

REVISED LAWS

MINNESOTA

1905

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to which they are commissioned, within which time they shall be examined as to their mental and physical fitness by a board consisting of the officers of the next higher grade. If any fail to pass such examination, their appointment shall cease to be effective. In case of a vacancy, the officer next below in rank shall succeed to the vacant position. ('99 c. 355 ss. 5, 6)

1153. Rules of United States navy to apply—Exceptions—Except as otherwise expressly provided, the organization and system of discipline of the naval reserve shall conform as nearly as may be to those of the United States navy; but the reserve shall be under the control of the governor, and all reports shall be made to him through the proper channels. The pay, subsistence and equipment of the naval reserve shall be such as may be provided by law. Whenever the navy department of the United States shall offer or be willing to supply means and opportunity for naval instruction and drill, the governor may co-operate for the accomplishment thereof; but while in the service of the United States, either actively or for purposes of naval instruction, officers and men of the reserve shall not be entitled to allowances or pay from the state. ('99 c. 355 ss. 7, 8)

05 1153 34

CHAPTER 13

ROADS

1154. Scope of chapter—Town and county roads—The provisions of this chapter shall be construed as relating solely to highways, cartways, and bridges thereon, not wholly included within the limits of a city, village, or borough. All such highways established by town boards shall be known as "town roads," and all others as "county roads." And the term "road," as used herein, shall extend to all public ways.

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COUNTY ROADS

1155. Altering, vacating, etc.—Damages—Record book—County roads shall be altered or vacated only by county boards. Damages resulting from establishing, altering, or vacating such roads shall be determined in the manner hereinafter provided, and shall be paid by the counties through which they pass. All proceedings in establishing, altering, or vacating such roads shall be recorded in a public record book, designated as the "Book of County Roads." (1844; '97 c. 199 s. 7)

27-119, 124, 6+457.

05 1155 116

1156. Roads in more than one county—Whenever a petition for the establishment, alteration, or vacation of a road running into or through two or more counties, or on, or partly on, the line dividing two or more counties, in the same or in two or more judicial districts, signed by twenty voters, freeholders of said counties, shall be presented to a judge of the district court of one of said districts, said judge may appoint three commissioners, who shall immediately proceed to establish, alter, or vacate such road as directed by the order of appointment: Provided, that no such road shall extend more than six miles outside the judicial district where the application is made, and then only for the purpose of connecting with some village, or some existing road. (1883; '01 c. 213 s. 1)

07 1156 173
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See 1905 c. 245

26-445, 4+1107; 81-443, 84+301; 84-308, 87+921.

1157. If in more than one district—Where such road, or the part thereof to be altered or vacated, runs into or through two or more judicial districts, the judge to whom the petition is presented shall act thereon in conjunction with a judge of each of the other districts; and, in such case, if they deem such road necessary or advisable, they shall appoint five commissioners from the several counties affected. (1883; '01 c. 213 s. 1)

See 1905 c. 245

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1158. Notice of presentation—Three weeks' published and posted notice of the presentation of such petition shall be given in each of the counties affected at least thirty days in advance thereof. Such notice shall contain a copy of the petition, the name of the judge to whom it will be presented, and the time and place of presentation; and proof of such notice shall be filed with the clerk before the hearing. (1884; '01 c. 213 s. 2)

26-445, 4+1107; 84-308, 87+921.

1159. Survey—Expenses—Damages—The commissioners shall appoint a surveyor, an axman, and two chainmen to survey such road, if so directed by the court. The damages to be paid to the persons over whose lands such road shall be established, altered, or vacated shall be determined by said commissioners; and such damages and all expenses incurred in the establishment, alteration, or vacation, including compensation for right of way, shall be paid by the counties through, into, or between which such road passes, each county paying its just proportion, as determined by the court. Said commissioners shall receive for their services three dollars each per day, the surveyor four dollars, and the axman and chainman two dollars; and all shall have eight cents for each mile of necessary travel. (1885; '01 c. 213 s. 3)

1160. Duties of surveyor—The surveyor shall follow the lines of the United States surveys where practicable. He shall make plats of the location of such road, in which the county lines and all stakes, trees, monuments, and distances shall appear, and file one for record with the register of deeds of each county in or through which said road is located, and shall receive two dollars for each plat so filed. (1886)

07 - 1161 - 262

1161. Report—Hearing—Said commissioners shall report their proceedings at the term of the district court held in the county where such proceedings were begun, next after the completion of their duties, and any person aggrieved by their action may then appear and be heard upon such report; and the court, upon such hearing, may consider the propriety of establishing, altering, or vacating such road, and may confirm or reject such report. The confirmation shall be final, and the order of confirmation, if a road be thereby established or altered, shall direct the time and manner of opening the same for public use. The clerk shall transmit, within thirty days after filing the same, a certified copy of the order to the clerk of each town through or into which such road passes, upon receipt of which the town board shall proceed in accordance with its terms. (1887; '01 c. 213 s. 5)

26-445, 4+1107; 84-308, 87+921.

1162. Appraisal of damages—Said commissioners shall appraise and fix the damages to be paid to each landowner by reason of the establishment, alteration, or vacation of such road over and across his lands, unless such right of way be voluntarily released to the county in which such land is situated; and in their report they shall set forth each appraisal made by them, and all releases of the right of way. (1888; '01 c. 213 s. 4)

1163. Trial by jury—Any person aggrieved by such appraisal may demand a jury trial to determine the amount of damages to which he is entitled for the right of way for such road over his land. Such demand shall be in writing, signed by the demandant, his agent or attorney, and filed with the clerk of the district court with whom the report is filed, within thirty days after the entry of the order of confirmation. A failure to file such demand shall be deemed a consent to the appraisal made. A trial so demanded shall be had at the next term held in the county in which the land is situated, unless continued for cause. If the land is situated in a county other than that in which the report is filed, the clerk with whom such report and demand are filed shall certify a copy of said demand, and of so much of the report as applies thereto, to the clerk of the trial county who shall file the same. The county board or county attorney of the county in which land so taken is situate may in like manner and with like effect demand a jury trial to determine the damages to be paid in any one or all of the cases within such county, and the like proceedings shall thereupon be had. (1889)

26-445, 4+1107; 81-443, 84+301.

1164. Payment of damages—When the damages to be paid to any one or more owners of land taken for such road shall have been finally determined, the county board of the county in which such land is situated shall provide for and pay the same as in the case of a county road: Provided that, when a road is established on a line between two counties, each county shall pay one-half of the damages. (1890)

1165. Roads in more than one town—Petition—Whenever twenty-four freeholders of any county containing one hundred or more voters, or twelve freeholders of any county containing less than one hundred voters, petition the county board for the establishment, alteration, or vacation of any road running into more than one town, or on the line between two towns, of said county, or along the shore of any lake wholly or partly in such county, or into a town and the unplatted part of any village therein, such road not being within a city; setting forth the beginning, course, and termination of the road, and the names of the owners of the land, if known, through which the same may pass, said petition shall be filed with the auditor, who shall forthwith lay the same before said board, if in session, and, if not, at their first session thereafter. If the petition relate to a road partly in a town and partly in the unplatted portion of a village, before it shall be acted upon by the county board it shall have attached thereto a certified copy of a resolution of the village council approving the same. (1838; '97 c. 199 s. 1; '03 c. 166)

38-441, 38+108; 68-297, 71+382; 80-40, 82+1099.

1166. Proceedings—On receiving such petition, if it appears reasonable on its face, the board shall order a hearing thereon, designating in such order the time and place, and shall appoint from its members a committee to examine the route of such road, and fix the time and place upon such route at which said committee will meet for that purpose. At least twenty days before the time fixed for such committee meeting, and not less than thirty days before the time of said hearing, the board shall cause posted notice of the time and place of such meeting and hearing to be given in each town affected, setting forth a copy of the petition. Proof of such notice shall be made by affidavit of the person posting the same. (1839; '97 c. 199 s. 2; '99 c. 202 s. 1)

39-240, 39+324.

