1936 Supplement

To

Mason's Minnesota Statutes

1927

(1927 to 1936)

(Superseding Mason's 1931 and 1934 Supplements)

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.

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(e) The corporation created under Section 13 of this act may designate one or more state or national banks as depositories of its funds, and may provide, upon such conditions as the corporation may determine, that the treasurer of the corporation shall be exempt from personal liability for loss of funds deposited in any such depository due to the insolvency or other acts or omissions of such depository. (Added as §14, Laws 1931, c. 398, by Act Apr. 20, 1933, c. 332, §8; Mar. 11, 1935, c. 40, §2.)

WAR RECORDS

2535–1. Minnesota War Records Commission discontinued.

Op. Atty. Gen. (523g-17), May 2, 1934; note under § 4326(g)(1).

CHAPTER 13

Roads

GENERAL HIGHWAY ACT

2542. Scope of act.

U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.
175M583, 222NW385; note under §2554.
A village approving plans of construction by state highway commissioner of a trunk highway upon a village street and authorizing a change of grade according to such plan, makes itself liable for the damage caused abutting property by such change, in the absence of assumption of such liability by the state. 178M144, 226 NW398.
Followed in Foss v. M., 178M430, 227NW357.
State cannot reimburse county out of trunk highway fund amount expended for right of way for new road built by county and later designated and taken over by state as trunk highway. State v. Babcock, 186M132, 242NW474. See Dun. Dig. 8452.
There is no statutory provision by which one town can compel another to maintain its half of a town line road where there has been no agreement for the division of the road for purpose of maintenance, the only remedy being application to the county board under §2607. Op. Atty. Gen., June 27, 1930.
3. "County roads."
Order that portion of road within county should be set aside by the county for "opening and maintenance" simply had the effect of imposing upon the county the duty of opening the road, and upon the towns through which the road passes the duty of maintaining same. Op. Atty. Gen., Mar. 27, 1931.
4. "Town roads."
Petitioner for whose primary benefit a cartway is established cannot treat it as a strictly private way, and cannot keep the public off it. Op. Atty. Gen., June 10, 1931.
Town board has control over all town roads, including bridge culverts. Op. Atty. Gen., June 13, 1933.

2543. "Road" and "Highway" defined.

Includes part of interstate bridge. Op. Atty. Gen., Apr. 11, 1929.
Op. Atty. Gen., July 19, 1930; note under §2552.
Where road extending into two counties over bridge across river, forming boundary between counties, was designated as a state aid road by both counties, each county is chargeable for the maintenance of that portion of the bridge within its territorial limits and no more, though county may expend money, if it desires, in the maintenance of bridge or road in another county. Op. Atty. Gen., Aug. 18, 1930.
Cartways may not be established between two parcels of land where it would not connect with a public road. Op. Atty. Gen. (377b-1), Sept. 28, 1934.

2544. Width of Roads.

Land taken for a public cartway is taken for a public purpose although the one to whose land the cartway extends has other access to a public highway. 175M395, 221NW527.
Judicial road on county line remained open for entire width, though only part of width was constructed. Op. Atty. Gen., June 21, 1933.

2546. Railroad bridge over highway.

Negligence of railroad in failing to comply with this statute held not the proximate cause of death of automobilist. 171M486, 214NW763.
A railroad company owes common-law duty to provide overhead or underground crossing when reasonably necessary for public travel upon a highway. Murphy v. G., 189M109, 248NW715. See Dun. Dig. 8120.
A railroad company which constructs an overhead bridge in accordance with statute, with a center pier which is approved by highway commissioner, does not have duty of caring for a reflector placed upon said pier to warn a traveler on highway. Murphy v. G., 189 M109, 248NW715. See Dun. Dig. 8120, 8121.
Whether driver of automobile striking middle pier of railroad bridge on which there was a defective reflector was guilty of contributory negligence, held for jury. Murphy v. G., 189M109, 248NW715. See Dun. Dig. 8169.
Proximate cause of accident was skidding of car and not unlawful position of pier, following Lind v. Great Northern R. Co., 171Minn486, 214NW763. Lundstrom v. G., 294M624, 261NW465. See Dun. Dig. 8121.

2549. Trunk highways.

A village approving plans of construction by state highway commissioner of a trunk highway upon a village street and authorizing a change of grade according to such plan, makes itself liable for the damage caused abutting property by such change, in the absence of assumption of such liability by the state. 178M144, 226 NW398.
Followed in Foss v. M., 178M430, 227NW357.
State's ownership of easement for highway purposes is a sufficient title to support an application for an injunction. State v. Nelson, 189M87, 248NW751. See Dun. Dig. 4155, 4157, 4180.
Village council has no legal authority or power to grant privilege to individuals of installing gasoline curb pump on state trunk highway, and a village would be liable for any injuries caused by such an obstruction to one who was in exercise of due care. Op. Atty. Gen. (396g-9), Jan. 8, 1935.

2551. County roads.

A town board may not appropriate or expend moneys for the maintenance of a county aid road. Op. Atty. Gen., Aug. 21, 1929.
It is duty of town to construct and maintain approaches to bridge constructed under §2606. Op. Atty. Gen., Aug. 21, 1929.
County is not liable for injuries arising from collision of automobile with tree which blew down in the highway, or for the negligence of a snowplow driver in backing into an automobile. Op. Atty. Gen., Feb. 6, 1930.
Order that portion of road within county should be set aside by the county for "opening and maintenance" simply had the effect of imposing upon the county the duty of opening the road, and upon the towns through which the road passes the duty of maintaining same. Op. Atty. Gen., Mar. 27, 1931.
If county board contemplates construction of a gravel road, such road will not be considered as having been constructed until gravel has been applied, but county need not gravel where petition is only for laying out of a road. Op. Atty. Gen., Aug. 11, 1932.
County in maintaining highways is exercising a governmental function and is not liable to private parties for negligence of employees occurring during course of such work. Op. Atty. Gen. (125a-29), May 9, 1934.
Where County board established a road in a town in 1908 and township did a little grading but never completed road, it is now the duty of the county and not the township to complete such road, notwithstanding Laws 1913, c. 235, and R. L. 1905, §1168. Op. Atty. Gen. (380a-1), Sept. 28, 1934.
County is not liable for injuries to truck driver sustained on account of defects in county bridge. Op. Atty. Gen. (107b-6), Nov. 14, 1934.
County is not liable for operator of county road graders working upon roads without lights and on left side of road. Op. Atty. Gen. (107b-4), Dec. 3, 1934.

2552. Town roads.

U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.
Op. Atty. Gen., May 23, 1929; note under §2569.
There is no statutory provision by which one town can compel another to maintain its half of a town line road where there has been no agreement for the division of the road for purpose of maintenance, the only remedy being application to the county board under §2607. Op. Atty. Gen., June 27, 1930.
If the town board, acting in good faith, replaces a culvert or bridge 14 ft. wide by a cement culvert 48 inches in diameter, the members of the board are not personally liable for injury to surrounding property by insufficiency of the drainage, but the town may be liable in damages for any injury resulting. Op. Atty. Gen., July 19, 1930.
Where county board advertised for bids for graveling a highway as a county road, when it was in fact a town road, it was without authority to proceed with the contract, and was not liable to the contractor for refusing to execute the contract. Op. Atty. Gen., Sept. 8, 1930.
Where county board has designated a county aid road and electors of town have voted the amount required of them, county board cannot thereafter withdraw. Op. Atty. Gen., May 11, 1931.
County constructing a county aid road in a township was liable for death of farmer in adjoining field caused

by blasting stump, if its officers or agents were negligent. Op. Atty. Gen., Sept. 26, 1932.
Op. Atty. Gen., Sept. 26, 1932.
Side road in abandoned village is a town or county road and town may remove fence erected thereon. Op. Atty. Gen., Apr. 28, 1933.
Town board has control over all town roads including bridge culverts. Op. Atty. Gen., June 13, 1933.
Town owes no duty to improve and maintain platted highways in an unincorporated community until the same have been accepted. Op. Atty. Gen., Mar. 1, 1934.

2552-1. Town clerks to report miles of highway.—On or before June first, 1931, and on or before June first of every odd-numbered year thereafter, the clerk of each township shall file with the county auditor of his county a verified written statement showing the number of miles of public highways within the township under the supervision and jurisdiction of the town board. (Act Apr. 9, 1931, c. 131, §1.)

2552-2. County auditor to report to commissioner of highways.—On or before September first, 1931, and on or before September first of each odd-numbered year thereafter, the county auditor of the several counties shall make and file with the commissioner of highways a verified written statement showing the number of miles of public highways within the county, other than trunk highways, whether under the jurisdiction of the county or the towns therein. (Act Apr. 9, 1931, c. 131, §2.)

2554. Powers of Commissioner of Highways.—
* * * * * *

Subd. (4) (a). The Commissioner of Highways shall by order or orders designate such temporary trunk highway or highways, and when the final and definite location of any trunk highway or portion thereof has been by him determined, he shall designate the same by order or orders. Provided, that when the County Board of any county interested asks for a public hearing with reference to the final location of any Trunk Highway, a hearing shall be held by the Commissioner within the section, county or counties interested before making any such final location. Copies of such order or orders shall be certified by the Commissioner of Highways to the county auditor or auditors and the county register or registers of deeds, or in event of Torrens or registered property, the registrar of titles, of the county or counties wherein such highways are located.

Said county auditor or auditors and the county register or registers of deeds, or in event of Torrens or registered property, the registrar of titles, shall receive and file any and all such order or orders or certified copies thereof and shall immediately number and index same and shall enter in permanent index books the number given to each and every such order or orders or certified copies thereof, together with the number given such order or orders by the Commissioner of Highways. No such order or orders or certified copies thereof shall be removed from the office or offices wherein filed. Such counties or subdivisions thereof shall thereupon be relieved from responsibilities and duties thereon, provided that in case the final location should be other than the location of the temporary trunk highway, the portion of such temporary location which is not included in the final location shall, upon notice from the Commissioner of Highways, revert to the county or subdivision thereof originally charged with the care thereof. (As amended Mar. 25, 1935, c. 63, §1.)

Orders to be filed and entered.—Any orders previously certified by the Commissioner of Highways to the county auditor or auditors shall be filed and entered in said permanent index book by said county register or register of deeds.

The Commissioner of Highways shall also furnish to the county register or registers of deeds, or in event of Torrens or registered property, the county registrar or registrars of titles, certified copies of all previous order or orders which shall all be filed and entered in proper index books by such registers of deeds and/or registrars of titles as herein above provided. (Added by Act Mar. 25, 1935, c. 63, §2.)
Sec. 3 of Act Mar. 25, 1935, cited, provides that the act shall take effect from its passage.

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

(b) In order to coordinate the markings of the various existing routes, together with new routes which hereby are or may be added, and in order to avoid duplication in numbers used on interstate routes, the Commissioner of Highways is authorized to revise and consolidate the marking and numbering of the routes within the system from time to time, provided that whenever the Commissioner of Highways does so revise the marking and/or numbering he shall prepare a map showing the existing routes and identifying numbers and also the routes and identifying numbers or design of the revised system. That said map shall be authenticated by a certificate of the Commissioner of Highways certifying the same as being the map showing the revised markings under the provisions of this Act. Said map and certificate shall be filed in the office of the Secretary of State and a duplicate thereof shall be filed in the office of the Commissioner of Highways. Said map shall thereafter govern the identification of the several routes or portions thereof in the trunk highway system, and all proceedings, records and accounts thereafter shall be governed accordingly. Proceedings pending and under way at the time such map is filed shall cite both the old and new identifications. (As amended Apr. 22, 1933, c. 440, §3.)

* * * * * * * *

Sub. 18. (a). The Commissioner of Highways is hereby authorized to employ and designate not to exceed 100 persons to enforce the provisions of the laws relating to the protection of and use of trunk highways, who shall have upon all trunk highways the same powers with respect to the enforcement of laws relating to crimes, as sheriffs, constables, and police officers have within their respective jurisdictions, so far as may be necessary for the protection of life and property upon such trunk highways. Under instructions and regulations of the Commissioner of Highways, said employees shall cooperate with all sheriffs and other police officers, and to that end are authorized to exercise the powers herein conferred upon all trunk highways and, for the purpose of continuing pursuit from such trunk highways of offenders thereon, upon all public highways connecting and traversing such trunk highways, provided that said employees shall have no power or authority in connection with strikes or industrial disputes. Employees thus employed and designated shall subscribe an oath and furnish a bond running to the State of Minnesota, said bond to be approved and filed in the office of the Secretary of State. (As amended Apr. 27, 1935, c. 304.)

(b) All fines, from traffic law violations, collected from persons apprehended or arrested by such employees, shall be paid into the state treasury and shall be credited to a separate fund hereby established for that purpose. Out of such fund shall first be paid to counties all costs and expenses incurred by them in the prosecution and punishment of persons so arrested and for which such counties have not been reimbursed by the payment of such costs and expenses by the person prosecuted, and so much of said fund as shall be necessary for the making of such reimbursement is hereby appropriated therefor. Such payment shall be made by the state treasurer upon the claim of the county verified by the county auditor. On the first day of each calendar month the moneys remaining in such fund shall be credited to that part of the trunk highway fund which is set apart for maintenance purpose; and so much of said

maintenance fund as shall be necessary for the salaries and maintenance of such employes is hereby appropriated for that purpose.

(c) The salary of such employes shall be fixed and determined in the manner now prescribed by law for employes of the Commissioner of Highways and shall not exceed the sum of $150.00 per month, except that the supervisor or supervisors of the said employes shall receive such higher salary as may be fixed by said Commissioner of Highways not to exceed $4,000 per annum for one chief supervisor and not to exceed $2,400 per annum for each of not to exceed eight assistant supervisors. (Added by Act Apr. 24, 1929, c. 355, §1; Mar. 7, 1931, c. 44, §1; Apr. 27, 1935, c. 304.)

Sub. (19). Whenever a state trunk highway route is so located that in order to properly connect the designated objectives it is advisable to construct and maintain the said highway across a portion of an adjoining state, the Commissioner of Highways is authorized to expend trunk highway funds therfor in the same manner as other expenditures for trunk highway purposes are made. (Added by Act Apr. 22, 1933, c. 440, §5.)

Sub. (20). The Commissioner of Highways is authorized to co-operate with the United States Government and the United States Bureau of Public Roads, and/or any duly constituted agency or bureau of either, and to act as agent for the United States Government, and/or any agency, bureau, or department thereof, in supervising federal highway construction, maintenance and/or improvements of public highways within the State of Minnesota not included in the trunk highway system.

The Commissioner of Highways is authorized when requested by the United States Government, or any agency, bureau or department thereof, to act as agent in disbursing and accounting of federal funds for such public highways or projects, provided however that the Commissioner of Highways shall not conduct any such work for the United States Government, and/or the Bureau of Public Roads, or any agency, bureau or department of either, unless and until the total cost of such projects has been made available by the United States Government, or the Bureau or Public Roads, or any agency, bureau or department of either. (Added by Act Mar. 12, 1935, c. 42, §1.)

The title of Act Apr. 22, 1933, c. 440, does not specifically include the addition of subdivision (19) to this section. For title of act see §2662-2½, post.

The amount of traffic on a highway is an element to be considered as bearing upon loss of time and convenience to one whose land is divided by such highway. 171M369, 214NW653.

When a permanent trunk highway is located by the Highway Commissioner the practicable road along the general location is not thereby vacated, but reverts to the control of the county or town board as the case may be. 171M369, 214NW653.

Jury properly permitted to determine acreage involved in determining damages, and verdict held not excessive. 171M369, 214NW653.

Subdivisions 3 and 4 of section 13, ch. 323, L. 1921, are entirely consistent with the provisions of Constitution, article 16. 175M103, 220NW408.

Laws 1925, c. 426 (§§53-1, et seq.) modifies and amends the prior Highway Act to the extent of placing the making of contracts for constructing state highways under the control of the commission of administration and finance. 175M583, 222NW285.

The Railroad and Warehouse Commission may require the construction of an overhead or underground crossing and divide the cost between the railroad company and the highway department. Where a highway is carried over railroad tracks by a bridge, the railroad company may be required to construct the bridge and approaches, but not a part of the highway outside both bridge and approaches. 176M501, 223NW915.

A village approving plans of construction by state highway commissioner of a trunk highway upon a village street and authorizing a change of grade according to such plan, makes itself liable for the damage caused abutting property by such change, in the absence of assumption of such liability by the state. 178M144, 226 NW398.

Followed in Foss v. M., 178M430, 227NW357.

The duties imposed on the Commissioner require the exercise of judgment and discretion and he is not personally liable in absence of corruption or malice. 179M 263, 228NW916.

An enlargement by the court against objection of condemnation proceedings to include easements over lands or lots not sought in the state's petition, is an unwarranted interference with properly delegated legislative functions. State v. Erickson, 185M60, 239NW908. See Dun. Dig. 4158(71).

The highway commissioner's order designating the permament re-routing of a trunk highway does not in itself constitute a taking of the property within the designated route. It is the exercise of a legislative function constitutionally delegated to the commissioner by the Legislature and is conclusive on the courts as to the necessity of the taking. State v. Erickson, 185M 60, 239NW908. See Dun. Dig. 4158(71).

When state institutes a condemnation for a right of way for a trunk highway and omits to include a tract of land which it uses and damages as a part of general project, owner may have such land included in condemnation proceeding and this is not prevented because state cannot be sued nor because defendant might petition legislature for compensation. State v. Stanley, 188 M390, 247NW509. See Dun. Dig. 3014, 3027, 8831.

Where commissioner of highways trespasses upon or appropriates land outside right of way, he becomes liable to owner thereof for damage thereto. Nelson v. B., 188M584, 248NW49. See Dun. Dig. 8001.

Act relieved villages from responsibility for highways after they have been taken over by state highway department and have become part of trunk system, and village is not liable for injuries to travelers resulting from improper maintenance. Lundstrom v. G., 294M624, 261NW465. See Dun. Dig. 6818.

A village which approves the plans of constructing by the state highway commissioner of a trunk highway, and authorizes a change of grade according to such plans, makes itself liable for the damage caused abutting property. Op. Atty. Gen., Oct. 15, 1930.

Moneys in the trunk highway maintenance fund may be used to erect buildings to be used for office space, garage, sleeping quarters, and rest rooms for highway patrolmen when on and off duty. Op. Atty. Gen., Jan. 16, 1932.

Where it is sought to obtain right of way for road through village, through township and through unorganized territory, it is necessary to institute three separate proceedings: one by town, one by village and one by county. Op. Atty. Gen., June 1, 1932.

Action of commissioner of highways in making order for acquisition of lands for highways is final and binding upon the state auditor and all others, including the courts, until set aside by judicial proceedings, such as certiorari, instituted directly to review, correct or set aside order of commission. Op. Atty. Gen. (229i-1), Dec. 31, 1934.

Sub. 2(3).

$360,000 appropriated annually from trunk highway sinking fund to Revenue fund of state. Laws 1933, c. 110.

Sub. 4.

A city is not liable for injuries received on a trunk highway lying within the city even though it has undertaken to remove snow therefrom unless it is guilty of some affirmative act. Op. Atty. Gen., Feb. 3, 1932.

Highway used as temporary state trunk highway reverts to county of subdivision thereof on construction of new trunk highway. Op. Atty. Gen., Mar. 26, 1933.

Sub. (4) (a).

When the state relinquishes a road used as a temporary location for a trunk highway for a more permanent location, that portion so relinquished takes on its former status. Op. Atty. Gen. (377a-15), Aug. 1, 1934.

Sub. 6.

A demand by taxpayers upon state officials to bring actions to annul and cancel invalid highway contracts held necessary. Regan v. B., 188M192, 247NW12. See Dun. Dig. 4480.

Payment of automobile license fees and of state gasoline tax gives taxpayer a special interest in honest expenditure of highway funds entitling him to maintain an action to restrain payment of such funds upon void contracts. Regan v. B., 188M192, 247NW12. See Dun. Dig. 4480, 7316.

State officers could not lawfully stipulate that a void contract should be performed and a percentage of contract price be paid from state funds. Regan v. B., 188M 192, 247NW12. See Dun. Dig. 8828.

Sub. 17.

Contracts being void, there could be arbitration. Regan v. B., 188M192, 247NW12. See Dun. Dig. 487a, 500.

Sub. 18.

Cash deposited as bail by persons arrested by officers of the state motor patrol, and forfeited when they do not appear for trial, should be paid to the state treasurer and not the county treasurer. Op. Atty. Gen., Jan. 27, 1931.

2554–½. State patrolman may be discharged—when.—Every person employed and designated as a state highway patrolman under and pursuant to the provisions of Laws 1929, chapter 355 [§2554], and acts amendatory thereof, after six months of con-

tinuous employment, shall continue in service and hold his position without demotion, until suspended, demoted or discharged in the manner hereinafter provided for one or more of the causes specified in section 2 hereof. (Act Apr. 24, 1935, c. 254, §1.)

2554–½ a. Causes.—Causes for suspension, demotion or discharge shall be:

(1) Conviction of any criminal offense in any court of competent jurisdiction subsequent to the commencement of such employment.

(2) Neglect of duty or wilful violation or disobedience of orders or rules.

(3) Inefficiency in performing duties.

(4) Immoral conduct or conduct injurious to the public welfare, or conduct unbecoming an officer.

(5) Incapacity or partial incapacity affecting his normal ability to perform his official duties. (Act Apr. 24, 1935, c. 254, §2.)

2554–½ b. Charges to be made in writing.—The charge or charges against any such state employe shall be made in writing and shall be signed and sworn to by the person making the same, which written charge or charges shall be filed with the commissioner of highways. Upon the filing of same, if the commissioner shall be of the opinion that such charge or charges constitute a ground for suspension, demotion or discharge, he shall order a hearing to be had thereon, and fix a time for such hearing. Otherwise, he shall dismiss such charge or charges. At least ten days before the time appointed for the said hearing, written notice specifying the charge or charges filed and stating the name of the person making the charge or charges shall be served on said employe personally or by leaving a copy thereof at the usual place of abode of such employe, with some person of suitable age and discretion, then residing therein. If the said commissioner of highways orders a hearing, he may suspend such employe pending his decision to be made after such hearing. (Act Apr. 24, 1935, c. 254, §3.)

2554–½ c. Commissioner may compel attendance of witnesses.—The commissioner of highways shall have power to compel the attendance of witnesses at any such hearing and to examine them under oath and to require the production of books, papers and other evidence at any such hearing and for that purpose may issue subpoenas and cause the same to be served and executed in any part of the state. The employe accused shall be entitled to be confronted with the witnesses against him and have an opportunity to cross-examine the same and to introduce at such hearing testimony in his own behalf, and shall be entitled to be represented by counsel at such hearing. The commissioner of highways within 25 days after such hearing shall render his decision in writing and file the same in his office. If after such hearing he finds that any such charge made against such state employe is true, he may punish the offending party by reprimand, suspension without pay, demotion or dismissal. (Act Apr. 24, 1935, c. 254, §4.)

2554–½ d. Right of appeal.—Any such state employe who is so suspended, demoted or dismissed may have such decision or determination of the commissioner of highways reviewed by a writ of certiorari in the district court of the county where such state employe resides. If such decision or determination of the commissioner of highways shall be finally rejected or modified by the court, the said state employe shall be reinstated in his position and the commissioner of highways shall pay to the said state employe so suspended out of the funds of the state and salary or wages withheld from him pending the determination of the charge or charges or as may be directed by the court. If upon any such hearing the said commissioner of highways shall find the charge or charges made against such state employe are not true or shall dismiss such charges after such hearing, the said state employe shall be reinstated in his position and any salary or wages withheld from such state employe pending the determination or decision of the commissioner upon such charges shall be paid to the said state employe by the commissioner of highways out of state funds. (Act Apr. 24, 1935, c. 254, §5.)

2554–½ e. Application of act.—This act shall apply to all persons employed and designated under and pursuant to Laws 1929, Chapter 355, and acts amendatory thereof, except the chief supervisor of the state highway patrol. (Act Apr. 24, 1935, c. 254, §6.)

2554-1. Relinquishment of highway easements.—The governor in behalf of the state may, upon recommendation of the commissioner of highways and upon repayment to the state for deposit in the trunk highway fund of any moneys paid for the acquisition thereof, relinquish and quitclaim to the fee owner or owners any easement or portion thereof owned but no longer needed by the state for trunk highway right of way purposes, or may quitclaim to any person the fee title to any lands owned by the state for trunk highway right of way purposes, but no longer needed for such purposes; provided, however, that whenever less than the entire easement or part of the fee title of any such land owned by the state is to be relinquished and quitclaimed, the amount of moneys so to be repaid or paid to the state shall not be a less proportion of the consideration paid therefor by the state than the proportion of the area or estate of the part so to be relinquished and quitclaimed bears to the area or state of the entire easement or estate. (Act Apr. 22, 1929, c. 287, §1.)

2554–2. [Repealed.]

Repealed Jan. 27, 1936, Sp. Ses., 1935-36, c. 100, §2.

Act Jan. 27, 1936, Ex. Ses., c. 100, §1, appropriates $1,800,000 out of trunk highway sinking fund to be available for fiscal year ending June 30, 1936.

2557. Construction and maintenance of trunk highways in cities and villages.— * * * * * * * *

Sub. (3). The Commissioner of Highways for and on behalf of the State is hereby authorized to enter into agreements and make settlement with cities of the first class for the construction, improvement and for maintenance of trunk highways within the limits of such cities, and cities of the first class are hereby authorized to undertake and perform such work and to enter into agreements with the State for the performance and responsibility of such work upon such terms as may be agreed upon. (Added by Act Apr. 22, 1933, c. 440, §4.)

A village approving plans of construction by state highway commissioner of a trunk highway upon a village street and authorizing a change of grade according to such plan, makes itself liable for the damage caused abutting property by such change in the absence of assumption of such liability by the state. 226NW398.

Followed in Foss v. M., 178M430, 227NW357.

It is duty of municipality maintaining a bridge to use ordinary care to make it safe for reasonably anticipated ordinary travel but not extraordinary and unanticipated use. Tracey v. C., 185M380, 241NW390. See Dun. Dig. 1120.

In action against city, proximate cause of car going through railing of bridge held collision of two cars and not method of maintaining bridge. Tracey v. C., 185M 380, 241NW390.

Where trunk highway through city was entirely new construction over land not theretofore dedicated as a public street, municipality was under no duty to light and keep it in repair, but the city may construct special improvements, such as sidewalks, curbs, sewers, etc., along, but not within the right of way of the trunk highway. Op. Atty. Gen., Oct. 15, 1930.

2558. Public utilities and work on trunk highways.

It is duty of railroad to construct and maintain roadbeds and approaches where track crosses trunk highway on grade. Engstrom v. D., 190M208, 251NW134. See Dun. Dig. 8119.

2558-1. Logging railroads across highways.

This act is valid. Otterstetter v. S., 143M442, 174NW 305; Town of Kinghurst v. I., 174M305, 219NW172.

2559. State road and bridge fund—Apportionment.

Sub. 1. For the purpose of state aid in the construction and improvement of public highways, there

shall hereafter be levied annually on all taxable property of the state a tax of one mill on each dollar of valuation, to be collected in the same manner as other state taxes, and the money so raised, together with all moneys accruing from the income derived from investments in the internal improvement land fund, or that may hereafter accrue to said fund, and all funds accruing to the state road and bridge fund, however provided, shall constitute the general state road and bridge fund.

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

Sub. 3. Not less than one per cent nor more than three per cent of the state road and bridge fund available in any year and remaining after setting aside the funds hereinbefore provided for, shall be apportioned to any county.

Sub. 4. The amount so apportioned to each of the counties as hereinbefore provided shall be expended by the county board of each county in constructing, improving and maintaining county aid and state aid roads therein in conformity with the provisions of law now existing governing such expenditure on county aid and state aid roads, provided that at least 40 per cent of the money so apportioned to each county shall be used for maintenance of state aid road and bridges therein.

Sub. 5. That any state aid heretofore apportioned to any county, but not yet paid over to such county, shall be paid to such county when and as soon as said state aid shall become due and payable under existing law notwithstanding any provision in this Act. ('21, c. 323, §18; Feb. 16, 1929, c. 22; Apr. 1, 1933, c. 142.)

2560. Designation state aid roads—Revocation.

A city may be reimbursed by a county out of special state aid paid to it by the State for the paving of a State aid road running through the city. Op. Atty. Gen., Apr. 16, 1931.

To alter state aid road additional easements may be acquired under Laws 1929, c. 155, and petition and hearing as provided by §2582, but decision authorizing change in location must be made by joint action of county board and commissioner of highways. Op. Atty. Gen., Feb. 14, 1933.

On relocation of state aid road vacted portion returns to its original status as a county road in absence of declaration by county board as to its status. Op. Atty. Gen., Feb. 14, 1933.

State Aid parkways may be designated by county board within corporate limits of city of fourth class. Op. Atty. Gen. (379c-11), Mar. 5, 1935.

2560-1. County boards may acquire land in certain cases.—Whenever in the discretion of the county board of any county it is determined that an easement across additional lands is needed for the purpose of altering and existing state aid or county aid road in cases where the general course of such road is not materially altered the county board shall have power to acquire such easement by purchase or gift or by condemnation in accordance with the provisions of General Statutes 1923, Chapter 41, as amended. (Act Apr. 11, 1929, c. 155.)

Op. Atty. Gen., Feb. 14, 1933; note under §2560.

Plan for improvement of state aid road held not to alter general course of road, and court acquired jurisdiction. County of Otter Tail v. N., 187M277, 245NW 427.

2561. Designation of road on county line a state aid road.—Whenever there is an established road running along or near the common boundary line or lines of two or more counties, the county boards of two or more of such counties may make application to the commissioner of highways for the designation of such road as a state aid road. The commissioner of highways shall then investigate the desirability of such designation, and, if he shall decide that is desirable so to do, shall so designate such road and determine and fix the part of the cost of the improvement and maintenance thereof to be paid by each of the counties abutting upon and adjoining such road. ('21, c. 323, §20; Apr. 17, 1929, c. 216.)

2563. Procedure for constructing, etc.

This section is not applicable to the expenditure of money under Laws 1929, c. 283, post, §§2720-88 to 2720-99, relating to distribution of gasoline tax. Op. Atty. Gen., May 1, 1930.

A county may pay the reasonable value of graveling jobs on state aid roads even though contracts were let without advertising for bids. Op. Atty. Gen., Sept. 26, 1931.

2564. Sate aid for roads.—After any county board shall have completed any work on a state aid road for which state aid is claimed, the auditor of such county shall make a statement to the commissioner of highways showing the location, nature and cost of such work, and shall also submit a detailed report from the county highway engineer in charge showing all such details concerning the same as may be required by the commissioner of highways. On receipt thereof the said commissioner of highways shall proceed to examine such reports, and if he finds the same satisfactory and that the work has been done in substantial compliance with the plans and specifications therefor, and the contract therefor, if any, he shall certify the same to the state auditor who shall issue a warrant for the state's share thereof as shown by said report, payable to the treasurer of such county, but in no case shall said warrant, with all other warrants, exceed the amounts allotted to such county. Provided that every county which has constructed or improved any state rural highway pursuant to Laws 1911, Chapter 254 [Mason's Minn. St., 1927, §2620-14, note], and has issued its bonds to provide funds for the payment of the cost thereof, which during any year fails to avail itself of any funds allotted to it out of the general state road and bridge fund by the construction, improvement or maintenance of state aid roads, but which shall pay the principal of or interest on such bonds or any part thereof, shall be entitled to receive from the general state road and bridge fund for the benefit of its county road and bridge fund, the same amount as it would have received had the amount so paid been expended for the construction, improvement or maintenance of state aid roads within such county. Whenever any such county shall make any such payment the auditor thereof shall certify the fact of such payment, the date and amount thereof to the state auditor who shall thereupon issue and transmit to the treasurer of such county a warrant for such amount. The proceeds thereof shall be placed in the county road and bridge fund and shall be disbursed in the same manner as other county funds are disbursed but only for the payment of the cost of constructing and maintaining state aid roads.

Provided, that the State Auditor shall not issue any such warrant to said county until the Commissioner of Highways shall certify to said State Auditor that said county is entitled to receive any such payment out of said state-aid road and bridge fund, and for the purpose of furnishing said Commissioner of Highways proper information, the County Auditor of any such county shall certify the fact of such payment, the date and amount thereof, to said Commissioner of Highways in the same manner as to the State Auditor. ('21, c. 323, §23; Apr. 25, 1931, c. 356.)

2564-14. Counties may pay bonds in certain cases.—That where a village has heretofore issued and sold, or shall hereafter issue and sell, its bonds to defray the cost of constructing a bridge across a river constituting at such place the boundary line between this state and another state, and the highway of which the portion of said bridge within this state is a part has been or shall be, after the issue of such bonds, made a state aid road, the county within which such portion of said bridge is located is hereby authorized to appropriate money from its road and bridge fund, not exceeding the sum of $20,000, to pay said bonds. (Act Mar. 30, 1929, c. 114.)

2564-15. Bridges over stream forming state boundary—Municipalities may unite.—Counties, towns, cities and villages bordering upon streams of water which form the boundary line of this state may construct and maintain foot and wagon bridges across any such stream the same as if such stream was wholly within the limits of the county, town, city or village constructing the same; and any such local subdivision within which such bridge may be desired may singly or in conjunction with other such subdivisions unite in the construction and maintenance of said bridge with any one or more of the local subdivisions in the adjoining state or province into which any such bridge may extend; provided, that in such construction and maintenance the rights of adjoining states and provinces shall in no wise be infringed. ('07, c. 399, §1.)

Omitted from 1923 and 1927 compilations as not of general application.

2564-16. Bridges over navigable river forming state boundary—Appropriation by county board of not over one-half cost—Proceedings.—Whenever one-half the resident taxpayers of any county, whose county line is the boundary line of a state, as appears by the last preceding assessment roll of such county, shall petition the board of county commissioners of such county, praying for an appropriation to build a bridge across any navigable river on the line of any such county, when the county line is the boundary line of a state, setting forth therein the location of such bridge as near as may be, its estimated cost and the necessity therefor to accommodate the general traveling public, the manner in which it is proposed to pay for such structure, and the time when it will be completed, such petition to be duly verified by the affidavits of at least fifteen of the petitioners therein named, it shall be the duty of the board of county commissioners to publish a notice in the official paper of the county, once each week for three consecutive weeks, briefly stating the object of such petition and that the same will be heard and considered at the next regular meeting of such board. At the time appointed for the hearing of such petition, the board of county commissioners shall investigate the need of such bridge, and if they find the same to be necessary shall, by resolution duly entered upon the minutes of the board, appropriate towards the building of such bridge, from the county treasury a sum not exceeding one-half of the estimated cost of such bridge to be paid as hereinafter provided; provided, however, the appropriation hereinbefore mentioned shall be upon condition that a sufficient bond be given, conditioned that the remaining one-half or more, as the case may be, of the cost of such bridge will be paid: provided, further, that the consent of the general government to span such river shall first have been obtained. ('09, c. 425, §1.)

Omitted from 1923 and 1927 compilations as not of general application.

2564-17. Same—Committee to confer with neighboring state or municipality, etc.—If the remaining one-half of the cost of such bridge shall be made up by an appropriation from any neighboring state or by a municipality in this state, to be expended under a commission or through any other agency, the board of county commissioners shall appoint a committee from its own number, of three or more, to meet such other municipal agency, confer with its members and advise and assist in the accomplishment of such improvement in the best possible manner, and when the work is completed and approved jointly by such agency and committee, which approval shall be in writing and duly reported to such board and recorded in the minutes thereof, the board shall thereupon direct the county auditor to draw his warrant upon the treasurer in favor of the contractor for the amount due him from such county. ('09, c. 425, §2.)

2564-18. Same—Bonds, when may be issued—Tax levy.—When one-half or such other proportion as may be, of the cost of such improvement shall be provided for by any municipality within this state, it shall be lawful for such municipal corporation, by a majority vote of the legal voters thereof after ten days' notice, to meet the necessary expense by the issuance of bonds bearing interest not to exceed seven per cent per annum and not to run longer than twenty years after the date of issue, nor to be sold for less than par value, interest payable semi-annually; provided, that the limit of indebtedness of such corporation prescribed in the constitution is not hereby exceeded. In case the limit of indebtedness of such municipality would be thereby exceeded, then it shall be lawful for such municipality to make a sufficient tax levy for general purposes to meet the necessary expenditure in the construction of such bridge, and when the same shall be completed and accepted the share of the cost thereof to be borne by such municipality shall be paid out of the general fund by orders drawn in the usual form and manner. ('09, c. 425, §3.)

2564-19. Same—Not more than one wagon bridge—Limit of cost.—Not more than one wagon bridge across a navigable river in each county shall be built under this article, and the total cost of such bridge shall in no case exceed the sum of fifty thousand dollars. ('09, c. 425, §4.)

2564-20. Designation of state aid parkways—powers of county board.—The County Board of any county may, with the consent of the Commissioner of Highways and the Commissioner of Conservation, designate any established road or specified portion thereof, in its county, as a State Aid Parkway, which said road connects with a trunk highway and a public park or public recreational center outside the corporate limits of any borough, village or city, and construct, reconstruct, improve and maintain the same in accordance with the regulations of the Commissioner of Highways relative to State Aid Parkways. (Act Jan. 9, 1934, Ex. Ses., c. 61, §1.)

What constitutes "public recreational center" is question of fact not to be determined by attorney general. Op. Atty. Gen. (330a-5), Oct. 29, 1934.

Legislature intended to leave question of determining advisability of establishment of state aid parkways to discretion of commissioner of highways and commissioner of conservation. Id.

State Aid parkways may be designated by county board within corporate limits of city of fourth class. Op. Atty. Gen. (379c-11), Mar. 5, 1935.

2564-21. Same—Constructed under state aid road laws.—State Aid Parkways shall be constructed, reconstructed, improved and maintained in the same manner and under the same laws as State Aid roads are now constructed, reconstructed, improved and maintained pursuant to the Laws of 1921, Chapter 323, Section 9, the same being Mason's Minnesota Statutes of 1927, Section 2550; Laws of 1921, Chapter 323, Section 18, the same being Mason's Minnesota Statutes of 1927, Section 2559, as amended by Laws of 1933, Chapter 142; Laws of 1921, Chapter 323, Section 19, the same being Mason's Minnesota Statutes of 1927, Section 2560; Laws of 1921, Chapter 323, Section 20, the same being Mason's Minnesota Statutes of 1927, Section 2561, as amended by Laws of 1929, Chapter 216; Laws of 1921, Chapter 323, Section 21, the same being

Mason's Minnesota Statutes of 1927, Section 2562; Laws of 1921, Chapter 323, Section 22, the same being Mason's Minnesota Statutes of 1927, Section 2563; Laws of 1921, Chapter 323, Section 23, the same being Mason's Minnesota Statutes of 1927, Section 2564, as amended by Laws of 1931, Chapter 356; and said laws are hereby made a part of this Act. (Act Jan. 9, 1934, Ex. Ses., c. 61, §2.)

2564-22. Same—term "state aid road" to apply to state aid parkway.—Wherever the words, "State Aid Road" or "State Aid Roads," or either of them, appear in the provisions of the existing laws applicable to State Aid roads as herein designated in Section 2 of this Act, they shall, for the purposes of this Act, be deemed to include State Aid Parkway or Parkways. (Act. Jan. 9, 1934, Ex. Ses., c. 61, §3.)

Sec. 4 of Act Jan. 9, 1934, cited, provides that the act shall take effect from its passage.

2565. Powers of County Board. * * * * * * * * * *

Sub. 2. The county board of any county may appropriate from its road and bridge fund to any town, village, borough or city of the third or fourth class in its county, such sums of money as are available and which it deems advisable to aid such towns, villages, boroughs or cities of the third or fourth class in the construction and maintenance of roads, streets or bridges therein, and such appropriations may be directly expended by the county board, upon such roads, streets or bridges as shall be designated by the governing body of such towns, villages, boroughs or cities of the third and fourth class; provided, that in counties having a population of two hundred twenty-five thousand (225,000) inhabitants or over, such county aid may be expended in accordance with the provisions of Chapter 164, Laws of 1905, as amended by Chapter 208, Laws of 1909. Provided, further, that no village, borough, or city of the third or fourth class shall receive an appropriation hereunder exceeding 20 per cent of the annual tax levy for road and bridge purposes paid by such village, borough or city of third or fourth class. (21, c. 323, §24; '23, c. 439, §4; Apr. 13, 1929, c. 179.)

* * * *

Act authorizing county board of certain counties to pay actual personal or property damages sustained by reason of negligence of county highway engineer or other county employe in leaving county road in dangerous condition for public travel. Laws 1931, c. 41.

Act authorizing board of county commissioners and county board of education for unorganized territory in certain counties to indemnify employes against liability in operating motor vehicle. Laws 1931, c. 42.

Includes interstate bridges. Op. Atty. Gen., Apr. 11, 1929.

There is no limit upon the amount which a county can appropriate from its road and bridge fund to a town to aid in the construction of roads. Op. Atty. Gen., June 6, 1929.

County board may appropriate moneys from the county road and bridge fund to aid in the construction and maintenance of roads designated as county aid roads under Laws 1929, c. 283. Op. Atty. Gen., Dec. 20, 1929.

