-  
18 limited use of the public roads without let or hinderance or ob-  
19 struction from any one.

Sec. 164. The county road engineer or supervisor shall as-  
2 sess the costs of removing obstructions and removing and reset-  
3 ting poles and wires pursuant to sections one hundred and sixty-  
4 three and one hundred and sixty-four of this act, against the  
5 owner, occupant or company neglecting to perform their duty  
6 imposed by the sections above referred to.

7 Such county road engineer or supervisor shall serve person-  
8 ally or by mail, upon such owner, occupant or company, a written  
9 notice stating that, or the time and place specified therein, he or  
10 his agent will assess such costs against the owner, occupant or  
11 company neglecting to perform such duty. Such notice shall be  
12 served at least ten days previous to the time specified therein. If  
13 directed against a company, it may be served upon it at its prin-  
14 cipal place of business or upon any agent of the company within  
15 the district or county. At the time and place so specified he shall  
16 hear the parties interested and shall thereupon complete the as-  
17 sessment, stating therein the names of the owner, occupant or  
18 company, the amount assessed against him or it and shall re-  
19 turn such assessment to the county court of the county who shall  
20 cause the amount stated therein to be levied against the owner, oc-  
21 cupant or company, and any uncollected tax shall be a lien upon  
22 the property affected. The amount so levied shall be so collected  
23 as other taxes levied by such court, and shall be paid into the dis-  
24 trict road fund to be applied in re-imbursing the fund from which  
25 such cost was defrayed.

Sec. 165. The circuit court of the county in which is any  
 2 public road, or any portion thereof, taken for railroad purposes  
 3 by any other corporation than a street railway company, unless  
 4 such public road or portion thereof is in an incorporated city,  
 5 town or village which has the control of all its roads, streets and  
 6 alleys, or has been constructed since such railroad, may upon  
 7 petition of any party interested, served upon said company as any  
 8 other civil process, appoint a committee of three to inquire  
 9 whether such public road or portion thereof is unsafe for travel  
 10 by reason of such railroad, or whether an alteration of such public  
 11 road or the construction of a new public road is thereby rendered  
 12 necessary for the public safety and convenience; and such com-  
 13 mittee shall view the ground where such danger is complained  
 14 of and shall also give written notice both to the parties making  
 15 the complaint and to the parties complained of, or their agents  
 16 in the county, of an opportunity to be heard, not less than fifteen  
 17 days after the service upon such parties of a copy of such notice,  
 18 and after the hearing shall report thereon to said court which  
 19 may make any proper order in the premises; and if it shall order  
 20 any such alteration or construction, and said company neglect  
 21 or refuse to comply with such order, the county court of the  
 22 county shall alter or construct such public road and may recover  
 23 the expense thereof from said company.

Sec. 166. The county road engineer may, by an order in  
 2 writing authorize the owners of property adjoining the public  
 3-4 roads, at their own expense to locate and plant shade trees, fruit  
 5 trees or nut bearing trees suitable for shade along public roads.  
 6 Such trees not to be planted within less than fifteen feet of the  
 7 center of the road. Such trees shall be planted at least sixty  
 8 feet apart and according to plans and regulations sent out by the  
 9 state commissioner of public roads.

Sec. 167. The county road engineer shall have the full care  
 2 and control of all such public shade trees in his county, except  
 3 within the limits of an incorporated city, town or village, and  
 4 shall prosecute complaints for malicious injury to, or unlawful  
 5 acts concerning public shade trees.

Sec. 168. The county road engineer may authorize the  
 2 owner or occupant of lands to construct and maintain a water-  
 3 ing trough beside the public road to be supplied with fresh water,  
 4 the surface of which shall be at least two feet above the level of  
 5 the ground and easily accessible for horses with vehicles.

6 The county road engineer shall, annually give a written order  
 7 upon the county court of the county for two dollars to be paid  
 8 out of the road fund of the district, to such owner or occupant  
 9 for maintaining such watering trough and keeping the same sup-  
 10 plied with fresh water.