1167. View and report—At the time and place designated, said committee shall meet and examine the road proposed to be established, altered, or vacated, and in such examination they may employ a surveyor. After such examination, they shall report to the board at its next session, setting forth, if a new road or an alteration be proposed, the courses and distances thereof, and recommending the granting or rejection of the petition. (1840; '97 c. 199 ss. 3, 4; '99 c. 202)

1168. Hearing—Damages—Determination—At the time and place designated, said board shall hear all parties interested, as to the necessity for, and as to the amount of damages to landowners by reason of, such establishment, alteration, or vacation, and may adjourn such hearing from time to time, if necessary. It shall determine the damages which will be sustained by the several owners through whose land such road may pass, assessing each parcel separately. If the board determine that the same is necessary, and of sufficient advantage to warrant the payment of the damages assessed, it shall declare the road established, altered, or vacated, in accordance with the petition. Otherwise it shall declare the petition dismissed. If the petition be granted, the board shall direct the auditor to notify the boards of the several towns affected thereby, who shall carry out its determination with respect to that part of the road within their respective towns. All damages resulting from the establishment, alteration, or vacation of any county road shall be paid by the county. (1843; '97 c. 199 ss. 5, 6; '99 c. 202 s. 3)

30-533, 16+408; 38-441, 442, 38+108; 66-358, 68+1062, 69+886; 68-297, 71+382.

1169. Assessment within three years—County boards, in cases of county roads, and town boards, in cases of town roads, if they deem it just, may assess and allow damages, on application, where roads have been previously

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established, and no damages have been assessed or paid, or release given; but no such damages shall be allowed unless application therefor is made within three years from the date of establishing such road. (1856; '97 c. 199 s. 13)

69-53, 71+819.

1170. Alteration—Old road open two years—Whenever a road shall be changed by order of a county or town board, the road as it existed before the change shall remain open to public travel for two years from the date of the order; but the board may vacate such road within said two years when it deems the new road to be fit for public travel at all times of the year. ('03 c. 96)

TOWN ROADS

1171. Establishing, altering, or vacating—Any town board may alter or vacate a town road or establish a new road in its town upon a petition of not less than eight voters of the town, who own real estate, or occupy real estate under the homestead or pre-emption laws or under contract with the state, within three miles of the road proposed to be established, altered, or vacated. Such petition shall contain a description of the road, and what part thereof is to be altered or vacated, and, if a new road, the names of the owners of the land, if known, over which such road is to pass, its point of beginning, general course, and termination. But town boards are required to establish a road at least two rods wide connecting with a public road any tract of land of ten acres or more owned by a person who has no access thereto except over land of others, upon the petition of such owner alone; the damages, if any, to be paid by him before such road is opened. (1806; '97 c. 199; '99 c. 227; '01 c. 204)

Petition jurisdictional (13-129, 122). Statutory procedure exclusive (42-391, 44+127). Board may depart from course of road stated in petition (46-302, 48+1111). Petition must state names of owners (55-223, 229, 56+820). Effect of petition including more than one proposed road. Oral evidence admissible to prove petition properly signed (69-53, 71+819). Description in petition of road to be vacated held insufficient (80-355, 83+352). Description of proposed road with reference to section line held sufficient (82-471, 85+169).

1172. Filing petition—Notice—The petition shall be filed with the town clerk, who shall forthwith present it to the town board. Said board, within thirty days thereafter, shall make an order describing as nearly as practicable the road proposed to be established, altered, or vacated, and the several tracts of land through which it passes, and fixing a time and place when and where it will meet and act upon said petition. The petitioners shall cause personal service of such order to be made upon each occupant of such land at least ten days before such meeting, and also cause ten days' posted notice thereof to be given. (1807, 1808)

Service of notice jurisdictional (55-223, 56+820). Fact of service and not proof thereof gives jurisdiction (87-7, 91+25; 80-40, 82+1099; 104+130). Service on occupants (35-141, 146, 27+500; 87-7, 91+25; 104+130). Notice held sufficient as to place of meeting (87-7, 91+25). Prior to revision petition had to be posted before action by board (92-57, 99+420). Waiver of notice by appearance (64-547, 67+662; 74-339, 77+229; 80-40, 82+1099). Party appearing cannot object to want of service on parties not appearing (80-40, 82+1099).

1173. Hearing and determination—At the time and place designated, the board shall meet, and on proof, by affidavit, of the giving of such notice, it shall examine the road proposed to be established, altered, or vacated, hear all parties interested, and determine whether it will grant or refuse the petition. If it be refused, the fact shall be noted on the back thereof. (1809)

Proof of service of notice (80-40, 45, 82+1099; 92-57, 60, 99+420; 104+130).

1174. Survey and order—If the petition be granted, the board, if it deem it necessary, shall cause a survey to be made. When the center of such road does not follow a section line, or some subdivisional line of a section, the surveyor shall note the distance to the point on any course at which such course will intersect a section line, and the distance of such point of intersection from the most convenient section, quarter section, or meander corner, as established by government survey; and the notes of such intersections, and a

description of the road so established, altered, or vacated, shall be incorporated in an order to be signed by the board. (1810, 1811)

36-290, 30+888; 50-538, 52+961; 69-53, 71+819.

1175. Damages and benefits—The damages sustained by reason of establishing, altering, or vacating any road may be ascertained by the agreement of the owners and the town board; and, unless such agreement is made, or the owners release, in writing, all claim to damages, the same shall be assessed and awarded before such road is opened, worked, or used. Every agreement and release shall be filed with the town clerk, and shall be final as to the matters therein contained. The board shall assess the damages of each claimant with whom it cannot agree, or who is unknown, specifying the amount awarded to each, and briefly describing each parcel. In so doing, it shall estimate the benefits which the new road or alteration will confer on the claimant, as well as the disadvantages therefrom. Persons lawfully occupying United States or state lands shall be considered, for all the purposes of this chapter, the owners thereof. (1821)

28-61, 9+30; 30-533, 16+408; 68-297; 71+382; 103+895.

1176. Award—Filing papers—Within five days after the date of the order establishing, altering, or vacating a road, the board shall make its award of damages, and file such order and award, together with all petitions, affidavits, and orders relating thereto, with the town clerk; but said clerk shall not record such order within the period of thirty days, nor, in case of an appeal, until a final decision is had thereon, and not then unless such order is confirmed. In case said board does not file such order within twenty days, it shall be deemed to have rejected the application. After the order is confirmed, the same and the award shall be by said town clerk recorded and sent to the county auditor, who shall file and preserve the same. He shall give his receipt therefor to the clerk, who shall file the same, and make an entry thereof in the record relating to such road. (1810)

1177. Order as evidence—The order establishing, altering, or vacating any road, or a certified copy of the record thereof, shall be received in all courts as competent evidence of the facts therein contained, and shall be prima facie evidence of the regularity of the proceedings prior to the making thereof, except upon the hearing of an appeal. (1820)

13-129, 122.

1178. Determination final for year—The determination of a town board refusing to establish, alter, or vacate any road shall be final, unless appealed from, for one year from the filing of its order; and no petition for establishing, altering, or vacating such road shall be again acted upon within the time aforesaid. In case its determination granting a petition is appealed from and reversed, it shall not within one year from the date of such determination entertain a petition having the same or a similar object. (1822)

1179. Roads on town line—Whenever any town board receives a petition similar to that required for establishing a town road, praying for the location, alteration, or vacation of a road on the line between that and an adjoining town, it shall immediately notify the town board of such adjoining town, and the town board of each of said towns, or a majority of each, acting together as one board, shall determine said petition. They shall be governed, as to notice, survey, hearing, award of damages, filing and recording papers, and in all other matters pertaining to their duties, by the regulations in this chapter provided for the government of town boards in establishing, altering, or vacating town roads. A copy of the proceedings shall be filed in the town clerk's office in each town. (1824)

39-65, 38+926; 80-40, 82+1099.