Where road extending into two counties over bridge across river, forming boundary between counties, was designated as a state aid road by both counties, each county is chargeable for the maintenance of that portion of the bridge within its territorial limits, and no more, though county may expend money, it it desires, in the maintenance of bridge or road in another county. Op. Atty. Gen., Aug. 18, 1930.

Under this section as amended by Laws 1929, c. 179, where county board advertised for bids for graveling a highway as a county road, when it was in fact a town road, it was without authority to proceed with the contract, and was not liable to the contractor for refusing to execute the contract. Op. Atty. Gen., Sept. 8, 1930.

Safety isles on University Avenue in St. Paul constitute an integral part of the street itself, and the county may lawfully expend funds to assist in rearranging and remodeling them. Op. Atty. Gen., Feb. 26, 1931.

There is no limit upon the amount which county can appropriate to a town. Op. Atty. Gen., June 6, 1929.

County may not appropriate funds for improvement of street in city of second class. Op. Atty. Gen., July 6, 1933.

Sub. 1.

One, who at the request of individual members of county board traveled and registered unemployed under the public relief works' program could be allowed compensation and expenses out of road and bridge fund. Op. Atty. Gen., Dec. 9, 1933.

County board and highway engineer may appropriate money out of road and bridge fund for furnishing of food and shelter to men employed on county roads. Op. Atty. Gen., Dec. 27, 1933.

County board may appropriate money out of road and bridge fund for PWA and CWA checkers or timekeepers in connection with employment of poor persons on county roads where such employment is under supervision of county board and county highway engineer. Op. Atty. Gen., Jan. 11, 1934.

County board may appropriate money out of road and bridge fund for incidental expenses in connection with road work performed in co-operation with federal and state CWA program. Op. Atty. Gen., Mar. 2, 1934.

Sub. 2.

County board could not rescind appropriation of money to township for town roads without consent of town. Op. Atty. Gen., Mar. 3, 1933.

Sub. 5.—Tax levy.

Cited in connection with holding that Laws 1927, c. 147, is valid. 171M312, 213NW914.

Moneys in road and bridge fund raised pursuant to §2565, subd. 5, may be transferred or borrowed from such fund to pay for an addition to the court house pursuant to §668, subd. 7, provided that the county board determines there is a surplus in such fund beyond needs of current year by unanimous action. Op. Atty. Gen. (107b-16), Sept. 29, 1934.

Duty of public to care for the poor is absolute and any fund may be transferred to poor fund, except where they are held for a specific purpose imposed by law, and money in road and bridge fund raised pursuant to §2565(5) may be transferred, but a different rule applies with reference to gas tax money received pursuant to Laws 1929, c. 283. Op. Atty. Gen. (107a-12), July 3, 1935.

2565-1. Appropriations from county road and bridge fund for bridges in certain municipalities.—Whenever the council of any village, borough, or city of the fourth class, or city of the third class, may determine that it is necessary to build or improve any bridge or bridges including approaches thereto and any dam or retaining works connected therewith, upon or forming a part of streets, or highways either wholly or partly within its limits, the county board shall appropriate such money as may be necessary therefor from the county road and bridge fund, not exceeding during any year the amount of taxes paid into the county road and bridge fund during the preceding year, on property within the corporate limits of said village or city. Such appropriation shall be made upon the petition of the council, which petition shall be filed by the council with the county board prior to the fixing by said board of the annual county tax levy. The county shall determine the plans and specifications, shall let all necessary contracts, shall have charge of construction, and upon its request warrants in payment thereof shall be issued by the chairman of the board and county auditor from time to time as the construction work proceeds. Any unpaid balance may be paid or advanced by the village or city. On petition of the council, the appropriations of the county board, during not to exceed three successive years, may be made to apply on the construction of the same items and to repay any money advanced by the village or city in the construction thereof. Provided, that this section shall not limit the authority of the county board to appropriate and expend money under the provisions of Mason's Minnesota Statutes of 1927, Section 2565. Provided, further, that none of the provisions of this act shall be construed to be mandatory as applied to any village or city whose assessed valuation exceeds $500.00 per capita of its population. ('25, c. 232, §1; Apr. 29, 1935, c. 343.)

2565-4. County board may appropriate money to cities in certain cases.—The county board of any county in this state now or hereafter having a population of not less than 225,000 inhabitants nor more than 330,000 inhabitants shall appropriate annually from its Road and Bridge Fund to towns, villages and cities of the third or fourth class in its county, the sum of $40,000 to aid such towns, villages or cities of the third or fourth class in the construction and maintenance of town roads, streets or bridges therein, and such appropriation shall be apportioned

in the following manner, to-wit: 65 per cent thereof equally to each town and 35 per cent thereof to villages and cities of the third or fourth class proportionately according to the assessed valuation of all property for taxation, exclusive of money and credits in said villages or cities of the third or fourth class and shall be expended by any such county board under its supervision and control, upon town roads, streets, or bridges as shall be designated by the governing body of any such towns, villages and cities of the third or fourth class therein. (Act Apr. 20, 1931, c. 264, §1.)

County may not add five per cent "handling charge" to actual cost of work done in village, unless it represents actual expenditure by county. Op. Atty. Gen., June 15, 1932.

Village council is to select streets, bridges, etc., upon which money is to be expended. Op. Atty. Gen., June 15, 1932.

Authority of village council is limited to selection of particular street or bridge upon which money appropriated by county board may be expended, and employment, supervision and control over those making improvement is under control of county board. Op. Atty. Gen., Aug. 4, 1932.

2565-5. All laws and parts of laws inconsistent herewith are repealed. (Act Apr. 20, 1931, c. 264, §2.)

2565-6. County boards may levy annual tax on unorganized territory for road and bridge purpose not to exceed fifteen mills on the dollar.—The county boards of the several counties in which there may be situated any territory not organized for township purposes are hereby authorized to, and they may in their discretion, annually levy a tax for road and bridge purposes on all the real and personal property in such unorganized territory, exclusive of moneys and credits taxed under the provisions of Chapter 285, Laws 1911, not exceeding, however, fifteen mills on the dollar of the assessed value of such property. Such tax, if levied, shall be additional to the tax which the counties are authorized to levy for county road and bridge purposes. ('15, c. 44, §1.)

Omitted from 1923 and 1927 compilations as being local or special.

2565-7. Duty of auditor in extending the tax levy.—If any county board deems it desirable to levy such a tax on such property, it may at the time it levies the county taxes, by resolution reciting such fact, determine the amount so to be levied in each congressional township of such unorganized territory for the then current year. It shall be the duty of the auditor to extend such tax so levied upon the tax books of the county, at the same time and in the same manner as other taxes for county purposes are extended, as to property in such unorganized territory, and the same shall be collected and the payment thereof enforced at the same time and in the same manner as other county taxes on such property, and with like penalties for non-payment at the time prescribed by law ('15, c. 44, §2.)

2565-8. Collected amount to be set apart as a separate road and bridge fund.—Such tax, when collected, shall be set apart in separate funds in the county treasury; such funds shall be designated in such a manner as to describe each thereof as the road and bridge fund for the congressional township the property of which is so taxed to create such fund. ('15, c. 44, §3.)

2565-9. Expenditure of road and bridge fund in adjoining townships authorized.—Such fund shall be expended under the direction of the county board for the construction, improvement, maintenance and repair of roads and bridges in the congressional township the property of which was so taxed to create such fund. Provided, however, that such fund, in any county having not less than thirty-five nor more than forty congressional townships and having an assessed valuation of not less than sixteen million nor more than twenty million dollars, may be expended in any adjoining organized or unorganized township, or portion thereof, upon a petition being presented to the county board, signed by a majority of the resident taxpayers of said unorganized township from which said petition emanates, requesting that all or part of said money so collected in said unorganized township, shall be expended in the adjoining organized or unorganized township, or portion thereof. ('15, c. 44, §4; '19, c. 528, §1.)

The fund authorized by this act must be used in the congressional township, the property of which was taxed to create a fund, §2578 being inapplicable. Op. Atty. Gen., June 18, 1930, over-ruling Op. Atty. Gen., Oct. 8, 1925.

2565-10. Tax levy.—The tax above provided for may be levied on all or a part of the unorganized territory in any county, provided, however, that no part of such organized territory less than a congressional township shall be so taxed. ('15, c. 44, §5; '19, c. 528, §2.)

2569. County highway engineer.

Laws 1929, c. 20, §2, fixes salary of engineer at $2,600, and 9 cents mileage, and not to exceed $4,000 for clerk hire, in counties with 41 to 43 congressional townships and population of 25,000 to 30,000. As to mileage see §§254-47, 254-48.

Act Apr. 21, 1933, c. 432, §9, effective May 1, 1933, amends §12 of Laws 1925, c. 91, by making the salary of the engineer not to exceed $2,112 per year, 5 cents mileage, and not exceeding $1,500 for clerk hire.

A county highway engineer under §2569 is not within the operation of§§4368, 4369, known as the Soldiers' Preference Employment Act. State v. Walleen, 185M329, 241 NW318. See Dun. Dig. 7986(9).

Salary of engineer is not limited to $3,000 but is to be fixed by county board. He may be provided with automobile and assistants. Op. Atty. Gen., Feb. 23, 1929.

County highway engineer has no right, with or without the consent of the county board, to perform services for other municipalities, even though the county receives the compensation therefor. Op. Atty. Gen., Apr. 23, 1929.

Engineer may do no work outside the official duties prescribed by this section and Laws 1929, c. 283, §6 at least during the usual working hours. Op. Atty. Gen., May 23, 1929.

County engineer must assist in construction and maintenance of town roads without charge, if required by county board. Op. Atty. Gen., May 23, 1929.

This provision of law is mandatory and applies to St. Louis County. Op. Atty. Gen., Dec. 21, 1931.

Office of county highway engineer is mandatory and not permissive. Op. Atty. Gen., Feb. 8, 1933.

County board has no authority to appoint county surveyor as highway engineer. Op. Atty. Gen., Feb. 8, 1933.

In order to obtain state aid, it is not necessary to have county engineer who is registered in state and who is graduate of accredited university. Op. Atty. Gen., Mar. 4, 1933.

It is mandatory upon county board to select highway engineer from list furnished by commissioner of highways. Op. Atty. Gen., Mar. 8, 1933.

Expenses of county highway engineer outside of county on trip necessary to cooperate with state and federal governments in carrying out relief programs may be paid by the county, if such trip were first authorized by the county board, and the engineer was designated its agent in the matter. Op Atty. Gen. (125a-31), Jan. 24, 1935.

Term of office of highway engineer must be indefinite and county board has power to remove an engineer at its pleasure and without hearing. Op. Atty Gen. (122b), Feb. 6, 1935.

(2).

It is mandatory that county highway engineer be selected from list of eligibles furnished by commissioner of highways. Op. Atty Gen. (229f), Feb. 4, 1935.

(3).

Office of county highway engineer and that of surveyor are incompatible and may not be occupied by same person. Op. Atty. Gen. (358a-7), Jan. 26, 1935.

Offices of county highway engineer and county surveyor are incompatible, and approval and filing of county highway engineer bond by one who has already qualified as county surveyor constitutes an election to vacate latter office. Op. Atty. Gen. (358a-7), Jan. 31, 1935.

2569-3. Same—Bond.

Eigineer may be required to furnish new bond for each term for which he is appointed. Op. Atty. Gen., Mar. 17, 1934.

2569-7. Same—Road and highway duties of other county engineers or surveyors transferred to.

Act Apr. 5, 1933, c. 159, authorizes organized towns with more than 15,000 population, assessed valuation of over $70,000,000 and over 200 miles of town roads, to create department of highway engineers.

2571. Power of town board.

Act Ex. Ses., Dec. 27, 1933, c. 28, authorizes supervisors of towns having more than 15,000 population, assessed valuation of over $70,000,000, and 200 miles of town

roads, to create department of highway engineers. Repeals Laws 1933, c. 159. Omitted as local.
U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.
Op. Atty. Gen., Aug. 21, 1929; note under §2551.
Duties of town supervisors in the general maintenance, repair and improvement of town roads are discretionary. 175M34, 220NW166.
Where discretion of town supervisors with respect to the opening of a road has been exercised in an arbitrary and capricious manner, the court may exercise control, but it must be made to appear that there are not only available funds but also sufficient available funds to do whatever else may, in the reasonable judgment of the board, be needful on the other town roads. 175M34, 220NW166.
Lack of proof of proper attendance by members of town boards did not preclude recovery for construction and repair of a town line road. Lindgren v. T., 187M31, 244NW70. See Dun. Dig. 6704.
Under Laws Extra Session 1933-1934, c. 28, §1, town board of town coming within act may employ an attorney upon a monthly or yearly basis with a stipulated monthly salary. Op. Atty. Gen. (434a-1), Apr. 20, 1934.
(1).
Side road in abandoned village is a town or county road and town may remove fence, erected thereon. Op. Atty. Gen., Apr. 28, 1933.

2571-3. Transfer of funds validated.—Where the Board of County Commissioners, in any county containing any unorganized townships in which a tax has been levied and collected for dragging roads in such unorganized townships, has heretofore by resolution transferred such funds to the ditch funds and applied the same in payment of road benefits assessed against said townships on account of ditches, such action of the County Board is legalized, validated and made effective. (Act Apr. 10, 1933, c. 207.)

2572. Town bonds for paving.
Ordinarily graveling a road is not a "permanent improvement" within this section for which bonds may be issued, but such graveling may be of such a character as to come within the statute. Op. Atty. Gen., May 14, 1930.

2573. Taxation for road purposes by towns.
Maximum levy for road and bridge purposes is governed by §2573, and not §2060 or §2067. Op. Atty. Gen., Nov. 19, 1929.
Electors may increase levy for town road and bridge purposes at a special meeting duly called. Op. Atty. Gen., June 10, 1931.
Towns no longer have authority to vote a labor tax to be worked out on town roads. Op. Atty. Gen., June 16, 1931.
Maximum levy which may be made by a town for road and bridge purposes is now governed by §2573 and not by subsection 3 of §2060. Op. Atty. Gen. (519k), Aug. 14, 1934.
Whether "emergency" exists is matter for determination of town board in first instance. Op. Atty. Gen. (442a-17), Oct. 13, 1934.
Where town and village are not separate election districts, voters of village may vote on road matters. Op. Atty. Gen. (434b-27), Mar. 13, 1935.
(c).
Town board has no authority to make levy not exceeding two mills without vote of people. Op. Atty. Gen., Mar. 27, 1933.

2574. Town dragging fund and tax.
Town road overseers are to be appointed by town board. Op. Atty. Gen., Sept. 25, 1933.

2575. Town road overseer.
U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.
This section repeals or supersedes §1074 relating to election of road overseer. Op. Atty. Gen., Mar. 18, 1930.
Division of a township into more than one road district does not continue from year to year unless authorized by vote of electors at each annual township meeting. Op. Atty. Gen., Mar. 17, 1933.
A road overseer may not sell gravel to town. Op. Atty. Gen., June 6, 1933.
Township road overseer may employ and use own team in repair of town roads but compensation therefor must be fixed and allowed by town board. Op. Atty. Gen., June 30, 1933.

2576. Lighting of highways.
Town board may contract for lighting of public highway. Op. Atty. Gen., May 24, 1933, June 1, 1933.
Town board has power to enter into contract running for five years for lighting of public highways if such period is reasonable under all surrounding circumstances. Op. Atty. Gen. (377b-10(h)), Apr. 24, 1935.

2577. Expense of township line roads.
Provision as to joinder in expense of constructing bridge applies only in drainage proceedings. 175M243, 221NW3.

2578. Improvement of ferries by municipalities.
This section is not applicable to the tax authorized to be levied by Laws 1915, c. 44, as amended by Laws 1919, c. 528, set forth herein as §§2565-4 to 2565-8. Op. Atty. Gen., June 18, 1930.
Village of Lyle may lawfully contribute to the cost of improvement and maintenance of a county aid road leading into the village. Op. Atty. Gen., Aug. 22, 1930.
A village may construct a road without its boundaries only at places where a road exists, and village may not purchase right of way upon which to improve or maintain roads outside of its limits. Op. Atty. Gen., Apr. 13, 1933.
A village may construct a road without its boundaries only at places where a road exists. Op. Atty. Gen., Apr. 13, 1933.

2581. Establishment of road by judicial proceedings.
Decision denying petition need not be sustained by evidence practically conclusive against the propriety of establishing a road. 176M94, 222NW578.
The power to establish a highway on the line between two counties is vested by statute in the district court. Its final order establishing the highway has the force and effect of a judgment. The county boards cannot nullify the court's action by inaction; they must comply with it. Hauschild v. C., 182M123, 233NW827. See Dun. Dig. 8474(68).
County boards of adjoining counties are not authorized by law to lay out a road on the boundary line between them, but they must proceed under this section. Op. Atty. Gen., Feb. 24, 1930.
Roads may be established in unorganized towns pursuant to either of §§2581, 2582, and 2586. Op. Atty. Gen., Apr. 14, 1932.

2582. Establishment, alteration, or vacation by county boards.
Op. Atty. Gen., Apr. 14, 1932; note under §2581.
Petition altering existing road between given points held, within jurisdiction of county board though part altered was only in one town. Nelson v. Nicollet County, 154M358, 191NW913. See Dun. Dig. 8468.
When a permanent trunk highway is located by the Highway Commissioner the practicable road along the general location is not thereby vacated, but reverts to the control of the county or town board as the case may be. 171M369, 214NW653.
Where award of damages in county highway proceeding was made to administrator of deceased owner, county was liable to make payment again to mortgagee of record, mortgage having been foreclosed and there being a deficiency. Stemper v. C., 187M135, 244NW690. See Dun. Dig. 3076.
Taxpayer has no right to appeal from action of county board in designating town road as a county aid road pursuant to Laws 1929. Op. Atty. Gen., Aug. 31, 1929.
On petition for change of highway the board has a reasonable discretion in varying the route proposed in the petition and may retain a portion of the road which the petition asks to have changed. Op. Atty. Gen., Feb. 6, 1930.
A county board denying a petition for the vacation of a county road at one meeting may not reconsider its action and grant the petition at another meeting. Op. Atty. Gen., July 23, 1931.
On relocation of state aid road vacated portion returns to its original status as a county road in absence of declaration by county board as to its status. Op. Atty. Gen., Feb. 14, 1933.
To alter state aid road additional easements may be acquired under Laws 1929, c. 155, and petition and hearing as provided by §2582, but decision authorizing change in location must be made by joint action of county board and commissioner of highways. Op. Atty. Gen., Feb. 14, 1933.
Judicial road on county line remained open for entire width, though only part of width was constructed. Op. Atty. Gen., June 21, 1933.
Persons entitled to compensation in eminent domain. -mortgagor and mortgagee. 17MinnLawRev92.
Subd. 4.
Town road connecting with other town roads can be vacated only by county board. Op. Atty. Gen., Feb. 26, 1929.
Attempted vacation proceedings were void where county board did not obtain consent of village council. Op. Atty. Gen., May 26, 1933.
County may establish road to lake shore. Op. Atty. Gen., Aug. 15, 1933.
If road is to be established in unorganized township, a petition must be filed by landowner, unless such new road is on the township line. Op. Atty. Gen. (377b10(d)), Apr. 18, 1934.
Subd. 9.
If county board contemplates construction of a gravel road, such road will not be considered as having been constructed until gravel has been applied, but county need not gravel where petition is only for laying out of a road. Op. Atty. Gen., Aug. 11, 1932.

2582-1. Opening and improvement of highways leading to Meandered Lakes.—Whenever a petition

signed by fifty freeholders of the county is presented to the county board, wherein it appears that (a) there is a meandered lake or navigable stream running between two meandered bodies of water within the county which is not accessible to the general public by reason of the fact that there is no public highway leading up to the same, and (b) that the establishment and opening of a county road of not more than one mile in length and sixty-six feet in width would connect such lake or navigable stream with a public highway and would afford the general public a means of access to such lake or stream, it may be the duty of such board, if after an investigation it finds the statement in the petition to be true, to adopt a resolution establishing a public highway not more than one mile long nor sixty-six feet wide, at some location to be designated by it, so as to connect such lake or stream with some previously established and traveled highway, and to that end the several county boards shall have power to acquire any land, or any easement or interest therein deemed necessary, including the right to acquire the fee of the land to the width of the road only at the point where the road meets the lake by purchase, gift or condemnation proceedings. (Act Apr. 9, 1929, c. 142.)

County may establish road to lake shore. Op. Atty. Gen., Aug. 15, 1933.

2583. Establishment, alteration, or vacation by town boards.

In proceeding before town board to establish a road in part over lands held by the Government in trust for certain Indians to whom the land has been allotted, a property owner not interested in such lands cannot question the jurisdiction of the board, in view of Mason's U. S. Code, title 25, §311. 175M168, 220NW419.

When a person having easement to travel over a strip of ground improves it as a road it does not follow that he is to be paid damages when such strip of land is included in a public road. 175M168, 220NW419.

The 20 day term for filing final order under subd. 6, begins to run from date of hearing. Op. Atty. Gen., July 23, 1929.

Town board has right to make settlement with landowners for damages without making final order, but this is limited to cases where road is established on petition and hearing. Op. Atty. Gen., July 23, 1929.

Procedure by town board for vacation of town road, stated. Op. Atty. Gen., Jan. 30, 1930.

Where petition to town board for vacation of town road was denied merely because it did not contain the requisite number of signers, there was no denial of the petition on its merits, and a new petition may be filed within one year. Op. Atty. Gen., Apr. 3, 1930.

Where town road was established along a section line and it is not probable that the road will be constructed in the near future, no action on the part of the town board is necessary to entitle land owners to continue to use the land until the road is actually constructed. Op. Atty. Gen., May 13, 1931.

Township cannot acquire right of way to road by outright purchase and deed. Op. Atty. Gen., Apr. 14, 1932.

Laws, 1933, c. 228, is supplementary to this section and provides an additional method of petitioning town board. Op. Atty. Gen., Apr. 29, 1933.

A town board can lawfully establish a town road pursuant to §2583, or a cartway pursuant to §2585(1), for a distance of less than a mile extending from a public highway to a shore of a lake that is not meandered. Op. Atty. Gen. (377b-10(d)), Sept. 7, 1934.

Town board cannot alter or vacate road designated county aid road. Op. Atty. Gen. (380b-2), May 1, 1935.

Subd. 1.

Op. Atty. Gen., Feb. 26, 1929; note under §2582.

Form of petition and procedure thereunder. Op. Atty. Gen. (377a-7), Mar. 25, 1935.

Subd. 5.

Op. Atty. Gen. (377b10(d)), Aug. 13, 1934; note under §2588(5).

Party or parties affected are not entitled to recover anything in compensation for excess benefits. Op. Atty. Gen. (377b-10(d)), Jan. 22, 1935.

Subd. (6).

Requirement for filing award of damages within five days is directory, and not mandatory, and failure to file within five days does not invalidate proceedings. Op. Atty. Gen., Aug. 7, 1930.

It is mandatory that order be filed within 20 days of date in order to become effective. Op. Atty. Gen. (379c-1), Sept. 28, 1934.

Proceedings are of no effect where board failed to make and file order establishing road within period prescribed. Op. Atty. Gen. (377b-10(d)), July 2, 1935.

Property owner owning lands on both sides of section line cannot compel town board to construct and maintain cattle pass at expense of town. Id.

Subd. 8.

173M572, 218NW115; note under §2585.

2584. Dedication of land for road.

Common-law dedication, see §2590.

Township cannot acquire right of way to road by outright purchase and deed. Op. Atty. Gen., Apr. 14, 1932.

Road vacated did not become public road because landowners conveyed by quitclaim deed, and several farmers used road for thirty years, without supervision by municipality, it not appearing that town board accepted conveyances. Op. Atty. Gen., Apr. 29, 1932.

(1).

A public highway may still be created by common law dedication. Op. Atty. Gen. (379c-13(b)), July 12, 1935.

2585. Cartways. * * * * * * * * * * * * * * * *

Sub. 1. Any town board may establish a cartway two rods wide and not more than three rods wide on petition of not less than five voters, freeholders of such town. All their proceedings shall be the same as provided in this act establishing town roads. The cost and expense thereof and the damage awarded for lands taken therefor, shall be paid by the town, as is 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 not more than one-half of the damages to the land through which it passes may be assessed against the person or persons benefited thereby. ('21, c. 323, §45; '23, c. 439, §8; Apr. 24, 1929, c. 336.)

That two persons who were especially accommodated by cartway signed an agreement to open and maintain the same at their own expense did not tend to show collusion on part of town board. 173M448, 217NW499.

Evidence held to show that taking of land for cartway was for a public use and town board had jurisdiction. 173M448, 217NW499.

Evidence held not to support finding that town board acted arbitrarily. 173M448, 217NW499.

A cartway established under subdivision one is a public highway and not a private road, and it matters not that the principal benefit inures to one individual. The question as to whether the cartway should be established is one of policy legislative in its nature. Adverse judgment in a prior proceeding under Subdivision 2, did not make the matter res adjudicata after passage of one year. Action of town board was not arbitrary simply because one member thereof had, prior to the hearing, acquired full knowledge as to conditions. 173 M572, 218NW115.

A claim that there was no public necessity for the cartway does not go to the jurisdiction of the town board but presents a question for that board to determine. 175M395, 221NW527.

Where a petition asks for the laying out of a public highway and cartway two rods wide, the proceeding must be considered under this section. 175M395, 221NW 527.

Taxpayer participating in proceedings, held estopped to assert that notices were defective. 181M192, 231NW 924. See Dun. Dig. 3217.

Amount of damages to farm by cartway was properly determined as of time of trial on appeal. Burns v. T., 186M588, 243NW74.

Verdict for compensation for damage to farm by cartway, held not excessive. Burns v. T., 186M588, 243NW 74.

On improvement of a cartway established under this section it is not rendered a road four rods wide by dedication under §2590. Op. Atty. Gen., May 21, 1930.

If a cartway is established, under subdivision 2, for the benefit of one person, the amount of damages must be paid by that person. Op. Atty. Gen., Mar. 10, 1931.

Owner of an island which is sometimes accessible to the mainland over the bottom of a lake has no absolute right to demand that township construct for him a cartway affording access to a public road. Op. Atty. Gen., Dec. 9, 1931.

Town board may establish cartway three rods wide from public highway to meandered lake on petition signed by five freeholders of town. Op. Atty. Gen., Apr. 5, 1932.

Where township laid out four-rod road to connect at each end with public road, but no work was ever done on road, except one living on road worked out his poll tax on one-half of it, such road is still town road of width specified, and not cartway. Op. Atty. Gen., July 26, 1932.

A town board can lawfully establish a town road pursuant to §2583, or a cartway pursuant to §2585(1), for a distance of less than a mile extending from a public highway to a shore of a lake that is not meandered. Op. Atty. Gen. (377b-10(d)), Sept. 7, 1934.

(1).
Op. Atty. Gen. (377b-10(e))(631h), July 5, 1934; note under §7250.
Op. Atty. Gen. (377b10(d)), Aug. 13, 1934; note under §2588(5).

(2).
Cartways may not be established between two parcels of land where it would not connect with a public road. Op. Atty. Gen. (377b-1), Sept. 28, 1934.

Subd. 2.
Several owners of tracts aggregating more than five acres may join in a petition for a cartway. Watson v. B., 185M111, 239NW913. See Dun. Dig. 8459, 8467(a).
Town boards are required to afford egress by cartway to a public road where practicable. Watson v. B., 185M 111, 239NW913. See Dun. Dig. 8459, 8467(a).
"Damages" does not include the expense of constructing the cartway, but merely damages which are awarded for the taking of the land involved. Op. Atty. Gen., Mar. 12, 1931.
Petitioner for whose primary benefit a cartway is established cannot treat it as a strictly private way, and cannot keep the public off it. Op. Atty. Gen., June 10, 1931.

(2).
Petitioner for cartway must pay damages and town is not liable therefor. Op. Atty. Gen., July 1, 1933.

2585-3. Portage defined.—A portage, as used in this Act, shall be a passage way, two rods in width, extending from one navigable water to another navigable water or from a navigable water to a public highway. (Act Apr. 22, 1933, c. 424, §1.)

2585-4. Petition to establish portage.—Ten or more freeholders of any county may petition the County Board to establish a portage in such county. Such petition shall set forth with reasonable definiteness the point of beginning and the point of termination of such portage. Thereupon, at its next meeting, if the County Board shall decide that such petition is reasonable, it shall order a public hearing thereon and shall designate in such order the time and place for such hearing. At least 30 days before the time set for such hearing it shall cause posted notice of the time and place thereof to be given in a public place in the court house and in two public places in each town through which such proposed portage shall pass. (Act Apr. 22, 1933, c. 424, §2.)

2585-5. Hearing on petition.—At such hearing the County Board shall hear all parties interested as to the necessity for such portage and as to the cost of acquiring the land necessary for such portage. (Act Apr. 22, 1933, c. 424, §3.)

2585-6. Survey to be made.—In case the County Board, after such hearing, shall conclude that such a portage would be of sufficient public advantage, it shall order the County Surveyor or the County Highway Engineer to determine the most practicable course for such a portage, to survey such course and to submit an estimate as to the cost of constructing such a portage. In case the cost of construction shall appear to the Board to be commensurate with the public advantages to be derived from such portage it shall declare the portage established, setting forth definitely in such order the point of beginning, the course and the point of termination of such portage. (Act Apr. 22, 1933, c. 424, §4.)

2585-7. Damages.—The damages sustained by reason of establishing, altering or vacating any portage may be ascertained by the agreement of the owners and the County Board; and, unless such agreement is made, or the owners release in writing, all claim to damages, the same shall be assessed and awarded before such portage is opened, worked, used, altered or vacated. Every such agreement and release shall be filed with the county auditor and shall be final as to the matters therein contained. In ascertaining the damages which will be sustained by any owner, the board shall determine the money value of the benefits which the establishment, alteration or vacation, as the case may be, will confer, and deduct such value, if any, from the damages, if any, and award the difference, if any, as damages. (Act Apr. 22, 1933, c. 424, §5.)

2585-8. Boards shall establish portage.—If the petition be granted, the board shall provide for the laying out and construction of such portage, in the case of the establishment of a new portage or the alteration of an existing portage or portages, and carrying into effect the vacation of an existing portage or portages, when such action is petitioned for. (Act Apr. 22, 1933, c. 424, §6.)

2585-9. Damage to be paid by county.—All damages resulting from the establishment, alteration or vacation of any portage shall be paid by the county. (Act Apr. 22, 1933, c. 424, §7.)

2585-10. Appeal to district court.—Any person aggrieved by the decision of a County Board establishing, altering or vacating or refusing to establish, alter or vacate any portage, or by any award of damages made by such County Board, may appeal therefrom to the district court of such county within 30 days after such award is made. (Act Apr. 22, 1933, c. 424, §8.)

2585-11. May be altered or vacated.—A public portage may be altered or vacated in the same manner as it may be established. (Act Apr. 22, 1933, c. 424, §9.)

2586. Section line roads.
Op. Atty. Gen., Apr. 14, 1932; note under §2586.
If road is to be established in unorganized township, a petition must be filed by landowner, unless such new road is on the township line. Op. Atty. Gen. (377b10(d)), Apr. 18, 1934.

2587. Roads on town line.
Two towns may agree to maintain jointly a bridge upon a part of the road assigned to one of them. 175 M243, 221NW3.
Evidence held not to sustain a finding that an agreement was made for joint maintenance of a bridge. 175 M243, 221NW3.
Where a bridge on a town line road is washed out, the question whether the two towns shall contribute to the expense of replacing the bridge depends on the agreement by which the two towns divided the road for purpose of maintenance. Op. Atty. Gen., July 3, 1930.
Where townships agree upon maintenance of a township line road, and state takes over a portion of the road maintained by one of the townships, the division must stand as it was before the taking over of the road by the state, in the absence of a new agreement between the townships, especially where the road is on a county line. Op. Atty. Gen., May 5, 1931.
Survey by county some years previous to petition for town line road is no indication that county assumes any control. Op. Atty. Gen., May 12, 1932.
Petition for town line road is jurisdictional and defects should be pointed out by board to signers. Op. Atty. Gen., May 12, 1932.
Voters in incorporated village within town are not voters of town and are not eligible to sign petition for town line road. Op. Atty. Gen., May 12, 1932.
Signers of petition for town line road may be residents of either town, and must be voters residing within three miles of proposed road. Op. Atty. Gen., May 12, 1932.
Either town receiving petition for town line road should immediately notify town board of adjoining town and suggest time for joint meeting. Op. Atty. Gen., May 12, 1932.
There is no law or method of enforcing collection of upkeep and maintenance of state line road. Op. Atty. Gen. (377E), June 30, 1934.

2588. Appeal.
Form of judgment allowing compensation for cartway through land held in proper form. Burns v. T., 186M 588, 243NW74.

(5).
A town board may not proceed with construction of a cartway pending determination of appeal. Op. Atty. Gen. (377b10(d)), Aug. 13, 1934.

2590. Dedication by user.
Op. Atty. Gen. (377b-10(e)), (631h), July 5, 1934; note under §7250.
Evidence held to justify finding of a public road by common-law dedication. 183M393, 236NW706. See Dun. Dig. 2655(41).
Common-law dedication of a roadway is established by proof of long-continued public use under such circumstances that the knowledge and assent of the owners, known or unknown, may be presumed. Metalak v. R., 184M260, 238NW478. See Dun. Dig. 2646.
This section is not applicable to the opening of a road four rods wide along the route of a cartway established by an order of the town board making it two rods wide. Op. Atty. Gen., May 21, 1930.

A road constructed and maintained by a town within the limits of a village became established by user irrespective of the right of the town to construct and maintain the same. Op. Atty. Gen., Mar. 22, 1932.

Township cannot acquire right of way to road by outright purchase and deed. Op. Atty. Gen., Apr. 14, 1932.

Road vacated did not become public road because landowners conveyed by quitclaim deed, and several farmers used road for thirty years, without supervision by municipality, it not appearing that town board accepted conveyances. Op. Atty. Gen., Apr. 29, 1932.

This statute is applicable to streets as well as roads but width of village street must be governed by width as shown upon recorded plat dedicating such street, and such street need not be sixty-six feet in width. Op. Atty. Gen., June 29, 1932.

There was no dedication to width of four rods where cartway was laid out, constructed and continuously kept in repair within a width of one rod. Op. Atty. Gen. (379c-1), Sept. 28, 1934.

Whether there has been a dedication by user is a question of fact. Op. Atty. Gen. (379c-13(b)), July 12, 1935.

2592. Alteration of road.

Order of board establishing alteration of road vacates the unused part of the old road after lapse of two years. Nelson v. Nicollet County, 154M358, 191NW913. See Dun. Dig. 8467.

When a permanent trunk highway is located by the Highway Commissioner the practicable road along the general location is not thereby vacated, but reverts to the control of the county or town board as the case may be. 171M369, 214NW653.

On petition for change of highway the board has a reasonable discretion in varying the route proposed in the petition and may retain a portion of the road which the petition asks to have changed. Op. Atty. Gen., Feb. 6, 1930.

2595. Contracts for bridges and roads.

Township could not let a valid contract for work on bridge where price exceeded $500, unless plans and specifications were on file with the town clerk when bids were called for, and there could not be a recovery, on a quantum meruit or otherwise, where there was also no bond filed on execution of the contract. 172M259, 214NW 888.

This section is applicable to the construction of county aid roads. Op. Atty. Gen., May 1, 1930

Where a town, without advertisement for bids, and without formal contract, accepted the offer of a contractor to improve a road, the contract was illegal, but there was a contract for services within the $500.00 limitation. Op. Atty. Gen., May 19, 1930.

Great inconvenience to the public from the collapse of a bridge will not warrant a county in dispensing with the statutory requirement of three weeks' publication and reception of bids under this section. Op. Atty. Gen., June 19, 1931.

County board having rejected all bids for seasonal culverts, it may not reconsider them, but must readvertise. Op. Atty. Gen., June 4, 1932.

Where two culverts are to be used as one conduit, county board may not separate purchase so as to avoid necessity of advertising for bids. Op. Atty. Gen., June 4, 1932.

Town board in advertising for bids for graveling roads may not limit eligible bidders to county. Op. Atty. Gen., Mar. 21, 1933.

(2).

Subdivision has no application to work done by day labor or per hour, but does apply to a machine which, of necessity, will cost more than $500 to complete work. Op. Atty. Gen., June 10, 1933.

2596-1. Counties may pay for gasoline, etc., under certain conditions.—Whenever gasoline and oil has been furnished to a contractor in the construction of a county road and such contractor is insolvent and the bonding company issuing such contractor's bond is in the hands of a receiver, the county constructing such road may in its discretion pay for such gasoline and oil in the same manner as other county claims, provided, however, that the provisions herein contained shall not be interpreted or construed as being mandatory in any manner or thing whatsoever upon the county board of such county. (Act Apr. 4, 1933, c. 154.)

2597. Warning signs by contractors.

Independent school district may not publish proceedings in newspaper outside district circulating within district, where there is a paper published in district. Op. Atty. Gen., Jan. 26, 1933.

2600. Drainage of roads.

U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.

Towns in the improvement and maintenance of public highways are without authority substantially to change or interfere with the operation of duly established drainage systems. 174M317, 219NW158.

2605. Bridges over state drainage ditches.

Rebuilding of bridges is to be done by county over state or county ditches. Op. Atty. Gen., July 5, 1933.

2606. Reconstruction, repair, etc., notices, tax levies, etc.

Includes interstate bridge. Op. Atty. Gen., Apr. 11, 1929.

It is duty of town to construct and maintain approaches to a bridge constructed on a county road under this section. Op. Atty. Gen., Aug. 21, 1929.

2607. Impassable roads—Complaint by freeholders. —Sub. 1. Whenever a complaint in writing to the county board of the county reciting that a described road in or on the line of a town therein is neglected by the town charged by law with its maintenance and repair, or that a legally established road in or on the line of the town has not been constructed or opened, when the cost of opening and constructing such legally established road shall not exceed the sum of $1000.00 per mile, and that by reason of such neglect such road is not reasonably passable, and which said complaint is signed by five or more freeholders of said town or of an adjoining town in said county, the county board shall by resolution fix a time and place when and where it will consider the complaint, and thereupon the county auditor shall mail a copy of the complaint, together with a notice of the time and place when and where the county board will meet to consider the complaint, to the town clerk of the town, and shall also notify the persons signing the complaint of the time and place of such meeting. At the designated time and place the county board shall consider such complaint and hear and consider such testimony as may be offered by the officers of the town, or the persons filing the complaint, relative to the truth of the matters therein set forth. The chairman of the board or the presiding officer thereof may administer oaths to witnesses and require them to testify under oath. ('21, c. 323, §67; '23, c. 349, §13; Act. Feb. 19, 1929, c. 24, §1; Act Mar. 6, 1931, c. 40.) * * *

U. S. v. Wheeler Tp. (CCA8), 66F(2d)977.

There is no statutory provision by which one town can compel another to maintain its half of a town line road where there has been no agreement for the division of the road for purpose of maintenance, the only remedy being application to the county board under §2607. Op. Atty. Gen., June 27, 1930.

(1).

Op. Atty. Gen., Jan. 24, 1934; note under §2615(1).

2608. Seeding along highways.

One not injured by obstruction in a manner different from injury to general public cannot sue. 179M475, 229 NW583.

2609. Hedges and trees.—Sub. (1) The town boards of supervisors, as to town and county roads, outside the corporate limits of cities and villages, the county boards as to state aid and county aid roads, and the commissioner of highways as to trunk highways, are hereby given the right and power to determine upon the necessity and order the cutting down of hedges and trees within the road limits after having given ten days' written notice to the owner or owners of the abutting land, and an opportunity to be heard. Provided, that trees, other than willow trees shall not be so cut down unless such trees, or hedges, or either of them, interfere with keeping the surface of the road in good order, or cause the snow to drift onto or accumulate upon said road in quantities that materially obstruct travel. The said boards and commissioner, respectively, shall also have power to properly mark or light dangerous places on the public highways, and take such measures as may be necessary to protect travel thereon. ('21, c. 323, §69; Apr. 24, 1929, c. 329; Apr. 13, 1931, c. 153.)

Sub. (2) When the respective board or the commissioner of highways shall determine that such cutting down of hedges or trees within the limits of such roads in necessary, or that same would aid materially in keeping such roads in repair or free from snow, it shall notify the owner or owners of the

abutting lands by written notice of such decision, and order the trees or hedges cut down within thirty days after such notice. If the said owner or owners fail or refuse to comply with such notice and order within the time specified, the said board or commissioner of highways shall have the power to cause such trees or hedges to be cut down. The timber and wood of such trees shall belong to the said owner or owners of the abutting land; provided, they pay the expense of cutting down said trees or hedges and remove the same from the roadside within said thirty days. If such timber or wood is not removed within said time, the board or commissioner of highways, as the case may be, shall have the power to sell or dispose of the same or destroy it if it cannot be sold, and if sold, shall pay the proceeds thereof to the owner or owners of the abutting lands after deducting the costs of such cutting and sale.

Sub. (3) The town boards of supervisors and the county boards are hereby granted the further right and power to appropriate and pay out of their respective road and bridge fund, or from any other fund available, the cost of cutting down such trees and hedges and the removal or destruction of the same, if done at public expense, and the cost of marking or lighting dangerous places on said highways.