Sec. 169. The owner or tenant of lands fronting on the pub-  
 2 lic road shall construct and keep in repair, all approaches or drive-  
 3 ways to and from the public road, under the direction of the  
 4 county road engineer and it shall be unlawful for such owner or  
 5 tenant to fill up any ditch, or place any material of any kind or  
 6 character in any ditch so as in any manner to obstruct or inter-  
 7 fere with the purposes for which it was made.

Sec. 170. Every public road official who is now in office or  
 2 who may hereafter be in office by virtue of this chapter shall, at  
 3 the expiration of his term of office, pay over to his successor all  
 4 the money in his hands by virtue of his office, taking duplicate re-  
 5 ceipts therefor, one of which shall be filed with the clerk of the  
 6 county court. If he fail to do so he shall be liable to double the  
 7 amount in his hands, to be recovered by the county before any  
 8 justice or court having jurisdiction.

Sec. 171. No trolley or electrical railway shall be con-  
 2 structed upon the road bed of any of the public roads of this state,  
 3 except the rails of the same be of the flat or "L" shaped type  
 4 so that wagons and other vehicles may with safety travel thereon.

Sec. 172. Every railroad company heretofore or hereafter  
 2 incorporated which has by the building of their road, or other-  
 3 wise, obstructed, or shall hereafter obstruct any public road, shall,  
 4 as far as possible, put the road so obstructed in as good condition  
 5 at every crossing of the railroad as it was before the obstruction.

6 Every railroad company which has changed, or shall hereafter  
 7 change the grade or location of any public road, shall put the  
 8 same in as good repair and on as practical a grade as such public  
 9 road was before it change; and if said road, after construction,  
 10 becomes damaged or injured, or is caused to be damaged or in-  
 11 jured by reason of the construction of said railroad, the said rail-  
 12 road company shall be liable for all damages occasioned thereby,  
 13 and for all costs incurred in repairing and keeping in repair the  
 14 roads so damges or injured as aforesaid.

Sec. 173. Whoever shall obstruct or cause to be obstructed,  
 2 any walk or driveway to, or upon a bridge, or shall loiter upon  
 3 or about the entrance upon the same, or in any wise interfere with

4 the gatekeeper or passengers upon a bridge, shall, upon conviction,  
5 be fined ten dollars.

Sec. 174. If any person without authority from the super-  
2 intendent of said road, or person acting as agent thereof, shall re-  
3 move, injure or deface any of the milestones or posts, parapets,  
4 walks, culverts, bridges, masonry of any kind, gates or toll houses  
5 belonging to said road authorized by law to receive tolls, or shall  
6 turn any stream of water from its regular course toward or upon  
7 such road, so as to injure the same, or shall obstruct any of  
8 the gutters, drains or culverts of each road, or shall connect any  
9 public or private road with such road, without securing such road  
10 from injury by reason of such connection, or by the flow of water  
11 at the place of such connection, or shall place or leave on such  
12 road any earth, ashes, stone or other obstruction to the travel  
13 and use of such road, or shall so place or leave thereon any vehicle  
14 as to interfere with such travel, or shall fastlock or rough lock  
15 either of the wheels of any vehicles upon a part of the road not  
16 covered with ice, except the same rest on an iron shoe at least  
17 six inches wide, he shall be deemed guilty of a misdemeanor, and  
18 upon conviction thereof shall be fined not less than ten dollars  
19 nor more than fifty dollars.

Sec. 175. Obstructions within the meaning of this chapter  
2 shall include trees which have been cut or have fallen either on  
3 adjacent land or within the bounds of the public roads in such  
4 manner as to interfere with the travel therein; limbs of trees  
5 which have fallen within the public road or branches of trees  
6 overhanging the public road, so as to interfere with travel therein;  
7 land slides, carcasses of dead animals, lumber, wood or logs piled  
8 within the bounds of the public road, machines, vehicles, and im-  
9 pliments abandoned or habitually placed within the bounds of the  
10 public road, fences, buildings or other obstructions within the  
11 bounds of the public road, earth, stone or other material placed in  
12 any ditch or water-way along the public road; telegraph, telephone,  
13 trolley or other poles and wires connected therewith, erected on the  
14 public road in such a way as to interfere with the use thereof, or  
15 any other thing which will prevent the easy, safe and convenient  
16 use of such public road for public travel.