1180. Between town and city, etc.—Whenever such a petition is presented to the council of a city or village, and the town board of a town, praying for the location, alteration, or vacation of a road on the line between such town and the city or village, such board and council, or a majority of each, acting

together as one board, shall determine said petition in the same manner in all respects as provided in § 1179. (1829)

1181. Cartways—Any town board may establish a public cartway two rods wide on petition of not less than five voters, freeholders of such town. All their proceedings shall be the same as provided in this chapter for establishing town roads. The costs and expenses thereof, and the damages awarded for lands taken therefor, shall be paid by the town, as in the case of town roads, and a record of such cartway shall be filed with the town clerk: Provided that, when a road or cartway is established which will not be a continuous road from one highway to another, one-half of the damages to the land through which it passes shall be paid by the persons benefited thereby. (1832; '99 c. 152; '03 c. 242)

See 1905 c. 66

1182. Temporary cart or flume ways—Whenever two or more owners of pine lands desire a temporary public cartway, or right of way for a flume for transporting logs and lumber, they may petition the town board therefor, or, if the same be not in any organized town, the county board, and such board shall proceed in all respects as provided in the case of permanent cartways, except as herein otherwise provided; but the flumeway shall be subject, as far as the same may be applicable, to the provisions of law relating to sluice dams. (1833; '99 c. 160 s. 1)

1183. Expenses and damages—All expenses for establishing and all damages awarded for lands taken for such ways shall be paid by the petitioners. They shall be public ways, but no tax shall be levied for constructing, opening, or maintaining the same. The petitioners may enter upon, open, and work any such way, at any time after it is established, upon paying all such expenses and damages. Such damages may be paid into the town or county treasury, as the case may be, for the persons entitled thereto. No appeal from an award of damages shall suspend the right to work and use such way, if the petitioners, or any of them, file in the court to which such appeal is taken a bond, approved by the court, conditioned for the payment of all damages and costs which may finally be awarded in favor of the appellant. Such bond shall have the same effect where the petitioners appeal from an award of damages. (1835; '99 c. 160 s. 3)

1184. Unorganized towns—Notice—In case such proposed way does not lie within an organized town, the posted notices required may be given at the county seat, and the records required to be filed with the town clerk shall be filed with the county auditor. (1836; '99 c. 160 s. 4)

1185. Section-line roads—In towns which have not been organized, or in which no public roads have been established, the section lines shall be considered public roads, to be opened to the width of two rods on each side of such lines, upon the order of the county or town board, as the case may be, without any survey being had, unless it be necessary on account of variations caused by natural obstacles, subject, however, to the provisions of this chapter in relation to assessment of damages and the right of appeal. (1875)

82-471, 85+169; 84-254, 87+782.

MISCELLANEOUS PROVISIONS

1186. Removal of fences—Whenever a town or county board has established a road through inclosed, cultivated, or improved lands, under any of the provisions of this chapter, and its decision has not been appealed from, or, if appealed from, its order has been sustained, it shall give each owner or occupant of land through which such road is established twenty days' notice, in writing, to remove his fences, and, if he does not remove them within such time, it shall cause them to be removed, and the road to be opened and worked; but no inclosure shall be so opened between April 1 and October 1. (1823)

13-307, 282; 30-533, 536, 16+408.

1187. Appeals—Any person aggrieved by any determination of a county or town board, or of a town board and village council, either establishing, al-

tering, or discontinuing, or refusing to establish, alter, or discontinue, any public road, or by any award of damages made by such town or county board, may appeal therefrom, within thirty days after the filing of such determination or award, to the district court of the county, by filing with the clerk of such court a bond in the sum of not less than two hundred and fifty dollars, approved by the judge or by the court commissioner or auditor of such county, conditioned to pay all costs arising from such appeal in case the determination or award is sustained, and by service of a notice of appeal as provided in § 1188. In case the town or county board determines to establish, alter, or discontinue a road, or refuses so to do, any taxpayer or voter of the county through which such road, or any part thereof, passes, shall have the same right of appeal. (1860; '97 c. 199 s. 14)

Who is an "aggrieved" party (87-403, 92+404; 27-253, 6+802; 36-145, 30+454; 40-369, 41+1073). Filing bond before serving notice of appeal proper but not essential (33-515, 24+197). Filing bond within thirty days jurisdictional (35-468, 29+72). No provision for a return. Appeal held properly perfected (92-248, 99+895).

1188. Notice of appeal—The notice of appeal shall state briefly the grounds of appeal—whether it relates to the damages assessed, or to the establishing, altering, or discontinuing a road, or to the refusal so to do, and whether it is taken to reverse entirely the decision of the board, or some portion thereof, and, if the latter, what portion. It shall be signed by the party appealing, or his attorney, and be served upon the chairman of the town or county board, as the case may be. A copy thereof shall be filed with the auditor of the county and with the clerk of each town in which such road may be located. (1860; '97 c. 199 s. 14)

92-248, 99+895; 23-372; 33-515, 24+197; 37-445, 35+264; 71-42, 73+628; 78-31, 80+836.

1189. Proceedings on appeal—Such appeal shall be entered upon the calendar for trial at the next general term of the court occurring more than twenty days after the appeal is perfected. Except where the parties otherwise agree, the court or jury shall reassess the damages, unless such reassessment is rendered unnecessary by the determination of other matters involved; but its proceedings shall be based upon the same principles which the board was required to follow in its determination. Upon final judgment being rendered, the clerk shall file a certified transcript thereof, with the county auditor, if the appeal was taken from the action of the county board, and with the clerk of each town affected by such determination, if the appeal was from the action of a town board. If the determination appealed from be affirmed, or if the damages be reduced, the appellant shall pay costs and disbursements; but if such damages be increased, or such determination be altered, modified, or reversed otherwise than as to amount of damages, such costs and disbursements shall be paid by the town or county, as the case may be; the same to be taxed and allowed as in other cases, and judgment entered therefor in like manner. (1860; '97 c. 199 s. 14)

68-297, 71+382; 74-339, 77+229; 92-248, 99+895.

1190. After decision of appeal—When on appeal the determination of any town or county board is reversed or altered, the board from whose determination such appeal was taken shall proceed to establish, alter, or vacate such road, in conformity with the decision of such appeal; and the proceedings thereon shall be the same as if they had originally so determined to establish, alter, or vacate such road. The amount of damages finally determined and awarded, whether by the town or county board, or by the court or jury, together with the charges of officers and other persons necessarily employed in establishing, altering, or vacating any road, shall be audited by the board making the original assessment. Such board shall, in its report of such audit, specify the amount of damages and charges due each individual, and such amounts shall be certified to by the board so auditing the same, and, in case of town roads, deposited with the town clerk and paid by the town, and, in case of county roads, with the county auditor, and paid by the county. Before any town road is opened or used, an amount of town orders equal to the damages assessed to each individual shall be duly issued and deposited

with the town clerk for the use and benefit of said individual, and delivered to him on demand. The issuing and depositing of said orders shall be deemed to be sufficient security for the payment of said damages. (1861; '97 c. 199 s. 15)

58-96, 59+976.

1191. Road boundaries—Upon the request of any freeholder whose land is intersected by or adjoins a public road, the town board shall direct the county surveyor to survey such road, establish its boundaries, and make a plat thereof. All costs and expenses of such survey, except the fees of the town board, shall be paid by the applicant; and the surveyor shall establish the boundaries of such road, and make a plat thereof. (1812, 1813)

1192. Notice of survey—Plat—Notice of the time and place of making such survey shall be given by such town board to all persons, the boundaries of whose lands may be thereby affected, at least ten days before the time fixed for making the same, by personal service upon all owners and occupants of lands so affected, in the same manner as in this chapter provided in case of establishing town roads. The surveyor, within twenty days after such survey, shall file with the register of deeds a certified plat of such road, showing courses and distances, together with said notice and proof of its service. The register shall enter the same in the reception index of deeds, and, when so filed and entered, it shall be notice to all persons of the contents thereof. (1814-1816)

1193. Appeal—Plat as evidence—Any person aggrieved by such survey, plat, or boundary lines so established may appeal therefrom to the district court of the proper county, within thirty days from the time of filing such plat, by serving notice of such appeal on the chairman of the town board, and giving bond to such board, conditioned to pay all costs and disbursements in case the matter appealed from is affirmed; and such appeal shall be tried and determined by said court in the same manner and subject to the same rules as in this chapter provided for appeals from the determination of boards in establishing roads. Where no appeal is taken, and where, when taken, the decision as to the boundaries is affirmed, said plat shall be conclusive evidence that the boundaries so established are correct. (1817-1819)

1194. Width of roads and cartways—All roads established by town or county boards shall be not less than four rods wide, and may be six rods when all residents of lands adjoining such road shall petition for the same. All permanent cartways shall be two rods wide, and all temporary cartways not less than one nor more than two rods wide, except that, where a temporary cartway and flumeway are established together as one way, it shall not be less than two nor more than three rods wide. (1832, 1833; '99 c. 160)

84-314, 318, 87+919.

See 1905 c. 66

1195. Width of bridges—All bridges and culverts, and the approaches thereto, on any road, hereafter established or repaired, shall be at least fourteen feet wide; and when such bridge, in its construction or repair, shall be raised three feet or more above the level of the bank on either side of any river, stream, gully, or ravine, then such bridge and approaches shall be at least sixteen feet wide. (1851)

69-297, 72+123.