Sub. (4) Any person aggrieved by any determination or order of a town board of supervisors or county board of county commissioners, ordering or refusing to order the cutting down or removal of such hedges or trees may appeal therefrom within thirty days after the filing of such order or determination to the District Court of the county, by filing with the clerk of such court a bond in the sum of not less than $250.00 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 order is sustained, and by service upon the chairman of the town board, or upon the chairman of the county board, in case of such order made by a county board, of a notice of appeal stating briefly the grounds of appeal and signed by the party appealing or his attorney, and filing same with proof of service with the clerk of court of said county. Such appeal shall be entered upon the calendar for trial at the next general term of the court occurring more than 20 days after the appeal is perfected. Such appeal and matter shall be tried de novo in such court and either party shall be entitled to a jury trial upon demand. ('21, c. 323, §69; Apr. 24, 1929, c. 329; Apr. 13, 1931, c. 153; Dec. 23, 1933, Ex. Sess., c. 19.)

Discretion of town board declaring necessity for cutting down hedges and trees, cannot be controlled by mandamus. 177M372, 225NW296.

Following Powell v. Township of Carlos, 177M372, 225 NW296, and construing c. 329, Laws 1929, it is held that a court may not control the exercise of the discretion of the town board in determining what hedges and trees should be cut down within the road limits of a township highway. Wagner v. T., 182M571, 235NW27. See Dun. Dig. 8455.

County board is without power to order removal of trees and hedges from judicial highways, such power resting in town board. Op. Atty. Gen., Feb. 11, 1929.

But of course county in constructing highway may remove obstructions that interfere. Op. Atty. Gen., Feb. 28, 1929.

Moorhead city ordinance respecting trees and grass plots along the public streets, and the cutting of weeds and grass, held faulty as to compelling a man to cut grass on a street or alley. Op. Atty. Gen., Apr. 10, 1931.

This section applies only to the removal of trees from the right of way of an existing road, and has no application to the establishment of town roads under section 2583; and town board in the latter case may remove the trees, giving the timber to the abutting owner without making any charge for the cutting. Op. Atty. Gen., June 18, 1931.

2610. Tunnels under roads.—Every owner of land on both sides of a public road may tunnel under such road to permit stock to pass from one side to the other, but he shall, at his own expense, construct such tunnel so as not to endanger the public in the use of the such road. Before constructing such tunnel, the land owner shall obtain from the town board of the town in which it is located, if the road is a town road, or from the county board of the county in which it is located, if the road is a county or state aid or county aid road, or from the commission of highways, if the road is a trunk highway, an approval of the place, the kind of tunnel, and the manner of its construction. Bridges over tunnels shall be not less than sixteen feet wide, properly protected with railings, and constructed of such materials as shall be agreed upon by the respective board or commissioner of highways, as the case may be, and if, within one year after the construction of such bridge, the board or commissioner of highways, as the case may be, shall deem it or its appurtenances insecure, it may cause the same to be put in the proper condition at the expense of its owner, and, whenever said board or commissioner of highways shall deem the tunnel out of repair, it may cause the necessary repairs to be made at the expense of such owner. In either case the reasonable cost of such repairs shall be certified to the county auditor and by him assessed upon the land in the same manner as the road taxes. Provided, that when any such public road is not on a section or sectional subdivision line, the owner of the lands on both sides of such road shall be permitted to construct an appropriate tunnel to be approved as aforesaid, which tunnel the owner shall maintain at his own expense for the first year and which shall be thereafter maintained by the town, county, or state, as the case may be. Provided further that whenever the board of county commissioners of any county, as to any county state aid or county aid road therein, or the town board of any town, as to any town road therein, shall determine that the construction of such a tunnel is necessary for the safety and welfare of the public, such board may cause such tunnel to be constructed and maintained at the expense of the county or town, as the case may be or may contract with the abutting land owners for the equitable division of the cost of construction and maintenance thereof between such land owners and the county or town. ('21, c. 323, §70; Apr. 13, 1931, c. 147, §1.)

Under street. 179M495, 229NW794.

County cannot expend public funds to construct a cattle pass under a highway for owner of lands on both sides of highway. Op. Atty. Gen., May 28, 1929.

Property owner owning lands on both sides of section line cannot compel town board to construct and maintain cattle pass at expense of town. Op. Atty. Gen. (377b-10(d)), July 2, 1935.

2612. Town and county boards to construct culverts.

This section is not applicable to a highway constructed along the banks of an established drain, and the town is not required to construct bridges over the drain to give access to the highway. Op. Atty. Gen., July 19, 1930.

An abutting owner is entitled to a suitable culvert and to have it kept in good condition at expense of town. Op. Atty. Gen., Aug. 28, 1933.

2613. Condemnation of gravel beds.

A purchase of a quarter section of land in separate twenty acre tracts for use by the county to supply gravel would violate this section. Op. Atty. Gen., Apr. 25, 1931.

2614. *Special railroad rates for road materials.*

Since commission considered distance factor, it was unnecessary on appeal to consider whether it is mandatory that distance be considered in fixing rates. Hallett Const. Co. v. F., 191M335, 254NW435. See Dun. Dig. 8082a.

2615. Obstruction of or damage to highways.

The construction and maintenance of a logging railroad across a highway under Mason's Minn. Stat., 1927, §2558-1, etc., is not an unlawful obstruction under this section. 174M305, 219NW172.

In action to recover damages by one stumbling or tripping on door mat lying on sidewalk in front of defendant's property, it was proper to receive in evidence ordinances of the city making it unlawful to obstruct or incumber sidewalks. McCartney v. St. Paul, 181M555, 233NW465. See Dun. Dig. 6845, 6976.

In action for injuries in tripping over door mat in front of defendant's property, jury had right to draw from the evidence the inference that the mat was either

put there by defendant or that he permitted it to remain there, though there was no direct evidence. McCartney v. St. Paul, 181M555, 233NW465. See Dun. Dig. 3447, 6845, 7042.

In action for injuries to motorist, colliding with unguarded concrete mixer placed in road to guard a partially newly constructed culvert, evidence held sufficient to sustain finding of negligence of defendant. Wicker v. N., 183M79, 235NW630. See Dun. Dig. 4179(92).

Owner of fee in a highway can use it only in a way that is compatible with public travel thereon. State v. Nelson, 189M87, 248NW751. See Dun. Dig. 4157.

Side road in abandoned village is a town or county road and town may remove fence erected thereon. Op. Atty. Gen., Apr. 28, 1933.

(1).

Fishing or loitering on a bridge is not prohibited, but dangers incident thereto may be obviated possibly under this section. Op. Atty. Gen., July 24, 1931.

If township cut brush along right of way and piled it on right of way along main traveled part of highway with result that snow accumulated in large quantities on adjoining land and thereby blocked a driveway to a farmhouse, township could be compelled to remove the brush and snow. Op. Atty. Gen., Jan. 24, 1934.

2616. Moving buildings over roads.

Power company held not liable for injury to employe who climbed to the top of a road-building machine and came in contact with a power wire. 178M604, 228NW 332.

2617. Removal of snow.

Op. Atty. Gen., Jan. 24, 1934; note under §2615(1).

2619. Repeal.

Neither Laws 1913, c. 235, nor Laws 1921, c. 323, repealed Special Laws 1885, c. 175, requiring Mower County to build and maintain all bridges therein. State v. County of Mower, 185M390, 241NW60.

Laws 1913, c. 235, §91, and Laws 1921, c. 323, repealed Laws 1913, c. 75. Op. Atty. Gen., June 18, 1931.

Where county board established a road in a town in 1908 and township did a little grading but never completed road, it is now the duty of the county and not the township to complete such road, notwithstanding Laws 1913, c. 235, and R. L. 1905, §1168. Op. Atty. Gen. (380a-1), Sept. 28, 1934.

2620-1. Certain counties to improve roads outside of county.—That in any county of this state now or hereafter having a total assessed valuation of all its taxable property as fixed by the State Tax Commission of more than $220,000,000, and less than $375,000,000 exclusive of moneys and credits, and an area of less than 5,000 square miles, the board of county commissioners shall have authority to appropriate and expend upon any road, highway or bridge located upon or immediately adjacent to the boundary line between any city of the first class and any other city or village within such county, such sum or sums of money from the county road and bridge fund as said board shall deem proper for building, repairing or otherwise improving any road or highway, including the construction and repairing of any bridge thereon. ('25, c. 255, §1; Apr. 15, 1929, c. 189, §2.)

Sec. 1 of Act Apr. 15, 1929, c. 189, amends the title to Chapter 255, General Laws 1925, to read as follows: "An act authorizing the board of county commissioners of counties of this state having a total assessed valuation of more than $220,000,000, and less than $375,000,000, exclusive of money and credits, and the area of less than 5,000 square miles, to appropriate and expend money from the county road and bridge fund upon any road, highway or bridge located upon or immediately adacent to the boundary line between any city of the first class and any other city or village within such county, and to acquire by purchase or condemnation right-of-way therefor."

2620-2. Same—Appropriations by county boards.—In the event said board of county commissioners shall determine to grade, pave or otherwise improve any road or highway, or construct or repair any bridge upon or immediately adjacent to the boundary line between any city of the first class and any other city or village within such county, and it shall be deemed that such improvement of such road, highway or bridge can be more economically and better done by having the work of such improvement done by any such city of the first class such board of county commissioners is hereby authorized to appropriate and pay to any such city of the first class such amount of money as it shall deem necessary to be expended by the county for such purpose in such city or in the city or village adjoining; provided that if any such road, highway or bridge so improved is upon a boundary line between any city or village and a city of the first class operating under a home rule charter within such county, and such road, highway or bridge is partly within such city of the first class, the amount so appropriated by said county shall not exceed one-half the cost of any such improvement as estimated by the county highway engineer of any such county. ('25, c. 255, §2; Apr. 15, 1929, c. 189, §2.)

2620-3. Same—Appropriations in special fund.—Said amount so appropriated and paid to any such city of the first class shall be set apart in a fund for the improvement of any such road, highway or bridge, or may be paid to any fund raised or to be raised under any proceeding authorized by the charter of any such city for improvement of any such road, highway or bridge, and shall be expended from such fund in the same manner as other funds therein. ('25, c. 255, §3; Apr. 15, 1929, c. 189, §3.)

2620-4. Same—Appropriations not invalid.—Such appropriation shall not be declared invalid because the same shall be more or less than one-half the total cost of such improvement as finally determined. ('25, c. 255, §4; Apr. 15, 1929, c. 189, §4.)

2620-4½. Acquisition of right of way.—Any county board coming within the provisions of this act shall have authority in the name of the county to purchase or condemn lands for the right-of-way of such road, highway or bridge under the provisions of Chapter 41, General Statutes 1923. (Act Apr. 15, 1929, c. 189, §5.)

2620-5. Funding and payment of outstanding indebtedness.

Act (2620-5 to 2620-13) does not violate Const. Art. 4, §§33, 34, being remedial in character and intended to provide temporary relief for an unusual condition. 17 M312, 213NW914.

2620-7. Same—Tax levy to pay bonds.

Ten-mill levy for road and bridge fund was lawfully made where its proceeds went to pay interest and principal due upon bonds issued pursuant to act. State v. Keyes, 188M79, 246NW547. See Dun. Dig. 2285, 9239.

2620-9. County board to determine amount necessary.—Such county board shall annually, at its meeting on the second Monday in July, 1927, and at its meeting on the first Monday in January in each succeeding year, determine the amount of funds which will be available during the current year for road and bridge purposes, from the proceeds of the tax levy lawfully made therefor in the preceding year and from state aid and from other sources known to be due and payable into the county treasury for such purposes during such year, and shall thereupon, at such meeting, make and spread on its minutes a definite budget of the expenditures made and to be made and indebtedness incurred and to be incurred for road and bridge purposes during such year, which expenditures and indebtedness shall in no case exceed the aggregate amount of revenues so determined to be available for such year, providing, however, that in counties having an area of 2500 square miles and an assessed valuation of more than $10,000,000.00 and less than $30,000,000.00, exclusive of moneys and credits when any item of new road machinery, which will be available over a period of years, is purchased on bids, costing $4,000 and less than $6,000, that the payment thereof may, by the issuance of two warrants, be spread over a period of two years, one half of the aggregate amount as represented by one warrant to be charged to and paid out of the funds determined and available in the year such item is purchased and the balance as represented by the second warrant to be charged to and paid out of the funds determined and available for the following year, and provided further that if the cost of the such item of road machinery is in excess of $6,000, that the payment thereof may, by the

issuance of three warrants, be spread over a period of three years, one third of the aggregate amount, as represented by one warrant, to be paid out of the funds determined and available for the year in which said item is purchased, one third of said aggregate amount as represented by the second warrant to be paid out of and charged to the funds available and determined for the following year and the balance of one third of the aggregate, as represented by the third warrant, to be paid out of and charged to the funds determined available for the second year following the date of such purchase; provided, further, that the total cost of all road machinery purchased under this act shall not exceed the sum of $75,000, and that no warrants not payable in the year of their issue shall be issued subsequent to January 1, 1933. Such budget shall first allot, and there shall be first payable out of the receipts for such year, so much of the road and bridge floating indebtedness of the county, including amounts borrowed from any other fund or funds, as is not retired by the bond issue hereinbefore authorized, together with interest thereon. There shall then be allotted not less than one-fifth of the anticipated current tax collections annually for maintenance and not less than one-twenty-fifth of the anticipated current tax collections annually for an emergency fund, and what remains may be allotted to be expended on new construction for the year, which allotment shall include the payment of any amount remaining to be paid on outstanding construction contracts, completed or uncompleted. As nearly as may be, a specific program of new construction shall then be determined upon the amount to be expended on each item determined and allotted; and no change in such program shall be made, nor additional expenditures made or indebtedness incurred, which shall cause to be diverted to other purposes any part of the amount herein required to be allotted for payment of outstanding indebtedness, and for maintenance and emergency funds, nor which shall cause the expenditures made or indebtedness incurred by the county for all the purposes aforesaid in any year to exceed the total revenues of the county determined, as aforesaid, to be available for such year. The emergency fund may be used to pay for extraordinary repairs or replacements occasioned by emergency which could not be anticipated when the budget was made. ('27, c. 147, §5; Apr. 25, 1931, c. 337, §1.)

2620-17. Definitions.—The words, "Town Road" and "Town Roads" shall mean those roads and cartways which have heretofore been or which hereafter may be established, constructed and improved under the authority of the several town boards, and also all roads lying wholly within one township and not within the limits of any city or village including roads therein established by use. (Act Apr. 13, 1933, c. 228, §1.)

2620-18. Town boards to alter, vacate and abandon roads.—The several town boards may alter, vacate and abandon any town road upon petition of all the owners and occupants of all the land contiguous thereto. Said petition shall be filed with the town clerk and proceedings thereon by the town board shall be in conformity with the provisions of Section 2583 of Mason's Minnesota Statutes of 1927 as far as the same are applicable. (Act Apr. 13, 1933, c. 228, §2.)

This act is supplementary to §2583 and provides an additional method of petitioning town board. Op. Atty. Gen., Apr. 29, 1933.

2620-19. Inconsistent acts repealed.—All Laws, Acts or parts thereof inconsistent herewith are hereby repealed. (Act Apr. 13, 1933, c. 228, §3.)

2620-20. County Board may reimburse other municipalities in certain cases.—That the Board of County Commissioners of any county may when petitioned in writing therefor reimburse any borough, village or city of the fourth class for expenditures made by it subsequent to 1915 in the grading, construction or gravelling of a street or road within the limits of said borough, village or city, which street or road was a continuation of a State Aid Road and which street or road was subsequently designated as a part of the State Aid Road system of that county, to an amount, however, of not to exceed $2000 for any one municipality. (Act Feb. 15, 1935, c. 12, §1.)

Sec. 2 of Act Feb. 15, 1935, cited, provides that the act shall take effect from its "passage, approval and publication."

LOCAL AND SPECIAL ACTS

Laws 1929, c. 145, vacates road established by Sp. Laws 1879, c. 247.

Counties containing first class city in which is located more than 96% of taxable property according to assessed valuation authorized to expend from road and bridge fund money for installation of stop and go signs on city streets. Laws 1929, c. 284.

Safety isles on University Avenue in St. Paul constitute an integral part of the street itself, and the county may lawfully expend funds to assist in rearranging and remodeling them. Op. Atty. Gen., Feb. 26, 1931.

1931, c. 41, authorizes county board in counties having over 200,000 inhabitants, and area of over 5,000 square miles, to adjust claims for injuries.

Laws 1931, c. 59, authorizes counties with population of not less than 28,000, and not more than 28,500, to build and rebuild bridges costing less than $300 on certain roads. The act is repealed and re-enacted by Laws 1931, c. 87, and made to apply to bridges costing "more than $300."

Laws 1931, c. 297, authorizes counties having assessed valuation of over $350,000,000 and bonded indebtedness of not over $6,000,000 to improve roads and bridges to establish connection between trunk highways which are more than ten miles apart.

Laws 1933, c. 398, amends the title and section 1 of Laws 1931, c. 297, to make the act apply to counties having assessed valuation of not less than $310,000,000, exclusive of moneys and credits.

GENERAL PROVISIONS APPLICABLE TO ALL ROADS

2641-17. Same—tax levy.

Laws 1929, c. 116, authorizes counties with bonded debt of not to exceed $7,500,000, and assessed valuation of not less than $200,000,000, 96% of which is in cities, to issue bonds or certificates of indebtedness not exceeding $6,000,000, for roads, streets, bridges and parkways.

The evidence supports the finding that money paid to the city of St. Paul by Ramsey County was an advancement, and not an outright payment of part of the cost of a street improvement. Assessment of Benefits, Etc., 182M183, 233NW861. See Dun. Dig. 2242(27).

2652. Counties to be reimbursed, etc.

Laws 1929, c. 412, authorizes issue of bonds by the state to take up maturing county bonds during the years 1930, 1931, 1932.

Act authorizing issuance and sale of trunk highway bonds under art. 16, §4, of the constitution. Laws 1931, c. 113.

Act relating to reimbursement of counties for moneys expended by them subsequent to Sept. 1, 1924, in permanently improving trunk highways. Laws 1931, c. 168.

Laws 1933, c. 390, provides for reimbursement from trunk highway fund of municipalities and private persons and corporations for expense and damages incurred in connection with construction of roads.

Act Ex. Ses., Dec. 21, 1933, c. 7, appropriates $50,000 to reimburse Rice county on account of construction of viaduct in Faribault on trunk highway No. 21. Omitted as of local application only.

2653. State to reimburse municipalities for moneys expended on trunk highways.

State cannot reimburse county out of trunk highway fund amount expended for right of way for new road built by county and later designated and taken over by state as trunk highway. State v. Babcock, 186M132, 242 NW474. See Dun. Dig. 8452.

2660-1. Reimbursement of counties by state, etc.

Similar acts were passed at the 46th and 47th sessions. See Laws 1929, c. 122, and Laws 1931, c. 67.

State cannot reimburse county out of trunk highway fund amount expended for right of way for new road built by county and later designated and taken over by state as trunk highway. State v. Babcock. 186M132, 242NW474. See Dun. Dig. 8452.

2660-2. Same—purpose of and restrictions on reimbursement.

Counties may not be reimbursed for the cost of acquiring rights-of-way, except where additional land is acquired and incidental and essential to the particular permanent improvement for which reimbursement is claimed. Op. Atty. Gen., June 11, 1931.

2660-5. Reimbursement of counties by state for expenditures in permanently improving trunk highways subsequent to April 10, 1921.

State cannot reimburse county out of trunk highway fund amount expended for right of way for new road built by county and later designated and taken over by state as trunk highway. State v. Babcock, 186M132, 242 NW474. See Dun. Dig. 8452.

2660-8. Reimbursement of counties by state for expenditures in permanently improving trunk highways.

State cannot reimburse county out of trunk highway fund amount expended for right of way for new road built by county and later designated and taken over by state as trunk highway. State v. Babcock, 186M132, 242NW474. See Dun. Dig. 8452.

2661. Trunk highway number 71.—There is hereby added to the Trunk Highway System and created and established hereby new routes as follows, to-wit:

Route No. 71. Beginning at a point on Route No. 27 in Little Falls, thence extending in a northeasterly direction to a point on Route No. 1 at or near Moose Lake; affording Little Falls, Onamia, Isle, McGrath and Moose Lake a reasonable means of communication each with the other and other places within the State. (Superseded by Act Apr. 22, 1933, c. 440, §1.)

2662-1. Trunk Highway No. 72 established.—There is hereby added to the trunk highway system and created and established an additional route, to be known as Route No. 72, which shall begin at a point on Route No. 4 northeasterly of Bemidji and extend thence in a northerly direction to a point on Route No. 11 easterly of Beaudette, affording Bemidji, Waskish, Beaudette, and intervening and adjacent communities, a reasonable means of communication each with the other and other places within the state. ('23, c. 427, §1; Mar. 26, 1929, c. 86.)

2662-2½. Additional trunk highways created.—There is hereby added to the Trunk Highway System and created and established hereby new routes as follows, to-wit:

Route No. 73. Beginning at a point on Route No. 20 at or near Zumbrota, thence extending in an easterly direction to a point on Route No. 3; affording Zumbrota, Mazeppa, Zumbro Falls and Wabasha a reasonable means of communication each with the other and other places within the State.

Route No. 74. Beginning at a point on Route No. 3 at or near Weaver, thence extending in a southwesterly direction to a point on Route No. 9 at or near Spring Valley; affording Weaver, St. Charles, Chatfield and Spring Valley a reasonable means of communication each with the other and other places within the State.

Route No. 75. Beginning at a point on Route No. 3 in Winona, thence extending in a northeasterly direction to a point on the line between the states of Minnesota and Wisconsin.

Route No. 76. Beginning at a point on Route No. 43 at or near Wilson, thence extending in a southeasterly direction to a point on the line between the states of Minnesota and Iowa; affording Wilson, Houston and Caledonia a reasonable means of communication each with the other and other places within the State.

Route No. 77. Beginning at a point on Route No. 43 at or near Rushford, thence extending in a westerly direction to a point on Route No. 56 at or near Hayfield; affording Rushford, Chatfield, Stewartville, and Hayfield a reasonable means of communication each with the other and other places within the State.

Route No. 78. Beginning at a point on Route No. 9 at or near Rushford, thence extending in a southerly direction to a point on Route No. 44 at or near Mabel.

Route No. 79. Beginning at a point on Route No. 20 at or near Harmony, thence extending in a southerly direction to the line between the States of Minnesota and Iowa.

Route No. 80. Beginning at a point on Route No. 9 southerly of Wykoff, thence extending in an easterly direction to a point on Route No. 20 at or near Preston.

Route No. 81. Beginning at a point on Route No. 9 easterly of Austin, thence extending in a southeasterly direction to a point on Route No. 59 easterly of LeRoy.

Route No. 82. Beginning at a point on Route No. 40 at or near Blooming Prairie, thence extending in a westerly direction to a point on Route No. 15; affording Blooming Prairie, Ellendale, Mapleton, and St. James a reasonable means of communication each with the other and other places within the State.

Route No. 83. Beginning at a point on Route No. 5 westerly of Mankato, thence extending in a northwesterly direction to a point on Route No. 15 southerly of New Ulm.

Route No. 84. Beginning at a point on Route No. 7 at or near Sleepy Eye, thence extending in a southerly direction to the line between the States of Minnesota and Iowa; affording Sleepy Eye, St. James, and Sherburne a reasonable means of communication each with the other and other places within the State.

Route No. 85. Beginning at a point on Route No. 16 at or near Windom, thence extending in a southwesterly direction to a point on the line between the States of Minnesota and Iowa at or near Bigelow; affording Windom, Worthington, and Bigelow a reasonable means of communication each with the other and other places within the State.

Route No. 86. Beginning at a point on the line between the States of Minnesota and Iowa southerly of Lakefield, thence extending northerly through Lakefield to a point on Route No. 85 as herein established westerly of Windom.

Route No. 87. Beginning at a point on Route No. 9 southerly of Wells, thence extending in a southerly direction through Kiester to a point on the line between the States of Minnesota and Iowa.

Route No. 88. Beginning at a point on the line between the States of Minnesota and South Dakota, and Route No. 9, thence extending in a northeasterly direction to a point on Route No. 12 at or near Montevideo; affording Jasper, Pipestone, Marshall, and Montevideo a reasonable means of communication each with the other and other places within the State.

Route No. 89. Beginning at a point on Route No. 6 at or near Pipestone, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 90. Beginning at a point on Route No. 6 at or near Ivanhoe, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 91. Beginning at a point on the line between the States of Minnesota and Iowa southerly of Adrian, thence extending in a northerly direction to a point on Route No. 88 as herein established at or near Russell; affording Adrian, Lake Wilson, and Russell a reasonable means of communication each with the other and other places within the State.

Route No. 92. Beginning at a point on Route No. 17 westerly of Currie, thence extending in an easterly direction to a point on Route No. 84; affording Currie and Jeffers a reasonable means of communication each with the other and other places within the State.

Route No. 93. Beginning at a point on Route No. 4 at or near Redwood Falls, thence extending in a southeasterly direction to a point on Route No. 70 at or near Sleepy Eye.

Route No. 94. Beginning at a point on Route No. 3 northerly of Hastings, thence extending in a southeasterly direction to a point on the line between the States of Minnesota and Wisconsin.

Route No. 95. Beginning at a point on Route No. 94 as herein established at Point Douglas, thence extending in a northerly direction through Bayport and Stillwater to a point on Route No. 46 at or near Taylors Falls.

Route No. 96. Beginning at a point on Route No. 95 as herein established at or near Stillwater, thence extending in a westerly direction to a point on Route No. 63 at or near New Brighton.

Route No. 97. Beginning at a point on Route No. 1 at or near Forest Lake, thence extending in an easterly direction to a point on Route No. 95 as herein established.

Route No. 98. Beginning at a point on Route No. 1 at or near Forest Lake, thence extending in a northeasterly direction to a point on Route No. 46.

Route No. 99. Beginning at a point on Route No. 21 east of Le Center, thence extending in an easterly direction to a point on Route No. 21 near General Shields Lake.

Route No. 100. Beginning at a point on Route No. 22 at or near Gaylord, thence extending in an easterly direction to a point on Route No. 3 westerly of Red Wing; affording Gaylord, Henderson, New Prague, Northfield, Cannon Falls, and Red Wing a reasonable means of communication each with the other and other places within the State.

Route No. 101. Beginning at a point on Route No. 1 at or near Faribault, thence extending in a northerly direction to a point on Route No. 50.

Route No. 102. Beginning at the present terminus of Route No. 1 on the southerly limits of the City of St. Paul, thence extending in a northerly direction through the City of St. Paul to the point of beginning of Route No. 1 on the northerly limits of the city of St. Paul.

Route No. 103. Beginning at the present terminus of Route No. 1 on the westerly limits of the City of Duluth, thence extending in a northeasterly direction to the present point of beginning of Route No. 1 on the northerly limits of the City of Duluth.

Route No. 104. Beginning at the present terminus of Route No. 3 on the easterly limits of the City of St. Paul, thence extending in a northwesterly direction through the cities of St. Paul and Minneapolis to the present point of beginning of Route No. 3 on the westerly limits of the City of Minneapolis.

Route No. 105. Beginning at a point on the southerly limits of the City of Minneapolis, thence extending in a northeasterly direction through Minneapolis to a point at the beginning of Route No. 5 on the northerly limits of the City of Minneapolis.

Route No. 106. Beginning at a point on Route No. 8 in the westerly limits of the City of Duluth, thence extending in a southeasterly direction through Duluth to a point at the water's edge of St. Louise Bay and there terminating.

Route No. 107. Beginning at the present terminus of Route No. 10 on the westerly limits of the City of Minneapolis, thence extending in an easterly direction to a point on Route No. 104 as herein established.

Route No. 108. Beginning at the present terminus of Route No. 12 on the easterly limits of the City of St. Paul, thence extending in a westerly direction through the cities of St. Paul and Minneapolis to a point on the westerly limits of the City of Minneapolis, connecting with Route No. 12.

Route No. 109. Beginning at the present terminus of Route No. 45 on the easterly limits of the City of St. Paul, thence extending into St. Paul in a southwesterly direction to connect with Route No. 102 as herein established.

Route No. 110. Beginning at the present terminus of Route No. 50 on the southerly limits of the City of Minneapolis, thence extending through Minneapolis and northerly to a point on Route No. 2 at or near Aitkin, affording Minneapolis, Anoka, Ogilvie, Isle and Aitkin a reasonable means of communication each with the other and other places within the State.

Route No. 111. Beginning at the present terminus of Route No. 52 on the westerly limits of the United States Military Reservation at Fort Snelling, thence extending in a northeasterly direction through the Military Reservation into the City of St. Paul to connect with Route No. 102 as herein established.

Route No. 112. Beginning at the present terminus of Route No. 53 on the southerly limits of the City of South St. Paul, thence extending through South St. Paul into the City of St. Paul to connect with Route No. 102 as herein established.

Route No. 113. Beginning at a point on the northerly limits of the City of St. Paul, thence extending in a southeasterly direction into St. Paul to connect with Route No. 104 as herein established.

Route No. 114. Beginning at the present terminus of Route No. 63 on the northerly and easterly limits of the City of Minneapolis, thence extending into Minneapolis in a southwesterly direction to connect with Route No. 105 as herein established.

Route No. 115. Beginning at a point on Route No. 112 as herein established in St. Paul thence extending in a southerly direction to a point on Route No. 1 southerly of Wescott.

Route No. 116. Beginning at a point on Route No. 104 as herein established in the City of Minneapolis, thence extending in a southeasterly direction to a point on Route No. 53, thence extending in a southerly direction to a point on Route No. 21 at or near Kenyon; affording Minneapolis, Mendota, Hampton, and Kenyon a reasonable means of communication each with the other and other places within the State.

Route No. 117. Beginning at a point on Route No. 100 as herein established easterly of New Prague, thence extending in a northeasterly direction and crossing the Mississippi River easterly of the City of South St. Paul, thence extending in a northerly direction to a point on Route No. 1 at or near White Bear.

Route No. 118. Beginning at a point on Route No. 45 southwesterly of Stillwater, thence extending in a westerly direction to a point on Route No. 105 as herein established in Minneapolis.

Route No. 119. Beginning at a point on Route No. 49 at or near Clara City, thence extending in an easterly direction to a point on Route No. 12 at or near Excelsior; affording Clara City, Hutchinson, and Excelsior a reasonable means of communication each with the other and other places within the State.

Route No. 120. Beginning at a point on Route No. 119 as herein established at or near St. Bonifacius, thence extending in a northeasterly direction to a point on Route No. 10.

Route No. 121. Beginning at a point on Route No. 22 at or near Gaylord, thence extending in a northeasterly direction to a point on Route No. 5; affording Gaylord, Norwood, and Victoria a reasonable means of communication each with the other and other places within the State.

Route No. 122. Beginning at a point on Route No. 5 in Mankato, thence extending in a northwesterly direction through Nicollet to a point on Route No. 22, southerly of Gaylord.

Route No. 123. Beginning at a point on Route No. 5 in Le Sueur, thence extending in a southeasterly direction to a point on Route No. 21.

Route No. 124. Beginning at a point on Route No. 39 at or near Wells, thence extending in a southeasterly direction to a point on Route No. 9 at or near Alden.

Route No. 125. Beginning at a point on Route No. 111 as herein established north of the Mississippi River, thence extending in a northerly direction to a point on Route No. 63.

Route No. 126. Beginning at a point on Route No. 104 as herein established in St. Paul at or near Rice Street, thence extending in a northerly direction to a point on Route No. 63.

Route No. 127. Beginning at a point on Route No. 1 in the southwesterly portion of White Bear, thence extending in a northeasterly direction to a point on Route No. 1 near Bald Eagle Junction, this Route to be a substitute for the present location of Route No. 1 between said points.

Route No. 128. Beginning at the present terminus of Route No. 57 in Mantorville, thence extending in a northerly direction through Wanamingo to a point on Route No. 20.

Route No. 129. Beginning at a point on Route No. 24 at or near St. Cloud, thence extending in a southeasterly direction to a point on Route No. 110 as herein established northerly of Minneapolis; affording St. Cloud, Clearwater, and Monticello a reasonable means of communication each with the other and other places within the State.

Route No. 130. Beginning at a point on Route No. 3 northwesterly of Minneapolis, thence extending in a southerly direction to a point on Route No. 52.

Route No. 131. Beginning at a point on Route No. 37 at or near Randall, thence in an easterly direction to a point on Route No. 27.

Route No. 132. Beginning at a point on Route No. 27 at or near St. Cloud, thence extending in an easterly direction to a point on Route No. 46 at Taylors Falls; affording St. Cloud, Princeton, Cambridge and Taylors Falls a reasonable means of communication each with the other and other places within the state.

Route No. 133. Beginning at a point on Route No. 5 northerly of Braham, thence extending in an easterly direction to a point on the line between the States of Minnesota and Wisconsin.

Route No. 134. Beginning at a point on Route No. 5 southerly of Grasston, thence extending in a northerly direction to a point on Route No. 23.

Route No. 135. Beginning at a point on Route No. 28 westerly of Little Falls, thence extending in a westerly and southwesterly direction to a point on Route No. 3 at Osakis; affording Little Falls, Long Prairie, and Osakis a reasonable means of communication each with the other and other places within the State.

Route No. 136. Beginning at a point on Route No. 8 norwesterly of Bemidji, thence extending in a northwesterly direction to a point on Route No. 11 at or near Roseau.

Route No. 137. Beginning at a point on Route No. 18 northwesterly of Garrison, thence extending in a northerly direction to a point on Route No. 34 at or near Remer; affording Garrison, Deerwood, Crosby, and Remer a reasonable means of communication each with the other and other places within the State.

Route No. 138. Beginning at a point on Route No. 19 northerly of Walker, thence extending in a northwesterly direction to a point on Route No. 4.

Route No. 139. Beginning at a point on Route No. 19 at or near Pine River, thence extending in a northeasterly direction to a point on Route No. 34.

Route No. 140. Beginning at a point on Route No. 11 at or near Baudette, thence extending in a northerly direction to Lake of the Woods.

Route No. 141. Beginning at a point on Route No. 28 at or near Sauk Center, thence extending in a southerly direction to a point on Route No. 4.

Route No. 142. Beginning at a point on Route No. 4 at or near Paynesville, thence extending in a northwesterly direction to a point on the line between the States of Minnesota and North Dakota; affording Paynesville, Glenwood, and Elbow Lake a reasonable means of communication each with the other and other places within the State.

Route No. 143. Beginning at a point on Route No. 10 westerly of Pennock, thence extending in a northerly direction to a point on Route No. 142 as herein established.

Route No. 144. Beginning at a point on Route No. 6 at or near Madison, thence extending in a northeasterly and northerly direction to a point on Route No. 142 as herein established at or near Barrett; affording Madison, Appleton, Morris, and Barrett a reasonable means of communication each with the other and other places within the State.

Route No. 145. Beginning at a point on Route No. 10 at or near Willmar, thence extending in a westerly direction to a point on Route No. 144 as herein established.

Route No. 146. Beginning at a point on Route No. 49, thence extending in a southerly direction through Maynard to a point on Route No. 12.

Route No. 147. Beginning at a point on Route No. 66 at or near Appleton, thence extending in a northwesterly direction to a point on Route No. 6.

Route No. 148. Beginning at a point on Route No. 6 at or near Ortonville, thence extending in a northwesterly direction to a point on Route No. 28.

Route No. 149. Beginning at a point on Route No. 148 as herein established at Ortonville, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 150. Beginning at a point on Route No. 12 at or near Hector, thence extending in a northerly direction to a point on Route No. 4 at or near Paynesville; affording Hector, Grove City, and Paynesville a reasonable means of communication each with the other and other places within the State.

Route No. 151. Beginning at a point on Route No. 24 southerly of Kimball, thence extending in a southerly direction to a point on Route No. 14 at or near Winthrop; affording Kimball, Hutchinson and Winthrop a reasonable means of communication each with the other and other places within the State.

Route No. 152. Beginning at a point on Route No. 10 at or near Herman, thence extending in a northwesterly direction to a point on Route No. 3 southerof Breckenridge.

Route No. 153. Beginning at a point on Route No. 3 at or near Evansville, thence extending in a northwesterly direction to a point on Route No. 6 southerly of Fergus Falls.

Route No. 154. Beginning at a point on Route No. 6 at or near Canby, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 155. Beginning at a point on Route No. 12 southerly of Madison, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 156. Beginning at a point on Route No. 104 as herein established in the City of Minneapolis at the easterly end of Washington Avenue, thence extending in a northwesterly and northerly direction to a point on Route No. 62 easterly of the Great Northern Railway.

Route No. 157. Beginning at a point on Route No. 35 on the north side of Mille Lacs Lake, thence extending in an easterly direction to a point on Route No. 110 as herein established.

Route No. 158. Beginning at a point on Route No. 11 at International Falls, thence extending in an easterly direction to Black Bay.

Route No. 159. Beginning at a point on Route No. 5 at or near Swan River, thence extending in a northerly direction to a point on Route No. 4, at or near Little Fork; affording Swan River, Nashwauk, and Little Fork a reasonable means of communication each with the other and other places within the State.

Route No. 160. Beginning at a point on Route No. 35 at or near Tower, thence extending in a westerly direction to a point on Route No. 136 as herein established southerly of Red Lake.

Route No. 161. Beginning at a point on Route No. 3 in Red Wing, thence extending in a northerly direction to a point on the line between the States of Minnesota and Wisconsin.

Route No. 162. Beginning at a point on Route No. 34 at or near Remer, thence extending in an easterly direction to a point on Route No. 8.

Route No. 163. Beginning at a point on Route No. 1 at or near Moose Lake, thence extending in a northerly direction to a point on Route No. 11 southerly of Orr; affording Moose Lake, Cromwell, Floodwood, Hibbing, Chisholm, and Orr a reasonable means of

communication each with the other and other places within the State.

Route No. 164. Beginning at a point on Route No. 1, thence extending in a northerly direction through Cloquet to a point on Route No. 11.

Route No. 165. Beginning at a point on Route No. 8 westerly of Deer River, thence extending in a northwesterly direction to a point on Route No. 4.

Route No. 166. Beginning at a point on Route No. 35 at Ely, thence extending in a southeasterly direction to a point on Route No. 1.

Route No. 167. Beginning at a point on Route No. 11 northerly of Virginia, thence extending in a northeasterly direction to a point on Route No. 160 as herein established westerly of Tower.

Route No. 168. Beginning at a point on Route No. 4 near Itasca State Park, thence in a northwesterly direction to a point on Route No. 31 at Mahnomen.

Route No. 169. Beginning at point on Route No. 8 at or near Bagley, thence extending in a southerly direction to a point on Route No. 168 as herein established.

Route No. 170. Beginning at a point on Route No. 32 at or near Thief River Falls, thence extending in an easterly direction to a point on Route No. 136 as herein established.

Route No. 171. Beginning at a point on Route No. 6 near St. Vincent, thence extending in a westerly direction to a point on the line between the States of Minnesota and North Dakota.

Route No. 172. Beginning at a point on Route No. 6 at or near Donaldson, thence extending in a westerly direction to a point on the line between the States of Minnesota and North Dakota.

Route No. 173. Beginning at a point on Route No. 6 at or near Warren, thence extending in a westerly direction to a point on the line between the States of Minnesota and North Dakota.

Route No. 174. Beginning at a point on Route No. 8 at or near Erskine, thence extending in a northwesterly direction to a point on Route No. 6 southerly of Noyes.

Route No. 175. Beginning at a point on Route No. 8 at or near Crookston, thence extending in a southerly direction to a point on Route No. 6 northerly of Hendrum.

Route No. 176. Beginning at a point on Route No. 175 as herein established at or near Halstad, thence extending in a westerly direction to a point on the line between the States of Minnesota and North Dakota.

Route No. 177. Beginning at a point on Route No. 32 southerly of Red Falls, thence extending in a southerly direction to a point on Route No. 182.

Route No. 178. Beginning at a point on Route No. 6 near Crookston, thence extending in a southeasterly direction to a point on Route No. 177 as herein established at or near Fertile.

Route No. 179. Beginning at a point on Route No. 6 at or near Ada, thence extending in a southerly direction to a point on Route No. 64 at or near Barnsville.

Route No. 180. Beginning at a point on Route No. 153 as herein established at or near Ashby, thence extending in a northeasterly direction to a point on Route No. 181 as herein established at or near Otter Tail.

Route No. 181. Beginning at a point on Route No. 36 at or near Henning, thence extending in a northwesterly direction to a point on Route No. 2 at or near Perham.

Route No. 182. Beginning at a point on Route No. 30 at or near Lake Lizzie, thence extending in a westerly direction to a point on Route No. 64 at or near Barnesville.

Route No. 183. Beginning at a point on Route No. 36 east of Henning, thence extending in an easterly direction to a point on Route No. 2 at or near Staples.

Route No. 184. Beginning at a point on Route No. 29 at or near Deer Creek, thence extending in a northerly direction to a point on Route No. 2.

Route No. 185. Beginning at a point on Route No. 1 at Sandstone, thence extending in a northeasterly direction to a point on Route No. 103 as herein established in Duluth.

Route No. 186. Beginning at a point on Route No. 110 as herein established, thence extending in an easterly direction to a point on Route No. 185 as herein established at or near Askov; affording Isle, Finlayson, and Askov a reasonable means of communication each with the other and other places within the State.

Route No. 187. Beginning at a point on Route No. 18 at or near Elk River, thence extending in a southerly direction to a point on Route No. 117 as herein established.