Sec. 176. Any person who shall kill a tree and leave it stand-  
2 ing within a distance of fifty feet of any public road, or without  
3 lawful authority, shall wilfully break down or destroy any bench

4 or log placed across a stream for the accommodation of travelers,  
 5 or destroy, injure, deface or alter any guideboard, milestone or  
 6 milepost, or obstruct or injure any road or any ditch made for the  
 7 purpose of draining a road, or injure any statue, monument, chair  
 8 or other seats or any lamp or lamp posts, constructed or being in  
 9 any public road, space or park, or any railing or fence erected for  
 10 public use or enclosing any such space or park, or any walk or  
 11 crossing for foot passengers or any sewer, curbing or paved gutter,  
 12 or throw or place, or cause to be thrown or placed upon any high-  
 13 way any tacks, nails, scrap metal, bottles, glass, crockery, wire or  
 14 other substance injurious to the feet of animals or the tires of  
 15 vehicles, shall be guilty of a misdemeanor and upon conviction be  
 16 fined not less than ten nor more than fifty dollars.

Sec. 177. Any person who shall drive or ride on or over a  
 2 bridge faster than a walk shall be fined five dollars. The county  
 3 court of any county may prescribe, by an order, what number of  
 4 stock of any kind may be driven over any bridge within their county  
 5 at any one time; but in every such case they shall cause a printed  
 6 copy of such order to be kept posted in a conspicuous place at every  
 7 bridge to which the same is applicable.

8 Every person violating any such order, posted as aforesaid,  
 9 or who shall tear down, alter or deface the same, except when or-  
 10 dered by such court to do so, shall be guilty of a misdemeanor, and  
 11 on conviction thereof, shall be fined not less than ten nor more than  
 12 fifty dollars.

Sec. 178. Any person who shall use on any public road not  
 2 covered with ice a vehicle with a chained wheel, unless the same  
 3 rests upon an iron shoe, at least six inches wide, shall be fined not  
 4 more than five dollars. Every person who shall draw upon the  
 5 public roads any log or stone with the end thereof dragging on  
 6 the ground so that the road shall be injured thereby and shall not  
 7 immediately put such road in as good repair as before, shall be  
 8 fined not more than five dollars, in excess of the cost of repair of  
 9 said road.

Sec. 179. Justices of the peace shall have concurrent juris-  
 2 diction with the circuit court to enforce the misdemeanor penalties  
 3 herein prescribed.

Sec. 180. The county court shall see that all its appointees  
 2 and employees, faithfully perform their respective duties, obey  
 3 its orders and expend all moneys and labor as ordered and directed  
 4 by the court and as required by this act.

Sec. 181. The county court shall carry out all promises, perform all duties, and discharge all obligations imposed upon it by any of the provisions of this act, the same as if each were specifically enjoined.

Sec. 182. The violation of any of the provisions of this act for which no punishment is hereinbefore specifically provided, or the committing of any act herein declared to be unlawful and which no punishment has been specifically provided, shall be deemed a misdemeanor, and any person found guilty thereof shall be punished by a fine of not less than five nor more than one hundred dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment, at the discretion of the court.

Sec. 183. Chapters forty-three, forty-three-a and forty-three-b, and sections forty-four and one hundred and four of chapter thirty-two of the code of one thousand nine hundred and thirteen, and chapter eight of the acts of the legislature of one thousand and nine hundred and fifteen, second extraordinary session, together with all other acts and parts of acts coming within the purview of this act and inconsistent herewith, are hereby repealed; *provided, however,* that this act shall not be construed to repeal or affect any local act or acts heretofore passed relating to roads, streets, alleys, bridges or public landings, and not herein specifically referred to, amended or re-enacted.