1196. Dedication for road—One or more owners may dedicate land for a road or cartway by making application therefor, in writing, to the town board, describing the land and the purpose of its dedication, and filing such application with the clerk. The clerk shall present the same to the town board, which, within ten days after such filing, may make an order declaring the land described to be a public road or cartway. When so declared, such land shall be deemed duly dedicated for the purpose expressed in the application, and no damages shall be assessed therefor. ('99 c. 221)

1197. Dedication by user—Whenever any road or portion thereof shall have been used and kept in repair and worked for at least six years continuously as a public highway, the same shall be deemed dedicated to the public,

and be and remain, until lawfully vacated, a public road, whether the same has ever been established as a public highway or not. (1832)

See 1905 c. 66

28-114, 9+578; 42-541, 44+1027; 42-391, 44+127; 48-271, 51+606; 51-381, 53+703; 53-68, 55+116; 51-386, 53+759; 56-428, 57+928; 62-198, 64+393; 64-459, 67+360; 77-539, 80+702; 81-140, 155, 83+527, 86+69; 83-44, 85+908; 84-254, 87+782; 93-1, 100+378; 94-403, 103+10.

1198. Use of railroad right of way—The continued use of any road by the public upon and parallel to the right of way of any railroad company shall not constitute such road a legal highway, or a charge upon the town in which the same is situated, and no rights shall inure to the public or any individual by such use. (1880)

1199. Established roads—Every road established by the public authorities, where no appeal has been taken within the time limited therefor, is hereby declared a public road to all intents and purposes, and all persons who have neglected to appeal shall be forever debarred from any further redress. (1862)

30-533, 16+408.

1200. Field notes, plat, etc.—Upon the written request of any town board, the auditor of the county in which such town is situated shall furnish a copy of the description, field notes, and plat, if any, of each territorial, state, and county road running into or through such town, on file or of record in his office. On receipt of such copy the board shall file it with the clerk, who shall record the same in the road record book of the town. Such record shall be prima facie evidence of the existence of such road as described therein. (1876, 1877)

1201. Seeding roads—Trees—Any person living upon or owning land fronting on a public road, a portion of which is not in actual use or needed for public travel, may plow, level, and seed the same to grass, except within one rod of the center. But he shall not by such work interfere with travel upon the road, or be entitled to compensation therefor, or acquire title to any portion of said road thereby. Such landowner may plant trees on the sides of such road, within six feet of the outside line thereof, with the written approval of the town board. (1865; '95 c. 59)

82-456, 85+215.

1202. Care of roads—County boards shall have general supervision of county roads, with power to appropriate such sums of money from the treasury as they may deem advisable for opening, vacating, resurveying, or improving the same, or for the building or repairing of bridges upon any public road in the county, not exceeding in any one year one thousand dollars to each five hundred thousand dollars of assessed valuation of real estate in such county. But additional sums may be appropriated and expended by them for such purposes by vote of the people, as hereinafter provided. The towns through which any county road may pass shall keep it in repair, the same as other roads therein. (1846; '99 c. 192 s. 1)

67-1, 5, 69+471; 69-297, 72+123; 83-65, 68, 85+830; 90-1, 95+456.

1203. Road and bridge fund—The county board of each county shall provide and set apart a fund for the construction and maintenance of roads and bridges in such county, to be known as the general road and bridge fund, upon which shall be drawn all warrants for the construction and maintenance of county and town roads and bridges in such county, as determined by the board thereof: Provided, that such board shall not appropriate in any one year more than three hundred dollars for the construction and maintenance of any one town road or bridge. (1847; '95 c. 287 s. 1; '03 c. 236 s. 1)

See 1905 cc. 80, 164

69-297, 304, 72+123; 90-1, 5, 95+456.

1204. Roads in adjoining counties—Any county board may appropriate and expend money for the construction and maintenance of roads in an adjoining county, when it deems it for the best interests of the public; but the

	1202	
07	-	19
07	-	173
07	-	361
	1202-1203	
09	-	208
103-M	-	4

	1203	
05	-	236
07	-	19
07	-	224
07	-	361
07	-	423

	1204	
07	-	173
07	-	399

amounts so appropriated shall not exceed five thousand dollars in any one year. (1853, 1854)

1205
05 - 69
07 - 39
07 - 404
07 - 423

1205. Tax levy—The county board, at its July meeting, may include in its annual tax levy an amount not exceeding one mill on the dollar of the taxable valuation, for the general road and bridge fund. Such taxes may be additional to the amount permitted by law to be levied for county purposes. In counties with a taxable valuation of less than one million dollars, the board may levy for such fund an amount not exceeding two mills on the dollar. ('95 c. 287 s. 2; '99 c. 211) See 1905 c. 195

1206. Town board may expend money on cartways—In any county having a population of two hundred thousand or more, any town board may expend, upon a legally established cartway, road labor, poll tax, road tax, or road or bridge money, the same as upon a road. ('03 c. 85)

1207. Tunnels under roads—Every owner of land on both sides of a public road may tunnel under such road to permit stock to pass from one side to the other, but he shall at his own expense so protect such tunnel as not to endanger the public in the use of such road. Before constructing such tunnel, the landowner shall obtain from the town board of the town in which it is located its approval of the place, the kind of tunnel, and the manner of its construction. If the tunnel be constructed without such approval, it shall be valid, unless within one year from its completion said town board shall cause the same to be abated. Bridges over tunnels shall be sixteen feet wide, properly protected with railings, and constructed of such materials as to be safe for travel; and if, within one year after the construction of any such bridge, the town board shall deem it or its appurtenances insecure, it may cause the same to be put in proper condition at the expense of the owner, and, whenever said board shall deem the tunnel out of repair, it may cause the necessary repairs to be made at the expense of such owner. In either case the reasonable cost of such repairs shall be certified by the town clerk to the county, and by him assessed upon the land in the same manner as road taxes. After a bridge has been constructed over such tunnel and used for one year, the town shall keep the same in repair. ('03 c. 146)

1208. Roads on mineral lands—Whenever a public road crosses mineral land which the owner or lessee desires to mine in such way as to remove the supports of the road, he may, at his own expense, change such road to other land, and make a new road thereon, suitable for public travel; and, if he cannot obtain such land upon reasonable terms, the county or town board, or the city or village council, as the case may be, upon the requisite petition, shall make such change under the provision of law for establishing roads. In case such board or council desire to establish a road over mineral lands, it may agree with the owner or lessee of the land that, in case he shall consent to its establishment, its location shall be changed upon his request. ('03 c. 302)

1209. Road declared abandoned—A public road in any county having a population of two hundred thousand or more, outside the limits of any city or village, which has been acquired or established in any manner other than by grant, deed, or condemnation, or of which there is no public record, which has not been used for public travel and on which no road tax has been expended for three years, shall be deemed vacated; and the title thereto shall at once revert in the original owner of the land, his successors or grantees, without any proceeding, except as follows: Any person having an interest in the land, and claiming such vacation, shall post at least six notices in conspicuous places in the town, including one at each end of the portion claimed to be vacated, and give thirty days' written notice to the town board, specifying in each such notice his claim, and a description of the road sufficient for identification, before he shall do any act to interfere with public travel; but, where such road has been inclosed for three years, no notice shall be required. If the town board, after notice, shall determine that such road has not been so vacated, it shall so notify the claimant in writing, within thirty days thereafter, who shall not inclose or interfere therewith until the question of its vacation

has been lawfully determined. Failure to serve such notice shall be deemed a waiver of all right to question such vacation. ('03 c. 75)

1210. Rollers and crushers—The county board of any county having a population of two hundred thousand or more may expend not exceeding six thousand dollars for purchasing and equipping a power road roller and a rock crusher, and may employ an engineer to operate said roller, and sufficient help to operate the crusher, and may annually expend necessary funds for their maintenance. Said roller, crusher, and equipment shall be used only upon county work. ('03 c. 292)