Route No. 188. Beginning at a point on Route No. 69 at Buffalo, thence extending in an easterly direction to a point on Route No. 110 as herein established.

Route No. 189. Beginning at a point on Route No. 5 southerly of Mora, thence extending in a southerly direction to a point on Route No. 132 as herein established.

Route No. 190. Beginning at a point on Route No. 6 at or near Wheaton, thence extending in a southwesterly direction to a point on Route No. 28 at or near Browns Valley.

Route No. 191. Beginning at a point on Route No. 190 as herein established southwesterly of Wheaton, thence extending in a westerly direction to a point on the line between the States of Minnesota and South Dakota.

Route No. 192. Beginning at a point on Route No. 1 at or near Hinckley, thence extending in an easterly direction to the line between the States of Minnesota and Wisconsin.

Route No. 193. Beginning at a point on Route No. 2 at or near Motley, thence extending in a northerly direction to a point on Route No. 34 westerly of Walker.

Route No. 194. Beginning at a point on Route No. 117 as herein established at or near Mendota, thence extending in a northeasterly direction to a point on Route No. 102 as herein established.

Route No. 195. Beginning at a point on Route No. 1 at or near Albert Lea, thence extending in a southwesterly direction to a point on the line between the States of Minnesota and Iowa.

Route No. 196. Beginning at a point on Route No. 8 at or near Grand Rapids, thence extending in a northerly direction to a point on Route No. 160 as herein established; affording Grand Rapids and Big Fork a reasonable means of communication each with the other and other places within the State.

Route No. 197. Beginning at a point on Route No. 4 southerly of Park Rapids, thence extending in an easterly direction to a point on Route No. 139 as herein established easterly of Backus.

Route No. 198. Beginning at a point on Route No. 9 at or near LaCrescent, thence extending in a southerly direction to a point on the line between the States of Minnesota and Iowa.

Route No. 199. Beginning at a point on Route No. 9 at or near Austin, thence extending in a southwesterly direction to a point on the line btween the States of Minnesota and Iowa.

Route No. 200. Beginning at a point on Route No. 4 at or near Itasca State Park, thence extending in a westerly direction to a point on Route No. 30 at or near Waubon.

Route No. 201. Beginning at a point on Route No. 82, as herein established, near Waldorf, thence extending in a northwesterly direction to a point on Route No. 39 at or near Mankato.

Route No. 202. Beginning at a point on Route No. 11 at or near Eveleth, thence extending in a

northeasterly direction to a point on Route No. 35 at Gilbert.

Route No. 203. Beginning at a point on Route No. 11 westerly of Duluth, thence extending in a southeasterly direction through Proctor and Duluth to the water's edge at St. Louis Bay, and there terminating.

Route No. 204. Beginning at a point on Route No. 11, westerly of Duluth, thence extending in a southeasterly direction to a point on Route No. 103, as herein established in Duluth.

Route No. 205. Beginning at a point on Route No. 54 easterly of Herman, thence extending in an easterly direction to a point on Route No. 29, at or near Alexandria.

Route No. 206. Beginning at a point on Route No. 30, at or near Pelican Rapids, thence extending in an easterly direction to a point on Route No. 181, as herein established, southerly of Perham.

Route No. 207. Beginning at a point on Route No. 2, at or near Frazee, thence extending in an easterly direction to a point on Route No. 4 at or near Menahga.

Route No. 208. Beginning at a point on Route No. 28, at or near Starbuck, thence extending in a northerly direction to a point on Route No. 3, at or near Garfield.

Route No. 209. Beginning at a point on Route No. 3, at or near Becker, thence extending in a northerly direction to a point on Route No. 18, at or near Brainerd, affording Becker, Foley, Gilman, Pierz and Brainerd a reasonable means of communication each with the other and other places within the State.

Route No. 210. Beginning at a point on Route No. 10 at or near Benson, thence extending in an easterly direction to a point on Route No. 4 at or near New London.

Route No. 211. Beginning at a point on Route No. 64 at or near Barnesville, thence extending in a southwesterly direction to a point on Route No. 3 at or near Breckenridge. (Act Apr. 22, 1933, c. 440, §1.)

Act Apr. 22, 1933, cited, is entitled: "An act to add new routes to the Trunk Highway System of Minnesota; for the amendment of Mason's Minnesota Statutes of 1927, Section 2554, Subdivision 5, Section 2557 and Section 2554, as amended, and for other purposes, all relating to the Trunk Highway System."

The following preamble precedes the enacting clause of Act Apr. 22, 1933, cited:

"WHEREAS, subsequent to the adoption of Article 16 of the Constitution of Minnesota at least 75 per cent of the total number of the miles of the routes embraced in the trunk highway system as specified in said Article 16 of the Constitution of Minnesota have been constructed and permanently improved, and

WHEREAS, the funds available for the construction, improvement and maintenance of the additional routes of the highway system as hereinafter set forth are sufficient therefor in addition to the construction and maintenance of the several routes specifically described in said Article 16 of the Constitution of Minnesota, and

WHEREAS, the Legislature is in such case authorized to add new routes to said trunk highway system, therefore:".

2662-2½a. Same—funds available.—That funds are available for the construction, improvement and maintenance of the additional routes of said trunk highway system hereinbefore set forth, sufficient therefor, in addition to the construction and maintenance of the several routes specifically described in said Article 16 of the Constitution of the State of Minnesota, and the said additional routes hereinbefore described are each and all hereof added to said trunk highway system pursuant to the power and authority vested in the Legislature under said Article 16 of the State Constitution. (Act Apr. 22, 1933, c. 440, §2.)

2662-2½b. Same—location—deviations—powers of commissioners.—The Commissioner of Highways is hereby authorized and empowered to specifically and definitely locate each of the foregoing described routes but in so locating the same he shall not deviate from the starting points or terminals as set forth herein, nor shall there be any deviation from the various villages and cities named therein through which such routes shall pass. All of the provisions of existing law defining the powers and duties of the Commissioner of Highways with reference to the temporary and permanent location of trunk highways and other highway matters are hereby conferred upon said Commissioner of Highways with respect to the foregoing routes. (Act Apr. 22, 1933, c. 440, §6.)

2662-2½c. Same—separability clause.—In the event that any provision or paragraph or part of this Act shall be questioned in any court and shall be held to be invalid the remainder of said Act shall not be invalidated but shall remain in full force and effect. (Act Apr. 22, 1933, c. 440, §7.)

2662-3. The Capitol Highway established.—The following route between the City of St. Paul and the south boundary of the State of Minnesota is hereby named and designated "The Capitol Highway," to-wit :

Beginning at the intersection of University Avenue, and Highway No. 62, in Anoka County, thence southerly along University Avenue through Minneapolis, and thence southerly along University Avenue and Robert Street through St. Paul, thence southerly along South Robert Street through West St. Paul to a point at or near the northeast quarter-corner of Section 19, Township 27, Range 22, thence southeasterly and southerly to a point at or near the southeast corner of Section 35, Township 113, Range 19, thence southerly, traversing in part the line between Rice and Goodhue Counties, to Trunk highway No. 21, thence southeasterly on said Highway to Trunk Highway No. 56, thence southerly on Trunk Highway No. 56 through Dodge Center to Trunk Highway No. 9, thence east on Trunk Highway No. 9 to the northeast corner of Section 2, Township 102, Range 17; thence in a southeasterly direction along Mower County State Aid Road "A" to a point on the Iowa State line at or near the center of Section 34, Township 101, Range 14. ('27, c. 235; Apr. 9, 1931, c. 126, §1.)

2662-4. Colvill Memorial Highway established.—That the following described highway be known as the Colvill Memorial Highway:

Beginning at Gaylord and running thence in an easterly direction through Lonsdale, Northfield and Cannon Falls, terminating at the City of Red Wing. (Act Apr. 21, 1933, c. 353.)

LOCAL AND TEMPORARY ACTS

Act 1915, c. 44, as amended by Laws 1919, c. 528, mentioned in note is set forth herein as §§2565-4 to 2565-8.

Laws 1909, c. 435 (G. S. 1913, §2594), is no longer in force. Op. Atty. Gen., Nov. 5, 1930.

Laws 1931, c. 111, limits scope of Laws 1915, c. 44, as amended by Laws 1919, c. 528.

Laws 1931, c. 111, §2, is constitutional. Op. Atty. Gen. (82), May 1, 1935.

Laws 1931, c. 113, authorizes issuance of state bonds to amount of $10,000,000 in 1931, and a like amount in 1932.

Laws 1923, c. 129, §1, relating to roads to meandered lakes, was amended by Laws 1929, c. 142.

Laws Sp. Ses., 1935-36, c. 96, authorizes commissioner of highways to pay special assessments in cities or villages having 4600 to 5300 population and assessed valuation of $2,300,000 to $2,400,000, total payment not to exceed $4,000.

Laws Sp. Ses., 1935-36, c. 98, authorizes issuance of trunk highway bonds in 1936 to amount of $2,650,000.

MOTOR VEHICLES

2672. Definitions.—Wherever in this Act the following terms are used they shall be construed to have the meaning herein ascribed to them:

"Application for Registration" shall have the same meaning as "listing for taxation," and when a motor vehicle is registered it is also listed.

Trucks used for transporting things other than passengers shall be classified and taxed as follows:

Class T trucks shall include all trucks, tractors, truck-tractors, semi-trailers and trailers used exclusively by the owner of such truck to transport agricultural, horticultural, dairy and other farm products

including live stock, produced by the owner of the truck from the farm to market, and to transport property and supplies to the farm of the owner, and trucks used in rendering occasional accommodation service for others in transporting farm products from a farm to market or supplies to a farm, or a farmers' co-opertaive even though the same be paid for, where such truck is owned by a person not engaged in the transportation business.

Class X trucks shall include all trucks, tractors, truck-tractors, semi-trailers and trailers used exclusively in transporting property within the zone circumscribed by a line running parallel to the corporate limits of any city or village or contiguous cities and/or villages and 35 miles distant therefrom. The permitted zone of operation shall be a zone in which the postoffice address of the licensee is located unless at the time of application for license he designates some other zone. The postoffice address of the owner or the zone selected for operation shall be stencilled by the owner in a conspicuous place on said motor vehicle. The X truck may be used by the owner thereof outside the zone for the purpose of transporting agricultural, horticultural, dairy and other farm products, including live stock produced by the owner of the truck from the farm to market and to transport property and supplies to the farm of the owner of the truck. Class X trucks shall also include, trucks, tractors, truck-tractors, semi-trailers and trailers operating on any highway in the state, engaged exclusively in transporting logs and other like forest products, or materials used in highway construction, or contractors' outfits to the place where work is to be performed and/or vehicles used exclusively as service or repair cards going to or from the place rendering aid and assistance to the disabled motor vehicle. The situs of an X truck may be changed by the owner thereof on application.

Class Y trucks shall include all trucks, tractors, truck-tractors, semi-trailers and trailers not included under Class T or Class X.

"Commercial Passenger Transportation" shall mean the carriage of passengers for hire between points not wholly within the limits of the same city, village or borough, provided that bus lines operating wholly within two or more contiguous cities, villages or boroughs, or between a city and a village, or villages contiguous thereto, and local bus lines carrying passengers from a railroad station from or to places in the vicinity thereof shall not be construed to be engaged in commercial passenger transportation.

"Highway." Any public thoroughfare for vehicles, including streets in cities, villages and boroughs.

"Motor Vehicles." Any self-propelled vehicle not operated exclusively upon railroad tracks, and any vehicle propelled or drawn by a self-propelled vehicle.

"Owner." Any person, firm, association or corporation owning or renting a motor vehicle, or having the exclusive use thereof, under a lease or otherwise, for a period of greater than 30 days.

"Tractor." Any motor vehicle designed or used for drawing other vehicles but having no provision for carrying loads independently.

"Truck-tractor." Any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"Trailer." Any vehicle designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

"Semi-Trailer." A vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight or that of its load rests upon and is carried by the towing vehicle.

"Truck." Any motor vehicle designed or used principally for carrying things other than passengers and includes a motor vehicle to which has been added a cabinet box, platform, rack or other equipment for the purpose of carrying merchandise other than the person or effects of the passenger.

"Unloaded weight" shall mean the actual weight of the vehicle fully equipped without a load.

"Gross weight" shall mean the actual unloaded weight of the vehicle, either a truck, tractor, truck-tractor, semi-trailer or trailer, fully equipped for service plus the weight of the maximum load which the applicant has elected to carry on such vehicle.

"Registrar." The registrar of motor vehicles designed in this Act.

"Sworn statement." Any statement required by or made pursuant to the provisions of this Act, made under oath administered by an officer authorized to administer oaths.

"Dealer." Any person, firm or corporation regularly engaged in the business of manufacturing, or selling, purchasing and generally dealing in new and unused motor vehicles having an established place of business for the sale, trade and display of new and unused motor vehicles and having in its, his or their possession new and unused motor vehicles for the purpose of sale or trade. ('21, c. 461, §1; '25, c. 299, §1; '27, c. 165, §1; '29, c. 432; Apr. 20, 1931, c. 217, §1; Apr. 20, 1933, c. 344, §1.)

Sec. 6 of Act Apr. 20, 1933, cited, provides that the act shall take effect Jan. 1, 1934. See §2684-7a as to construction of act.

283US57, 51SCR354, aff'g 180M241, 230NW572.

The tax imposed hereunder is a lien tax, and is a property tax including an inseparable element of privilege tax. 173M72, 216NW542.

Refund of motor vehicle registration tax paid. 173 M98, 216NW541.

This act is valid as applied to soldier stationed on federal military reservation and who owns and drives an automobile for his own purposes on the highways of the state outside the reservation. 180M241, 230NW 572.

Classification of and tax on truck not used in 1933 by owner who registered in 1932 must be determined by "use" made of truck by purchaser in 1933. Op. Atty. Gen., July 18, 1933.

Laws 1933, c. 344, is not applicable to registration of motor vehicles for year 1933. Op. Atty. Gen., May 11, 1933.

Affidavit that converted Ford roadster was used only for personal use in going to and from cabin was insufficient to entitle owner to refund or to registration in "T" class. Op. Atty. Gen., Aug. 30, 1933.

Truck used exclusively for carrying passengers should be registered as a "motor vehicle for carrying passengers" and rate of tax therefor is 2.4%, providing such vehicle is not engaged in "commercial transportation of passengers." Op. Atty. Gen., Jan. 12, 1934.

A farmer may in addition to his own use, transport farm products and livestock for others and charge therefor and still come under Class T where he is not engaged in transportation business. Op. Atty. Gen., Jan. 16, 1934.

If drayman hauls any kind of property within his permitted zone of operation with his Class X truck, he cannot operate the truck hauling logs outside of his regular zone unless he takes truck out of Class X. Id.

Phrase "like forest products" means raw forest products on first haul from forest where they were produced. Id.

Any contractor may register his truck in Class X providing it is used exclusively in transporting contractor's outfit to place where work is to be performed and "outfits" does not include materials that go into construction project itself. Id.

A nonresident may register his truck in X Class and establish a thirty-five-mile zone in Minnesota contiguous to state boundaries for purpose of doing interstate hauling. Id.

A farmer from a neighboring state may register his truck in T Class for purpose, in addition to hauling his own goods, of performing occasional accommodation service for his laborers and cooperatives. Id.

Class X trucks used exclusively for rural mail route purposes are exempt from requirement of stenciling of name and address of owner, prohibited by federal regulation. Op. Atty. Gen., Jan. 23, 1934.

Owner of X truck may designate as center of thirty-five-mile zone a city or village which is not place out of which truck operates or has his orders. Op. Atty. Gen., Jan. 26, 1934.

Neither an X truck nor an X trailer may be operated optside thirty-five-mile zone in private construction projects of owner who is not a contractor. Id.

Zone should be determined by extending lines parallel to city or village corporate limits and should extend thirty-five miles out of town until they intersect. Id.

Thirty-five-mile zone includes corporate limits of cities and contiguous cities if part thereof is within thirty-five-mile zone. Op. Atty. Gen., Jan. 29, 1934.

Truck is entitled to X classification where truck owner has contract to deliver road culverts for manufacturers and also hauls cord wood, fence posts or other raw forest products on first haul from forest where produced. Op. Atty. Gen., Feb. 2, 1934.

It is permissiblie for a trucker to operate a combination consisting of a tractor registered in Class Y interstate and a semi-trailer registered in Class X within permitted zone of operation of trailer at time trailer is engaged in interstate hauling, but if trailer is not at time engaged in interstate hauling, but is engaged in intrastate hauling, then Class Y interstate tractor is not engaged exclusively in transporting property in interstate commerce within meaning of section and such combination is not permissible. Op. Atty. Gen., Feb. 6, 1934.

Truck owned by a co-operative livestock association may be registered in class T providing association is not engaged in transportation business. Op. Atty. Gen., Feb. 13, 1934.

It is proper to register private school busses in T class at rate of 2.4% with prescribed truck minimums, which for a portion of the year are used as farm trucks. Op. Atty. Gen., Feb. 15, 1934.

It is proper to register private school busses in the X class at rate of 3.4% with prescribed truck minimums where for portion of year they are used as X trucks. Id.

A privately owned school bus used for no other purpose during the year is entitled to be classed at rate of 2.4% with passenger car minimum. Id.

Auxiliary wheels used by telephone companies to support end of long poles while transported should be registered for taxation as "semi-trailers." Op. Atty. Gen., Mar. 19, 1934.

A class X truck or school bus may be operated outside of its permitted thirty-five-mile zone, children not being "passengers for hire." Op. Atty. Gen., Mar. 22, 1934.

Rule applicable to registration of trucks owned by cooperative association is not applicable to trucks owned by members of a group of farmers who take turns of hauling products of such farmers for a consideration. Op. Atty. Gen. (633l-4), Apr. 4, 1934.

Truck owned by cooperative creamery association used in hauling products from its cooperative creamery to market was properly registered in Class X. Op. Atty. Gen. (632e-36), June 6, 1934.

Trucks owned by operators of fur farms used only for transporting farm products of one of the farms to the other farms were properly registered as Class T trucks. Op. Atty. Gen. (632e-35), June 11, 1934.

This section is constitutional. Op. Atty. Gen. (632e-34), June 12, 1934.

Whether pleasure motor vehicles used for delivery of merchandise are subject to registration as trucks is a question of fact to be determined from all facts surrounding each particular case, the "used" being the determining factor. Op. Atty. Gen. (633j-1), July 2, 1934.

Class T truck converted from passenger vehicle after Jan. 1, 1935, may be registered and taxed as such for that year. Op. Atty. Gen. (632e-35), Feb. 5, 1935.

Truck owned by traveling circus may be registered in class X. Op. Atty. Gen. (632e-36), July 19, 1935.

Trackless trolley cars are not motor vehicles within registration and taxation law. Op. Atty. Gen. (632e-1), July 22, 1935.

2673. Vehicles exempt from motor vehicle license. —Vehicles owned and used soley in the transaction of official business by representatives of foreign powers, by the federal government, the State or any political sub-division thereof, or vehicles owned and used exclusively by educational institutions and used solely in the transportation of pupils to and from such institutions, shall be exempt from the provisions of this Act requiring payment of tax or registration fees, but all such vehicles except those owned by the Federal Government, municipal fire apparatus, police patrols and ambulances, the general appearance of which is unmistakable, shall be registered as herein required and shall display tax exempt number plates furnished by the registrar at cost, provided, however, in the case of vehicles used in general police work the pleasure vehicles classification license number plates shall be displayed and furnished by the registrar at cost; but the exemption herein provided shall not apply to any vehicle, except such vehicles used in general police work, unless the name of the State Department or the political sub-division owning such vehicle shall be plainly printed on both sides thereof. Provided, however, that the owner of any such vehicle, desiring to come under the foregoing exemption provision shall first notify the Chief of the State Trunk Highway Patrol who shall provide suitable seals and cause the same to be affixed to any such vehicle. Tractors used solely for agricultural purposes, for drawing threshing machinery or for road work other than hauling material, implements or husbandry temporarily moved upon the highway, road rollers and small trailers of less than 1000 pounds capacity used only with pleasure vehicles on occasional trips shall not be taxed as motor vehicles using the public streets and highways and shall be exempt from the provisions of this Act. Motor vehicles, which are used only for the purpose of carrying sawing machines, well drilling machines, feed grinders and corn shellers temporarily attached to them, shall be subject to the registration tax as herein provided, but the machine so attached shall not be subject to this tax but shall be listed for taxation as personal property as provided by law. Motor vehicles, which are used only for the purpose of carrying sawing machines, well drilling machines or corn shellers permanently attached to them shall not be subject to the registration tax as herein provided, but shall be listed for taxation as personal property as provided by law. Motor vehicles which during any calendar year have not been operated on a public highway shall be exempt from the provisions of this Act requiring registration payment of tax and penalties for non-payment thereof, provided that the owner of any such vehicle shall first file his verified written application with the Registrar of Motor Vehicles, correctly describing such vehicle. Nothing herein shall be construed as repealing or modifying Chapter 361, Laws 1929 [§§2673-2, 2673-3], or Chapters 217 [§§2672, 2686 to 2686-3] and 220 [§§2684-1 to 2684-7], Laws of 1931. ('21, c. 461, §2; '23, c. 413, §2; Mar. 6, 1931, c. 39, §1; Apr. 17, 1933, c. 298.)

Sec. 2 of Laws 1931, c. 39, makes act effective on its passage.

Op. Atty. Gen. (632e-9), June 9, 1934; note under § 2682.

Automobile owned by soldier stationed at Fort Snelling and used for his own purposes on the highways of the state outside the reservation, held subject to tax. 180M241, 230NW572, aff'd 283US57, 51SCR354.

The amendment by Laws 1933, c. 298, was intended to apply to registration of motor vehicles for taxation for year 1933 and was not retroactive to any prior year. Op. Atty. Gen., Apr. 29, 1933.

Under amendment by Laws 1933, c. 298, a church high-school bus is exempt from registration tax. Id.

Owners entitled to exemption from payment under Laws 1933, c. 298, but who paid tax before passage thereof are not entitled to a refund without legislative appropriation. Id.

Phrase "during any calendar year" has reference to any 12-month period from January 1 to December 31. Id.

If owner at beginning of year makes verified written application indicating that he does not intend to use car, but on September 1 determines to place vehicle in operation, he must pay tax for whole year. Id.

A vehicle last used and registered in 1931 and stored during 1932 may not be registered in 1933 without paying judgment for taxes and penalties for 1932. Id.

A car reported as junked in 1930 cannot be reregistered in 1933 without payment of tax and penalties for years 1931 and 1932, though extensive repairs are contemplated. Id.

Second hand motor vehicles on hand for sale by licensed dealers are exempt if dealer shall first file his application for exemption. Id.

Unlicensed dealers dealing excessively in used cars are entitled to avail themselves of provisions relating to exemption. Id.

Trucks being towed to and from railroad tracks are not being operated on a public highway. Op. Atty. Gen., June 13, 1933.

Where owner, not a farmer, registered truck for 1932 in "X" class but was not operated during that year and was not used in 1933 until purchased by farmer, farmer is entitled to a class "T" registration. Op. Atty. Gen., June 27, 1933.

A carpenter who in 1932 had registered in "X" class truck converted from passenger vehicle by addition of box for carrying tools could have his vehicle registered as a roadster in 1933 where he took off the box on April 29, 1933, no use having been made of the truck before that date. Id.

Laws 1933, c. 298, applies to registration of motor vehicles for taxation for year 1933 and is not retroactive to any prior year. Op. Atty. Gen., Apr. 29, 1933.

Secretary of state cannot make refund of tax paid before passage of Laws 1933, c. 298, on a bus used by church high school solely for transporting pupils. Id.

A church school bus used solely for transportation of pupils must be registered but is exempt from taxation. Id.

"During any calendar year" has reference to 12-month period from Jan. 1 to Dec. 31, both dates inclusive. Id.

Owner of stored vehicle may file his verified written application for exemption at any time prior to judgment against him for non-payment of tax. Id.

One filing application for exemption but later in September deciding to use car must pay whole tax for year together with penalties. Id.

A vehicle not used since 1931 may not be registered for 1933 without having taxes and penalties for 1932 paid. Id.

Reference in Laws 1933, c. 298, to Laws 1929, c. 361, is of no effect, such act being held unconstitutional. Id.

Second hand motor vehicles on hand for sale by licensed dealers are exempted from taxation for entire year upon proper application. Id.

Dealers in used cars are entitled to exemption, though they may not be licensed under present law. Id.

One registering vehicle after passage of Laws 1933, c. 298, under which he was entitled to exemption, is entitled to refund. Op. Atty. Gen., June 2, 1933.

Vehicles owned and used exclusively by educational institution solely for transportation of pupils are exempt from license tax. Op. Atty. Gen., Nov. 10, 1933.

Laws 1933, c. 298, does not repeal and is not in conflict with §2687 with respect to exemption of second hand cars from tax while being transported by dealer. Op. Atty. Gen., Feb. 2, 1934.

Where city traded a truck registered in tax exempt classification to apply on a newly purchased truck, old truck did not become subject to any tax for the year while in hands of dealer for sale. Op. Atty. Gen., Feb. 2, 1934.

School bus purchased by an educational institution from a private owner during a calendar year is exempt from tax if it was not operated by the private owner at any time during the year. Op. Atty. Gen. (632e-12), Apr. 3, 1934.

Official North Dakota highway truck could go through this state with furniture belonging to an employee of the state highway without special permit. Op. Atty. Gen. (632c-14), Apr. 13, 1934.

Motor vehicles leased to federal government for its official business are not exempt from tax. Op. Atty. Gen. (632e-12), May 18, 1934.

Bus used by Bible university to transport students and occasional visitors to camp for religious conferences is exempt from tax, though fare is charged to passengers to cover operating charge. Op. Atty. Gen. (632e-12), May 21, 1934.

Dealer who has registered new unused motor vehicles with payment of tax to avoid necessity of paying personal property tax on them is not entitled to refund of such tax even if vehicle is permanently removed from the state without having been used on the streets and highways. Op. Atty. Gen. (632e-24), June 8, 1934.

Refund of tax paid for 1934 may be made where owner of vehicle, without having used it upon the streets and highways during the year, decides to discard it permanently. Op. Atty. Gen. (632e-24), June 11, 1934.

Vehicle operated on private property only and not on any public street or highway during year is exempt from motor vehicle tax. Op. Atty. Gen. (632e-12), June 11, 1934.

Rate of tax for first half year on truck not used nor registered, during 1934 prior to July 1, but sold on July 1 by record owner to purchaser whose employment of such truck is such that a higher rate of tax is required than that under which it was last registered by record owner of January 1, should be based on basic rate of 2.4% which is basic rate for all motor vehicles. Op. Atty. Gen. (632E), Aug. 2, 1934.

2673-2. Taxation of motor vehicles.—Motor vehicles using the public highways of this state and owned by companies whose property in this state is taxed on the basis of gross earnings shall be registered and taxed as provided for the registration and taxation of motor vehicles by Laws 1921, Chapter 461 [Mason's Minn. Stat., 1927, §§2672 to 2699], as now or hereafter amended. (Act Apr. 24, 1929, c. 361, §1.)

Laws 1929, c. 361, impliedly amending Mason's Minn. Stat., §2268, and excluding from the gross earnings tax the license tax on vehicles used on the highways, is unconstitutional. 180M268, 230NW815.

2673-3. Gross earnings tax not to apply.—The tax on basis of gross earnings paid by such company shall be in lieu of all other taxes upon its property as now provided by law, except motor vehicles using the public highways of this state. (Act Apr. 24, 1929, c. 361, §2.)

2673-4. Certain motor vehicles exempted from taxation.—That where a motor vehicle has been totally and permanently destroyed by fire between the dates of January 1st, 1933, and February 15th, 1933, or between the same dates in any year hereafter and shall not have been used upon public streets or highways of this state during such period, then such motor vehicle shall be exempted from tax under the provisions of Mason's Minnesota Statutes of 1927, Section 2690, and acts amendatory thereof, upon the satisfactory proof of such facts to the registrar of the Motor Vehicle Registration Department. (Act Apr. 1, 1933, c. 139.)

2674. Rate of tax.—(a) Motor vehicles, except as set forth in Section 2 hereof, using the public streets or highways in the State of Minnesota shall be taxed in lieu of all other taxes thereon, except wheelage taxes, so-called, which may be imposed by any borough, city or village, as provided by law, and shall be privileged to use the public streets and highways, on the basis and at the rates for each calendar year as follows:

Motor vehicles for carrying passengers and hearses .....2.2 per cent of value.

Provided that the minimum tax on all passenger motor vehicles under 2,000 pounds weight except as hereinafter provided shall be .....$5.00 and the minimum tax on all passenger motor vehicles 2,000 pounds and over in weight shall be ..... $7.50.

Two-wheel trailers of less than 1,000 pounds capacity, used only with pleasure vehicles, and not employed in the transportation of passengers or goods for hire, shall not be subject to taxation as motor vehicles.

The tax on Class "T" trucks with carrying capacity of less than 2,000 pounds, shall be 1.2 per cent on the base value.

The tax on Class "T" trucks with carrying capacity of 2,000 pounds and less than 3,000 pounds, shall be 1.44 per cent on the base value.

The tax on Class "T" trucks with carrying capacity of 3,000 pounds and over, shall be 2.4 per cent on the base value.

Provided, however, that the tax on Class "T" trucks with carrying capacity of less than 3,000 pounds shall be 1.92 per cent on the base value during the first and second years of vehicle life.

Provided that the minimum tax on all Class T and X trucks and tractors of one ton and under manufacturers' rated carrying or hauling capacity shall be $7.50 except that the minimum tax, on trucks converted from passenger vehicles, including those converted by the factory or a dealer by adding a pick-up box to a passenger vehicle before it was used as a passenger vehicle, shall be the same as the minimum on the passenger vehicle from which they were converted and the minimum tax on all trucks and tractors of over one ton and under two tons manufacturers' rated carrying or hauling capacity shall be $15.00 and minimum tax on all trucks and tractors of two tons or over and under three tons manufacturers' rated carrying or hauling capacity shall be $30.00 and the minimum tax on all trucks and tractors of three tons or over and under four tons manufacturers' rated carrying or hauling capacity shall be $60.00 and the minimum tax on all trucks and tractors of four tons or over and under five tons manufacturers' rated carrying or hauling capacity shall be $85.00 and the minimum tax on all trucks and tractors of five tons and over and under six tons manufacturers' rated carrying or hauling capacity shall be $125.00 and the minimum tax on all trucks and tractors of six tons and over manufacturers' rated carrying or hauling capacity shall be $150.00, and the minimum tax on trailers and semi-trailers shall be $2.00 for each ton or fraction thereof of such capacity.

The tax on Class T trucks as defined shall be 2.4% on the base value.

The tax on Class X trucks as defined shall be 3.4% on the base value.

The tax on Class Y trucks used in intrastate commerce shall be as provided in section (a)-1 hereof.

The tax on Class Y trucks used exclusively in interstate commerce shall be as provided in Section (a)-3 hereof.

Busses and carriers of passengers for hire engaged in commercial passenger trasportation, other than taxicabs and vehicles engaged in livery business.... 10% of value, provided that the minimum tax on all commercial passenger busses of over fifteen passenger seating capacity shall be three hundred fifty dollars ($350.00), and on those of fifteen and less and over five passenger seating capacity, other than taxicabs and vehicles engaged in livery business shall be two hundred fifty dollars ($250.00).

Motorcycles without side car....$3.00. Motorcycles, side car additional....$2.00.

Motor vehicles specially equipped for operation over snow and used exclusively for such purpose.... $3.00 if weighing one ton or less, and an additional $2.00 for each additional ton or fraction thereof.

Value until the end of the first calendar year of vehicle life construing the year of the model designation as the first year of such life shall be construed to mean the "base price for taxation" as hereinafter defined.

For the purpose of fixing a base price for taxation from which depreciation in value at a fixed percentum per annum can be computed, such price is defined as follows:

The base price for taxation of a motor vehicle of which a similar or corresponding model, as defined in Section 21 of this Act, was being manufactured on October 1 preceding the year for which the tax is levied, shall be the manufacturers' list price of such similar or corresponding model in effect on such October 1. The base price for taxation of a motor vehicle of which no such similar or corresponding model was manufactured until after such October 1 shall be the manufacturers' list price at the factory when the vehicle taxed was first manufactured. The base price for taxation of a motor vehicle of which no such similar or corresponding model has been manufactured since a time prior to such October 1 shall be the price fixed by the Registrar as a reasonable manufacturers' list price at the factory on such October 1 if such vehicle has been then manufactured at prevailing costs.

After the first year of vehicle life the base value for taxation purposes shall be reduced as follows: ten per cent the second year, and 15 per cent the third and each succeeding year thereafter, but in no event shall such tax be reduced below the minimum.

When a motor vehicle shall become first subject to taxation between June 30 and October 1, the tax for the remainder of the calendar year shall be one-half the tax for a whole year.

When a motor vehicle shall become first subject to taxation after September 30 and on or before December 31, the tax for the remainder of the calendar year shall be one-fourth the tax for a whole year. (As amended Apr. 17, 1935, c. 161, §1.

(a)-1. Class Y trucks. The tax on a tractor, or truck-tractor shall be determined by the actual unloaded weight of the vehicle. The tax on a semi-trailer, trailer or truck shall be based on the gross weight of such vehicle. The gross weight shall be the actual unloaded weight of the vehicle plus the weight of the maximum load which the applicant has elected to carry in such vehicle and for which such vehicle has been licensed. This tax shall be known as a "gross weight use tax." The gross weight use tax on each vehicle shall be as follows:

Where the gross weight of the vehicle is 6,000 pounds or less $25.00

Where the gross weight of the vehicle is over 6,000 pounds and less than 20,000 pounds the tax shall be $25.00 plus an additional tax of $15.00 for each 2,000 pounds of weight or major part thereof in excess of 6,000 pounds.

Where the gross weight of the vehicle is over 20,000 pounds and less than 30,000 pounds, the tax shall be $130.00 plus an additional tax of $40.00 each ton, or major part thereof in excess of 20,000 pounds.

Where the gross weight of the vehicle is over 30,000 pounds, the tax shall be $330.00 plus an additional tax of $75.00 for each 2,000 pounds or major part thereof in excess of 30,000 pounds.

(a)-2. The applicant for a Y license shall state in writing upon oath, among other things, the unloaded weight for such vehicle and the maximum load which the applicant proposes to carry thereon and such vehicle shall be licensed to carry as the maximum legal load the loadweight so selected, and no vehicle shall exceed such authorized loadweight by more than 1000 pounds. The gross weight of the vehicle for which such license tax is paid shall be stencilled in a conspicuous place on said vehicle by the owner thereof and the weght of a tractor or truck-tractor shall be likewise stencilled in a conspicuous place thereon.

The Registrar of Motor Vehicles shall cancel the certificate of registration and/or license plate issued by him upon conviction of the owner of such vehicle for transporting a loadweight exceeding the authorized loadweight by more than 1000 pounds. No certificate of registration and/or license plate shall thereafter be issued to operate such vehicle during such year except upon payment of a tax based on the gross load weight said vehicle was transporting at the time such offense was committed and the tax so to be paid shall be subject to a proportionate tax as provided herein.

The tax imposed on class Y trucks in each instance shall be increased 50% on a motor vehicle not equipped wholly with pneumatic tires.

(a)-3. No truck, tractor, truck-tractor, semi-trailer or trailer shall be operated on the highways of this state engaged exclusively in transporting property in interstate commerce or between this state and any province in the Dominion of Canada unless such vehicle has been registered and a license plate of a distinctive color issued therefor by the Registrar of Motor Vehicles, and shall have stencilled thereon the unloaded weight. Provided, that this section shall not apply to a motor vehicle exclusively engaged in transporting commerce from a state or from any province in the Dominion of Canada exclusively upon the streets of any city or village in the State of Minnesota. The applicant shall pay therefor a registration fee of $5.00 for each such vehicle and in addition thereto a truck mile tax as compensation for the use of the highways, which said tax shall be based upon the unloaded weight of the vehicle and the distance that such vehicle travels on the highways of this state. The tax on each such motor vehicle or combination of vehicles shall be ascertained by multiplying the number of miles traveled by each of such vehicles on the highways of this state by the rate per mile as provided herein.

The tax on a combination of a truck-tractor and semi-trailer and/or a tractor and trailer, shall be determined by adding together the unloaded weight of both the truck-tractor and semi-trailer and/or tractor and trailer. The combined weight of the vehicles so ascertained shall determine the unloaded weight of such combination of vehicles for the purpose of computing such tax. Where a trailer is not attached directly to a tractor it shall be subject to a truck mile tax based on the unloaded weight of such trailer.

The truck mile tax shall be determined as follows:

Vehicle or combination of vehicles having an unloaded weight of not to exceed 3 tons	¼c per mi.
Vehicle or combination of vehicles having an unloaded weight of 3 tons and not exceeding 4 tons.....	½c per mi.
Vehicle or combination of vehicles having an unloaded weight of 4 tons and not	

exceeding 5 tons..... ¾c per mi.
Vehicle or combination of vehicles having an unloaded weight of 5 tons and not exceeding 6 tons..... 1c per mi.
Vehicle or combination of vehicles having an unloaded weight of 6 tons and not exceeding 7 tons.....1¼c per mi.
Vehicle or combination of vehicles having an unloaded weight of 7 tons and not exceeding 8 tons..... 2c per mi.
Vehicle or combination of vehicles having an unloaded weight of 8 tons and not exceeding 9 tons.....2½c per mi.
Vehicle or combination of vehicles having an unloaded weight of 9 to 10 tons.. 3c per mi.
Any vehicle or combination of vehicle having an unloaded weight of more than 10 tons.. 4c per mi.

The owner of any motor vehicle subject to tax provided for in this section may, if he so elects, pay as a tax on any such vehicle the tax provided for in Section A-1, chapter 344, Laws 1933 [this section] in lieu of the tax herein provided.

(a)-4. The Registrar of Motor Vehicles shall furnish to the owner of such vehicle appropriate blank forms on which to report the miles which said motor vehicle travels on the highways of this state. The owner of such vehicle shall file with such Registrar of Motor Vehicles daily reports of such mileage traveled in Minnesota, if any, and shall keep such other records and furnish such information as said Registrar of Motor Vehicles may require. The Registrar of Motor Vehicles is authorized to require that any tractor, truck-tractor, semi-trailer, trailer or truck be equipped with a mechanical device approved by him to register the miles traveled by such motor vehicle, and such motor vehicle, including all appliances and all the books and records of said owner, shall be subject to inspection at any time by the Registrar of Motor Vehicles.

The owner of every motor vehicle subject to the truck-mile tax shall, on or before the 15th of each month, pay to the Registrar of Motor Vehicles the truck-mile tax due and payable for the preceding month. At the time of the payment of such tax, such owner shall file with the Registrar under oath upon a form prescribed by the Registrar, a report showing the truck miles operated during the preceding month and such other information as may be required. If the vehicle was not operated over the highways of this state during such month the report should so state.

The Registrar of Motor Vehicles shall not issue a license plate under this section to a contract carrier and/or common carrier for motor vehicles operated as such in inter-state commerce under the terms of this act until and unless such owner of such motor vehicle engaged as a common carrier and/or contract carrier, shall have first fully complied with the terms of Chapter 170, Laws of 1933, as amended by Chapter 392, Laws of 1933 [§§5015-20 to 5015-44], and shall have first obtained from the Railroad and Warehouse Commission the requisite permit by paying the fee therefor and depositing the public liability policy or bond as provided by said Chapter 170, Laws of 1933.

The Registrar of Motor Vehicles shall likewise not issue a license plate to the owner of a motor vehicle engaged as a common carrier or contract carrier until the owner of said motor vehicle so engaged has submitted and presented to said Registrar satisfactory evidence as to such owner's compliance with the terms and conditions of Chapter 170, Laws of 1933, as amended by Chapter 397, Laws of 1933 [5015-20 to 5015-44], relating to the permit from the Railroad and Warehouse Commission, and the payment of the fee therein and the depositing of public liability insurance or bond as required by said laws.

Provided, further, that every owner of a motor vehicle subject to the provisions of this act, Subdivision (a)-3 and (a)-4 hereof, shall also deposit with said Registrar of Motor Vehicles the sum of $50.00 for each and every motor vehicle required to be registered hereunder as security that the owner of said motor vehicle will pay the tax due hereunder and make such reports as required herein or as may be required by the Registrar of Motor Vehicles. The combination of a truck-tractor and semi-trailer and/or a tractor and trailer, shall, for the purposes of such deposit of $50.00 herein provided for, be regarded and considered as one motor vehicle.

If the owner of such motor vehicle shall fail to file the required reports and pay the tax, if any, within 10 days after the required time for filing such reports, the Registrar of Motor Vehicles shall promptly, upon the expiration of said ten day period, declare a forfeiture of the whole of said $50.00 deposit for each motor vehicle to the State and should said sum of $50.00 be insufficient to fully pay the truck-mile tax then due, an action shall be brought in the name of the State of Minnesota to recover the deficiency thereof.

If the owner of such vehicle shall fail to file the required reports or pay the tax within the time required, the Registrar of Motor Vehicles shall also cancel and take up the license plate issued on such vehicle and notify the Railroad and Warehouse Commission of such action. (As amended Apr. 29, 1935, c. 310.)