1211. Improvement of roads—Whenever it shall seem advisable, and for the general public good, to improve any established highway in any town by macadamizing the same, or by using any hard material, or in any other way making a permanent improvement thereon, at an expense greater than any amount the town or county is authorized to make appropriation for, the question of making such improvement may be submitted to a vote under the following conditions: Whenever fifteen or more voters of such town, who own real estate therein, or occupy the same under the homestead or pre-emption laws of the United States, or under contract from the state, shall file with the town clerk a petition asking for such improvement, and for a submission of the same to vote of the people, said clerk shall immediately call a meeting of the town board, who shall make and file an estimate in writing of the probable expense of the improvement. Said clerk shall submit the proposition to the voters of the town at their next annual meeting, or, if so requested in said petition, he shall call a special town meeting to vote upon it, giving notice thereof as provided by law. At such special town meeting the polls shall be open from 9 o'clock a. m. until 5 o'clock p. m. The ballot shall contain a statement of the question and the estimated cost, and the vote shall be "Yes" or "No." If sixty per cent. of the vote cast favors the proposition, the town board shall at once contract for the improvement. ('99 c. 227 s. 1)

1212. Bonds for such improvement—To provide funds for such improvement, the town board shall issue the bonds of the town to an amount not exceeding the estimated cost of the proposed improvement, and in no case exceeding, together with the outstanding indebtedness of the town, five per cent. of the assessed valuation thereof. The bonds so issued shall bear interest, evidenced by coupons, at a rate not exceeding six per cent. per annum, payable annually, and shall become due in ten equal instalments, the first of which shall become due and payable not more than eighteen months after date, and annually thereafter. Said bonds may be sold by the town board at not less than par, and the proceeds shall be disbursed by the town board, in the same manner that other funds are disbursed, for labor and materials for said improvement. Said bonds shall not be valid until registered with the county auditor, who on receiving satisfactory evidence that the provisions of law relating to their issue have been complied with, shall register the same in his office and indorse his certificate of registration on said bond; and shall thereafter in due manner and season levy a sufficient tax to pay interest and principal of said bonds as the same shall accrue, to be collected as other taxes are collected. ('99 c. 227 s. 2)

1213. Gravel beds and stone quarries—Whenever any county or town board, or common council of any village or city, shall deem it necessary for the purpose of building or repairing public roads or streets within its jurisdiction, it may procure, by purchase or condemnation, any plot of ground, not exceeding five acres, situated within three miles of the public road or street where the same is to be used, consisting mainly of gravel or stone suitable for road purposes, together with the right of way to the same of sufficient width to allow teams to pass, and on the most practicable route to the nearest public road. (1881)

1214. Drainage of roads—Whenever any town overseer of roads shall file with the town board his affidavit stating that a road passing through or into said town runs into or through a swamp, bog, or other low land, and that it is necessary or expedient that a ditch should be opened through private lands, the

probable length, width, and depth of such ditch, the termini and general course of the same, a description of the land over which said ditch will pass, the names of the owners thereof, if known, and that such road through such low ground cannot, without extraordinary expense, be made passable unless such ditch or ditches are opened, the chairman of said board shall prepare a notice, therein fixing a time, not less than six nor more than sixty days from the date thereof, when said board will meet at the place described in the affidavit and personally examine the premises. Such chairman shall cause said notice, together with the affidavit, to be filed in the office of the town clerk, who shall make true copies of such notice, and deliver them to said town overseer. Said overseer shall personally serve the same upon each of such landowners, if residents of the county, and upon the occupants of such lands where the owners are not residents of such county. Such ditch or ditches shall be laid out upon such lines as the owners of the land desire, when it is practicable and can be done without extra cost. (1907)

59-3, 6, 60+675.

1215. Notice, when posted—The overseer serving such notice shall make return thereof to the town clerk, stating the facts, and if it appears from such return that the owners of said lands, or any of them, are not residents of the county, and no occupant resides on the lands, then the clerk shall cause three weeks' published and posted notice to be given, which shall be deemed sufficient notice. (1908)

1216. Hearing and assessment—At the time specified in the notice, the town board shall examine the road and premises over which such ditch must pass, and hear any reasons for or against laying out the same, and determine upon the advisability of opening such ditch. If it determines that it is expedient and advisable to open such ditch, it shall assess the amount of damages which, in its judgment, will be just and equitable compensation to the owners for the right to open such ditch through their lands, including the right to enter upon such land whenever necessary for the purpose of cleaning out or repairing it. It shall also estimate the advantages, as well as the disadvantages, which will accrue to the owner of any land through which such ditch may run, by reason of such opening. But the damages may be determined by agreement between the owners and the town board, and every such agreement or release of claim shall be in writing, and filed with the town clerk. (1909)

1217. Order establishing ditch—Appeal—If on such hearing the board shall determine that the opening of such ditch is necessary and for the general public interest, it shall make an order establishing and opening the same, therein providing for the effectual drainage of such swamp, bog, or other low land, and file said order, together with a statement of all its doings in reference thereto, including the damages allowed, with the town clerk, who shall copy the same into a book to be kept by him especially for that purpose. If not appealed from within ten days from such filing, said determination and order shall be final, and the overseer shall proceed to construct such ditch under the direction of said board. An appeal may be taken from any such determination and order, by any party aggrieved, in like manner as in the case of appeals from orders of the town board establishing or refusing to establish a town road. (1910)

1218. Ditches kept open—After such ditch has been opened, the overseer shall keep the same in good condition and free from obstructions, and for that purpose he may enter upon the lands through which it passes whenever it becomes necessary. (1912)

1219. Obstructing ditches—Any person who shall dam up, obstruct, or in any way injure any such ditch shall be liable in a civil action for double the damages assessed for such injury by the court or jury trying the case, and shall also be guilty of a misdemeanor. (1913)

1220. Payment of damages—When the amount of damages to be paid to the owners of land taken for such ditch shall have been finally determined in

accordance with the provisions therefor contained in this chapter, the town board shall provide for and make payment in the manner provided by law for the payment of damages for lands taken for a public road. (1914)

1221. Town boards—General powers—The town board of each town shall have general care and supervision of all roads therein, and shall procure machinery, implements, tools, stone, gravel and other material required for the construction and repair thereof. It shall divide the town into as many road districts as it deems convenient by writing under its hands, to be filed with the town clerk and by him entered into the town records; such division to be made annually if deemed necessary, and in all cases to be made at least twenty days before the annual town meeting. It shall assess the road taxes each year as hereinafter provided, and perform such other duties with reference to roads as are prescribed by law. (1775)

49-106, 109, 51+814; 67-1, 5, 69+471.

1222. Report to town meeting—The town board shall render to the annual town meeting a report in writing, containing:

1. The amount of road taxes assessed, and the amount collected.
2. The labor assessed and performed, and the amount paid in money, including all sums received for commutation of labor assessments.
3. The amount received from fines and penalties, and all other sources not hereinbefore specified.
4. A statement of the improvements needed on roads, cartways, and bridges the ensuing year, with an estimate of their probable expense, beyond the labor to be assessed and the road taxes to be collected.

5. A statement of all expenses and damages occasioned by establishing, altering, or vacating roads, and of all sums expended for machinery, implements, tools, stone, gravel, and other materials, during the year, with an estimate of the amount required for the ensuing year. (1776)

1223. Employing engineer—Whenever a majority of the voters at any annual town meeting, or special meeting called for that purpose, shall so direct, the town board shall employ a competent civil engineer to superintend the grading of public roads, and, when an engineer other than the county surveyor shall be so employed, the county surveyor shall appoint him a deputy county surveyor, but shall not be responsible for his acts; and the deputy shall not act as such except in the town requesting his appointment, and there only in relation to public roads. Such engineer, under direction of the board, shall establish levels and grades for such roads as said board shall direct, keeping in view the effective drainage thereof. The overseer of roads shall cause all work on roads to be done in conformity with the grades so established, and under the supervision of said engineer, and, if he fails to do so, he shall not be entitled to any compensation as overseer. Said board and overseer of roads shall annually thereafter inspect, repair, and maintain grades as so established. The compensation of such engineer for the time he is actually employed shall not exceed that allowed by law to county surveyors. ('97 c. 320)

1224. Overseers of roads—The legal voters of each road district shall, at each annual town meeting, elect a qualified voter residing in such district to the office of overseer of roads. He shall hold his office for one year and his duties shall be to superintend the construction and repair of roads and bridges in such district, subject to the general direction and control of the town board. Any vacancy in the office of overseer shall be filled by said board, but no member of a town board shall be eligible to such office. (928, 1778)

See 1905 cc. 70, 151

1225. General duties—Each overseer shall warn all persons in his district liable to work on roads when and where their services will be required, and what tools or teams they are to bring; always having regard, in his assignment of labor, to the proximity of residence of the person to the place of labor. He shall collect all fines and commutation money, pay out the same under the direction of the town board, and pay over to the chairman of said board all

07 1224 - 458

09 1224 - 50

unexpended moneys as hereinafter provided. Within sixteen days after his appointment he shall make and file in the office of the town clerk, a list of all the inhabitants of his district liable to work on roads. He may require a team, cart, wagon, plow or scraper, with a pair of horses or oxen, and a man to manage them, from any one liable for labor, having the same. (1777)

09 1226 50
1226. Persons and property assessable—Every male inhabitant in each town, between the ages of twenty-one and fifty years, except paupers, insane persons, and others exempted by law, shall be assessed not less than one nor more than four days' road labor in each year. All real and personal property in the town liable to taxation shall be assessed for road purposes to such amount, payable in labor at the option of the taxpayer, as the board deems necessary, not exceeding one dollar on each one hundred dollars assessed value. (1783)

See 1905 c. 324

82-317, 84+1015.

1227. Assessment of tax—Within twenty days after the annual town meeting, the town board shall meet, and complete the list filed by the overseer with the town clerk, by placing opposite the name of each person thereon the number of days' road labor assessed to him. At the same meeting the board shall also assess the road tax on real and personal property, and make lists containing:

1. The name of each person assessed for personal property in each district, with the amount of such assessment set opposite thereto, in a separate column.

2. A description of all tracts of land in each district; the valuation of each, taken from the assessment roll of the preceding year, set opposite thereto; the name of the owner, if known; and the amount of road tax assessed thereon—all in separate columns.

Such lists, when completed, shall be subscribed by the members of the board and filed with the town clerk, who shall deliver a certified copy of each to the overseers of each district. Each overseer may add the names of persons omitted from such lists, and of new residents, who shall be rated in the same proportion as others on the list. (1783-1786)

See 1905 c. 324

09 1228 390
1228. Notice to work—Commutation—The overseer shall give at least three days' notice to all persons assessed for road labor, of the time and place when and where they shall appear for work, and with what teams or tools. Such persons may appear personally or by able-bodied substitutes, or they may elect to commute for the same or some part thereof. Commutation for labor shall be at the rate of one dollar and fifty cents per day, to be paid to the overseer within two days after notice to appear for work. Each able-bodied man shall be allowed for labor one dollar and fifty cents per day, and the like amount for the use of a team and a wagon, plow, or scraper. (1787)

1229. Special duties of overseer—Whenever any public road in a county where labor tax is assessed becomes obstructed or unsafe from any cause, the overseer shall call upon any persons liable to labor on the road to appear forthwith at a place designated, with such tools or teams as he may direct, and work upon such road; and for all labor so performed by any person in removing such obstruction, in excess of all road taxes assessed against him for that year, the overseer shall give a receipt stating the value of such labor, which receipt shall be received in payment of any road tax due from any person in that or any succeeding year. In counties where the road tax is payable in money, the overseer shall immediately repair such road, and render his account therefor to the town board. (1788; '01 c. 256)

1230. Overseer to return list—On or before October 1 in each year, each overseer shall deliver to the town clerk the list furnished by the town board, containing the real and personal property road tax, with his certificate thereon that all taxes in said list opposite which the word "Paid" is not written are due and unpaid, to the best of his knowledge and belief. (1799)

07 1231 285
1231. Delinquent road taxes—On or before November 1 in each year the clerk shall deliver to the county auditor a list containing a description of

each tract of land on which the road tax is delinquent, and the amount of such tax, together with the name of the owner of each tract, if known, and, if not known, a statement of that fact. Said list shall also contain a statement of all unpaid road taxes upon personal property, with the names of the owners of such property, as shown by the corrected list on file in his office, and he shall append thereto his certificate that the same is a correct list of all road taxes remaining delinquent for the year therein stated. The auditor shall extend such unpaid taxes upon the tax list of the current year. Such road taxes, when collected, shall be paid to the town treasurer upon the certificate of said auditor, and applied to the construction and repair of roads and bridges, upon the order of the town board. (1801; '99 c. 219)

1232. Overseer to account—Each overseer on the second Tuesday next preceding the time of holding the annual town meeting, shall render to the town board a report in writing containing:

1. The names of all persons assessed to perform road labor, with the number of days each has worked.

2. The names of all who have been fined, and the amount of each fine, and whether the same has been paid.

3. The names of all who have commuted, and the amount received for commutation.

4. The manner in which such fines and commutations have been expended.

5. An itemized account of all moneys paid out by him, and the balance remaining in his hands. He shall then pay over the balance to the town board, to be applied to improvements on roads and bridges. (1803, 1804)

1233. Compensation—Each overseer shall receive as full compensation for his services such amount as may be fixed by the town board, not exceeding two dollars per day for the time while actually employed in the performance of his duty as such overseer. (1798; '01 c. 256)

1234. Road labor, when—Each overseer shall cause at least three-fourths of the road labor assessed to be worked out or expended on the roads previous to August 1 in each year. (1802)

1235. Neglect by overseer—Every overseer who refuses or wilfully neglects to perform any duty required of him by law shall forfeit five dollars for each such offence, to be sued for and recovered by the town board in the name and on behalf of the town. (1780, 1800)

1236. Neglect by taxpayer—Every person assessed to perform labor on roads who neglects to appear and perform such labor when duly notified, and does not pay his commutation therefor, shall be guilty of a misdemeanor, and upon conviction shall be fined two dollars for every day's refusal or neglect. On refusal to furnish a team, man, wagon, or implements when required so to do, he shall be fined as follows: For wholly omitting to comply with such request, four dollars for each day; for omitting to furnish a cart, wagon, or plow, one dollar for each day; for omitting to furnish a pair of horses or oxen, one dollar and fifty cents for each day; for omitting to furnish a man to manage the team, one dollar and fifty cents for each day. (1793)

82-317, 84+1015.

1237. Complaint against delinquent—When no satisfactory excuse is rendered to the overseer for such neglect or refusal, he shall, within nine days after assessment and notice as hereinbefore provided, make complaint to a justice of the peace of that or an adjoining town, who shall forthwith issue a warrant, directed to the sheriff or any constable of the county, requiring him to arrest such delinquent and bring him before such justice to be dealt with according to law. (1794, 1795)

82-317, 84+1015.

1238. Fines—Excuse—All fines collected under the provisions of §§ 1236, 1237, shall be paid to the overseer, to be by him expended on the improvement of roads and bridges. The acceptance of any excuse for refusal or neglect shall not exempt the person excused from performing the required work, or commuting therefor. (1796, 1797)

1239. Certain counties—None of the foregoing provisions relating to assessments for labor on roads shall apply to counties having a population of one hundred and fifty thousand or more, but in all such counties all road taxes assessed by town boards shall be paid in money. The town board shall appoint three road overseers, who shall receive not to exceed two dollars and fifty cents per day for time actually employed. All road money shall be expended by the road overseers so appointed, under the direction of the town boards. ('01 c. 256; '03 c. 109)

See 1905 c. 151

1240. Road districts in counties of two hundred and twenty-five thousand—In all counties having a population of two hundred and twenty-five thousand the town boards shall divide all townships into four road districts, and at each annual town meeting the legal voters of each road district shall meet in separate convention and shall elect one road overseer who shall at the time of his election and during his term of office be a resident of the district, who shall receive a salary of two dollars and fifty cents per day for time he is actually employed. All road money shall be expended by the road overseers in the district where it is levied and collected, but under the direction of the town boards.