(a)-5. A Declaration of Tax Policy. It is hereby declared that the use of heavy motor vehicles on the highways has added and will add materially to the construction and maintenance cost of such highways; that the use of such heavy vehicles has resulted in the construction of more expensive highways than would have been required by passenger automobiles or farm-to-market trucks; that the operation of such heavy motor vehicles is imposing an unjust share of the cost and maintenance of highways upon pleasure passenger automobiles; that the imposition of such unjust taxes both on liquid motor fuel used and for such highway construction and maintenance costs has made it necessary and just that the taxation of such heavy motor vehicles be increased as here provided for, and a proportionate reduction made in the taxes imposed on passenger automobiles. (As amended Apr. 24, 1929, c. 330, §1; Apr. 15, 1931, c. 167; Apr. 20, 1933, c. 344, §2.)

* * * * * * *

Sec. 6 of Act Apr. 20, 1933, cited, provides that the act shall take effect Jan. 1, 1934. See §2684-7a as to construction of act.

(b) Motor Vehicles not subject to taxation as provided in the foregoing section, but subject to taxation as personal property within the State of Minnesota, shall be assessed and valued at 33⅓ per cent of the true and full value thereof and to be taxed at the rate and in the manner provided by law for the taxation of ordinary personal property; provided, that, if the person against whom any tax has been levied on the ad valorem basis because of any motor vehicle shall, during the calendar year for which such tax is levied, be also taxed under the provisions of this act, then and in that event, upon proper showing, the Minnesota Tax Commission shall grant to the person against whom said ad valorem tax was levied, such reduction or abatement of assessed valuation or taxes as was occasioned by the so-called ad valorem tax imposed, and provided further that, if said ad valorem tax upon any automobile has been assessed against a dealer in new and unused motor vehicles, and the tax imposed by this act for the required period is thereafter paid by the owner, then and in that event, upon proper showing, the Minnesota Tax Commission, upon the application of said dealer, shall grant to such dealer against whom said ad valorem tax was levied such reduction or abatement of assessed valuation or taxes as was occasioned by the so-called

ad valorem tax imposed. ('21, c. 461, §3; '23, c. 418, §3; Mar. 14, 1931, c. 58.)
* * * * * * *

Citizen and resident of the state must pay motor vehicle tax therein, although he spends the major portion of the year with his car in another state. 176M183, 222 NW918.

New and unused motor vehicles in hands of a dealer on May 1, which are not sold or used during the year, are not subject to the motor vehicle tax, but are taxable as personal property upon the basis of 33 1/3 per cent of actual value. 178M300, 227NW43.

Such vehicles, when sold after May 1, become subject to the motor vehicle tax, but the dealer, by paying the motor vehicle tax thereon and adding the amount to the price, does not become entitled to a reduction of abatement of his assessed ad valorem tax under subd. (b). 178M300, 227NW43.

This section as amended by c. 58, Laws 1931, relating to the taxation of automobiles of dealers in new and unused motor vehicles, is valid, and does not offend any constitutional provision. City of Minneapolis v. A., 188M 167, 246NW660. See Dun. Dig. 9143.

A non-resident coming into state and deciding to reside here on Dec. 2, 1932, must pay license for 1932. Op. Atty. Gen., Feb. 27, 1933.

Laws 1933, c. 344, is not applicable to 1933 registration. Op. Atty. Gen., May 11, 1933.

Registrar shall not issue license plates to an owner of several vehicles engaged exclusively in transporting property in interstate commerce unless owner files a separate surety bond of not less than $200 for each vehicle or a blanket bond in aggregate amount for all the vehicles on the basis of $200 per vehicle. Op. Atty. Gen. (632a-16), Apr. 17, 1934.

Class Y interstate trailer engaged in interstate commerce is subject to truck mile tax under (a)-3 and may be attached to and drawn by a truck-tractor which is registered in Class Y2 intrastate under (a)-1. Op. Atty. Gen. (632e-28), June 18, 1934.

Class Y interstate trailer engaged in interstate commerce held subject to truck mile tax under subdivision (a)-3, and may be attached to and drawn by a truck-tractor which is registered in Class Y intrastate under subdivision (a)-1, and rate of tax on trailer is to be determined by weight of trailer alone and not by combined weight of trailer and Class Y intrastate truck-tractor. Op. Atty. Gen. (632e-38), June 26, 1934.

A truck of a cooperative creamery association used only to go to the farms of its patrons and pick up the cream and haul it to the creamery may not be registered in the T Class. Op. Atty. Gen. (632e-35), June 27, 1934.

When owner of a vehicle operated on highways and registered pursuant to subdivision (a)-3, prior to July 1st elects to register same under subdivision (a)-1 and pay the "gross weight use tax" instead of the "truck mile tax" therefor, amount of "gross weight use tax" must be based on whole period that vehicle was operated, but owner may have credit where he has paid in "Y" (interstate), including $5 registration fee and truck mile tax, only when the amount of the taxes so to be paid does not exceed the amount of the tax required for the "Y" (intrastate) classification. Op. Atty. Gen. (633h-5), July 9, 1934.

Rate of tax for first half year on truck not used, nor registered, during 1934 prior to July 1, but sold on July 1 by record owner to purchaser whose employment of such truck is such that a higher rate of tax is required than that under which it was last registered by record owner of January 1, should be based on basic rate of 2.4% which is basic rate for all motor vehicles. Op. Atty. Gen. (632E), Aug. 2, 1934.

In addition to fact that membership in a cooperative is limited to producers of livestock only, in order to entitle such a cooperative to register their trucks in T classification, it cannot be engaged at any time during calendar year in transportation business, though trucks may be used in rendering occasional accommodation service for others in transporting farm products to market or supplies to a farm, even though same be paid for. Op. Atty. Gen. (632e-35), Jan. 30, 1935.

Fee of $5 required to be paid under subdivision (a)-3 at time of application for registration of a vehicle engaged in interstate commerce is not a "tax" within meaning of phrase "the tax due hereunder" as that phrase is used in the subdivision (a)-4, and registrar cannot collect such $5 fee from surety on bond. Op. Atty. Gen. (632e-14), Mar. 20, 1935.

Laws 1935, c. 161, applies to the year 1935 and subsequent years. Op. Atty. Gen. (632e-24), Apr. 22, 1935.

It is duty of secretary of state to collect additional tax where vehicle has paid tax in full at time of payment but subsequent statute has increased tax for such year. Op. Atty. Gen. (632d), Apr. 25, 1935.

(a).

Truck used exclusively for carrying passengers should be registered as a "motor vehicle for carrying passengers" and rate of tax therefor is 2.4%, providing such vehicle is not engaged in "commercial transportation of passengers." Op. Atty. Gen., Jan. 12, 1934.

An owner who wishes to change from Class T to Class X may have credit for tax paid in T Class. Op. Atty. Gen., Jan. 16, 1934.

Owner wishing to change from Class X to Class Y intrastate may have credit for tax paid in Class X. Id.

An owner who wishes to change from Class Y (interstate) to Y (intrastate) may have credit for what he has already paid, including $5 fee and truck mile tax *only when amount of tax so to be paid does not exceed* amount of tax required for the Y (intrastate) classification, as no refunds may be made. Id.

If owner wishes to increase his permitted load, he may do so by paying only the additional tax due on account of such additional load and the new gross weight is properly stenciled in a conspicuous place on his vehicle. Id.

When a registration is revoked on account of violation of registration laws, owner of vehicle forfeits amount of tax he has paid as a penalty for the violation, except when he makes application for reregistration, he should be given credit for tax theretofore paid for the unloaded vehicle, but no certificate or license plate should issue except upon payment of a tax based on gross load weight his vehicle was transporting at time offense was committed and tax to be paid shall be subject to a proportionate tax, which has reference to part of year, second half or fourth quarter. Id.

There is a permitted overload of 1000 pounds regardless of selected load and tax paid, but such overload is based upon selected maximum notwithstanding greater maximum could have been selected without increase in tax. Id.

Trucks engaged exclusively in transporting commerce in interstate or international commerce only upon *streets of municipality in this state are exempt from* provisions of §(a)-3, but owner must pay permit fee. Op. Atty. Gen., Jan. 19, 1934.

Bond given to secure payment of truck mile tax may be cancelled upon transfer of ownership of truck or upon destruction or dismantling of same or upon permanent removal from state. Op. Atty. Gen., Mar. 8, 1934.

(a) (2).

Fifty per cent supertax for solid tires affects both the gross weight use tax (Y intrastate) and the truck-mile tax (Y interstate). Op. Atty. Gen., Jan. 16, 1934.

(a) (4).

A blanket bond may be used to cover a fleet of trucks, but it should properly identify and describe each vehicle and part of total amount intended for each respective vehicle not less than $200. Op. Atty. Gen., Dec. 14, 1933.

(e).

October 1 dealer holding truck last registered in 1932 should pay tax at rate of 2.4% without issue of plates and not in "X" or "Y" class rate. Op. Atty. Gen., Apr. 18, 1933.

(f).

City of Sleepy Eye has no authority to require a license of an auto transportation company to use its streets. Op. Atty. Gen., Oct. 13, 1930.

2674-½. License taxes on motor vehicles reduced. [Mason's 1934 Supp.] [Repealed.]

Repealed Apr. 17, 1935, c. 161, §3. See §2674-½d.

Registration tax on farm truck converted from Model T Ford is $5, while tax on truck in class "X" converted from Model T Ford is $10. Op. Atty. Gen., Apr. 11, 1933.

A building contractor with one-ton truck registered in 1932 in "X" class with payment of $15 must register it for 1933 in "X" class. Op. Atty. Gen., Apr. 18, 1933.

Contractor with one-ton truck and four-ton truck must register four-ton truck in "X" class at rate of 3.4%, though it is stored for year. Id.

A transfer company owning some trucks registered in "X" class and some in "Y" class could register in "X" class an unused truck registered in 1932 in "Y" class. Id.

Bus company registering busses in "B" and "C" classes during 1932 could register a stored "C" class bus in "B" class in 1933. Id.

Owner of truck converted from passenger car weighing more than 2,000 pounds must register it in "X" class in 1933, though it is only used by owner's family for running errands. Id.

October 1 dealer holding truck last registered in 1932 should pay tax at rate of 2.4% without issue of plates and not in "X" or "Y" class rate. Id.

Where dealer obtained truck in 1932 registered in "X" class and in May, 1933, sold it to truck gardener, it should be registered in "T" class at rate of 2.4% in 1933, but if sold to building contractor, it must be registered in "X" class, and if sold to a commercial freighter it should be registered in "Y" class, and if not sold at all should be taxed at rate of 2.4% on October 1, 1933. Id.

Farmer owning two trucks registered in 1932 in "X" class could register both in "T" class and pay $7.50 each upon storing one of them for the year 1933. Op. Atty. Gen., Apr. 19, 1933.

If used truck in possession of dealer is one that should be registered under minimum tax provisions, such truck shall be registered at rate of tax of such minimum provisions. Op. Atty. Gen., Apr. 20, 1933.

Passenger motor vehicles engaged in transportation of passengers for hire are not subject to license tax reduction. Op. Atty. Gen., May 6,

Sheriff's car used as family car and also to convey prisoners from place to place is not engaged in transportation of passengers for hire and is entitled to reduced rate, though sheriff is paid mileage expenses. Op. Atty. Gen., May 31, 1933.

Family car used to transport owner's and his neighbor's children to school, children paying for gaso-

line in return for courtesy, is not engaged in transportation of passengers for hire. Id.

Affidavit that converted Ford roadster was used only for personal use in going to and from cabin was insufficient to entitle owner to refund or to registration in "T" class. Op. Atty. Gen., Aug. 30, 1933.

Reduction applies to school busses not engaged in transportation of passengers other than pupils. Op. Atty. Gen., Feb. 15, 1934.

Registration tax on passenger motor vehicles will return to 1932 rate beginning Jan. 1, 1935, while the reduced tax on certin class T trucks will continue in 1935 and until changed by legislature. Op. Atty. Gen. (632E-1), Dec. 10, 1934.

Class T truck converted from passenger vehicle after Jan. 1, 1935, may be registered and taxed as such for that year. Op. Atty. Gen. (632e-35), Feb. 5, 1935.

2674—½a. Certain refunds authorized. [Mason's 1934 Supp.] [Repealed.]

Repealed Apr. 17, 1935, c. 161, §3. See §2674-½d.

Refunds may be paid out of current receipts by secretary of state. Op. Atty. Gen., Apr. 19, 1933.

2674-½b. May be paid any time before April 30 without penalty. [Mason's 1934 Supp.] [Repealed.]

This section, and section 4 mentioned in the note are repealed by Act Apr. 17, 1935, c. 161, §1. See §2674-½d.

2674—½c. Refunds.—This act shall apply to and govern motor vehicle taxes for the year 1935, whether paid prior to or after the passage of this act; and in case any person shall have paid the tax upon a motor vehicle in excess of the amount required in Section 1 hereof, he shall be entitled to a refund of such excess, and the secretary of state is authorized to pay all such refunds. (Act Apr. 17, 1935, c. 161, §2.)

2674—½d. Inconsistent acts repealed.—Laws 1933, Chapter 163, is hereby repealed, and all other acts and parts of acts inconsistent herewith, are hereby modified, amended or superseded so far as necessary to give full force and effect to the provisions of this act. (Act Apr. 17, 1935, c. 161, §3.)

2674-1. Companies, etc., paying gross earnings taxes required to pay motor vehicle taxes.

This act is unconstitutional. 173M72, 216NW542.

2674-4. Taxation of certain motor vehicles.—Motor vehicles using the public streets and highways of this state and owned by companies paying taxes under gross earnings system of taxation shall be registered and taxed as provided for the registration and taxation of motor vehicles by Mason's Minnesota Statutes of 1927, Sections 2672 to 2704, inclusive, as now or hereafter amended, notwithstanding the fact that earnings from such vehicles may be included in the earnings of such companies upon which such gross earnings taxes are computed and all provisions of said sections are hereby made applicable to the enforcement and collection of the tax herein provided for. (Act Apr. 21, 1933, c. 360, §1.)

2674-5. To include 1933 tax.—The provisions of this Act, which provide for a motor vehicle tax, are intended to include and shall be deemed to include the imposition of such tax for the year 1933 on the motor vehicles described in Section 1 of this Act, and the said tax for the year 1933 shall be paid on all such motor vehicles including those which prior to the passage of this act may have been registered for the year 1933 without the payment of such tax. (Act Apr. 21, 1933, c. 360, §2.)

2674-6. Application of act.—If this act shall be held invalid as to any company charged with the payment of taxes on a gross earnings basis under existing laws it shall be valid nevertheless as applied to any other company included under its provisions. (Act Apr. 21, 1933, c. 360, §3.)

2674-7. Provisions separable.—If any section or part of this act shall be declared to be unconstitutional or invalid for any reason the remainder of this act shall not be affected thereby. (Act Apr. 21, 1933, c. 360, §4.)

2675. Motor vehicles to be registered—etc.

The Motor Vehicle Registration Tax Law, held valid and applicable to vehicles owned by members of the military forces of the United States residing on the Fort Snelling military reservation and using the highways of the state for their personal business and pleasure. 283US57, 51SCR354, aff'g 180M281, 230NW572. See Dun. Dig. 4167a, 9576d.

Wife was not liable for negligence of her husband in driving a car registered in her name. Cewe v. S., 182M 126, 233NW805. See Dun. Dig. 5834b.

In the statutes requiring the registration of automobiles, there is nothing to exempt conditional sales contracts covering motor cars from the ordinary effect of the recording acts. Drew v. F., 185M133, 240NW114. See Dun. Dig. 4167a.

The tax must be paid in cash and a county contractor who has failed to pay the tax cannot assign to the state a portion of the compensation due him from the county. Op. Atty. Gen., July 22, 1930.

2676. Owner shall list.

Act Mar. 20, 1933, c. 103, fixes Apr. 15 as date for payment of tax for 1933.

2677. Registrar shall issue registration certificate.

The judgment in replevin for a return was right because there was no proper proof of ownership of the automobile taken from the possession of the defendant, who did not claim under the vendee in the conditional sales contract. 181M477, 233NW18. See Dun. Dig. 8652.

2679. Registrar to register only on proof of ownership.

181M477, 233NW18; note under §2677.

2681. Transfer of ownership, destruction, etc.

Duties of secretary of state as registrar are no way affected by governor's executive order concerning foreclosure of mortgages on farm machinery. Op. Atty. Gen., Mar. 25, 1933.

Where car was reported junked in 1930 and was taken off tax list and owner decided in 1933 to overhaul it, he cannot reregister vehicle in 1933 without payment of tax and penalties for 1931 and 1932. Op. Atty. Gen., Apr. 29, 1933.

2682. Refunds.—After the tax upon any motor vehicle shall have been paid for any year, refund shall be made only for errors made in computing the tax or fees and for the error on the part of an owner who may in error have registered a motor vehicle that was not before, nor at the time of such registration, nor at any time thereafter during the current past year, subject to such tax in this state provided that after more than two years after such tax was paid no refund shall be made for any tax paid on any vehicle exempted from taxation by reason of non-use as provided by Section 2673 Mason's Minnesota Statutes as amended. Such refundment shall be made from any fund in possession of the registrar and shall be deducted from his monthly report to the state auditor. A detailed report of such refundment shall accompany the report. The former owner of a transferred vehicle by an assignment in writing indorsed upon his registration certificate and delivered to the registrar within the time provided herein may sell and assign to the new owner thereof the right to have the tax paid by him accredited to such new owner who duly registers such vehicle. Any owner whose vehicle shall be destroyed or permanently removed from the state, shall be entitled to deduct from any tax which shall become thereafter due during the same year from such owner upon another vehicle one-half the annual tax theretofore paid on such vehicle, if the motor vehicle is permanently destroyed or removed from the state before July 1 and one-quarter of the annual tax theretofore paid on such vehicle if it is permanently destroyed or removed from the state after June 30 but before October 1. No refund, however, shall be made if the vehicle is not permanently destroyed or removed from the state until after September 30.

If in registering a motor vehicle from the tax on which the registrant may justly claim an allowance because of a tax previously paid by him in the same year upon another motor vehicle, destroyed or permanently removed from the state after such payment, the registrant shall fail to take advantage of this provision for such reduction, he shall be entitled to a cash refund in the amount of the allowance which he might have been allowed if he had applied for it at the time of the registration of such second vehicle, and the registrar may make such refund in accordance

with the provisions of this section. ('21, c. 461, §11; '23, c. 418, §11; Apr. 16, 1931, c. 174; Apr. 11, 1935, c. 142, §1.)

Sec. 2 of Act Apr. 11, 1935, cited, provides that the act shall take effect from its passage.

Express Company paying its property tax upon the gross earning basis held entitled to refund of motor vehicle tax paid. 173M98, 216NW541.

Owners entitled to exemption from payment under Laws 1933, c. 298 [§2673], but who paid tax before passage thereof are not entitled to a refund without legislative appropriation. Op. Atty. Gen., Apr. 29, 1933.

Owner of automobile is entitled to refund of license fees where his car was stolen while outside state. Op. Atty. Gen., June 27, 1933.

Secretary of state cannot make refund of tax paid before passage of Laws 1933, c. 298, on a bus used by church high school solely for transporting pupils. Op. Atty. Gen., Apr. 29, 1933.

One registering vehicle after passage of Laws 1933, c. 298, under which he was entitled to exemption, is entitled to refund. Op. Atty. Gen., June 2, 1933.

One seeking change of classification from Y truck to X truck on ground of mistake in registration must clearly show that his truck has not been operated outside of permitted thirty-five-mile zone at any time during year. Op. Atty. Gen., Feb. 1, 1934.

One who paid registration tax on automobile which he presented to police department to enable them to combat crime wave, before ever having used the car during the year, was not entitled to refund. Op. Atty. Gen. (632e-24), Apr. 17, 1934.

On conversion of a registration from the X Class to the Y Class, no refund of difference between higher tax paid for X registration and lower tax paid for Y registration can be made. Op. Atty. Gen. (632e-24), Apr. 24, 1934.

Refund of registration tax erroneously collected in rush of business on trucks which were not to be used within the state during the year should be refunded. Op. Atty. Gen. (632e-24), Apr. 28, 1934.

One who took out an X license with intent to use truck for hauling gravel but did not use it for that purpose was entitled to refund on having X license exchanged for T license. Op. Atty. Gen. (632e-24), May 19, 1934.

Registration for 1934 may be cancelled and refund of tax paid for motor vehicle destroyed by fire before having been used on streets and highways at any time during such year. Op. Atty. Gen. (632e-9), June 9, 1934.

Owner of truck is not entitled to a refund of portions of taxes paid for error in computing gross weight of certain truck and the tax paid therefor. Op. Atty. Gen. (632e-24), June 27, 1934.

Refund not to be made of tax paid by dealer for purpose of avoiding duplicate taxation, though vehicle was not used on highways until after July 5. Op. Atty. Gen. (632E-24), July 31, 1934.

Failure on part of owner of vehicle to apply for and secure a permit as provided for in §2720-37 was not an error within intent of §2682, and such owner is not entitled to a refund because he is unable to carry the weight upon which taxes were based. Op. Atty. Gen. (632e-24), Feb. 21, 1935.

Truck mile tax paid by an owner of a class YI interstate vehicle is not payment of "annual tax theretofore paid" and registrar has no authority to allow credit to an owner for a portion of tax paid by owner when he removed vehicle permanently from state. Op. Atty. Gen. (633L-5), Mar. 7, 1935.

Fee of $5 paid under Laws 1933, c. 344, §2, at time of application for registration is payment of "annual tax theretofore paid." Id.

Refund by reason of nonuse of vehicle may not be had for a particular year on an application made more than two years after date of payment of taxes for such year. Op. Atty. Gen. (632e-24), May 22, 1935.

2683. Registrations subject to suspension.

Financial responsibility act does not prevent registrar from registering and collecting annual registration tax for motor vehicle belonging to person whose driver's license has been suspended or revoked, but it does prohibit registrar from issuing license plates to such person until such time as he has established his financial responsibility. Op. Atty. Gen. (291f), Oct. 8, 1934.

2684. Passenger motor vehicles from other states. [Repealed.]

Repealed by Act Apr. 29, 1935, c. 355, §4.

Op. Atty. Gen., June 16, 1933; note under §2684-1.

Citizen and resident of the state must pay motor vehicle tax therein, although he spends the major portion of the year with his car in another state. 176M183, 222 NW918.

Does not apply to member of military force at Fort Snelling owning and operating an automobile for his own purposes on the highways of the state outside the reservation. 180M241, 230NW572, aff'd 283US57, 51SCR 354.

Chartered motor busses from state of Washington must pay registration tax while going through Minnesota to Chicago, but busses from Oregon, Idaho and North Dakota are not required to pay registration tax. Op. Atty. Gen., Apr. 20, 1933.

2684-1. Reciprocal permission to non-resident auto owners.—Any resident of any state, District of Columbia or Canadian province, who owns and is duly licensed under the laws of his own state or country to operate a motor vehicle upon the highways thereof, may also operate such motor vehicle personally or by his authorized driver upon the streets and highways of townships, boroughs, villages, and cities in this state, subject to the following conditions and limitations:

First. Upon condition that the exemptions provided by this act as hereinafter limited shall be operative as to a motor vehicle owned by a non-resident only to the extent that under the laws of the state or Canadian province of his residence (or that under the laws of the District of Columbia if that is his residence) like exemptions and privileges are granted to motor vehicles registered under the laws and owned by residents of Minnesota. (As amended Apr. 29, 1935, c. 355, §1.)

Second. Upon condition that any such motor vehicle so operated in this State by any such non-resident at all times shall carry and display all license number plates or like insignia required by the laws of the home state or country of said non-resident.

Third. Upon condition that such non-resident motor vehicle owner shall first file with the registrar of motor vehicles in this State an instrument in writing, subscribed by him and duly acknowledged before a notary public or other officer with like authority, setting forth the name and address of the owner and of each person having any interest in such motor vehicle, the name and address of the person from whom such motor vehicle was purchased or acquired, the name of the manufacturer and of the motor vehicle if it has a name, the year when manufactured, the serial number or other number and model identifying such motor vehicle, the weight in pounds of such motor vehicle and the number of cylinders of the motor engine. Said written instrument shall also contain substantially the following:

"The undersigned owner of the above described motor vehicle hereby consents and agrees that the use and operation of said motor vehicle inside the state of Minnesota shall always be subject to all the laws, ordinances, rules and regulations applicable to like operation thereof by a citizen and resident of the state of Minnesota except as it may be expressly provided otherwise by the laws of Minnesota. The undersigned owner hereby consents to be sued or otherwise proceeded against, either civilly or criminally, at any place in Minnesota where the above described motor vehicle is operated, upon any claim or cause of action arising from such operation in the same number as a Minnesota citizen and resident owner and operator of a like motor vehicle might be sued or proceeded against in like circumstances. And in any such civil proceedings, legal process and other notices or papers may be served upon the undersigned owner of the above described motor vehicle by depositing a copy thereof in the United States mails, properly enveloped, sealed, postage prepaid, and addressed to the undersigned owner at his above stated address or at such other address as he may have later filed in writing supplementary to this agreement. Such service shall be deemed personal service, and shall have the same force and effect as like process or notice served personally upon a motor vehicle owner residing in and being a citizen of the state of Minnesota." ('27, c. 94, §1; Apr. 20, 1931, c. 220, §1; Apr. 29, 1935, c. 355, §1.)

The title and enacting part of Act Apr. 29, 1935, c. 355, §1, purports to amend "section 2684-1," and then sets out the opening paragraph and the "First" condition, without reference to or setting out of the rest of the section. It does not seen to have been the legislative intent to repeal the part of the section not set out.

The judgment in replevin for a return was right because there was no proper proof of ownership of the automobile taken from the possession of the defendant, who did not claim under the vendee in the conditional sales contract. 181M477, 233NW18. See Dun. Dig. 8652.

Where resident of Minnesota moved to Iowa in December and applied for auto license but did not move car from Minnesota until May and obtained no permit to operate car in Minnesota, she must register in Minnesota. Op. Atty. Gen., June 16, 1933.

2684-2. Registrar of motor vehicles to issue permit.—As soon as any non-resident motor vehicle owner entitled to the privileges herein extended shall have complied with the provisions hereof the registrar of motor vehicles shall issue to him a certificate stating that he is entitled to operate such motor vehicle within this state for and during such time as he continues to own such motor vehicle with license to operate the same in his own state or country; but subject nevertheless, to suspension, revocation, or cancellation for any cause that would justify similar action with respect to any motor vehicle license or registration issued to any citizen or resident of this state. Within seven days from the date when any change shall have been made in the ownership, or foreign license or number plates, of any motor vehicle operating in this state under a certificate as above provided, said certificate shall be surrendered to the registrar of motor vehicles and such change shall be noted thereon, or a new certificate issued under the same conditions as the original. Such certificate shall be prima facie evidence that the motor vehicle therein described may be lawfully operated in this state.

Any foreign motor vehicle operating at any time without such certificate shall be subject to seizure and the driver thereof to arrest by any law enforcing officer of this state; and upon conviction of such driver for operating in this state without license, such motor vehicle may be sold in the same manner as on execution sale for debt and the proceeds may be applied to satisfy any penalty or fine imposed and to pay any costs or expenses incurred in connection with such arrest, seizure, and sale. ('27, c. 94, §2; Apr. 20, 1931, c. 220, §2; Apr. 29, 1935, c. 355, §2.)

2684-3. Penalties for fraudulent registration.—Any person who files any statement or written instrument hereinabove required, knowing that the same is false or fraudulent in whole or in part, shall be guilty of a felony; and such felony shall be deemed to have been committed at the time when and place where such false or fraudulent statement was filed in this state. ('27, c. 94, §3; Apr. 20, 1931, c. 220, §3.)

2684-4. Registrar to promulgate rules.—The registrar of motor vehicles may promulgate such rules and regulations, from time to time, as may be reasonably necessary to accomplish the purpose of this Act. ('27, c. 94, §4; Apr. 20, 1931, c. 220, §4.)

2684-5. Act to be subordinate to treaties.—The provisions of this enactment relating to motor vehicle traffic between Minnesota and Canadian provinces shall be subordinate to all the laws, treaties, agreements, and policies of the respective national governments primarily controlling said international boundary line; and all privileges extended by this Act to Canadian motor vehicle owners shall be deemed abridged accordingly, and shall not be substantially greater than the privileges available to similarly situated Minnesota motor vehicle owners operating across said international boundary line. ('27, c. 94, §5; Apr. 20, 1931, c. 220, §5.)

2684–6. Application of act.—This Act shall not apply to a passenger motor vehicle owned by a resident of any State, District of Columbia, or any Canadian Province temporarily residing in this State while regularly employed therein under contract for a term of six months or more, nor to a passenger motor vehicle used to haul for hire except such a vehicle that may be owned and registered in another state, the District of Columbia, or any Canadian Province, and chartered for an occasional trip into or through Minnesota without taking on any additional passengers in this State.

The reciprocity provision of the act shall not apply to trucks, tractors, truck-tractors, semi-trailers and combinations of such vehicles engaged in transporting property for hire. The reciprocal provisions of this act shall apply to the owner of a truck exclusively used in transporting agricultural, horticultural, dairy and other farm products including livestock, which the owner of the truck has produced or raised and such truck is used to transport such products from the farm to market and to transport property and supplies to the farm of the owner, and trucks used in rendering occasional accommodation service for others in transporting farm products from a farm to market or supplies to the farm even though the same may be paid for where such vehicle is owned by a person not engaged in the transportation business. "Occasional" shall be construed to mean a special, individual round trip not to exceed however two such trips a month for any one such vehicle.

Every non-resident, including any foreign corporation carrying on business within this State and owning and regularly operating in such business any motor vehicle within this State shall be required to register each such vehicle and pay the same tax and penalties, if any, therefor, as is required with reference to like vehicles owned by residents of Minnesota.

The reciprocity privileges provided by this Act shall apply also to a motor vehicle exclusively engaged in transporting commerce from a State or from any province in the Dominion of Canada exclusively upon the streets of any city or village in the State of Minnesota. ('27, c. 94, §6; Apr. 20, 1931, c. 220, §6; Apr. 29, 1935, c. 355, §3.)

Sec. 4 of Act Apr. 29, 1935, cited, repeals §§2684, 2684-7. Sec. 5 provides that the act shall take effect from its passage.

Laws 1935, c. 355, §3, indicates a legislative intent to amend §2684-7 and not this section. Op. Atty. Gen. (632c), May 29, 1935.

2684–7. Does not apply to non-resident. [Mason's 1934 Supp.] [Repealed.]

Repealed by Act Apr. 29, 1935, c. 355, §4.

Op. Atty. Gen., Apr. 20, 1933; note under §2684.

Truck owner of another state is not engaged in "commercial transportation" where he merely exchanges services with a truck owner in this state on basis of exchange of courtesy. Op. Atty. Gen., July 8, 1933.

Laws 1933, c. 344, is not applicable to 1933 registration. Op. Atty. Gen., May 11, 1933.

Reciprocity provisions apply to an Iowa congregation using their truck without charge to move their new minister's household goods from Minnesota to their church in Iowa, and to an Iowa hide concern coming to Minnesota to haul out hide bought here. Op. Atty. Gen. (632c), May 29, 1935.

Reciprocity provisions do not apply to an Iowa bakery making regular deliveries to a line of customers in Minnesota, or an Iowa packing plant maintaining place of temporary storage in Minnesota from which meats are distributed to a line of regular customers in Minnesota, or an Iowa wholesale house sending out its traveling salesmen in Minnesota territory to take orders for its merchandise, nor a Texas carnival company playing a line of county fairs in Minnesota using its own trucks to transport its equipment and personnel in going from fair to fair. Id.

Laws 1935, c. 355, §3, although purporting to amend §2684-6, indicates a legislative intent to amend this section. Id.

2684-7a. Application of act.—This Act shall not be construed as in any manner changing or modifying any Act passed at this session of the Legislature that relates solely to taxation of passenger motor vehicles or to Class "T" trucks. (Act Apr. 20, 1933, c. 344, §5.)

2684-7b. Effective January 1, 1934.—This Act shall take effect and be in force from and after January 1, 1934. (Act Apr. 20, 1933, c. 344, §6.)

2684-8. Service of process on non-residents.

Note.—This section and section 2720-105, appear to be in conflict, and this section is probably superseded in part.

The provision of this section as to service of process is not unconstitutional as denying due process of law, but the provision limiting the right to continuances is discriminatory against non-residents, and is invalid but the invalidity of the latter provision does not affect the rest of the section. Jones v. Paxton, (DC-Minn), 27F(2d) 364.

This section is constitutional, and the word "process" is construed as including a summons, and the duties im-

posed upon the plaintiff may be performed by those who act for him, although there must be a strict compliance with the statutes. 177M90, 224NW694.
This section is constitutional. 181M4, 231NW714.

2686. Manufacturers and dealers numbers.—(a) No person, co-partnership or corporation shall engage in the business, either exclusively or in addition to any other occupation, of selling motor vehicles, new or used, or shall offer to sell, solicit or advertise the sale of motor vehicles, new or used, without first having acquired a license therefor as hereinafter provided. The Registrar of Motor Vehicles is hereby authorized and empowered to issue licenses to motor vehicle dealers. A motor vehicle dealer shall be defined as follows: Any person, co-partnership or corporation engaged in the business of manfacturing or selling new and unused motor vehicles, or used motor vehicles, or both, having an established place of business for the sale, trade, and display of such new and/or used motor vehicles, and having in its, his or their possession new and/or used motor vehicles for the purposes of sale or trade. Said Registrar shall have no power or authority to grant or issue licenses to persons, co-partnerships or corporations unless his, its, or their business is conducted as set forth in the immediately preceding definition. Applicants shall make application for such license, and for the renewal thereof, to said Registrar in writing, and shall submit such information as said Registrar may require, and upon blanks provided by the Registrar for such purpose. Upon proof satisfactory to the Registrar that the applicant is a dealer in motor vehicles as defined herein, said Registrar shall license such dealer for the remainder of the calendar year, and issue a certificate of license therefor as the Registrar may provide upon which shall be placed a distinguishing number of identification of such dealer. The applications for such license, and applications for the renewal thereof, shall be accompanied by the sum of $20.00, which shall be paid into the State Treasury and credited to the General Revenue Fund. Such license, unless sooner revoked as hereinafter provided, shall be renewed by the Registrar annually upon application by the dealer and upon the making of all listings, registrations, notices and reports required by the Registrar, and upon the payment of all taxes, fees, and arrears due from such dealer.

(b) Such license shall be revoked by the Registrar of Motor Vehicles upon proof satisfactory to him of either of the following:

(1) Violations of any of the provisions of Mason's Minnesota Statutes of 1927, Section 2672, and all acts amendatory thereof or supplementary thereto, Mason's Minnesota Statutes of 1927, Sections 2673 to 2683, inclusive, Mason's Minnesota Statutes of 1927, Section 2686, as amended by Laws 1931, Chapter 217, and as amended in this chapter, Mason's Minnesota Statutes of 1927, Section 2687, as amended in this chapter, and Mason's Minnesota Statutes of 1927, Sections 2688 to 2694, inclusive.

(2) Violation of or refusal to comply with the requests and order of the Motor Vehicle Registrar.

(3) Failure to make or provide to the Registrar all listings, notices and reports required by him.

(4) Failure to pay the Registrar all taxes, fees and arrears due from and by such dealer.

(5) Failure to duly apply for renewal of license provided for herein.

(6) Revocation of previous license, of which the records of the Registrar relating thereto shall be prima facie evidence of such previous revocation.

(7) The fact that the licensee has ceased to engage in the business of a dealer as above defined. Exception: The operation of the business of a dealer as above defined by the administrator or executor of a licensed dealer is hereby exempted from the provisions of this subsection.

(c) The Registrar shall issue to every dealer, upon a request from such dealer licensed as provided in subsection (a) hereof, one pair of number plates displaying a general distinguishing number upon the payment of $5.00 to the Registrar of Motor Vehicles. The Registrar shall also issue to such dealer such additional pairs of such number plates as said dealer may request, upon the payment by such dealer to the Registrar of the sum of $5.00 for each additional pair. Motor vehicles, new and used, bearing such number plates owned by such dealer, may be driven upon the streets and highways of this state by such dealer, or any employee of such dealer, for demonstration purposes, or for any purpose whatsoever, including the personal use of such dealer or his employee. Motor vehicles, new or used, owned by such dealer and bearing such number plates, may be driven upon the streets and highways for demonstration purposes by any prospective buyer thereof for a period of forty-eight hours. Any motor truck, new or used, owned by such dealer and bearing said dealer's number plates may be driven upon the streets and highways of this state, for demonstration purposes by any prospective buyer for a period of seven days. Upon the delivery of such motor vehicle or motor truck, new or used, to said prospective buyer for said demonstration purposes, said dealer shall deliver to said prospective buyer a card or certificate giving the name and address of said dealer, the name and address of such prospective buyer, and the date and hour of such delivery. Such card or certificate shall be in such form as the Registrar may provide to the dealer for such purpose, and shall be carried by such prospective buyer while driving said motor vehicle or motor truck.

(d) Every licensed dealer in motor vehicles, as above defined, may make application upon a blank provided by the Registrar for that purpose for a general distinguishing number for use upon all new motor vehicles being transported from the dealer's source of supply, or other place of storage, to his place of business, or to another place of storage, or from one dealer to another. A general distinguishing number shall be assigned by the Registrar to such dealer for such purpose, and the Registrar shall then issue to said dealer such number of pairs of such plates as the dealer may request, upon the payment by said dealer to said Registrar of the sum of $2.00 per pair. Such plates shall be known as "in transit" plates. The Registrar may issue such "in transit" plates, upon the payment of the sum of $2.00 to said Registrar, to dealers duly licensed in other States or Provinces upon information furnished him in such manner as he may prescribe, and which satisfies him that persons or companies applying therefor are duly licensed dealers under the laws of such States or Provinces.

(e) **Procedure for Revocation.**—The Registrar of Motor Vehicles, upon his own motion or upon the complaint of another, shall prepare and cause to be served upon the dealer complained of, a written notice or complaint setting forth, in substance, the violations charged, and shall require said dealer to appear at the time and place fixed therein before said Registrar or authorized deputy, and show cause why his license should not be revoked.

The Registrar shall, at the time and place fixed in said notice proceed to hear and determine the matter on its merits. If the said Registrar shall find the existence of any of the causes for revocation as set forth in Section (b) above, and shall determine that said dealer's license should be revoked, he shall make a written order to that effect, and a copy of such order shall be served upon such dealer in the manner provided by law for the service of summons in a civil action. Upon such revocation, such dealer shall immediately return to the Registrar all number plates, including "in transit" plates, in his possession.

(f) Procedure for Appeal. Any party or person aggrieved by such order of revocation may appeal therefrom to any District Court of the state within fifteen days after the service of a copy of such order upon the dealer complained of by the service of a

written notice of appeal upon said Registrar. The person serving such notice of appeal shall, within five days after the service thereof, file the same, with proof of service thereof, with the Clerk of the Court to which such appeal is taken, and thereupon said District Court shall have jurisdiction over said appeal and the same shall be entered upon the records of said District Court and shall be tried therein according to the rules relating to the trial of civil actions insofar as the same are applicable. The complainant before the Registrar, if there was one, otherwise the Registrar of Motor Vehicles, shall be designated as the "Complainant," and the dealer complained of shall be designated as the "Defendant." No further pleadings than those filed before the Registrar shall be necessary. The findings of fact of the Registrar shall be prima facia evidence of the matters therein stated, and the order shall be prima facie reasonable, and the burden of proof upon all issues raised by the appeal shall be on the appellant. If said Court shall determine that the order appealed from is lawful and reasonable, it shall be affirmed and the order enforced as provided by law. If it shall be determined that the order is unlawful or unreasonable it shall be vacated and set aside. Such appeal shall not stay or supersede the order appealed from unless the Court, upon an examination of said order and the return made on said appeal, and after giving the defendant notice and opportunity to be heard, shall so direct. When no appeal is taken from such order, the parties affected thereby shall be deemed to have waived the rights to have the merits of such controversy reviewed by a court, and there shall thereafter be no trial of the merits or re-examination of the facts by any district court to which application may be made from a writ to enforce the same.

(g) Any party to an appeal or other proceeding in the District Court under the provisions of this Act may appeal from the final judgment, or from any final order therein, to the Supreme Court in the same cases and manner as in civil action.

(h) Any person, co-partnership, or corporation, domestic or foreign, and any officer, or director, or employee of a corporation, domestic or foreign, who shall violate or neglect, fail or refuse to comply with any of the provisions of Mason's Minnesota Statutes of 1927, Section 2686, as amended by Laws 1931, Chapter 217, and as amended in this Chapter, shall be guilty of a misdemeanor. ('21, c. 461, §15; '23, c. 418, §15; Apr. 20, 1931, c. 217, §2; Apr. 11, 1935, c. 143, §1; Apr. 24, 1935, c. 271.)

Sec. 2 of Act Apr. 11, 1935, cited, provides that the act shall take effect from its passage.

A licensed dealer or his employe may not drive vehicles for the personal use of the owner or employe or for other than demonstration purposes. Op. Atty. Gen., Dec. 31, 1931.

An automobile dealer must have a separate license for each established place of business. Op. Atty. Gen., Dec. 31, 1931.

It is obligatory upon a licensed dealer to puchase at least one set of dealer's plates. Op. Atty. Gen., Dec. 31, 1931.