See 1905 c. 151

1241. Abolition of poll tax—Cash payment of road taxes—Additional assessment—The collection of poll tax may be abolished and all road taxes be required to be paid in cash in any town whenever a majority of the voters voting by ballot upon the question shall so determine. Such question shall not be voted upon unless a petition, signed by at least ten voting taxpayers of the town praying for the abolition of such poll tax and the payment in cash of all road taxes is filed with the clerk ten days before such town meeting, in which case the clerk shall specify in the notice of such meeting that such question will be voted upon. If such question is decided in the affirmative, all taxes thereafter assessed for the maintenance and repair of roads and bridges shall be paid in money and disbursed as other town taxes. After an annual town meeting has voted the assessment of any road tax, the board may further assess the property of said town not to exceed five mills on the dollar, on the last assessed valuation thereof, and if they so assess they shall certify the same to the auditor for extension and collection, and before the same is collected they may pledge the credit of the town by issuing town orders, not exceeding the taxes so assessed, to the expense of road and bridge work. ('03 c. 380)

1242. Side roads—The county board of each county may establish side roads and ford crossings adjacent to or near any bridge over a stream in such county, when such bridge was built at an expense of not less than one thousand dollars, and forms part of a public road. Such side road shall intersect such road at the nearest practicable point. It shall not be less than two nor more than four rods wide. In all other respects the same proceedings shall be had as are required by law for establishing county roads. (1915)

1243. Cattle on bridges—The county board shall cause a notice to be posted at each end of all bridges in the county, of fifty feet or more span, stating the number of cattle, horses, or other animals that may be driven upon said bridge at one time. Every person driving or having charge of any drove of cattle, horses, or other animals, who shall drive, or permit to enter, upon such bridge, at any one time, more of said animals than specified in such notice, shall be guilty of a misdemeanor. (1916, 1917)

1244. Bridges over Minnesota river—Any corporation organized for the purpose, or any counties, towns, cities or villages interested, may jointly or separately erect and operate a fixed span bridge over the Minnesota river at any suitable point, down to and including the borough of Le Sueur. All such bridges erected over said river below Le Sueur shall be provided with a suitable draw, with an opening of not less than eighty feet, which, on reasonable signal or notice, shall be opened to allow the passage of vessels. Before any such bridge is erected, the location and plan thereof shall be approved by the governor. (1918, 1919; '01 c. 243; '03 c. 160)

1245. Rates of toll—Any corporation maintaining a bridge over said river may charge and receive the following rates of toll from all persons using the same: For each foot passenger or bicycle rider, five cents; for each hog, sheep, or calf, two cents; for each head of cattle, five cents; for each vehicle or sleigh drawn by one animal, twenty cents; for each additional animal used, five cents; for each automobile, twenty cents; for any other vehicle or animal, a reasonable rate of toll. Such rates of toll may be changed by law whenever the net annual income from such bridge shall exceed a reasonable percentage of the cost thereof. (1920, 1921)

1246. Ferries—License—No person shall establish, operate, or maintain, upon any water in this state, any ferry upon which to carry or transport persons or property for hire, without first obtaining a license therefor from the county board. (1929)

1247. Notice of application—Any person intending to apply for a ferry license shall give two weeks' posted notice of such intention, stating therein, as near as possible, the points between which he proposes to operate such ferry, and shall file such notice, with proof of posting, with the auditor of the county in which the ferry is situated, at least ten days prior to the presentation of his application; but no notice of an application for a renewal of a license shall be required. (1927)

1248. License—Requisites—On proof of the posting and filing of such notice, and on being satisfied that the applicant is a suitable person, that a ferry is necessary at the point specified, and that such point is not within half a mile of any other established ferry, the county may grant the license applied for, for a period specified therein, not exceeding ten years. All licenses so granted shall be sealed with the seal of the board, signed by its chairman, and attested by the auditor. (1922, 1924, 1932)

1249. Licensee to give bond—Before receiving such license, the applicant shall give bond to the county, to be approved by such board, in a penal sum of not less than five hundred dollars, conditioned that he will keep the ferry in proper condition for use, and attend the same at all times fixed by law for operating it; that he will neither demand nor take illegal tolls; and that he will faithfully perform all other duties enjoined upon him by law. Such bond shall be filed with the auditor. (1931)

1250. License fee—The county board shall fix ferry licenses at such sums as it may deem reasonable, but not less than five dollars nor more than two hundred dollars per annum. The licensee shall pay the license fee yearly in advance to the county treasurer, taking duplicate receipts therefor, one of which he shall file with the auditor within ten days from its date. All ferries shall be deemed situated in the county where the ferry house is situated, and the license fee shall be required only in such county. (1925, 1930)

1251. Ferries between counties—Where a stream over which a ferry license is applied for runs between two counties, the county board of each county shall have full jurisdiction in the premises, and, when either board has exercised such jurisdiction and established a ferry, no other board shall exercise any jurisdiction over the same. When the stream forms a part of the boundary line of the state, the county board of the county in this state bordering on such stream may grant a license and exercise all the powers herein conferred, so far as the same do not conflict with the rights of other states. And when application shall be made in two counties separated by a stream for a ferry license over such stream at the same point, the board of the county in which notice of application was first filed with the county auditor shall have sole jurisdiction in the matter. (1923)

1252. Equipment and attendance—Every licensed ferryman shall provide and keep sufficient and safe boats in good repair for the conveyance of persons and property, and a sufficient number of hands to manage them, and shall give proper attendance from daylight until dark. He shall also attend at any hour of the night, when called upon, for the purpose of conveying the United States mail, or any person desiring, with or without a team

or vehicle, to cross on said ferry. But when the stream is impassable by reason of high water, wind, storm, or drift ice, or when it is frozen over, no damage shall be recovered for failure or refusal to carry persons or property across such stream. (1926)

1253. Tolls—Penalties—The county board shall establish at each ferry the tolls for passengers, horses, carriages, and other things there transported. Every ferryman who neglects to keep such boats and give such attendance as provided for in this chapter, or demands or receives more than the amount designated by said county board, shall forfeit twenty dollars, and be liable for all damages caused thereby, either or both of which may be recovered by an action on his bond. (1928)

1254. Ferries in cities—The provisions of this chapter relating to ferries shall not apply to any stream so far as the same is bordered by any city or village. The council of such city or village shall have the sole right to grant ferry licenses across such stream as far as the same borders thereon, and to make and enforce such regulations for such ferries, ferry licenses, and fees as it may deem proper, except that such licenses shall not be granted for a longer term than ten years. But this section shall not be so construed as to abridge the rights of the county board in any county other than the one in which such city or village is situated. Every ferryman licensed by a council hereunder shall have the same rights, and be subject to the same liabilities as those licensed by county boards. (1933)

1255. Watering troughs, wells, etc.—Any person who shall construct and maintain in good condition a watering trough beside a public road or street, and sufficiently above the level of the ground to be easily accessible for horses, being licensed so to do by the governing body of the town, city, or village in which it is situated, shall be allowed by such municipality five dollars out of his road tax for each year. And any person so authorized who shall maintain in good condition in any such municipality a well or spring beside a public road or street, and provide therefor a suitable pail or bucket for public use, shall be allowed by such municipality three dollars out of his road tax for each year. (1904, 1905)

1256. Governing body to fix location and number—Any person desiring to furnish such watering trough, well, or spring shall make application therefor to the governing body of the municipality or town, which shall determine where such trough, well, or spring shall be located, and the number entitled to such allowance. (1906)

1257. Hedge—Fence in road—A person owning property along the line of a road or street sixty feet or more wide, who shall plant a close hedge upon such property, may erect a fence upon such road or street not more than six feet from the line thereof, for the purpose of protecting the hedge, and may maintain such fence for five years after the hedge is planted. (7858)

LAW OF THE ROAD

1258. Vehicles meeting—Turn to right—When persons meet on any road or bridge, traveling with vehicles, each shall seasonably drive to the right of the middle of the traveled part of such road or bridge, so that the vehicles may pass without interference. (1945)

58-555, 557, 60+545.

1259. Passing—Turn to left—The driver of any vehicle passing another vehicle traveling in the same direction shall drive to the left of the middle of the traveled part of the road, and, if such road be of sufficient width to permit such passing, the driver of the leading vehicle shall not obstruct the same. (1946)

74-436, 437, 77+238.