Agent for foreign dealer may not come into state and sell vehicles for such dealer unless it has acquired a license and has established a place of business and has complied with Laws 1935, c. 200, §2. Op. Atty. Gen. (632a-8), June 10, 1935.

A salesman working for a motor vehicle dealer residing in another town, and soliciting business, delivery to be made from store of established dealer would seem to be a salesman and not a motor vehicle dealer, but it is the duty of the registrar of motor vehicles to determine questions of fact. Op. Atty. Gen. (632a-8), July 25, 1935.

2686-1. Inconsistent acts repealed.—All acts, or parts of acts, inconsistent herewith, are hereby repealed, except it is expressly understood Section 2695, Mason's Statutes of 1927, providing for penalties for violation of the Motor Vehicle Registration law shall also apply to Sections 2672 and 2686, Mason's Statutes of 1927 as hereby amended. (Act Apr. 20, 1931, c. 217, §3.)

2686-2. Provisions separable.—The various provisions of this Act shall be severable and if any part or provision shall be held to be invalid, it shall not be held to invalidate any other part or provision hereof. (Act Apr. 20, 1931, c. 217, §4.)

2686-3. Effective January 1, 1932.—This act shall take effect and be in force from and after January 1st, 1932, except the provisions of subsection (d) of Section 2 relating to "in transit" plates which shall be in force and effect from and after its passage. (Act Apr. 20, 1931, c. 217, §5.)

2687. All machines must be registered—Exceptions.

Laws 1933, c. 298 (§2673), does not repeal and is not in conflict with §2687 with respect to exemption of second hand cars from tax while being transported by dealer. Op. Atty. Gen., Feb. 2, 1934.

2689. Transfer of ownership—Procedure—fees.—Every owner or transferor of a motor vehicle who fails or delays for more than seven days to surrender the registration certificate and existing number plates as herein provided, before he shall be entitled to sell and assign his right to have the tax paid by him credited to the transferee as herein provided, shall pay to the registrar a fee of 25 cents for each day not exceeding two days, and if such delay shall continue for 30 days thereafter, then 50 cents per month for each month or fraction thereof, not exceeding four months of such delay; and every owner or person charged with the duty to register a motor vehicle or pay any tax hereunder who fails or delays for more than seven days to register the same or pay such taxes as herein provided shall, before he shall be entitled to complete his registration as herein provided, pay to the registrar, a like fee. A filing with, or delivery to, the registrar of any application, notice, certificate or plates as required by this Act shall be construed to be within the requirements of this Act if made to the registrar or his deputy at an office maintained therefor, or if deposited in the mail or with a carrier by express with postage or carriage charge prepaid, and properly addressed to the registrar within seven days after the transfer of ownership or other occurrence upon which this Act provides for such filing or delivery. ('21, c. 461, §19; '23, c. 418, §19; Laws 1929, c. 330, §2; Feb. 17, 1931, c. 17, §1; Apr. 15, 1933, c. 245.)

Sec. 2 of Act Feb. 17, 1931, c. 17, provides that the act shall take effect from and after its passage.

2690. Date payable.—The tax required under this Act to be paid upon a motor vehicle shall become due as soon as such vehicle shall first use the public streets or highways in the state, and upon January 1st in each year thereafter. Taxes due upon January 1st shall be paid upon transfer of ownership in the vehicle, and in any event on or before February 15th and shall be delinquent after February 15th unless paid. Taxes falling due between February 15th and December 31st shall become delinquent upon the expiration of three days after the same become due, unless paid. Provided, if the tax assessed under Section (a)-1 amounts to more than $200 the amount thereof in excess of $200 may be paid in two equal installments in the year for which such vehicle is licensed, the due date of the first installment shall be at the termination of one-half of the period for which such license is to run and of the second installment shall be 60 days prior to the expiration of such license. All taxes imposed under the provisions of this Act shall be deemed the personal obligation of the registered owner and the amount of such tax, including added penalties for the non-payment thereof, shall be a first lien upon the vehicle taxed, paramount and superior to all other liens thereon whether previously or subsequently accruing thereon; and in addition to any other remedy herein prescribed, the state shall have a right of action against the owner for the recovery of the amount of any delinquent tax thereon, including the penalties accruing because of the nonpayment thereof or for the enforcement of the tax lien thereon hereby declared, or both, in any court of competent jurisdiction. The county attorney of

the county in which such motor vehicle is owned shall perform such service in the matter of the commencement and prosecution of such suit or in the prosecution of any other remedy for the enforcement of such tax as the Attorney General may require. ('21, c. 461, §19; '23, c. 418, §19; Apr. 20, 1933, c. 344, §3.)

Sec. 6 of Act Apr. 20, 1933, cited, provides that the act shall take effect Jan. 1, 1934. See §2684-7a as to construction of act.

This section is not enumerated in the title of the act, and the amendment is probably unconstitutional.

Act Feb. 2, 1933, c. 9, relates to payment of tax for the year 1933. It is omitted as temporary.

Acts Feb. 8, 1935, c. 4; Mar. 13, 1935, c. 45; Apr. 13, 1935, c. 160, relate to payment of tax for 1935. They are omitted as temporary.

2691. Registrar to file statement of delinquents with clerk of court.—As soon as practicable after the first day of April in each year, the registrar shall prepare a list containing the names of owners of motor vehicles previously registered and upon which the tax for the current year has not been paid and concerning which there is not satisfactory report explaining such nonpayment, and demand payment from each by letter. When deemed necessary, and for the purpose of obtaining more complete information concerning the probable success of enforcement proceedings as to those who do not respond to such notice, the registrar may assign to one or more employees in the motor vehicle department the duty of personal investigation in such counties in which the information at hand is not sufficient to enable him to determine whether payment of the tax due from any owner named in the list can be enforced, and the reasonable traveling expenses of these investigators shall be paid as department maintenance.

The preliminary investigation and reports herein prescribed are intended to enable the registrar to exclude from the delinquent list to be prepared and presented in accordance with the next succeeding paragraph the names of owners who cannot be found or whose vehicles are stolen, destroyed by the elements, or dismantled before the first day of the current year and to include therein only the names of delinquents from whom payment can probably be enforced.

Failure to comply with any of these provisions shall not affect the validity of the tax or the means of enforcement, nor shall the tax on any vehicle omitted from the delinquent list according to the provisions of this section be waived or the enforcement thereof impaired if at a later date application is made for reregistration and it is discovered that taxes are due in arrears.

The registrar on the second Monday in July next after any tax herein provided for shall become delinquent and on or before the tenth secular day of each subsequent month of the year shall certify to and file with the clerk of the district court of the proper county, a statement of delinquent taxes imposed under the provisions of this act, and not excluded therefrom as uncollectible, and such certified statement so filed shall be prima facie evidence of the correctness of the tax or taxes therein stated to be delinquent. Immediately upon receipt of this list the clerk shall mail written notice to each owner whose name appears therein, in form to be prescribed by the registrar, stating in substance that the list has been filed and that, as indicated thereon, there is imposed against him a tax in the amount stated due from such addressed owner and demanding immediate payment thereof. On or before the tenth secular day next after the filing of this list, any owner whose name is included in such certified statement may file with the clerk of said court an answer verified as pleadings in civil actions, setting forth his defense or objections to the tax or penalty against him.

The notice herein required to be mailed by the clerk to the respective owners in intended as an aid to securing payment of the motor vehicle tax and failure to send such notice or the failure of the registered owner to receive it shall not affect the tax or impair proceedings for its enforcement. On the reverse side of the clerk's notice shall be a blank form of answer which the owner may make and return to the clerk stating any defense he may have to proceedings for the enforcement of the payment of the tax indicated therein, but if this blank form does not fully provide for the conditions of any particular case the answer need not follow the form, but shall clearly refer to the tax or penalty intended to be contested, and shall set forth in concise language the facts constituting the defense or objection of the owner to such tax or penalty.

The clerk shall submit to the county attorney the answers received with such particular information affecting each case as he shall have received in response to his notice or otherwise, and the county attorney therefrom and from such other information as the clerk shall submit therewith, and from such information as he may otherwise obtain, shall report in writing by mail to the registrar the names of owners on the delinquent list filed with the clerk from whom, in his judgment, payment of the indicated motor vehicle tax cannot be collected. Upon receipt of such report the registrar may strike from the delinquent list the names of all persons against whom, in his judgment based upon the information he has at hand, payment of the indicated tax cannot be enforced, and shall report such eliminated names to the clerk, who shall also strike them from the delinquent list on file in his office and dismiss the proceedings against the owner whose name is thus eliminated. In all other cases the issues raised by such answer shall stand for trial at any term of the court in such county in session when the time to file answer shall expire, or at the next general or special term appointed to be held in such county; and, if no such term be appointed to be held within thirty days thereafter, then the same shall be brought to trial at any general term appointed to be held within the judicial district, upon ten days' notice. The county attorney of the county within which such taxpayer resides shall prosecute the same. At the term at which such proceedings come on for trial they shall take precedence over all other business before the court. The court shall without delay and summarily hear and determine the objections or defense made by the answers and at the same term direct judgment accordingly, and in the trial shall disregard all technicalities and matters of form not affecting the substantial merits. If the taxes and penalties shall be sustained, the judgment shall include costs.

The sheriff, clerk of court, and county attorney shall confer concerning the items on the list where no answer has been made and if in their best judgment the owners can be found then upon the fifteenth secular day next after the filing of such certified statement, the said clerk shall issue his warrants to the sheriff of the county as to all taxes and penalties embraced in the certified statement, except those to which answer has been filed, directing him to proceed to collect the same. If such taxes are not paid upon demand, the sheriff shall distrain sufficient goods and chattels belonging to the person charged with such taxes, if found within the county, to pay the same, with a penalty of ten per cent and all accruing costs, together with twenty-five cents from each delinquent taxpayer as compensation to said clerk. Immediately after making distress the sheriff shall give at least ten days' posted notice in the town or district where the property is taken, stating that the property, or so much thereof as will be sufficient to pay the taxes for which it is distrained, with penalties, and the costs of distress and sale, will be sold at public venue at a place and time therein designated, which time shall not be less than ten days after such taking. If such taxes and penalties and accrued costs are not paid before the day designated, the sheriff or his deputy shall proceed to sell the property pursuant to the notice.

If the sheriff is unable, for want of goods and chattels whereon to levy to collect by distress or otherwise the taxes or any part thereof assessed under the provisions of this act, he shall file with the clerk of the court within sixty days following the receipts of such warrants a list of such delinquent taxes, with an affidavit of himself, or the deputy sheriff entrusted with the collection thereof, stating that he has made diligent search and inquiry for goods and chattels from which to collect such taxes and is unable to collect the same. He shall note in the margin of such list the place to which any delinquent taxpayer may have removed, with the date of his removal, if he is able to ascertain the fact. At the time of the filing such list he shall also return all the warrants with endorsements thereon showing his doings in the premises, and the clerk shall file and preserve the same. On the receipt of such warrants from the sheriff, the clerk shall confer again with the sheriff and county attorney as to the collectibility of the items that are still not clearly uncollectible. They shall then add their recommendations to the report by the sheriff of his findings and the clerk shall transmit their report thereon to the registrar, who shall by comparison of such list with the records in his office ascertain whether or not all motor vehicles taxes reported by him to the clerks as delinquent, except those included in such list, have been paid into the office of the registrar.

The registrar may then strike from the list as uncollectible all those items concerning which he agrees with the recommendations of the county attorney, sheriff, and clerk of court.

As to all delinquent motor vehicle taxes not collected by distress and sale as herein provided, and for which the registrar is of the opinion that the state can and should proceed to judgment, the registrar shall promptly file with the clerk of the district court of the proper county a revised certified statement showing the names of the owners to be delinquent and the amount of tax and penalties owed by each. Within ten days thereafter the clerk shall issue a citation to each delinquent named in the revised list, stating the amount of the tax and penalties requiring such delinquent to appear on the first day of the next general or special term of the district court in the county, appointed to be held at a time not less than thirty days after the issuance of such citation, and show cause, if any there be, why he should not pay such tax and penalty. The citation shall be delivered for service to the sheriff of the county where such person may reside or be. If such person after service of citation fails to pay such tax, penalty and costs to the sheriff before the first day of the term, as aforesaid, or on said day to show cause as aforesaid, the court shall direct judgment against him for the amount of such tax, penalty and costs. When the sheriff is unable to serve the citation he shall return the same to the clerk with his return thereto attached to that effect and thereupon, or, if the court decides that service of such citation made or attempted to be made, or the issuance thereof by the clerk, was illegal, the clerk shall issue another like citation requiring such delinquent to appear on the first day of the next general or special term to be held not less than thirty days thereafter in the county, and show cause as aforesaid, and if he fails to pay or to show cause the court shall direct judgment as aforesaid. Whenever the sheriff has been unable to serve any citation theretofore made or attempted to be made, or the issuance thereof by the clerk was illegal, the clerk shall issue another like citation requiring such delinquent to appear as in the case last provided and with like effect; provided, that all citations other than the first shall be issued only upon the request of the county attorney.

When the person to whom the citation is issued is not a resident of the state so that personal service thereof cannot be made, the citation may be served by publication thereof and by attachment as provided by law in a civil action against non-resident defendants, upon affidavit of the county attorney, but no bond on such attachment or entry of judgment shall be required. The citation shall be prima facie evidence of the correctness of the tax or taxes therein stated to be delinquent. No omission of any of the things by law required in relation to such taxes or anything required by any officer to be done prior to the issuance of such citation shall be a defense or objections to such taxes, unless it be also made to appear to the court that such omission has resulted to the prejudice of the party objecting and that such taxes have been unfairly or unequally assessed; and in such case but no other the court may reduce the amount of such taxes and give judgment accordingly. It shall, however, always be a defense to such taxes that the same have been paid or that the property, because of which the same were assessed, was not subject to taxation.

In all counties in which the compensation of the clerk of the district court is not paid by fixed annual salary in lieu of other compensation, he shall be paid the following fees for services performed under the requirements of this act: For each notice to delinquent owners required under this act twenty-five cents to be collected from said such delinquent owner; for each affidavit prepared by and taken before him in attempted justification or excuse by the owner for nonpayment of tax listed against him fifty cents, to be paid by the owner for whom it is prepared; for each warrant issued to the sheriff against a delinquent owner twenty-five cents; for each citation twenty-five cents; and in contested cases such additional fees as are allowed to the clerk by law in civil actions. All such fees and costs shall be entered, taxed and made a part of the judgment and be paid to said clerk when and as collected. Any delinquent owner who pays the tax after the clerk's notice has been sent to him or submits affidavit in attempt at justification or excuse for nonpayment shall, before the proceedings can be dismissed, pay such of the aforesaid clerk's fees as have been earned by the clerk for service to him.

Execution shall be issued upon the judgment at the request of the county attorney and shall state that the judgment was obtained for delinquent motor vehicle taxes, and no property shall be exempt from seizure thereunder, and such execution may be renewed and reissued in the same manner as provided by law in case of executions upon judgments in civil actions.

The sheriff or his deputy shall be allowed the same fees for collecting such taxes and for making distress and sale of goods and chattels for the payment of taxes as are allowed by law to sheriffs for making levy and sale of property on execution; traveling fees to be computed from the county seat to the place of making distress, unless such distress is made by his deputy, in which case the same shall be computed from the resident of the deputy. Such fees shall be added to the tax and collected by the sheriff. If any of such fees cannot be collected by the sheriff, they may be audited and paid by the registrar from any funds in his possession on duly itemized and verified claims filed with him by such sheriff and any sums so paid by said registrar as sheriff's fees shall be deducted from his monthly report to the state auditor. A detailed report of such refundments shall accompany said report.

If the sheriff shall refuse or neglect to collect any tax levied under the provisions of this act where the same is collectible, or to file a delinquent list and affidavit as herein provided, he shall be held for the whole amount of such taxes collected, and the same shall be deducted from any bills presented by him to and allowed by the county board, and the amount thereof shall be transmitted to the registrar as herein provided for.

Every judgment for motor vehicle taxes shall be docketed and thereafter become a lien upon the real property of the debtor in the county within which

the judgment was rendered to the same extent as other judgments for the recovery of money, and may be docketed in other counties in like manner and with like effect. Whenever a judgment shall hereafter be entered and docketed for the recovery of taxes herein provided for, the same shall bear interest until paid at the rate of 6% per annum. Upon payment to the registrar of any motor vehicle tax for which judgment has been obtained, together with the fees, costs and interest due, the registrar shall deliver a certificate of such fact to the clerk who shall file the same and satisfy the judgment upon the margin on the record thereof, stating the date of payment, and shall note the satisfaction upon the docket. Out of said sum so collected on any such judgment, the registrar shall remit to the clerk of said court and the sheriff of the proper county any unpaid fees due either of said officers under the provisions of this act. ('21, c. 461, §20; '23, c. 418, §20; Apr. 24, 1929, c. 335.)

Act Mar. 20, 1933, c. 103, postpones to second Monday in September as date for certification under this section as far as year 1933 is concerned.

Acts Feb. 8, 1935, c. 4; Mar. 13, 1935, c. 45; Apr. 13, 1935, c. 160, fix time for certification for 1935. They are omitted as temporary.

Subdivision 12 applies to every county in the state in which the clerk is entitled to compensation by way of fees of any kind in addition to an annual salary. Op. Atty. Gen., July 17, 1929.

Sheriff is not entitled to compensation for mileage but to a reimbursement in proceedings to collect delinquent motor vehicle taxes where no collections are made. Op. Atty. Gen., Sept. 29, 1933.

Where executive council enters into compromise and settlement of judgment for license tax, it is duty of registrar to remit cost to clerk of court. Op. Atty. Gen. (928c-9), June 29, 1934.

2692. Manufacturers to file statement.—Every manufacturer of a motor vehicle sold or offered for sale within this state, either by the manufacturer, distributor, dealer or any other person, shall, on or before the first day of October in each year, file in the office of the registrar a sworn statement showing the various models manufactured by him, and the retail list price, rated carrying capacity and manufacturer's shipping weight of each model being manufactured October 1 of that year; and shall also file with the registrar, in such form as manufacturers usually use for advertising, complete specifications of the construction of each model that has been manufactured by him. Upon each change in such price, carrying capacity or weight and upon the manufacture of each new model thereafter, such manufacturer shall in like manner file a new statement setting forth such change. Models shall be deemed similar if substantially alike and of the same make. Models shall be deemed to be corresponding models, for the purpose of taxation under Section 3 of this act, if of the same make and having approximately the same weight and type of body and chassis and the same style and size of motor. The registrar may refuse to register any new or first hand vehicle in this state unless the manufacturer thereof has furnished to the registrar the sworn statement herein provided, for the model of the motor vehicle that is offered for registration. Such list price, rated carrying capacity and listed weight of the vehicle, as set forth in the manufacturer's statement shall be the price, weight or carrying capacity on which the tax of a motor vehicle shall be computed under section 3 of this act unless grossly at variance with fact. In all instances in which there have been added to a complete vehicle additional parts, equipment or accessories not included in the factory list price upon which the tax is computed in accordance with the requirements of section 3 of this act, the reasonable cost thereof, if amounting in the aggregate to more than $50, shall be added to the list price upon which the tax is computed. Such added parts, equipment or accessories to the extent in value of $50 shall be exempt from taxation. The registrar shall have authority to fix the value, carrying capacity and weight of any rebuilt or foreign car or any car on which a record of the list price, carrying capacity or weight is not available in his office. ('21, c. 461, §21; '23, c. 418, §21; '25, c. 299, §5; Apr. 24, 1929, c. 330, §3.)

2693. Secretary of state to be registrar.

Deputy registrars of motor vehicles are not liable for funds after depositing them in a bank designated by the state as a state depository. Op. Atty. Gen. (632a-17), Apr. 22, 1935.

It is duty of secretary of state to collect additional tax where vehicle has paid tax in full at time of payment but subsequent statute has increased tax for such year. Op. Atty. Gen. (632d), Apr. 25, 1935.

2695. Violations—penalties.

See §2686-1 making this section applicable to §§2672, 2685, as amended.

2705. Lights—Mufflers—Road rules—[Repealed].

Evidence held to support finding that there was negligence in parking without lights and that one running into parked vehicle was not contributorily negligent. 171 M366, 214NW55.

The court erred in charging that a motor vehicle left standing on a highway after it has been disabled is not operated thereon so as to require it to have lights lit after dark, as prescribed by this section, but such error held not prejudicial where the only issue was as to whether plaintiff, who was assisting the owner of the disabled car but who was not responsible for the condition of the light, was guilty of contributory negligence in going in front of the car at the time he was injured by collision of defendant's car from the rear. 172M493, 215NW861.

2708. Parking and driving rules—[Repealed].

172M493, 215NW861; notes, §2705.

2709. New rates of speed for motor vehicles in congested districts—[Repealed].

One recklessly killing another while driving an automobile while intoxicated could be convicted of murder in the third degree. 171M414, 214NW280.

2711. Local regulations prohibited—Exceptions—[Repealed].

City is liable for injuries caused by dangerous conditions in roadway in park used as way from one public highway to another. 172M76, 214NW774.

2712. Board of automobile examiners, etc.

Superseded by §§2712-1 to 2712-8.

2712-1. Chauffeurs' licenses.—No person shall drive a motor vehicle as a chauffeur upon any public highway in this state unless he be licensed by the secretary of state as provided in this act, except that a nonresident chauffeur, registered under the provisions of the law of the county, state, territory or district of his residence, operating such motor vehicle temporarily within this state not more than 60 days in any one year, and while wearing the badge assigned to him as such chauffeur in the county, state, territory or district of his residence, operating such motor vehicle temporarily within this state not more than 60 days in any one year, and while wearing the badge assigned to him as such chauffeur in the county, state, territory or district of his residence, shall be exempt from such license requirements. No person, whether licensed or not, who is an habitual user of narcotics or who is under the influence of intoxicating liquors or narcotics, shall drive any vehicle upon any highway.

The term chauffeur, as used in this act, shall mean and shall include every person who is employed for the principal purpose of operating a motor vehicle belonging to another, and every person, including the owner, who drives a motor vehicle while it is in use as a carrier of persons or property for hire. (Act Apr. 26, 1929, c. 433, §1.)

A chauffeur's license is required for truck drivers engaged in president's emergency conservation work only where they are driving vehicle belonging to another and only in case operation is principal purpose for which they are employed. Op. Atty. Gen., July 6, 1933.

Trucks used for purpose of transporting men to and from work in government emergency conservation work come within police regulations provided for public safety upon highways. Op. Atty. Gen., July 18, 1933.

Trucks operated in federal emergency conservation work are subject to state highway regulations. Op. Atty. Gen., July 18, 1933.

2712-2. Licensing of chauffeurs.—The secretary of state shall establish a chauffeurs' license division in the motor vehicle department of his office for the purpose of ascertaining and determining the qualifica-

tions of applicants for chauffeurs' licenses, and shall conduct examinations of applicants for such license at such times and places as he shall designate, and shall issue licenses only to such applicants as shall be found to have a practical knowledge of the construction, mechanism and operation of motor vehicles and a sufficient knowledge of the traffic laws of this state, and other needful qualifications, to enable him to drive with safety, and he may appoint such examiners and other employees as may be necessary in the conduct of the license division so established. Any deputy registrar of motor vehicles may be appointed by the secretary of state to conduct chauffeurs' examinations and any deputy registrar not serving on a stated salary when so appointed shall be allowed and paid fifty cents ($0.50) for each examinee for the first examination given to such examinee by him under such appointment to be paid by the secretary of state out of the same fund and in the same manner that salaries are paid to other employes serving in the chauffeurs' license division of the Motor Vehicle Department, such payment to be in addition to the fees allowed to such deputy as provided by law for registering motor vehicles. Act Apr. 26, 1929, c. 433, §2; Apr. 18, 1931, c. 196.)

2712-3. Shall provide badges.—The secretary of state shall provide every person licensed hereunder with a suitable badge to be worn by him attached conspicuously upon the outside of his clothing at all times while he is engaged in service as a chauffeur, and no licensed chauffeur shall voluntarily permit another person to possess and use the badge so provided, nor shall any person, while driving or operating a motor vehicle, use any license or badge belonging to another. (Act Apr. 26, 1929, c. 433, §3.)

2712-4. Shall expire on December 31 of each year.—All chauffeurs' licenses issued hereunder shall expire at midnight on December 31 of the year for which it is issued, but may be renewed without examination, but no renewal of a license issued before November 1, in any year shall be granted unless application for such renewal is made during the month of November of the year for which the license was issued; provided, however,that such license may be renewed at any time within 30 days after the expiration thereof without examination upon payment of the regular license fee and an additional charge of one dollar as penalty. (Act Apr. 26, 1929, c. 433, §4; Apr. 29, 1935, c. 327.)

2712-5. Applications and examinations.—Applications for examination and license hereunder shall be in writing upon such forms and shall contain such needed information as the secretary of state may prescribe, and shall be accompanied by the payment of an examination and license fee of one dollar and fifty cents, except that the fee for a renewal license shall be one dollar. The state treasurer shall maintain a separate fund known as a chauffeurs' license fund, in which all fees so received shall be credited, and the amount necessary for payment of salaries and expenses in connection with this act is hereby appropriated. No fees that have been paid into this fund shall be refunded, but the secretary of state in his discretion, upon proper application within three months thereafter, may grant one re-examination without additional fee to a person who has been refused a license on a previous application. Any balance remaining in this fund at the end of the calendar year, after the payment of employees' salaries and other expenses of the license division shall be transferred to and deposited in the general fund. (Act Apr. 26, 1929, c. 433, §5.)

No fees paid into chauffeurs' license fund are to be refunded. Op. Atty. Gen., Jan. 22, 1934.

2712-6. Violations and penalties.—Upon conviction of a licensed chauffeur of a violation of any provision of this act or of a violation of any provision of the uniform highway traffic act, the court in which such conviction is had may order that such chauffeur's license be revoked forthwith, and may require such chauffeur to surrender to the court his chauffeur's badge, and when so surrendered shall return it to the secretary of state with a report of its proceedings, including the order of revocation.

For sufficient cause upon complaint and after a hearing, the secretary of state may revoke the license of any chauffeur who, in the judgment of the secretary of state, should not be permitted to continue as a licensed chauffeur. (Act Apr. 26, 1929, c. 433, §6.)

Secretary of state has authority to issue a new license and badge upon payment of required fee of $1.50 to a chauffeur whose license was previously revoked during the year, but applicant must again qualify and renewal is discretionary with secretary. Op. Atty. Gen. (635d), July 10, 1934.

2712-7. Violation a misdemeanor.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor. (Act Apr. 26, 1929, c. 433, §7.)

2712-8. Inconsistent act repealed.—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. (Act Apr. 26, 1929, c. 433, §8.)

2715. Tampering with or damaging vehicle, etc.

Person hiring young man to put emery dust and waste in oil tank of automobile, resulting in damage, may be prosecuted under this section. Op. Atty. Gen., Mar. 4, 1933.

This section does not limit §2717(1). Op. Atty. Gen. (494a-1), Apr. 20, 1935.

2717. Taking and removing without consent—penalty.

(1).

This subdivision is not limited by §2715. Op. Atty. Gen. (494a-1), Apr. 20, 1935.

2717-1. Unauthorized driving, etc., of automobiles—Punishment.

179M167, 228NW605.

2719. [Repealed].

Repealed Apr. 25, 1931, c. 377.

2720. [Repealed].

Repealed Apr. 25, 1931, c. 377.

UNIFORM HIGHWAY TRAFFIC ACT

TITLE I.—DEFINITION OF TERMS

2720-1. Definitions. * * * * * * *

(v) "Truck." Any motor vehicle designed and used principally for carrying things other than passengers and includes a motor vehicle to which has been added a cabinet box, platform rack or other equipment for the purpose of carrying merchandise other than the person or effects of the passenger. ('27, c. 412, §1; Apr. 26, 1929, c. 407, §1.)

A tractor is a motor vehicle within this act. Johnson v. B., 184M576, 239NW772.

(m).

Where owner lets vehicle and driver for hire, the hirer is liable for the negligence of the driver if he has exclusive control over him, but he may have control of the driver for certain purposes and the owner may retain control over him for other purposes. 175M438, 221 NW716.

TITLE II.—OPERATION OF VEHICLES RULES OF THE ROAD

2720-2. Age of operators, etc. Persons under influence of intoxicating liquors or narcotics.

Whether defendant prosecuted for manslaughter was driving while intoxicated, held for jury. 179M1, 228NW 171.

An ordinance of the city of St. Paul providing for the punishment of a person convicted of driving an automobile while under the influence of intoxicating liquor is valid. State v. Hughes, 182M144, 233NW784. See Dun. Dig. 4167b, 4165.

Evidence held to sustain conviction for driving automobile while intoxicated. State v. Reilly, 184M266, 238 NW492. See Dun. Dig. 4167l.

The headnote in the session laws was not a part of the law as passed, and this section forbids minors under 15 years to drive vehicles. Op. Atty. Gen., May 27, 1931.

2720-3. Careless or heedless or dangerous driving.

1. In general.

Where an automobile driver is confronted with an emergency not brought about by his own negligence he is not chargeable with negligence in not adopting the better method of handling the car. Liggett & Myers Tob. Co. v. D. (CCA8), 66F(2d)678.

Ordinary care in the operation of an automobile is that degree of care which a reasonably prudent man would exercise in view of all of the surrounding circumstances. Id.

Injury to pedestrian upon sidewalk. 177M42, 224NW 255.

Injury to pedestrian walking on shoulder of highway. 178M382, 227NW207.

Driver of car, held not negligent as to a child who coasted from a terrace at the side of the street. Phillips v. H., 179M108, 228NW350.

Negligence as to boy on bicycle, held not shown. 179 M578, 229NW881.

It is not due care to depend on the exercise of care by another when such care is accompanied by danger. 181 M492, 233NW239. See Dun. Dig. 7022.

Allegation that driver negligently ran car upon and against plaintiff is a sufficient charge of actionable negligence, in the absence of any motion to make the complaint more definite and certain. Saunders v. Y., 182M 62, 233NW599. See Dun. Dig. 4166(42), 7058(25), 7718 (15).

Wife was not liable for negligence of her husband in driving a car registered in her name. Cewe v. S., 182M 126, 233NW805. See Dun. Dig. 5834b.

In action for personal injuries received when defendant's bus struck parked car, moving another car upon pedestrian, court properly denied defendant's motion for judgment notwithstanding verdict or new trial. Flanagan v. T., 184M219, 238NW326. See Dun. Dig. 4167n.

In the absence of evidence as to how truck ran down child in alley, court properly dismissed case at close of plaintiff's testimony. O'Neil v. C., 184M354, 238NW632. See Dun. Dig. 4167(64).

Patch of sand and gravel washed onto pavement held not direct or proximate cause of collision occurring when plaintiff turned out to avoid it. Hamilton v. V., 184M580, 239NW659. See Dun. Dig. 6999.

Truck drivers do not possess special or superior rights on the highways. Montague v. L., 294M546, 261NW188. See Dun. Dig. 4164e.

Degree of care required of an infant defendant. 15 MinnLawRev834.

Violation of statute or ordinance as negligence or evidence of negligence. 19MinnLawRev666.

2. Injury to guest or other occupant.

A host driver of an automobile owes his guest a duty to exercise ordinary care not to increase the danger or add a new one to those assumed when he entered the car, and, when the guest enters the car, he accepts it in its existing condition, except as to latent defects known to the driver, and he likewise accepts the driver with his habits of driving so far as known to him, with such skill in operating the car as he actually possesses. Liggett & Myers Tob. Co. v. D. (CCA8), 66F(2d)678.

Evidence held to show negligence of driver of automobile causing injury to guest riding with him. 181M 338, 232NW344. See Dun. Dig. 6975a.

The defendant did not recklessly operate his auto within Iowa Code 1927, §5026-b1, making a driver liable when his reckless operation causes injury to his guest, and the court rightly directed a verdict in his favor. Marquart v. M., 181M504, 233NW309. See Dun. Dig. 6975a.

Contributory negligence of guest in automobile held for jury. Engholm v. N., 184M349, 238NW795. See Dun. Dig. 7038.

Evidence sustains finding that defendant was negligent in closing front door of automobile when plaintiff was getting in at rear door, as a result of which plaintiff's hand was injured. Wildes v. W., 188M441, 247NW 508.

Testimony of plaintiff guest in car that driver did all he could to keep car on road when loose gravel was struck, held to absolve driver from negligence. White v. C., 189M300, 249NW328.

Automobile host driving at night at a speed 15 miles in excess of speed limit and colliding with an unlighted truck due to skidding when turning into loose gravel, held not guilty of gross negligence as to guest within meaning of South Dakota Rev. Code, 1919, §801. Dakins v. B., —M—, 261NW870.

2½. Persons liable in general.

Wife riding with husband as guest was not liable for his violation of statute or his negligence. Krinke v. G., 187M595, 246NW376. See Dun. Dig. 4167b, 6983a.

In three car collision evidence held not to show that drivers of two of the cars were engaged in a joint enterprise of racing. Peterson v. F., 192M360, 256NW901. See Dun. Dig. 4167o.

Though wife cannot maintain an action against her husband for a tort committed by him against the person of the wife, action by administrator of a child is not an action by wife against husband, and administrator may recover for death of child, though wife of defendant is sole beneficiary. Albrecht v. P., 192M557, 257NW377. See Dun. Dig. 2608, 4288.

County is not liable for operator of county road graders working upon roads without lights and on left side of road. Op. Atty. Gen. (107b-4), Dec. 3, 1934.

3. Respondeat superior.

Employer is not liable for injury to guest invited to ride by the employee, such invitation being outside the scope of his employment. Liggett & Myers Tob. Co. v. D. (CCA8), 66F(2d)678.

It would be otherwise if the employer authorized such invitation. Id.

Evidence that driver of automobile which collided with and injured plaintiff was employee of defendant, held insufficient for jury. P. F. Collier & Son v. H., (USCCA 8), 72F(2d)625. See Dun. Dig. 4167o, 5841.

Evidence, held to show that tank wagon, in which plaintiff was riding when injured, was being operated in the interest of the owner. Plaintiff's contributory negligence was a question for the jury. 181M245, 232NW 38. See Dun. Dig. 5840, 7033.

Act of defendant's employe in inviting person to ride in car, held outside scope of employment and employer was not liable for injury to person so invited. 181M366, 232NW626. See Dun. Dig. 5843.

The evidence sustains findings of court that driver of automobile was a servant, but that, at the time of the accident involved, the car was not being operated in the course, nor within the scope, of his employment. 181 M437, 232NW790. See Dun. Dig. 5833, 5834.

Where driver of another's car had departed from the scope of her employment for purposes personal to herself when a collision occurred, owner was not liable. Lund v. O., 183M515, 237NW188. See Dun. Dig. 5833, 5843.

Mother owning automobile for family puposes was liable for negligence of her son while driving. Pearson v. N., 184M560, 239NW602. See Dun. Dig. 5834b.

Evidence held to show that driver of rental car was not a volunteer but was acting in furtherance of car owner's business. Paulson v. C., 185M419, 241NW678. See Dun. Dig. 5834e.

Owner is not liable for negligent operation of his automobile while used by employe for his own pleasure. Lausche v. D., 185M635, 243NW52. See Dun. Dig. 5833.

Family car doctrine was applicable to injury to guest of son of owner who was driving car. Nicol v. G., 188M 69, 247NW8. See Dun. Dig. 5834b.

Owner of automobile maintained for convenience and pleasure of family was liable for negligence of nephew of wife, selected as driver by wife, while he was driving his wife's niece to school. Schreder v. L., 190M264, 251 NW513. See Dun. Dig. 5834b.

In action for death of child evidence held to sustain finding that driver of truck was servant of oil station owner though truck belonged to another employee. Wagstrom v. J., 192M220, 255NW822. See Dun. Dig. 5840.

Presumption of agency of driver of automobile arising from ownership of car has no weight where uncontradicted evidence shows that accident happened on holiday while driver was returning from another city where he had been visiting his father ill in a hospital and late at night. Wenell v. S., 294M368, 260NW503. See Dun. Dig. 5839.

4. Contributory negligence.

Guest in automobile, held not contributorily negligent. Waggoner v. G., 180M391, 231NW10(2).

Person stepping into highway from vehicle without looking for passing vehicles, held contributorily negligent. 181M41, 231NW242.

Automobile driver, held guilty of contributory negligence in colliding with street car. 180M505, 231NW246.

A child of eight and one-half years cannot be held negligent as a matter of law. 181M376, 232NW630. See Dun. Dig. 7029.

Contributory negligence of child nine years old. 181 M386, 232NW712. See Dun. Dig. 7029.

In automobile collision case, burden is on defendant to establish plaintiff's contributory negligence. Peterson v. D., 184M213, 238NW324. See Dun. Dig. 4167-o.

A guest passenger, riding in the back seat of an automobile driven by an apparently competent driver, is not bound to be on the alert to discover dangers which the driver may not happen to discover. Burgess v. C., 184 M384, 238NW798. See Dun. Dig. 7038.

Driver of automobile on a dark drizzly night colliding with an unlighted truck held not guilty of contributory negligence as a matter of law. Mechler v. M., 239NW 605. See Dun. Dig. 4167c.

Driver of automobile going off of highway by reason of improper parking of a truck held not guilty of contributory negligence as matter of law. Ball v. G., 185M105, 240NW100. See Dun. Dig. 4171a.

In action for death of pedestrian struck by automobile on paved highway, held that there was no evidence justifying an instruction on avoidance of injury to one imperiled. Boyer v. J., 185M221, 240NW538. See Dun. Dig. 4166, 4167n, 7017.

Pedestrian held not guilty of negligence as matter of law who looked both ways before stepping off curb and then walked rapidly across street without looking further. Plante v. P., 186M280, 243NW64. See Dun. Dig. 4167n.

Passengers in an automobile have right to assume that drivers of others cars will use ordinary care and comply with regulations. Jacobsen v. A., 188M179, 246 NW670. See Dun. Dig. 4167o, 7026a.

Evidence held not to require finding that guest entering rear door of automobile was negligent in placing hand on front door jamb. Wildes v. W., 188M441, 247NW 508.

While there is not any traffic law directly requiring an automobile to slow up at highway intersection where there are no obstructions or traffic signs, it does not follow that a motorist may approach and enter an in-

tersection heedlessly, at high speed, without looking to see if other cars are ahead of him, right-of-way rule not going to that extent. Guthrie v. B., 192M434, 256NW898. See Dun. Dig. 4164e.

Plaintiff's action in climbing on hood of moving truck on which he was riding held not to render him guilty of contributory negligence, since his action in no way contributed to, were a substantial factor in, or a material element to, happening of a collision with defendant's car which resulted in his injuries. Guile v. G., 192M548, 257 NW649. See Dun. Dig. 4167o, 7027.

Guest in automobile in front seat may be found guilty of contributory negligence where she permits driver to travel recklessly and fails to warn him of an approaching vehicle. Farnham v. P., 293M222, 258NW293. See Dun. Dig. 7038.

A railroad company cannot be charged with negligence for failure to protect its train temporarily stopped, in night-time, on a grade crossing over a city street, from being run into by automobiles, city maintaining powerful electric lights on either side of two grade crossings, lights being about 160 feet apart, crossings about 104 feet apart, with an overhead bridge between. Ausen v. M., 193M316, 258NW511. See Dun. Dig. 8174.

Contributory negligence is always question of fact, unless reasonable minds could reach but one conclusion. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 7033, 7048.

Negligence of defendant automobile driver did not excuse plaintiff from exercising due care but was a circumstance for consideration of jury in determining plaintiff's contributory negligence. Id. See Dun. Dig. 4167o.

Plaintiff, in riding on forepart of truck, held not to assume risk of a collision with another car, though he assumed risks ordinarily attendant upon riding on outside of truck. See Dun. Dig. 4167o, 7041a.

Sleeping of guest while riding in automobile as contributory negligence. 17MinnLawRev222.

4¼. Imputed contributory negligence.

Negligence of driver does not bar recovery by guest for injuries received in collision, unless it was a sole, independent and intervening cause of collision. Brown v. M., 191M81, 251NW5. See Dun. Dig. 7038.

Negligence on part of automobile driver does not preclude recovery by passenger or guest when injured person was not himself contributorily negligent. Luck v. M., 191M503, 254NW609. See Dun. Dig. 7038.

Whether negligence of driver of money truck, if any, can be imputed to plaintiff, held to depend upon whether plaintiff had control of driver's actions. Guile v. G., 192 M548, 257NW649. See Dun. Dig. 4167o, 7038.

Garage man and one assisting him merely as a matter of accommodation in removing a wrecked car from highway were not engaged in a joint enterprise, and negligence of garage man in violating flare statute could not be imputed to person accommodating him. Peterson v. N., 193M400, 258NW729. See Dun. Dig. 7037.

4½. Proximate cause.

Krinke v. G., 187M595, 246NW376.

Standing of disabled car upon highway, held not proximate cause of injury to guest in another car which turned over when attempting to pass. Geisen v. L., 185 M479, 242NW8. See Dun. Dig. 4171a, 6999.

In action for injuries to passengers in truck which left road and overturned, evidence held not to show that loose grease cup on spindle near front wheel and axle interfered with steering or caused truck to leave highway. Cullen v. P., 191M136, 253NW117. See Dun. Dig. 1291a.

Where two cars hit a third car but neither of first two cars hit other, held, that driver of second car, though negligent, is not liable for injuries sustained by a passenger in first car, since his actions were not a material element or a substantial factor in causing injury to such passenger. Peterson v. F., 192M360, 256NW901. See Dun. Dig. 4167o.

In action for death of passenger in automobile, evidence held to justify finding that accident and not heart disease was proximate cause of death. Albrecht v. P., 192M557, 257NW377. See Dun. Dig. 2620.

5. Pleading.

Complaint held not to limit charge of negligence against automobile driver to failure to give warning. 181M506, 233NW237. See Dun. Dig. 7058.

Failure of complaint to cover certain ground of negligence was immaterial where both parties introduced evidence thereon without objection. Dziewcznski v. L., 193M580, 259NW65. See Dun. Dig. 7675.

6. Evidence.

In an action for injuries received by a guest riding in an automobile plaintiff has burden of proving actionable negligence. Liggett & Myers Tob. Co. v. D. (CCA8), 66F (2d)678.

Where proven facts give equal support to each of two inconsistent inferences arising from an automobile accident, judgment must go against the party upon whom rests the burden of sustaining one of these inferences as against the other. Id.

Evidence sustained finding that driving of motor car so as to project over edge of bridge sidewalk and strike pedestrian was negligence. 178M353, 227NW203.

Evidence held to sustain finding of negligence as to pedestrian crossing street at point not an intersection. 181M376, 232NW630. See Dun. Dig. 4167n.

It was not error to receive in evidence photographs for limited purpose of showing width of street and location of objects at place of accident which had remained unchanged, although some of photographs incidentally showed a guard constructed since accident. 181M450, 232NW795. See Dun. Dig. 3237a, 3260, 7055.

Verdict against plaintiff struck by bus while making "U" turn, held unassailable. 181M554, 233NW316. See Dun. Dig. 4164c.

In actions by husband and wife for injuries suffered in automobile accident, verdict for defendants held supported by evidence. Arvidson v. S., 183M446, 237NW12.

Evidence held not to support a verdict and judgment for a defendant, in an automobile collision case, who was driving in a dense fog, on the wrong side of a trunk highway, from twenty to thirty miles an hour, without slackening of speed, headlights on, or other precaution to avoid accident. Salera v. S., 183M478, 237NW180. See Dun. Dig. 41670.

In automobile collision case, evidence held to sustain verdict that proximate cause of death was injury received in collision. Kieffer v. S., 184M205, 238NW331.

The rate of speed of an automobile within four miles of the place of collision is admissible as bearing upon the claim of speed at the time of the accident. Quinn v. Z., 184M589, 239NW902. See Dun. Dig. 3253.

Evidence held to sustain finding that parking of truck in violation of this section was negligence and proximate cause of injury to occupant of another automobile going off of the highway. Ball v. G., 185M105, 240NW 100. See Dun. Dig. 4171a.

Court erred in automobile case in charging that burden rested upon plaintiff to satisfy jury that she was not contributorily negligent. Naylor v. M., 185M514, 241NW674. See Dun. Dig. 7032.

In action by director and president of defendant corporation to recover damages for injuries received in accident while riding in corporation automobile, verdict for defendant held justified by evidence. Hamre v. H., 186M77, 242NW377. See Dun. Dig. 6975a.

Proof of ownership of automobile and that one so using car is employe of owner, justifies inference that car is being operated in business of owner. Lausche v. D., 243NW52. See Dun. Dig. 5840.

It was error for plaintiff to show injuries received by third person riding in on-coming automobile which was struck by defendant's car after it struck plaintiff boy. Campbell v. S., 186M293, 243NW142. See Dun. Dig. 3253.

Evidence held to show negligence of truck driver and freedom of boy struck thereby from contributory negligence. Ludwig v. H., 187M315, 245NW371. See Dun. Dig. 4167m.

Evidence held to sustain finding of negligence of motorist in collision at intersection. Krinke v. G., 187M 595, 246NW376. See Dun. Dig. 4167o.

Physical facts in automobile collision held not to necessarily contradict defendant's theory of case. Dickinson v. L., 188M130, 246NW669. See Dun. Dig. 3473, 4167o.

In action for death of guest in automobile where his companion, the owner's son, disappeared, it was error to exclude testimony to effect that horn on car was tooted. Nicol v. G., 188M69, 247NW8. See Dun. Dig. 3234.

Evidence held sufficient to sustain finding that negligence was proximate cause of death of guest in automobile where there were no eye witnesses and driver disappeared. Nicol v. G., 188M69, 247NW8. See Dun. Dig. 4167b, 7056a.

Evidence held sufficient to sustain finding that missing car owner's son was driving car at time of accident resulting in death of guest. Nicol v. G., 188M69, 247NW8. See Dun. Dig. 5840.

Evidence held not to show negligence of truck driver in head-on collision with car in snow. Foster v. G., 188 M552, 247NW801. See Dun. Dig. 4167o.

Evidence held not to require finding that guest in automobile was guilty of contributory negligence. Anderson v. A., 188M602, 248NW35. See Dun. Dig. 7033.

In automobile collision case, evidence that defendant's driver was convicted of offense while driving intoxicated was inadmissible. Mills v. H., 189M193, 248NW705. See Dun. Dig. 5156(62).

Automobile guest suing host has burden of establishing negligence causing injury. White v. C., 189M300, 249NW328.

Testimony of eyewitnesses to a fatal accident does not make inapplicable presumption against contributory negligence. Jasinuk v. L., 189M594, 250NW568. See Dun. Dig. 2616, 3431.

In action against taxicab company for death of pedestrian, evidence held to show title of car in defendant as against contention it had been sold to driver. Id.

Finding that driver of car in which plaintiff's intestate was riding was not guilty of negligence, held supported by evidence. Harris v. R., 189M599, 250NW577. See Dun. Dig. 7026a.

Evidence held to sustain finding that passenger in automobile struck by defendant's automobile at intersection was free from contributory negligence. Johnston v. S., 190M269, 251NW525. See Dun. Dig. 7026a.

Physical facts, consisting of markings left by collision on cars, track marks on highway, and position of cars, after accident, were proper for consideration of jury. Romann v. B., 190M419, 252NW80. See Dun. Dig. 4167o(1).

In action for injuries in automobile collision burden of proof on issue of negligence is for plaintiff. McIlvaine v. D., 190M401, 252NW234. See Dun. Dig. 4167o.

Presumption of due care of deceased automobile driver held so overcome by testimony of eye witnesses as to justify judgment notwithstanding verdict for plaintiff. Williams v. J., 191M16, 252NW658. See Dun. Dig. 7032.

In action for death in automobile collision, defendants have burden of proving contributory negligence pleaded. Id.

There is presumption that one killed in automobile collision was in exercise of due care. Id.

In automobile collision case, evidence that there was a keg of liquor and a bottle containing a few drops of liquor in back of one automobile was properly admitted. Kouri v. O., 191M101, 253NW98. See Dun. Dig. 4167o.

In automobile collision case, plaintiff has burden of proving that defendant was guilty of negligence. McGerty v. N., 191M443, 254NW601. See Dun. Dig. 7043.

Burden of proof to show contributory negligence of plaintiff in automobile collision case is upon defendant. Matz v. K., 191M580, 254NW912. See Dun. Dig. 4167o, 7032.

Evidence that plaintiff previously had received workmen's compensation for injury now sued for should not be admitted on new trial if evidence there produced is same as on first trial. Guile v. G., 192M548, 257NW649. See Dun. Dig. 454.

Burden is upon defendant to prove contributory negligence of plaintiff by mere preponderance of the evidence. Farnham v. P., 193M222, 258NW293. See Dun. Dig. 7169.

It was error to receive in evidence a copy of a police report made by officer called to scene of accident. Duffey v. C., 193M358, 258NW744. See Dun. Dig. 3348.

Burden is upon defendant to establish an injured plaintiff's contributory negligence, and unless evidence conclusively establishes it such issue is for jury. Oxborough v. M., 294M335, 260NW305. See Dun. Dig. 2616, 7032.

7. Res ipsa loquitur.

No inference of negligence arises from the happening of an accident in the operation of an automobile. Liggett & Myers Tob. Co. v. D. (CCA8), 66F(2d)678.

In action for death of passenger in automobile, where defendant's explanation was open to repudiation, it was not error to submit the rule of res ipsa loquitur. 181 M506, 233NW237. See Dun. Dig. 7044.

Rule of res ipsa loquitur was applicable where car turned over at curve killing guest and driver disappeared. Nicol v. G., 188M69, 247NW8. See Dun. Dig. 4167e, 7044.

Doctrine of res ipsa loquitur is that when a thing, which has caused an injury, is shown to be under management of defendant charged with negligence, and accident is such as in ordinary course of things would not happen if those who have control use proper care, accident itself affords reasonable evidence, in absence of explanation by defendant, that it arose from want of care. Borg & Powers Furn. Co. v. C., 294M305, 260NW 316. See Dun. Dig. 7044.

Where agency of injury is not shown and is not within knowledge or reach of plaintiff, doctrine of res ipsa loquitur applies, and an unsuccessful attempt by plaintiff to show cause of injury does not weaken or displace presumption of negligence on part of defendant. Id. See Dun. Dig. 7044.

8. Questions for jury.

In action by guest for injuries in automobile accident evidence of negligence of driver in handling car after suddenly discovering loose gravel ahead, held insufficient to present a question for the jury. Liggett & Myers Tob. Co. v. D. (CCA8), 66F(2d)678.

Contributory negligence of pedestrian held for jury. 173M138, 216NW605.

In a triangular automobile collision, negligence held for jury. 176M383, 223NW603.

Negligence with respect to driving automobile over intersection in blinding snowstorm, held for jury. 179M 332, 229NW341.

Contributory negligence of motorcyclist at intersection, held for jury. 179M123, 228NW752.

Negligence and contributory negligence of persons involved in collision at intersection, held for jury. 179M 332, 229NW341.

Negligence and contributory negligence in case of injury to pedestrian, held for jury. 179M528, 229NW784.

Negligence in letting out clutch while occupant of automobile was alighting, held for jury. 180M433, 230 NW888.

Whether independent contractor using his own automobile in transporting his own tools and those of his employer was acting as an employe of the latter, held a question for the jury. 181M240, 232NW43. See Dun. Dig. 5841.

Whether automobile driver standing in street jacking up his car was guilty of contributory negligence, held for jury. 181M259, 232NW264. See Dun. Dig. 4167n, 7033.

Negligence of driver of automobile as to pedestrian in street at intersection, held question for jury. 181M 386, 232NW712. See Dun. Dig. 4167n.

Whether employe of defendant was acting in the scope of his employment when causing an injury, through the negligent driving of an automobile, held for jury. 181M386, 232NW712. See Dun. Dig. 5841.

Contributing negligence of pedestrian struck by motorist while crossing street at other than cross walk held for jury. Heikkinen v. C., 183M146, 235NW879. See Dun. Dig. 4167n.

Negligence of motorist striking pedestrian between cross walks held for jury. Heikkinen v. C., 183M146, 235NW879. See Dun. Dig. 4167n.

Whether driver of automobile turning over on a highway and injuring guests was negligent held for jury. Martin v. S., 183M356, 236NW312. See Dun. Dig. 4167b.

Contributory negligence of driver in collision at street intersection held for jury. Hustvet v. K., 184M222, 238 NW330. See Dun. Dig. 4167-o.

In action for personal injuries received when defendant's bus struck parked car, moving another car upon pedestrian, court properly denied defendant's motion for judgment notwithstanding verdict or new trial. Flanagan v. T., 184M219, 238NW326. See Dun. Dig. 4167n.

Negligence and contributory negligence in an automobile collision at street intersection held for jury. Kieffer v. S., 184M205, 238NW331. See Dun. Dig. 4167-o.

Where an automobile is being driven on an extremely slippery tarvia or bithulithic paved road, it is a question for the jury whether the driver is guilty of negligence in throwing out his clutch and violently applying his brakes to prevent a collision with cattle on a steep descent. Burgess v. C., 184M384, 238NW798. See Dun. Dig. 4167b.

Contributory negligence of pedestrian struck by automobile held for jury. Horsman v. B., 184M514, 239NW 250. See Dun. Dig. 4171(75).

Negligence of automobile driver striking pedestrian held for jury. Horsman v. B., 184M514, 239NW250. See Dun. Dig. 4171(75).

Contributory negligence in collision between automobile and bus held for jury. Pearson v. N., 184M560, 239NW602. See Dun. Dig. 7033.

Negligence and contributory negligence at highway intersection held for jury. Quinn v. Z., 184M589, 239NW 902. See Dun. Dig. 4164d, e, f.

Negligence of automobile driver and contributory negligence of pedestrian struck on pavement held for jury. Boyer v. J., 185M221, 240NW538. See Dun. Dig. 4166, 4167n.

In action by pedestrian struck by taxicab, negligence and contributory negligence held for jury. Russell v. W., 185M537, 241NW589. See Dun. Dig. 4166.

Whether employe was using automobile within scope of employment at time of accident, held for jury. Lausche v. D., 243NW52. See Dun. Dig. 5841.

Negligence of automobilist striking bicycle in nighttime, held for jury. Campbell v. S., 186M293, 243NW142. See Dun. Dig. 4167p.

Whether salesman driving automobile was acting in course of employment at time of accident, held for jury. Marcel v. C., 186M336, 243NW265. See Dun. Dig. 5841.

In guest's action, whether driver was negligent in traveling thirty miles per hour on wet pavement in nighttime, held for jury. Sandberg v. D., 186M377, 243 NW385.

Whether at time of accident defendant was owner of truck and driver its agent, held for jury. Ludwig v. H., 187M315, 245NW371. See Dun. Dig. 5841.

Contributory negligence of plaintiff in automobile collision, held for jury. Eckman v. L., 187M437, 245NW638. See Dun. Dig. 4167b, 7033.

Negligence of motorist colliding with rear of plaintiff's car making left turn on to highway and then right turn into gateway, held for jury. Hansen v. L., 187M 389, 245NW835. See Dun. Dig. 4167f.

Evidence held insufficient to raise jury question as to contributory negligence of guest in automobile which collided with car which turned to left. Hall v. G., 188 M20, 246NW466. See Dun. Dig. 4167o.

In collision of motor vehicles at a highway intersection when a high wind and dust raised by moving cars rendered visibility difficult and uncertain, plaintiff's contributory negligence was properly left to jury. Carlson v. S., 188M204, 246NW746. See Dun. Dig. 4167o.

Contributory negligence of plaintiff in collision of meeting automobiles, held for jury. Herrick v. N., 188 M241, 246NW881. See Dun. Dig. 4167o.

Negligence and contributory negligence held for jury in action involving collision between automobile and pedestrian at wet intersection. Wiester v. K., 188M341, 247NW237. See Dun. Dig. 4167n.

Whether one driving his own truck was employe of elevator company with respect to negligence in driving, held for jury. Bayerkohler v. C., 189M22, 248NW294. See Dun. Dig. 5841.

Whether automobile guest was negligent in failing to warn defendant driver of approaching train or otherwise, held for jury. Christensen v. P., 189M548, 250NW 363. See Dun. Dig. 7038, n. 36.

Contributory negligence of pedestrian crossing street between intersections, held for jury. Jasinuk v. L., 189 M594, 250NW568. See Dun. Dig. 4167n.

Whether driver of automobile in which intestate was riding when killed was agent of such intestate, held for jury. Harris v. R., 189M599, 250NW577. See Dun. Dig. 7033.

In action against street railway for injuries in collision with automobile, negligence and contributory

negligence held for jury. Holt v. S., 190M441, 252NW76. See Dun. Dig. 9023a.

In automobile collision case, court must submit question of defendant's negligence to jury unless evidence conclusively establishes such negligence as matter of law or unless a verdict in defendant's favor would be manifestly against weight of evidence. McIlvaine v. D., 190M401, 252NW234. See Dun. Dig. 4167o.

Gross negligence of driver of automobile who went to sleep and injured gratuitous guest, held for jury. Hardgrove v. B., 190M523, 252NW334. See Dun. Dig. 4167b, 6975a.

Contributory negligence of guest in automobile, held for jury. Id. See Dun. Dig. 6970, 7012.

Whether driver of truck which left highway and overturned injuring passengers was negligent, held for jury. Cullen v. P., 191M136, 253NW117. See Dun. Dig. 1291a.

It is only in the clearest cases, where facts are undisputed and it is plain that all reasonable men can draw but one conclusion from them, that question of contributory negligence becomes one of law. Guthrie v. B., 192M434, 256NW898. See Dun. Dig. 7033.

Evidence as to icy condition of street and an obstruction therein made it a jury question whether failure to stop automobile before it came in contact with rear of street car, about to stop, was excusable. Jannette v. M., 193M153, 258NW31. See Dun. Dig. 4167i, 7011.

In action for death of one killed while, as a matter of accommodation, assisting a garage man in removing an overturned car, negligence of defendant in striking wreck and contributory negligence held for jury. Peterson v. N., 193M400, 258NW729. See Dun. Dig. 7033, 7048.

In four car collision wherein plaintiff's car contacted a light car and a truck, light car owner was properly ordered judgment notwithstanding verdict, but such order was properly denied as to owner of truck. Paulson v. F., 294M507, 261NW183. See Dun. Dig. 4164.

Whether or not a city is negligent in permitting large fine trees to remain in the street, placing upon them glass discs which reflect a red color, and whether automobilist running into them is guilty of contributory negligence are questions for a jury. Op. Atty. Gen., Nov. 13, 1931.

9. Instructions.

Instruction, held insufficient to present issue of contributory negligence. 180M395, 230NW895.

Instruction that contributory negligence contributing "in the slightest degree to the injury" is erroneous. 181M180, 232NW3. See Dun. Dig. 7015.

In action by pedestrian against automobile driver, charge as to proximate cause held sufficient. 181M506, 233NW237. See Dun. Dig. 6999.

There was no error in giving the jury the statutory rules of the road, including those requiring adequate lights and brakes, even though there was no specific claim of their violation. 181M492, 233NW239. See Dun. Dig. 9781(35).

Instructions as to the relative statutory rights of a pedestrian and an automobile driver between street intersections were free from error. Heikkinen v. C., 183M146, 235NW879. See Dun. Dig. 4167n.

In automobile collision, evidence held not to warrant requested instruction relating to defendant's conduct in case of an emergency. Zobel v. B., 184M172, 238NW49. See Dun. Dig. 4167-o.

Instruction as to emergency in automobile collision case held applicable to questions presented by evidence. Stoker v. A., 184M339, 238NW685. See Dun. Dig. 4167b.

Where defense was that foot accelerator stuck, creating an emergency, and it appeared that it had stuck several times previously without effort to repair, it was not error to refuse to charge that negligence could not be found in failing to use due care to repair. Stoker v. A., 184M339, 238NW685. See Dun. Dig. 7048.

Instruction as to negligence and contributory negligence with reference to this statute held erroneous. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167c.

It was not error to instruct the jury as to the provisions of the Uniform Highway Traffic Act mentioned bearing upon the issues of negligence and contributory negligence. Ball v. G., 185M105, 240NW100. See Dun. Dig. 4171a.

Instruction on unavoidable accident in automobile case held improper under the evidence. Naylor v. M., 185M514, 241NW674. See Dun. Dig. 4167n.

Where plaintiff claimed that injury occurred on crosswalk and defendant that it occurred in street, provisions of this section were properly given to jury. Borowski v. S., 188M102, 246NW540. See Dun. Dig. 4167n.

It was not error to refuse to charge that automobile driver was negligent if he failed to see what was clearly visible in road, where there was no issue as to failure to see object. Dickinson v. L., 188M130, 246NW669. See Dun. Dig. 9781.

In action for injuries to pedestrian at intersection, court properly refused to give instruction concerning skidding of car on wet pavement, because it assumed defendant was traveling at reasonable and proper speed and that conditions were "ordinary." Wiester v. K., 188M341, 247NW237. See Dun. Dig. 9774.

In action by passenger in one car for injuries received in collision with defendant's car, instructions as to imputed negligence and effect of defendant's negligence, held sufficient and court did not err in refusing to give requested instructions thereon. McIlvaine v. D., 190M 401, 252NW234. See Dun. Dig. 7040.

Plaintiff, a passenger on street car standing on rear platform ready to alight, was thrown against sides of platform and injured. Evidence made it a jury question whether she lost her balance from sudden stopping of street car or from impact of automobile against rear doors of street car; hence plaintiff was not entitled to an instruction that street car company, not a party to the action, was free from negligence. Jannette v. M., 193M 153, 258NW31. See Dun. Dig. 4167i, 7000.

In action by guest against host, evidence held not to justify jury in finding driver negligent from mere fact that she drove on to freshly oiled half of road to avoid meeting a car traveling on dry half of roadway. Johnson v. T., —M—, 261NW859. See Dun. Dig. 4163.

10. Verdict.

In action for death in automobile accident based upon alleged concurring negligence of two defendants, verdict for plaintiff was not supported by evidence where only one of defendants may have been negligent and identity of wrongdoer was not shown. Yager v. H., 186M71, 242 NW469. See Dun. Dig. 4167m.

2720-4. Speed of vehicles on highways.— * * *

(b) Operating a vehicle at speeds exceeding those hereinafter specified shall be prima facie evidence that the operator of said vehicle is driving the same at a speed greater than is reasonable and proper as defined in sub-division (a) of this section:

(1) Fifteen miles an hour when approaching within fifty feet of a grade crossing of any steam, electric or street railway when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred feet of his approach to such crossing he does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred feet in each direction from such crossing;

(2) Fifteen miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours;

(3) Fifteen miles an hour when approaching within fifty feet and in crossing an intersection of highways when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty feet of his approach to such intersection, he does not have a clear and unobstructed view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred feet from such intersection.

(4) Fifteen miles an hour in going around curves or along a grade upon highway when the driver's view is obstructed within a distance of one hundred feet along such highway in the direction in which he is proceeding;

(5) Twenty miles an hour on any highway where the same passes through closely built-up portions of any municipality or where the traffic is congested, when traffic on such highways is controlled at intersections by traffic officers or traffic control devices;

(6) Fifteen miles an hour on all other highways where the same pass through the closely built-up portion of any municipality or where the traffic is congested;

(7) Twenty miles an hour on any highway where the same passes through the residence portion of any municipality;

(8) Forty-five miles an hour under all other conditions. (As amended Apr. 11, 1929, c. 158.)

* * * * * * *

Subd. (b) of this section is amended by Laws 1929, c. 158.

172M591, 216NW537.

Collision of automobile and pedestrian on highway. 174M577, 219NW912.

Statute merely creates a rebuttable presumption of fact. 175M449, 221NW715.

Plaintiff was not bound to anticipate that truck driver would be negligent. 175M449, 221NW715.

Testimony as to speed of truck approaching witness was admissible, its weight being for the jury. 175M449, 221NW715.

Where no defect in brakes had been charged, it was not important that court refused to permit defendant's driver to testify that brakes were in good condition after the accident. 175M449, 221NW715.

Guest in automobile held not guilty of contributory negligence as matter of law in remaining in car driven at a dangerous rate. 177M95, 224NW462.

Negligence in striking towed car on icy street held jury question. Barnhardt v. H., 178M400, 227NW356.

Whether plaintiff traveling 35 miles per hour at night was guilty of contributory negligence in running into unlighted truck parked on the highway, held for jury. 180M252, 230NW776.

Prima facie effect of similar South Dakota law construed. Berlin v. K., 183M278, 236NW307. See Dun. Dig. 8821, 8937a(99), 8956.

Contributory negligence of truck driver in colliding with a car suddenly stopping on pavement without signal, held for jury. Peterson D., 184M314, 238NW324. See Dun. Dig. 4167-e(82).

Contributory negligence of guest in automobile held for jury. Engholm v. N., 184M349, 238NW795. See Dun. Dig. 7038.

Driver of car colliding with bus near intersection held guilty of contributory negligence as matter of law. Engholm v. N., 184M349, 238NW795. See Dun. Dig. 4167o.

Negligence of bus driver colliding with car near intersection held for jury. Engholm v. N., 184M349, 238NW 795. See Dun. Dig. 4167f.

Driver of automobile on a dark drizzly night colliding with an unlighted truck held not guilty of contributory negligence as a matter of law. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167c.

Negligence and contributory negligence at highway intersection held for jury. Quinn v. Z., 184M589, 239NW 902. See Dun. Dig. 4164d, e, f.

The rate of speed of an automobile within four miles of the place of collision is admissible as bearing upon the claim of speed at the time of the accident. Quinn v. Z., 184M589, 239NW902. See Dun. Dig. 3253.

Where plaintiff claimed that injury occurred on crosswalk and defendant that it occurred in street, provisions of this section were properly given to jury. Borowski v. S., 188M102, 246NW540. See Dun. Dig. 4167n.

In action for death of guest in automobile which ran in ditch and overturned when tire blew out, negligence of driver held for jury. Anderson v. A., 188M602, 248NW 35. See Dun. Dig. 4167e.

(a).

Instruction as to negligence and contributory negligence with reference to this statute held erroneous. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167e.

Evidence sufficiently established negligence of automobile driver, and absolved passenger in street car from any contributory negligence. Fox v. M., 190M343, 251NW 916. See Dun. Dig. 7026a.

(b).

Speed in excess of rate by statute made prima facie greater than reasonable and proper does not constitute negligence or contributory negligence as a matter of law. Tully v. F., 191M84, 253NW22. See Dun. Dig. 4167e.

(b) (3).

Prima facie presumption of unreasonable speed may be overcome by circumstances. Hustvet v. K., 184M222, 238 NW330. See Dun. Dig. 4167e.

Evidence held to justify finding that one driving on arterial was guilty of negligence in driving at an unreasonable rate of speed and striking car crossing arterial. Johnston v. S., 190M269, 251NW525. See Dun. Dig. 4167o.

While there is not any traffic law directly requiring an automobile to slow up at highway intersection where there are no obstructions or traffic signs, it does not follow that a motorist may approach and enter an intersection heedlessly, at high speed, without looking to see if other cars are ahead of him, right-of-way rule not going to that extent. Guthrie v. B., 192M434, 256NW898. See Dun. Dig. 4167e.

Whether plaintiff was traveling at a speed greater than was reasonable, and hence negligent, and whether such negligence was a proximate cause of accident, were questions of fact for jury. Duffey v. C., 193M580, 258NW 744. See Dun. Dig. 4167e, 7048.

(b) (4).

Statute does not have reference to obstruction of view by a car ahead which the driver of the car is trying to pass. 212Iowa1061, 237NW487. See Dun. Dig. 4167e.

(b) (7).

Evidence of negligence held sufficient to support a verdict against both defendants through whose acts plaintiff's ward was injured. Fryklind v. J., 190M356, 252NW232. See Dun. Dig. 4167o.

Any error of court in not submitting to jury question of whether automobile collision occurred within residential portion of village was immaterial if plaintiff was guilty of contributory negligence as matter of law regardless of violation of speed regulation by defendant. Faber v. H., 294M321, 260NW500. See Dun. Dig. 424.

2720-8. Vehicles operated by peace officers, etc.

Fireman on fire truck and driver were not engaged in "joint enterprise" and negligence of driver was not imputed to such fireman. Right of way rule under §23, c. 416, Laws 1925, was not intended to and did not apply to fire apparatus. 173M265, 217NW130.

(a).

An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4167h, 4168, 4173.

2720-9. Keeping to the right.

Salera v. S., 183M478, 237NW180; note under §2720-3.

Engholm v. N., 184M349, 238NW795; note under §2720-4.

Whether truck was on wrong side of road at intersection, held for jury. 175M449, 221NW715.

Guest in automobile having no share in its control at the time being, was not engaged in a "joint enterprise." 177M249, 225NW98.

Negligence of automobile driver traveling in sleet and rain at 35 miles per hour and injuring guest when hitting a depression, and contributory negligence of guest, held for jury. 177M249, 225NW98.

An emergency may excuse compliance with this section. 180M163, 230NW580.

Negligence, held for jury, and evidence, held to sustain verdict for plaintiff. 181M4, 231NW714.

Driver on righthand side of street backing his car into the curb for parking, held not violating this section. 181M259, 232NW264. See Dun. Dig. 4164a.

Evidence held to show that defendant's automobile was proceeding on the wrong side of the highway and that his negligence in that respect was the proximate cause of injury to plaintiff. 18M400, 232NW710. See Dun. Dig. 4164a.

It was not error to refuse defendant's request for an instruction that he had a right to assume that the driver of an approaching car would give him half of the road. 181M492, 233NW239. See Dun. Dig. 7022.

Evidence sustained finding of negligence in rounding sharp turn on left side at high speed. Honkomp v. M., 182M404, 234NW638. See Dun. Dig. 4167g.

The evidence sustains a finding that driver of an automobile was traveling on wrong side of street and that his so doing was the proximate cause of an injury to a minor child. Peterson v. M., 182M532, 235NW15. See Dun. Dig. 4164a.

Driver of slow moving vehicle on paved highway is not required to travel upon shoulder, though in good condition. Stone v. S., 189M47, 248NW285. See Dun. Dig. 4164b(12, 13).

Driver of wagon on pavement struck by automobile attempting to pass, held not guilty of contributory negligence as matter of law. Id.

In head-on collision between automobiles, negligence and contributory negligence, held for jury. Romann v. B., 190M419, 252NW80. See Dun. Dig. 4164a.

Where plaintiff's tire blew out and he brought his car to stop near center of pavement and was struck by defendant's car from front, negligence and contributory negligence held for jury. Spates v. G., 190M596, 252NW835. See Dun. Dig. 4167o.

2720-10. Driving to right at crossing.

Right of automobilist to assume this section would be obeyed. Krueger v. S., 178M619, 227NW50.

Evidence held to show that defendant's automobile was proceeding on the wrong side of the highway and that his negligence in that respect was the proximate cause of injury to plaintiff. 181M400, 232NW710. See Dun. Dig. 4164a.

2720-11. Passing in opposite directions.

Spates v. G., 191M1, 252NW835; note under §2720-9.

Negligence and contributory negligence in collision by cars traveling in opposite directions, question of fact and not of law. 176M619, 224NW256.

Horseback rider struck by an automobile on wrong side of road in course of repair, held guilty of contributory negligence as matter of law. 177M523, 225NW 651.

This section may be departed from in an emergency. 180M163, 230NW580.

Evidence held to show that defendant's automobile was proceeding on the wrong side of the highway and that his negligence in that respect was the proximate cause of injury to plaintiff. 181M400, 232NW710. See Dun. Dig. 4164a.

In action by guest against host for injuries received in head-on collision, contributory negligence of plaintiff held for jury. Farnham v. P., 193M222, 258NW293. See Dun. Dig. 7026a.

In action by guest against host for injuries received in head-on collision, negligence of hose and other motorist held for jury. Id. See Dun. Dig. 7011.

Whether an emergency existed which warranted truck driver turning to left side of highway was a fact question for the jury. Oxborough v. M., 294M335, 260NW305. See Dun. Dig. 7020.

2720-12. Passing in same direction.

Where plaintiff claimed that injury occurred on crosswalk and defendant that it occurred in street, provisions of this section were properly given to jury. Borowski v. S., 188M102, 246NW540. See Dun. Dig. 4167n.

2720-13. Overtaking and passing, etc.

(a).

Statute is applicable where a driver undertakes to pass a standing or parked car when headed in same direction. Geisen v. L., 185M479, 242NW8. See Dun. Dig. 4164, 4167o.

(b).
Whether the passing of another car on a curve contributed as a proximate cause to injuries of a guest in the car being passed held for jury. Dux v. R., 182M611, 235NW383. See Dun. Dig. 4167g.
Statute does not have reference to obstruction of view by a car ahead which the driver of the car is trying to pass. 212Iowa1061, 237NW487. See Dun. Dig. 4167e.

2720–14. Overtaken vehicle to give overtaking vehicle right of way on signal.

Automobilist attempting to pass truck between the truck and a streetcar traveling in the opposite direction held guilty of contributory negligence as a matter of law. Reddy v. R., 182M139, 233NW853. See Dun. Dig. 4164.
It is not due care to rely on the anticipated conduct of others when such reliance is attended by obvious danger. Reddy v. R., 182M139, 233NW853. See Dun. Dig. 6970(83), (84).
In the absence of evidence that he knew of plaintiff's danger, a defendant cannot be charged with willful negligence. Reddy v. R., 182M139, 233NW853. See Dun. Dig. 7036.
Statute does not require that signal be given by driver of overtaking vehicle. Dziewczynski v. L., 193M580, 259 NW65. See Dun. Dig. 4167h.
Court, after instructing that there is no statute law requiring driver of a motor vehicle to give a signal upon overtaking and passing another vehicle from rear, should have, under circumstances, submitted to jury question whether ordinary care required a warning. Id. See Dun. Dig. 4167h.

2720-15. Distance between vehicle following another.

In a triangular automobile collision, negligence held for jury. 176M383, 223NW603.
Contributory negligence of truck driver in colliding with a car suddenly stopping on pavement without signal, held for jury. Peterson v. D., 184M213, 238NW 324. See Dun. Dig. 4167o.
(a).
Spates v. G., 191M1, 252NW835; note under §2720-9.
Evidence of negligence held sufficient to support a verdict against both defendants through whose acts plaintiff's ward was injured. Fryklind v. J., 190M356, 252NW232.
Evidence as to icy condition of street and an obstruction therein made it a jury question whether failure to stop automobile before it came in contact with rear of street car, about to stop, was excusable. Jannette v. M. 193M153, 258NW31. See Dun. Dig. 4167i, 7011.

2720-16. Turning to right at intersections—Traffic control devices.

172M591, 216NW537.
Evidence held to sustain recovery of damages in automobile collision. 176M83, 222NW580.
Automobilist making left turn and colliding with automobile coming from his right, held guilty of contributory negligence. 176M299, 233NW145.
Engholm v. N., 184M349, 238NW795; note under §2720-4.
Whether driver making left turn was guilty of contributory negligence held for jury. Fulweiler v. T., 184 M519, 239NW609. See Dun. Dig. 4167f(96).
Woman swinging to left to make right turn in driveway, held guilty of contributory negligence, when struck by overtaking car. Jovaag v. O., 189M315, 249NW676. See Dun. Dig. 4164a.
Evidence held to support finding that defendant was free from negligence in making left turn. McGerty v. N., 191M443, 254NW601. See Dun. Dig. 4167f.
(a).
Mahan v. M., 185M94, 239NW914; note under §2720-17.
Automobile driver striking left side of on-coming car while making left turn in private driveway was guilty of contributory negligence as a matter of law. Faber v. H., 294M321, 260NW500. See Dun. Dig. 4167f.

2720-17. Starting, stopping, or turning—Signals.

172M591, 216NW537.
Negligence in turning after extending arm, and negligence of defendant coming up from rear in automobile, held to present question for jury. 179M86, 228NW347.
Evidence held to support verdict in favor of automobile driver, who, while making a left turn, was struck from the rear by an approaching automobile resulting in injury to person riding in the rear car. 181M275, 232 NW326. See Dun. Dig. 4167f.
Evidence held to sustain finding of negligence by truck driver in turning into path of vehicle approaching from the rear, and to negative existence of emergency excusing conduct. 181M406, 232NW715. See Dun. Dig. 4164c.
Negligence of automobile driver stopping suddenly without signal, held for jury. Peterson v. D., 184M213, 238NW324. See Dun. Dig. 4167h(1).
Contributory negligence of truck driver in colliding with a car suddenly stopping on pavement without signal, held for jury. Peterson v. D., 184M213, 238NW 324. See Dun. Dig. 4167-o.
An incomplete statement of a statutory road rule, given by the court in its charge, held not such as to mislead the jury or to prejudice the plaintiff. Pearson v. N., 184M560, 239NW602. See Dun. Dig. 4162a.
Whether driver making left turn was guilty of contributory negligence held for jury. Fulweiler v. T., 184 M519, 239NW609. See Dun. Dig. 4167h(99).
New trial was warranted where charge was confusing and did not state the law applicable. Le Tourneau v. J., 185M46, 239NW768. See Dun. Dig. 7165.
An automobile driver who stopped car less than 50 feet from intersection to let off passenger was not guilty of negligence as a matter of law in not extending hand 50 feet before he reached intersection. Mahan v. M., 185 M94, 239NW914. See Dun. Dig. 4167h.
Evidence held to support verdict for injured guest against driver of vehicle overturning when passing standing car. Geisen v. L., 185M479, 242NW8. See Dun. Dig. 6975a.
Court properly charged jury that driver of any vehicle, before turning from a direct line, should first see that movement can be made in safety. Geisen v. L., 185M479, 242NW8. See Dun. Dig. 4167b.
Contributory negligence of one turning to right off highway without giving signal, held for jury. Hanson v. L., 187M389, 245NW835. See Dun. Dig. 4167h.
Woman swinging to left before making right turn into driveway was guilty of contributory negligence in not seeing that her abrupt change of direction could be made in safety. Jovaag v. O., 189M315, 249NW676. See Dun. Dig. 4164a.
Requirement that driver extend left hand before he stops, does not apply to his stopping in obedience to a semaphore. Turnbloom v. C., 189M588, 250NW570. See Dun. Dig. 4167h.
Evidence of negligence held sufficient to support a verdict against both defendants through whose acts plaintiff's ward was injured. Fryklind v. J., 190M356, 252NW232.
Whether defendant in pulling out from parking space along curb negligently failed to signal as required by statute, held for jury. Guile v. G., 192M548, 257NW649. See Dun. Dig. 4167h, 7011.
Whether defendant negligently failed to look back before pulling out from curb, held for jury. Id.
Owner of a truck, which stops on a street car track in obedience to a semaphore signal at an intersection, is not liable to a passenger on an approaching street car who is injured by a sudden stop made by street car to avoid collision with truck. Herman v. M., 193M557, 259NW64. See Dun. Dig. 4167h.
In action for injuries received when defendant's car crashed into back of plaintiff's car which had stopped for semaphore, negligence and contributory negligence, held for jury. Fredhom v. S., 193M569, 259NW80. See Dun. Dig. 4167h.

2720-18. Right of way between vehicles, street cars and pedestrians.

Krinke v. G., 187M595, 246NW376; note under §2720-48(a).
Defendants held not to so indisputably have the right of way that plaintiff on that account was guilty of contributory negligence as a matter of law in attempting to cross an intersection ahead of the defendant's car. Glynn v. K., 60F(2d)406, rev'g 47F(2d)281.
Prior to passage of this law automobilists and pedestrians had equal rights at street intersections. 172M134, 215NW198.
One driving a vehicle and approaching a trunk highway where her view is obstructed must have her car under control, and in view of the right of way statute must watch out for cars coming from the right and there is a presumption of negligence if she fails to see a car approaching in plain sight, and mere failure to see the car does not overcome the presumption. 173M31, 216NW 254.
If automobile entered crossing first it had the right of way over street car. 173M186, 217NW99.
The doctrine of "Res ipsa loquitur" has no application when all the facts attending an accident are disclosed in the evidence. 173M215, 217NW102.
Contributory negligence of automobile driver is not imputed to passenger. 173M237, 217NW125; 173M402, 217 NW377.
Negligence and contributory negligence held for jury. 173M622, 217NW485; 173M439, 217NW493.
That a collision occurs in broad daylight at street intersections between two automobiles coming at right angles in and of itself gives right to an inference that at least one of the drivers was negligent. 175M623, 221 NW680.
Whether plaintiff reached intersection first and whether defendant was on wrong side of road, held for jury. 175M449, 221NW715.
Collision at intersection between well-traveled highway and a side road. Maker v. J., 176M285, 223NW137.
Automobilist making left turn and colliding with automobile coming from his right, held guilty of contributory negligence. 176M299, 223NW145.
Findings of negligence and contributory negligence sustained. Amon v. N., 176M410, 223NW456.
Negligence of automobilist as to passengers, held for jury, though he had qualified right of way. 177M222, 225NW85.
Right of way as between automobiles. Krueger v. S., 178M619, 227NW50.

Automobilist entering intersection without seeing car to right guilty of contributory negligence. 178M426, 227 NW350.

Automobilist having stopped his car in obedience to a "stop" sign has the right of way over traffic from his left; but he is not thereby justified in taking close chances. 178M540, 227NW854.

Evidence held not to establish contributory negligence on part of motorcyclist. 179M123, 228NW752.

Where a city street coincidental with a trunk highway leaves such highway and swerves slightly to the left, while the trunk highway turns to the right at an angle of 70 degrees, there is an "intersection" within this subdivision within the requirement as to signalling for a left-hand turn. 180M509, 231NW202.

A pedestrian is not negligent as a matter of law in crossing a street at a point not an intersection. 181M 376, 232NW630. See Dun. Dig. 4167n.

Contributory negligence of street car passenger in alighting and passing behind car, held for jury. 181M 277, 232NW265. See Dun. Dig. 4167i, 4167n, 7033.

The fact that plaintiff was crossing the street at a place other than a crossing or crosswalk did not absolve the driver of the automobile from his duty to exercise ordinary care, nor make the plaintiff guilty of contributory negligence as a matter of law. Saunders v. Y., 182M62, 233NW599. See Dun. Dig. 4166(51).

In action by guest, negligence of drivers of both colliding cars held established by evidence. Lund v. O., 182M204, 234NW310. See Dun. Dig. 4164e.

Evidence sustains a finding of the jury that the driver was negligent in failing to keep a lookout and avoid injuring minor. Peterson v. M., 182M532, 235NW15. See Dun. Dig. 4167n.

The evidence did not require a finding that the minor was negligent as a matter of law because she did not look and see the approaching car. Peterson v. M., 182 M532, 235NW15. See Dun. Dig. 4167n.