1260. Intemperate drivers—No person owning or having control of a coach or vehicle traveling upon any road for the conveyance of passengers

shall employ any person to drive the same who is addicted to the excessive use of intoxicating liquors. (1947)

1261. Penalties—Every person who violates any provision of §§ 1258–1260 shall forfeit for each offence such sum as the court shall fix, not exceeding fifty dollars, and shall also be liable to any party injured for all damages sustained by reason of such offence: Provided, that complaint for such violation shall be made within three months, and every action for damages shall be begun within one year, thereafter. (1948)

1262. Leaving horses unfastened—No driver of any vehicle used for the conveyance of passengers shall leave the horses attached thereto, while any passenger remains in or upon the same, without securely fastening such horses or leaving some suitable person in charge thereof; and, if any driver shall violate the provisions of this section, he and his employees, on prosecution begun within three months thereafter, shall jointly and severally forfeit such sum as the court may fix, not exceeding fifty dollars. (1949)

1263. Owners jointly liable—The owners of every vehicle traveling upon any road for the conveyance of passengers for hire shall be jointly and severally liable to the party injured for all injuries caused by any person employed by them as a driver while driving such vehicle, whether the act causing such injury is wilful, negligent, or otherwise. (1950)

1264. Traction engine—Bridges—Every owner, engineer, or other person in charge of a traction engine, before taking such engine across a culvert or bridge, shall place extra planking thereon for the protection of the same, and neglect to do so shall render him liable for one-half the expense of repairing the same: Provided, the amount so paid by him shall not exceed fifty dollars. Such sum may be recovered in a civil action against the owner. ('95 c. 151)

1265. Traction engine—Whistle, etc.—Every engineer, owner, or other person in charge of a traction engine propelled along a road, who shall blow or permit the whistle of such engine to be blown within five hundred feet of a team passing on such highway, if the team can be seen from the position of such engine, or who shall not stop the same at least one hundred feet before meeting a horse or team traveling on such road, unless on a side hill where such stoppage might expose the flues of the engine and cause an explosion, and not start the same until such horse or team shall have passed the engine, shall be guilty of a misdemeanor. ('95 c. 151)

BICYCLE PATHS

1266. Side-path commissioners—The county board of any county having more than fifty thousand population, upon petition of at least two hundred resident wheelmen, shall appoint five such wheelmen as a board of side-path commissioners for such county; giving cities and villages representation, as near as practicable, in proportion to the number of wheelmen therein. The terms of office of such commissioners on their first appointment shall be one, two, three, four, and five years from January 1 of the year of appointment, and afterwards each shall be appointed for five years. If any person so appointed shall fail to file his acceptance with the county auditor within ten days after notice of appointment, it shall be deemed a refusal to serve. Such commissioners shall serve without compensation, except for actual and necessary disbursements, for which they shall be paid out of the side-path fund. Vacancies shall be filled by the county board for the unexpired term. ('01 c. 126 s. 1)

1267. Power of said commissioners—Such commissioners may construct and maintain side paths along any public road or street in such county, with the written approval of the county board. Before constructing any side path along any road outside the limits of cities and villages, they shall file such approval with the county auditor; and, before constructing such path along the streets of any city or village, they shall obtain the approval of the common council thereof. Such paths shall be not less than five nor more

than ten feet wide, and be constructed on the side and within the limits of such road or street, and paid for out of the side-path fund, after the same has been duly authorized by vote of said commissioners. ('01 c. 126 s. 2)

1268. Bicycle license—At their first meeting, or within a reasonable time thereafter, and in each succeeding year, said commissioners shall adopt a form of license, to be designated as a bicycle path license, which shall be consecutively numbered. Any person, on payment of a fee fixed by such commissioners, of not less than fifty cents nor more than one dollar, shall be entitled to a license for one year, which shall be good anywhere in the state. No person shall ride a bicycle on any such path in a county where such commission exists unless he shall have his license attached to the left side of the front fork of the wheel; nor shall any person counterfeit any such license, or make, sell, give away, or have on his wheel any license not regularly issued pursuant to law. A license attached to a wheel in any other manner, and any imitation of the name of the county, or the number thereof, shall render the license invalid. ('01 c. 126 s. 3)

1269. Side-path fund—Annual report—All license fees shall be deposited on or before the first day of each month with the county treasurer, by whom they shall be credited to the side-path fund, upon which such commissioners may draw warrants signed by a majority thereof; but no warrant shall be drawn in excess of the amount on deposit, nor shall any contract or purchase be made in excess of the amount of such fund at the time of making the same, and all bills shall be verified before payment. Such commissioners shall annually on or before December 31 make a report containing a detailed financial statement for such year, and file the same, together with all vouchers for expenditures, with the county auditor, where they shall be kept for inspection. ('01 c. 126 s. 4)

1270. Side-path funds—How used—Such commissioners shall use the money collected for licenses only for repairing existing paths, constructing new ones, and the authorized expenses and disbursements necessarily incurred. ('01 c. 126 s. 5)

1271. Protection of paths—No person shall wilfully lead, stand, hitch, ride, or drive any animal upon any side path, except in passing to and from abutting lands, nor wilfully obstruct any such path or any portion thereof, nor throw, place, or deposit, or cause to be thrown, placed, or deposited, upon any such path any glass, bottle, tack, nail, iron, or other thing calculated to injure bicycle tires. All such paths now existing or which shall hereafter be constructed shall be under the control and direction of such commissioners. ('01 c. 126 ss. 6-8)

78-387, 81+202.

1272. Reckless riding a misdemeanor—Every person who shall ride a bicycle on any side path in a dangerous or reckless manner, or in violation of any provision of law, shall be guilty of a misdemeanor. ('01 c. 126 s. 9)

MOTOR VEHICLES

1273. License—Fee—Before any automobile, motor vehicle, or motor cycle shall be used upon any road or street, its owner shall procure a license therefor from the clerk of the municipality or town in which he resides. The fee for such license shall be two dollars, one-half of which shall be retained by the clerk for his services, and one-half paid into the treasury of the municipality. ('03 c. 356 s. 5)

1274. Licenses to be recorded, and number painted on vehicle—Every such clerk shall keep a record of all licenses issued by him, numbering the same consecutively. The number of the license shall be indorsed thereon, and the person to whom the same is issued shall cause such number to be painted in a conspicuous place on the back of such vehicle, in plain figures, not less than four and one-half inches high, and of proportionate width. ('03 c. 356 s. 5)

1275. **Speed**—No such vehicle shall be propelled or operated on any street or road within the settled portion of any city or village at a rate of speed exceeding eight miles an hour, nor over any crossing in a city or village at a rate exceeding four miles an hour when any person is using the crossing, nor on any other road or street at a rate exceeding twenty-five miles an hour. ('03 c. 356 s. 1)

1276. **Muffler, bell, etc.**—Every such vehicle using gasoline as motive power shall use a muffler, which shall not be disconnected while within any city or village, and shall also be provided with a bell or horn, which shall be sounded whenever there is apparent danger of collision or accident; and, if operated in the night-time, such vehicle shall have a suitable light conspicuously placed thereon. ('03 c. 356 ss. 3, 4)

1277. **Operator of vehicle to stop, when**—The operator of any such vehicle propelled upon any public road shall stop the same on signal from any person driving horses or mules on such road until such horses or mules have passed. ('03 c. 356 s. 2)

1278. **Violation—Penalty**—Any person who shall violate any of the provisions of §§ 1274–1277 shall be guilty of a misdemeanor. ('03 c. 356 s. 7)

1277
102-M - 377
113-NW 904

CHAPTER 14

EDUCATION

DISTRICT SCHOOLS

1279. **Public schools—Tuition free**—All schools supported in whole or in part by state school funds shall be styled public schools, and admission to and tuition therein shall be free to all persons between the ages of five and twenty-one years, in the district in which such pupil resides: Provided, that the school board of any district may, by resolution, exclude all children under six years of age. (3648, 3697)

Finding as to residence sustained (91-268, 97+885).

1280. **School districts**—For school purposes the state is divided into common, special, and independent school districts, each of which shall be a public corporation. Common school districts shall be numbered consecutively in each county, and each shall be known as school district No..... ofcounty. A district, when situate in two or more counties, shall be known as joint school district No..... of..... and.....counties. Independent school districts shall be known by the names or numbers given them at their organization. (3648)

Corporations, only for specified objects (11-31, 12; 17-412, 391; 49-106, 51+814).

1281. **Formation of districts**—A majority of the freeholders qualified to vote for school officers residing upon any territory not less than four sections in extent, and in which reside not less than twelve children of school age, whether or not such territory be in whole or in part included in any existing common, independent, or special school district, may petition the county board of the proper county to make such territory a school district, common or independent. (3659; '03 cc. 220, 277)

42-357, 44+120; 89-351, 94+886.

1282. **Petition**—The petition shall contain:

1. A correct description of the territory to be included in such proposed district.
2. The number of persons residing therein.
3. The names and ages of all children of school age residing therein, and the existing district in which each such child lives.

1279-1484
09 - - 239

1280-1281
09 - - 500

1281
05 - - 183
07 - - 76

1282
05 - - 183
07 - - 110