Negligence of automobile driver and contributory negligence of pedestrian child, held for jury. Harkness v. Z., 182M594, 235NW281. See Dun. Dig. 4167n, 7011, 7033.

Whether either driver of car in which plaintiffs were passengers or driver of car colliding with it were guilty of negligence, held for jury. Dux v. R., 182M611, 235 NW383. See Dun. Dig. 4167a.

In action for injuries in collision at intersection, evidence held to sustain finding that defendant had right of way. Free Press Co. v. B., 183M286, 236NW306. See Dun. Dig. 4167-o.

Prima facie presumption of unreasonable speed created by §2720-4 may be so overcome by circumstances that the statutory right of way is not lost by the vehicle approaching from the right. Hustvet v. K., 184M222, 238NW330. See Dun. Dig. 4167e.

Contributory negligence of driver in collision at street intersection held for jury. Hustvet v. K., 184M222, 238 NW330. See Dun. Dig. 4167-o.

Whether driver making left turn was guilty of contributory negligence held for jury. Fulweiler v. T., 184 M519, 239NW609. See Dun. Dig. 4167h(3).

It was not error to receive testimony as to the conditions at the place of the accident on the day following. Quinn v. Z., 189M589, 239NW902. See Dun. Dig. 3252.

Negligence and contributory negligence at highway intersection held for jury. Quinn v. Z., 189M589, 239NW 902. See Dun. Dig. 4164d, e, f.

The rate of speed of an automobile within four miles of the place of collision is admissible as bearing upon the claim of speed at the time of the accident. Quinn v. Z., 189M589, 239NW902. See Dun. Dig. 3253.

Court did not err in refusing to instruct that subdivision (c) is not decisive or important unless one of parties saw other in time to avert collision. Plante v. P., 186M280, 243NW64. See Dun. Dig. 4164e.

Where plaintiff claimed that injury occurred on crosswalk and defendant that it occurred in street, provisions of this section were properly given to jury. Borowski v. S., 188M102, 246NW540. See Dun. Dig. 4167n.

In action for injuries to pedestrian at slippery intersection, evidence held not to call for instruction that if defendant was prevented from obeying statute by skidding of car, his violation was excusable. Wiester v. K., 188M341, 247NW237. See Dun. Dig. 4162a.

One starting across trunk highway at unobstructed crossing without looking after starting was guilty of contributory negligence as matter of law where struck by truck coming from right. Hermanson v. S., 188M455, 247NW581. See Dun. Dig. 4167n.

Whether pedestrian is guilty of contributory negligence in crossing street against traffic signal, held for jury. Larson v. F., 189M536, 250NW449. See Dun. Dig. 4167n.

Evidence that plaintiff was in intersection appreciable time before defendant approached from right at an excessive rate of speed, held to require submission of contributory negligence to jury. Henjum v. S., 190M 378, 252NW227. See Dun. Dig. 4164e.

Negligence of one colliding with another coming from his left at intersection, held for jury. Id.

In automobile collision at intersection, evidence held not to show defendant guilty of negligence as matter of law. McIlvaine v. D., 190M401, 252NW234. See Dun. Dig. 4167o.

Automobile driver entering intersection slowly and colliding with car coming from his right at high speed, held guilty of contributory negligence as matter of law. Mozes v. B., 190M568, 252NW420. See Dun. Dig. 4164e.

In action for death in accident at intersection, defendant held first in intersection to such extent as to acquire right of priority, though coming in from decedent's left. Williams v. J., 191M16, 252NW658. See Dun. Dig. 4164e.

Contributory negligence in automobile collision at intersection of two country roads, held for jury. Matz v. K., 191M580, 254NW912. See Dun. Dig. 4167o. 7033.

Automobile driver was not required to anticipate that another driver would enter intersection at an excessive and unlawful rate of speed. Id.

Driver of car first entering intersection had a right to assume that car coming from the right half a block away would permit her to clear the intersection in safety. Reynolds v. G., 192M37, 255NW249. See Dun. Dig. 4164e.

Whether driver entering intersection and struck by car coming from the right after passing center of street was guilty of contributory negligence, held for jury. Reynolds v. G., 192M37, 255NW249. See Dun. Dig. 4164e.

Whether automobile driver who stopped momentarily at highway intersection and looked to right and saw another car approaching and then proceeded across intersection without again looking was guilty of contributory negligence, held for jury. Guthrie v. B., 192 M434, 256NW898. See Dun. Dig. 4164e.

While there is not any traffic law directly requiring an automobile to slow up at highway intersection where there are no obstructions or traffic signs, it does not follow that a motorist may approach and enter an intersection heedlessly, at high speed, without looking to see if other cars are ahead of him, right-of-way rule not going to that extent. Id.

Negligence and, contributory negligence in a collision at street intersection held for jury. Johnston v. J., 193 M298, 258NW433. See Dun. Dig. 4164e, 7048.

Automobile driver coming from right and colliding in intersection was guilty of contributory negligence as a matter of law where he did not see defendant's automobile until it was within three feet of him, intersection being unobstructed and there being no distracting circumstances. Underdown v. T., 193M260, 258NW502. See Dun. Dig. 4164e, 7048.

An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4167h, 4168, 4173.

Plaintiff having entered the intersection first had the right of way, and had right to assume that driver of approaching car from the right would exercise ordinary care unless and until he became aware of contrary. Duffey v. C., 193M358, 258NW744. See Dun. Dig. 4164e.

Whether defendant was negligent in collision at street intersection held for jury. Kidd v. M., 193M617, 259NW 546. See Dun. Dig. 4167o(96).

Motorist on the left upon entering intersection first had right of way and could assume, until and unless he became aware to contrary, that driver of truck approaching from his right would exercise ordinary care. Montague v. L., 294M546, 261NW188. See Dun. Dig. 4164e.

Truck driver's negligence and plaintiff's contributory negligence at intersection held for jury. Id.

(a).

If a driver upon arterial highway travels at an unlawful speed across a street intersection, he forfeits right of way which he might otherwise have. Johnston v. S., 190M269, 251NW525. See Dun. Dig. 4167e.

(b).

Evidence held to sustain verdict denying recovery to guest in automobile injured on a left turn. Mahan v. M., 185M94, 239NW914. See Dun. Dig. 4164(e)(17).

(c).

Contributory negligence of pedestrian struck by automobile while on proper crosswalk is generally for jury. Bolster v. C., 188M364, 247NW250. See Dun. Dig. 4167n.

Fact that pedestrian was first upon crossing did not absolve him from duty of exercising ordinary care. Id.

2720-19. Entering highway from alley, private road or drive—etc.

Teamster driving across street and struck by street car held guilty of contributory negligence. La Barre v. S., 185M514, 241NW674. See Dun. Dig. 9026.

(a).

Defendant held not guilty of negligence, as a matter of law, for failure to yield right of way to an automobile which collided with his car as latter had just emerged from a private driveway and was stopped with its front wheels just over the edge of the highway; it appearing also that defendant had observed and was taking care to avoid collision with another car coming from opposite direction and that car which collided with him was going at a very high rate of speed and just before collision might have been concealed from defendant's view in a depression in highway. Hardware Mut. Casualty Co. v. A., 191M158, 253NW374. See Dun. Dig. 4167b.

(b).
An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4168, 4173.

2720-20. Stopping and giving way to ambulances or police or fire department vehicles, etc.

(a).
An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4167h, 4168, 4173.

2720-21. Through highways—Stopping.

One who has stopped at "thru" street has the right of way over traffic coming from his left; but he is not thereby justified in taking close chances. 178M540, 227NW854.

After a driver has stopped for a boulevard sign, he has same right at intersection that he would have at any unmarked intersection. Jacobsen v. A., 188M179, 246 NW670. See Dun. Dig. 4167b.

Passengers in automobile which ignored stop sign at arterial, held not guilty of contributory negligence. Jacobsen v. A., 188M179, 246NW670. See Dun. Dig. 7038, 7040.

Protection of arterial streets or highways with stop signs does not require drivers of cars which enter arterial street to do so at their peril but only to exercise ordinary care. Johnston v. S., 190M269, 251NW525. See Dun. Dig. 4167o.

Operators of cars upon arterial streets protected by stop signs are bound to drive with reasonable care as respects traffic entering from cross streets. Id. See Dun. Dig. 4167o.

After a car has stopped for an arterial highway in response to stop sign, usual rules in regard to right of way and speed prevail. Id. See Dun. Dig. 4167o.

In action for damages to building and property resulting from collision between two motor vehicles at intersection where there was a stop and go sign, question as to which of motor vehicle drivers was negligent, held for jury. Waldron v. P., 191M302, 253NW894. See Dun. Dig. 4067o.

Automobile driver momentarily stopping at highway intersection had right to assume that one coming from right a block away would see her in plain view ahead of him at and in intersection. Guthrie v. B., 192M434, 256NW898. See Dun. Dig. 4164e.

An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4167h, 4168, 4173.

2720-22. Passing street cars, etc.

Automobile driving abreast of moving street car, held not charged with notice that such street car was "about to stop" by the mere fact that it reduced its speed on approaching a crossing. 29F(2d)87.

(a).
It was error to refuse to qualify an instruction that boy by passing street car on left violated law and was guilty of negligence, by stating that, if boy was ten to fifteen feet in front of car before it started, then his violation of statute could not be considered as contributing to his injury. Newton v. M., 186M439, 243NW 684. See Dun. Dig. 4167i.

(b).
Evidence sufficiently established negligence of automobile driver, and absolved passenger in street car from any contributory negligence. Fox v. M., 190M343, 251NW 916. See Dun. Dig. 7026a.

Evidence as to icy condition of street and an obstruction therein made it a jury question whether failure to stop automobile before it came in contact with rear of street car, about to stop, was excusable. Jannette v. M., 193M153, 258NW31. See Dun. Dig. 4167i, 7011.

Laws 1925, ch. 416, §19.—Automobile traveling abreast of street car is not "approaching" the street car, and the car is not "about to stop" merely because it reduces its speed on approaching a crossing. 29F(2d)87.

One seeking to board a street car is not absolved from all care for his own protection merely because of the statutory duty imposed on the driver of passing automobile, and this is particularly true where the automobile is driving abreast of the moving street car so as to render this section inapplicable. 29F(2d)87.

When street car stops before reaching crossing owing to presence of another car in front of it, and it is apparent that the rear car intends to discharge passengers, it is the duty of a vehicle back of it to stop as required by the statute, there being no safety zone at that spot. 33F(2d)27.

2720-24. Parking regulations, etc.

Court properly charged that it was negligence to park car on left side of road. 178M465, 227NW493.

Whether parking on left side of road with headlights lit was proximate cause of injury to another held for jury. 178M465, 227NW493.

Defendant parking truck on highway at night without lights, held negligent as to driver of automobile running into truck. 180M252, 230NW776.

Negligence and contributory negligence, held for jury. 181M32, 231NW244.

Where highway is tarviated it must be left open for the required width on the paved portion. 180M116, 230 NW270.

Driver of automobile going off of highway by reason of improper parking of a truck held not guilty of contributory negligence as matter of law. Ball v. G., 185 M105, 240NW100. See Dun. Dig. 4171a.

Evidence held to sustain finding that parking of truck in violation of this section was negligence and proximate cause of injury to occupant of another automobile going off of the highway. Ball v. G., 185M105, 240NW 100. See Dun. Dig. 4171a.

Precautions to be taken by motor trucks and busses when parked on trunk highways. Laws 1933, c. 252.

Unless excusable or justifiable, one violating statute is liable for injury proximately resulting. Martin v. T., 187M529, 246NW6. See Dun. Dig. 4162a, 4167b.

Evidence held not to require finding that plaintiff was contributorily negligent in parking his car and in what he did preparatory to replacing tire. Lund v. S., 187M 577, 246NW116. See Dun. Dig. 4167b, 4171a.

The evidence sustains a finding that defendant negligently drove his auto against plaintiff's auto, which plaintiff had parked on the side of a highway to replace a punctured tire. Lund v. S., 187M577, 246NW116. See Dun. Dig. 4167b, 4171a.

Evidence held to justify finding of negligence in not keeping truck so equipped that tire change could be made without parking on pavement. Brown v. M., 190M 81, 251NW5. See Dun. Dig. 4171a.

Driver of truck making tire change and also driver of another truck assisting, held both negligent in not leaving statutory clearance and in not setting out flare or giving other adequate warning to approaching traffic. Id. See Dun. Dig. 4167.

(a).
Instruction as to negligence and contributory negligence with reference to this statute held erroneous. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4171a.

This subdivision held not unreasonable as applied to a certain highway. Ball v. G., 185M105, 240NW100. See Dun. Dig. 4171a.

(c).
The words, "impossible to avoid stopping and temporarily leaving such vehicle in such position," mean that car must be disabled to extent that it is not reasonably practicable to move it so as to leave fifteen feet for free passage of other cars. Geisen v. L., 185M479, 242NW 8. See Dun. Dig. 4171a.

Standing of disabled car upon highway, held not proximate cause of injury to guest in another car which turned over when attempting to pass. Geisen v. L., 185 M479, 242NW8.

Car with condenser burned out was disabled as a matter of law. Geisen v. L., 185M479, 242NW8.

2720-26. Leaving vehicles on highway without setting brakes or turning front wheels.

Doctrine of res ipsa loquitur applied where a taxicab rolled backwards down hill, driverless, and crashed into and broke a plate glass window. Borg & Powers Furn. Co. v. C., 294M305, 260NW316. See Dun. Dig. 7044, 7047.

Where question was whether defendants ought to have anticipated that car would start down grade, evidence that car had been parked at same place in same manner many times previously without starting was admissible. 173M250, 217NW127.

2720-31. Application of law to state, county, city, town, etc., owned or operated vehicles.

A tractor at time of accident held "actually engaged in work upon the surface of a highway." Johnson v. B., 184M576, 239NW772.

The exception contained in section 2720-31 applies to all of the provisions of the Uniform Highway Traffic Act, including §2720-47. Johnson v. B., 184M576, 239NW 772. See Dun. Dig. 4162a.

An ambulance or police patrol car has no right of way over ordinary vehicles in absence of an audible signal, and ordinary vehicle on a through highway had right of way over police patrol car acting as ambulance at an intersection in absence of sounding a siren. Hogle v. C., 193M326, 258NW721. See Dun. Dig. 4167h, 4168, 4173.

2720-32. Municipalities—Ordinances—Etc.

Ordinance prohibiting use of streets passing through school grounds in daytime, held no defense by village to action for injuries resulting from obstruction by chain, but presence of chains was not negligence as matter of law. 180M407, 231NW14.

An ordinance of the city of St. Paul providing for the punishment of a person convicted of driving an automobile while under the influence of intoxicating liquor is valid. State v. Hughes, 182M144, 233NW874. See Dun. Dig. 4165.

Act leaves regulation of traffic by means of control devices such as semaphores to municipalities. Turnbloom v. C., 189M588, 250NW570. See Dun. Dig. 4165.

City may not require semi-annual inspection of automobiles and payment of fee therefor and prohibit operation of vehicles not displaying certificate of inspection. Op. Atty. Gen. (632a-22), July 29, 1935.

(e).

Power of city to prohibit operation of noisy automobiles between certain hours, discussed. Op. Atty. Gen., Aug. 16, 1932.

2720-33. Municipalities—Speed, etc.

An ordinance of the city of St. Paul providing for the punishment of a person convicted of driving an automobile while under the influence of intoxicating liquor is valid. State v. Hughes, 182M144, 233NW874. See Dun. Dig. 4165.

TITLE III

THE SIZE WEIGHT, CONSTRUCTION AND EQUIPMENT OF VEHICLES

2720-35. Maximum length, height and weight of motor vehicles, etc. * * * * * *

(a) No vehicle shall exceed a total outside width, including any load thereon, of eight feet, except that the width of a farm tractor shall not exceed nine feet, and excepting further, that the limitations as to size of vehicles stated in this section shall not apply to implements of husbandry and ditching equipment temporarily propelled or moved upon the public highways; provided, that this subdivision shall not apply to loads of loose hay or corn stalks or to forest products cut in lengths of 100 inches or less while being transported on public highways. ('27, c. 412, §5; Apr. 20, 1935, c. 224.)

(c) No vehicle shall exceed a length of 40 feet extreme over-all dimensions, inclusive of front and rear bumpers. A truck-tractor and semi-trailer combination for the purpose of this Act shall be regarded as one vehicle. No trailer shall be pulled on the highways of this state by any motor vehicle; provided, however, that where such trailer has an unladen weight of less than 2,000 pounds, or has a gross weight which shall include the weight of the trailer and the load not in excess of 6,000 pounds, such a a trailer may be pulled by a motor vehicle.

Every semi-trailer pulled on the highways of this state by any motor vehicle shall be equipped, after December 31, 1933, with a power brake on at least one axle, the control of which shall be by the driver from the cab of the towing vehicle, and shall be of a type and capacity approved by the Commissioner of Highways; provided, however, that no such axle need be equipped with such a brake if the rated axle carrying capacity, or declared gross load carrying capacity per axle for taxation purposes, or actual load carried on such axle (whichever shall be the larger) shall be less than 7,000 pounds.

No truck shall be driven or parked on a public highway with tail gate hanging down or projecting from the vehicle except while such vehicle is being loaded or unloaded, and except when a load thereon extends beyond the tail gate rendering impossible the closing thereof. (As amended Laws 1929, c. 407, §2; Apr. 25, 1931, c. 402; Apr. 17, 1933, c. 225, §1.)

* * * *

Sec. 3 of Act Apr. 17, 1933, cited, repeals all inconsistent acts. Sec. 4 provides that the act shall take effect from Jan. 1, 1934.

Court correctly charged that, if excessive width of truck did not cause or contribute to cause accident, then that fact was not material. Kouri v. O., 191M101, 253NW98. See Dun. Dig. 4167.

2720-37. Must have permit.—(a) No vehicle or combination of vehicles having a gross weight in excess of those permitted in this section shall be driven or moved on any highway unless the owner shall first have secured a permit as hereinafter provided.

(b) No vehicle equipped with pneumatic tires and with axles spaced 8 feet or more apart and driven on any highway shall have a maximum wheel weight unladen or with a load in excess of 9,000 pounds, or an axel weight in excess of 18,000 pounds.

(c) No vehicle equipped with pneumatic tires and with axles spaced less than 8 feet apart or driven on any highway shall have a maximum wheel weight unladen or with load in excess of 6,000 pounds, or an axle weight in excess of 12,000 pounds.

(d) No vehicle equipped with solid tires driven upon any highway shall have a maximum wheel weight unladen or with load, or a maximum axle weight in excess of 80 per cent of the weights prescribed for vehicles equipped with pneumatic tires.

(e) Subject to the maximum axle and wheel loads specified in this section, the gross weight of any vehicle or combination of vehicles driven on any highway shall not exceed the safe capacity of the bridges existing thereon, as may be indicated by warnings posted on the bridge or bridges in question.

(f) The term "gross weight" used in this act shall mean the unloaded weight of a vehicle and/or the unloaded weight of a truck-tractor and semi-trailer combined, plus the weight of the load.

(g) The provisions of this section shall not apply to vehicles operated exclusively in any city or village, or contiguous cities or villages in this state. ('27, c. 412, §37; Apr. 9, 1931, c. 128; Apr. 17, 1933, c. 225, §2.)

Sec. 3 of Act Apr. 17, 1933, cited, repeals all inconsistent acts. Sec. 4 provides that the act shall take effect from Jan. 1, 1934.

Failure on part of owner of vehicle to apply for and secure a permit as provided for in §2720-37 was not an error within intent of §2682, and such owner is not entitled to a refund because he is unable to carry the weight upon which taxes were based. Op. Atty. Gen. (632e-24), Feb. 21, 1935.

2720-40. Maintenance officers to regulate weights.—The chairman of the body or the officer charged with the maintenance of any highway shall have authority to restrict the character and weight of traffic upon such highway when in his judgment such traffic will destroy or excessively damage such highway and shall post such highway with plainly printed notices stating the character and weight of traffic prohibited on such highway at both ends of the section thereof on which traffic is restricted, at intermediate points where said restricted section is intersected by cross roads, and also at the points where such restricted highways leave the nearest municipality. Any person operating any vehicle of the character and weight prohibited in said notices or contrary to the provisions thereof, upon any restricted section of such highway, or any person removing, covering, defacing, obstructing or destroying any such notice shall be guilty of a misdemeanor. (Act Apr. 26, 1929, c. 390, §1.)

School districts in operation of busses must comply with regulations under this section. Op. Atty. Gen. (377a-9), Apr. 4, 1935.

2720-42. Trailers. * * * *

Subdivision (c). Whenever trailers are drawn upon any highway said trailer shall be so constructed and hitched together that they will track on turns and not whip at any time.

Subdivision (d). Whenever any vehicle or combination of vehicles drawn upon any highway exceeds 40 feet in length such vehicles shall have the sides thereof equipped with and illuminated by the use of lights conforming to the provisions of subdivision (d) of Section 49 [§2720-49] of this act. ('27, c. 412, §42; Apr. 26, 1929, c. 407, §3.)

Laws 1929, c. 407, §3, amends this section by adding thereto subdivisions (c) and (d).

In action for damages in automobile accident occurring when trailer struck plaintiff's car while defendant was attempting to pass, evidence held to render it error not to instruct as to whipping of trailer. Dziewczynski v. L., 193M580, 259NW65. See Dun. Dig. 4167o.

2720-42a. Governing bodies may pass ordinances regulating length of motor vehicles.—The governing body of any city or village is hereby authorized by ordinance to provide for the maximum length of any motor vehicle, or combination of motor vehicles, or the number of vehicles that may be fastened together, and which may be operated upon the streets or highways of said city, and provided, however, that such ordinance shall not prescribe a length less than that permitted by state law. Any such motor vehicle op-

erated in compliance with such ordinance on the streets or highways of such city shall not be deemed to be in violation of any of the existing laws of this state. (Act Apr. 29, 1935, c. 389, §1.)

Sec. 2 of Act Apr. 29, 1935, cited, repeals inconsistent laws.

2720-44. Sound warning devices.

Failure to sound horn before overtaking pedestrian on highway held only ground upon which charge of negligence could rest. Boyer v. J., 185M221, 240NW538. See Dun. Dig. 4167b(71).

2720-45. Unobstructed rear view for drivers.

Instruction as to negligence and contributory negligence with reference to this statute held erroneous. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167c.

2720-47. Mufflers—cut-outs—Excessive smoke.

The exception contained in §2720-31 applies to all of the provisions of the Uniform Highway Traffic Act, including §2720-47. Johnson v. B., 184M576, 239NW772. See Dun. Dig. 4162a.

2720-48. Front and rear lights. * * * *

(g) Every horse-drawn vehicle using the public highways shall during the period from a half hour after sunset to a half hour before sunrise, carry at the rear thereof a reflex mirror or lighted lamp exhibiting a yellow or red light visible under normal atmospheric conditions frmo a distance of 200 feet to the rear of such vehicle. Provided, that the failure to equip any horse-drawn vehicle with such lamp or mirror, as herein set forth shall not of itself constitute negligence as a matter of law. (Act Apr. 26, 1929, c. 407, §4.)

Laws 1929, c. 407, §4, amends this section by adding thereto subdivision (g).

Failure of plaintiff to have his headlights lighted or to stop within the distance in which he could see an object ahead of him, held not as a matter of law the proximate cause of injury from negligence of defendant in proceeding on wrong side of road. 181M400, 232NW 710. See Dun. Dig. 4164a.

(a).

Burden of proving excuse or justification for violation is upon automobile driver. Martin v. T., 187M529, 246 NW6. See Dun. Dig. 4162a.

Evidence sustains a finding that automobile was parked on highway without a rear light. Martin v. T., 187M539, 246NW6. See Dun. Dig. 4162a, 4167c, 4171a.

Evidence did not require a finding that plaintiff was guilty of contributory negligence in colliding with parked car as he came from rear. Martin v. T., 187M529, 246 NW6. See Dun. Dig. 4171a.

Violation of this section and §§2720-24, 2720-54 may be excusable or justifiable if, without fault on part of driver, automobile is compelled to be parked on highway without rear light. Martin v. T., 187M529, 246NW6. See Dun. Dig. 4171a.

Unless excusable or justifiable, one violating statute is liable for injury proximately resulting. Martin v. T., 187M529, 246NW6. See Dun. Dig. 6976.

Whether failure to have headlights lighted was proximate cause of collision at intersection at which plaintiff had right of way, held for jury. Krinke v. G., 187M 595, 246NW376. See Dun. Dig. 4164e.

A driver who fails to have his headlights lighted a half hour after sunset is liable as a matter of law for result proximately coming therefrom; and, if such failure contributes to his injury, he cannot recover. Krinke v. G., 187M595, 246NW376. See Dun. Dig. 4167c.

Driver with headlights tilted down so that he could only see 30 feet ahead was guilty of contributory negligence in striking a stalled truck. Orrvar v. M., 189M306, 249NW42. See Dun. Dig. 4167(c).

It is duty of automobile drivers to have their lamps lighted a half hour after sunset. Romann v. B., 190M419, 252NW80. See Dun. Dig. 4167c.

(b).

Even though guest was negligent in riding in car operated without proper headlights required by statute, it was question for jury whether her negligence or assumption of risk proximately contributed to or caused injury when car left highway. White v. C., 189M300, 249 NW328.

Commissioner of Highways has authority to insist that vehicles using the highway be equipped as provided in subsection (b) throughout the day. Op. Atty. Gen., Sept. 3, 1931.

(e).

Defendant held negligent in parking truck without light in highway and liable for injuries and damage resulting from car running into it. 180M252, 230NW776.

In action to recover damages for injuries received when plaintiff's automobile overtook and collided with defendant's unlighted truck, plaintiff's alleged contributory negligence did not appear as matter of law. Brown v. R., 186M321, 243NW112. See Dun. Dig. 4167c.

(f).

Failure to have bicycle equipped with lamps or reflectors was negligence as matter of law. Campbell v. S., 186M293, 243NW142. See Dun. Dig. 4167c.

2720-49. Spot lamps, etc. * * * *

(c) Whenever a motor vehicle is equipped with a signal lamp to comply with the provisions of Section 17, the signal lamp shall be so constructed and located on the vehicle as to give a signal yellow or red in color which shall be plainly visible in normal sunlight from a distance of 100 feet to the rear of the vehicle, but shall not project a glaring or dazzling light. (As amended Apr. 26, 1929, c. 407, §5.)

* * * * * * *

Laws 1929, c. 407, §5, amends subd. (c) of this section to read as above.

2720-50. Construction, etc., of head lamps, etc.

Contributory negligence of motorist colliding with concrete mixer left in highway to guard a partially newly constructed culvert, held for jury. Wicker v. N., 183M79, 235NW630. See Dun. Dig. 7033(2).

Evidence held insufficient to support any finding that wife riding with motorist was guilty of contributory negligence when motorist ran into unlighted concrete mixer in highway. Id.

Driver of automobile on a dark drizzly night colliding with an unlighted truck held not guilty of contributory negligence as a matter of law. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167c.

2720-52. Head and other lamps—sale and test.—(a) It shall be unlawful for any person to sell or offer for sale, either separately or as a part of the equipment of a motor vehicle, or to use upon a motor vehicle upon a highway, any electric head lamp or any auxiliary driving lamp, spot lamp, rear lamp or signal lamp, unless of a type which has been submitted to the Commissioner for test and for which a certificate of approval has been obtained from the Commissioner as hereinafter provided. (As amended Apr. 26, 1929, c. 407, §6.)

* * * * * * *

(c) Any person, firm or corporation desiring approval of a device shall submit to the Commissioner two sets of each type of device upon which approval is desired, together with a fee fixed by the Commissioner not to exceed $75.00 for each type of head lamp and auxiliary driving lamp and a fee not to exceed $25.00 for each type of rear lamp or signal lamp submitted. Within 30 days the Commissioner shall, upon notice to the applicant submit such device to the United States Bureau of Standards or to such other recognized testing laboratory as he may elect for a report as to the compliance of such type of device with the standard specifications and the provisions of this act as to lighting performance.

The Commissioner is authorized and required to accept the certificate of the United States Bureau of Standards or of some other recognized testing laboratory as to compliance with the specifications and requirements; provided, however, that in cases of dispute as to the findings of such other laboratory appeal may be made to the United States Bureau of Standards; and provided, also, that the Commissioner is authorized to refuse approval of any device, certified as complying with the specifications and requirements which the Commissioner determines will be in actual use unsafe or impracticable or would fail to comply with the provisions of this act. If the certificate of the United States Bureau of Standards or of some other recognized testing laboratory as to compliance within the specifications and requirements specified in Section 50 be submitted with the application for approval of the lighting devices submitted to the Commissioner, then no fee in excess of $10.00 shall be required by the Commissioner to be paid by any applicant for approval of any lighting device as specified in this subdivision. (As amended Apr. 26, 1929, c. 407, §7.)

* * * * * * *

Laws 1929, c. 407, §§6, 7, amend subdivisions (a) and (c) of this section to read as above.

2720-54. Parked motor vehicles must have lights. —Whenever a motor vehicle is parked or stopped

upon a highway whether attended or unattended during the times mentioned in Section 48 there shall be displayed upon such motor vehicle one or more lamps projecting a white light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such motor vehicle and projecting a yellow or red light visible under like conditions from a distance of five hundred feet to the rear, except that municipalities may provide by ordinance that no lights need be displayed upon any such motor vehicle when parked in accordance with local ordinances upon a highway where there is sufficient light to reveal any person within a distance of two hundred feet upon such highway. ('27, c. 412, §54; Apr. 26, 1929, c. 407, §8.)

Contributory negligence of one running into an unlighted truck held for the jury. 174M105, 218NW249.

Evidence held to sustain finding of negligence on part of operator of truck standing on pavement without rear light. 174M105, 218NW249.

Negligence and contributory negligence affecting recovery for injuries from collision with unlighted parked car, held for jury. 181M32, 231NW244.

Liability insurer of truck violating this section, compelled to pay damages to guest in a touring car held not entitled to contribution from the owner of the touring car, though both the owner of the truck and the driver of the touring car were negligent. Fidelity & Casualty Co. v. C., 183M182, 236NW618. See Dun. Dig. 1924.

Instruction as to negligence and contributory negligence with reference to this statute held erroneous. Mechler v. M., 184M476, 239NW605. See Dun. Dig. 4167c.

In action for injuries growing out of collision with rear end of standing unlighted truck, negligence of defendant held for jury. Olson v. P., 185M571, 242NW283. See Dun. Dig. 4167c.

Whether negligence of driver of automobile colliding with rear of unlighted standing truck was sole proximate cause of guest's injury, held for jury. Olson v. P., 185M571, 242NW283. See Dun. Dig. 4167c, 6999.

In action for injuries to guest in automobile against operator of unlighted truck standing on highway, whether plaintiff was guilty of contributory negligence, held for jury. Olson v. P., 185M571, 242NW283. See Dun. Dig. 6975a, 7026a.

Unless excusable or justifiable, one violating statute is liable for injury proximately resulting. Martin v. T., 187M529, 246NW6. See Dun. Dig. 6976.

One participating in changing tire on automobile inexcusably parked near center line of pavement without tail light was guilty of contributory negligence as matter of law. Dragotis v. K., 190M128, 250NW804. See Dun. Dig. 4167o, n. 16.

Contributory negligence of one participating in changing tire on automobile inexcusably parked near center of pavement without tail light was a contributing proximate cause notwithstanding he was not struck by oncoming car but by parked car propelled against him. Id. See Dun. Dig. 4167o, n. 16.

Guest in car which collided with unlighted trailer parked on highway at night, held not guilty of contributory negligence as matter of law. Brown v. M., 190M 81, 251NW5. See Dun. Dig. 7038.

Where truck was parked on pavement at night to change tire and driver was assisted by driver of another truck, who also parked on pavement without lights, held that cause of collision could not be held as matter of law to have been negligence of either truck driver so as to relieve employer of other. Id.

It was a question for jury whether plaintiff who, on a stormy night on a slippery street, drove his car into rear of a truck parked diagonally without lights, was guilty of contributory negligence. Tully v. F., 191M84, 253NW22. See Dun. Dig. 4167c, 4167o.

2720-54½. Parked motor busses and trucks to give warning signals.—Whenever any motor truck or motor bus is left standing upon a trunk highway for any reason, the operator of such truck or bus shall use due care to warn travelers of the danger thereof, and in addition thereto in the nighttime or in the daytime when visibility is obscured, the operator of such motor truck or motor bus, in addition thereto, shall cause to be placed at least 100 feet from each end thereof and upon the roadway side of the vehicle a flare or other warning signal of a type approved by the commissioner of highways, and in daylight when visibility is not obscured, shall cause red flags to be placed at least 100 feet from each end thereof, and every motor truck or motor bus shall carry with it such safety equipment as may be prescribed by the commissioner of highways for carrying out the provisions of this act.

Any person violating the provisions of this act shall be deemed guilty of a misdemeanor.

Provided, however, that as to motor trucks used for the transportation of inflammable liquids, only two such flares or signals need be used, and provided further that no lighted flare shall be placed nearer than 150 feet from a truck used to carry inflammable liquids. (Act Apr. 15, 1933, c. 252; Jan. 24, 1936, Ex. Ses., c. 71.)

Garage man and one assisting him merely as a matter of accommodation in removing a wrecked car from highway were not engaged in a joint enterprise, and negligence of garage man in violating flare statute could not be imputed to person accommodating him. Peterson v. N., 193M400, 258NW729. See Dun. Dig. 7037.

Trucks operating in city exclusively are not required to carry flags, flares and fuses. Op. Atty. Gen., Aug. 19, 1933.

2720-55. Red or green lights visible from front.

Volunteer fire department when using fire equipment in connection with active service of the department may equip its vehicles with red or green lights visible from the front. Op. Atty. Gen., Feb. 6, 1933.

Privately owned automobiles of members of volunteer fire department may use red and green lights. Op. Atty. Gen., Apr. 5, 1933.

2720-56. Standard of signs and signals—Conformity to.

A railroad company which constructs an overhead bridge in accordance with statute, with a center pier which is approved by highway commissioner, does not have duty of caring for a reflector placed upon said pier to warn a traveler on highway. Murphy v. G., 189M109, 248NW715. See Dun. Dig. 8120, 8121.

TITLE V
PENALTIES

2720-61. Driving while intoxicated, etc.

This section is not void for uncertainty as to the meaning of the words "under the influence of intoxicating liquor." 176M164, 222NW909.

Admissibility and sufficiency of evidence. 176M164, 222 NW909.

Instruction defining offense in words of statute, held sufficient. 176M164, 222NW909.

2720-62. Violations of provisions relating to stopping, etc., after accidents—Penalty.—(a) The driver of any motor vehicle involved in any accident resulting in injury or death to any person who violates the provisions of Section 29 [§2720-29] of this Act shall be guilty of a gross misdemeanor.

(b) The driver of any motor vehicle involved in an accident resulting in damage property who violates the provisions of Section 29 [§2720-29] of this Act shall be guilty of a misdemeanor. ('27, c. 412, §62; Apr. 26, 1929, c. 407, §9.)

TITLE VII
EFFECT OF AND SHORT TITLE OF ACT

TAX ON GASOLINE, ETC., USED FOR MOTOR OR OTHER VEHICLES ON HIGHWAYS

2720-70. Definitions.

* * * *

(a) "Gasoline" includes all gasoline, distillate, benzine, naphtha, benzol, liberty fuel, and other volatile and inflammable liquids used or useful in producing or generating power for propelling motor or other vehicles used on the public highways of this state, but does not include the product commonly known as kerosene oil. For the purpose of calculating the tax imposed by this Act, the term "gasoline" as herein defined shall be construed to include any lubricating oil or other petroleum products inter-mixed with any of the said liquids although said lubricating oil or other petroleum products may not be used or useful in producing or generating power for propelling motor or other vehicles used on the public highways of this state. (As amended Jan. 6, 1934, Ex. Ses., c. 51, §1.)

* * * *

(d) "Distributor" means and includes every person, partnership, company, joint stock company, corporation or association of persons, however organized, who brings or causes to be brought gasoline into this

state or any other petroleum product by or through pipe lines, trucks, barrels, tank cars, or in carload lots, for storage, sale, distribution, or use therein, and every person, partnership, company, joint stock company, corporation, or association of persons, however organized, who produces, refines, manufactures or compounds gasoline or any other petroleum products in this state for storage, sale, distribution or use therein. (As amended Apr. 22, 1933, c. 417, §1.)

* * * *

Sec. 2 of Act Jan. 6, 1934, cited, provides that the act shall take effect from its passage.

175M276, 221NW6.

The gasoline tax law does not permit a rebate or refund of taxes on gasoline used by county or other municipal subdivision of the state, except taxes paid on gasoline which is used for the purposes other than in a motor vehicle, such as gasoline used in road work other than hauling material. Op. Atty. Gen., May 28, 1931.

Municipality is not exempt from payment of tax on gas, except when used solely for road work other than hauling material. Op. Atty. Gen., Mar. 1, 1933.

(b).

Gas used by department of rural credit to propel motor vehicles by it on public highways is not exempt from tax. Op. Atty. Gen., Jan. 17, 1934.

2720-71. Excise tax on gasoline.—There is hereby imposed an excise tax of three cents per gallon on all gasoline used in producing or generating power for propelling motor vehicles used on the public highways of this state. Said tax shall be payable at the times, in the manner, and by the persons hereinafter specified. ('25, c. 297, §2; Apr. 24, 1929, c. 310, §1.)

2720-71½. Gasoline distributors to report to oil inspector.—It shall be the duty of every distributor and of every person who sells gasoline to report to the Chief Oil Inspector the number of gallons of gasoline in his possession at the time this act takes effect, and the inspector shall thereupon determine and certify as herein provided the tax on account of such tax as is hereby imposed. (Act Apr. 24, 1929, c 310, §2.)

Sec. 3 of Act Apr. 24, 1929, c. 310, provides that the act shall take effect May 1, 1929.

2720-72. Certified statements by chief oil inspector of oils inspected—Mailing—Tax—Evaporation and loss—Adjustments—Payment of taxes due inspector—Time for.—On or before the fifteenth day of each month the inspector shall cause to be mailed to each person for whom he inspected gasoline as required by the oil inspection laws of this state during the next preceding calendar month, a certified statement of the date of and number of gallons included in each inspection, the aggregate number of gallons inspected and the amount of tax payable on account thereof; provided, however, that in computing such tax a deduction of three per cent of the quantity of gasoline inspected shall be allowed for evaporation and loss; provided further that each person for whom gasoline has been inspected as herein provided for and to whom the three per cent tax deduction has been allowed for evaporation and loss shall at the time of settlement submit satisfactory evidence that one-third of such three per cent deduction from the tax shall have been paid or credited to retail service stations or other retail distributors on all quantities of gasoline bought or consigned to them for storage or sale. The inspector may make therein proper adjustment, either by addition or deduction, for errors occurring in any previous statement. There shall be noted upon the records of the inspector the date of the mailing of such statement, which record shall be conclusive evidence of the proper mailing thereof. There may be included in such statement the amount due for oil inspection fees for the same period. The amount of tax and fees shown on such statement shall be paid to the inspector on or before the 15th day of the month succeeding the month in which the statement is so mailed. ('25, c. 297, §3; '27, c. 434, §1; Apr. 17, 1935, c. 202.)

There is no authority for demanding payment in advance of the 15th of the succeeding month, even though chief oil inspector may have reason to suspect that there will be difficulty in enforcing a collection. Op. Atty. Gen., Feb. 29, 1932.

2720-75. Chief inspector to certify unpaid taxes to Attorney General.—(a) On or before the twenty-fifth day of each month, the chief oil inspector shall deliver to the attorney general a certified statement of the amount due from each person, partnership, association, corporation or licensee hereunder whose excise taxes are delinquent. Such statement shall give the address of the persons, partnership, association, corporation or licensee owing such tax, the month for which the tax is due, the date of delinquency and such other information as may be required by the Attorney General. It shall be the duty of the Attorney General upon receipt of any such statement to bring an action in the district court of Ramsey County or of the county in which the delinquent licensee or taxpayer resides, to recover the amount of such tax with penalty, interest, costs and disbursements. The judgment of the court when so obtained shall draw interest at the rate of one per cent per month and shall be enforceable in the manner provided by law for the enforcement of judgments obtained in civil actions.

(b) No inspection shall be made for any person, partnership, association, corporation or licensee whose tax has been certified to the Attorney General.

(c) No person, partnership, association, corporation or licensee shall sell gasoline to any distributor for whom inspections may not be made by reason of delinquency in the payment of any tax due under this Act. ('25, c. 497, §7; '27, c. 434, §5; Apr. 22, 1933, c. 417, §2.)

Requirements of this section are not affected by receivership. Op. Atty. Gen., Jan. 10, 1934.

In view of Laws 1933, c. 413, §19(9)(d), the appropriation act, attorney general is entitled to reimbursement from oil inspection division for costs and disbursements and other expenses incurred in connection with delinquent gas tax cases certified by oil inspection division. Op. Atty. Gen. (324q), Feb. 8, 1935.

2720-79. Reimbursements in certain cases—penalties for false statement.—Any person who shall buy and use gasoline for any purpose other than use in motor vehicles, and who shall have paid any excise tax required by this act to be paid directly or indirectly through the amount of such tax being included in the price of such gasoline or otherwise, shall be reimbursed and repaid the amount of such tax paid by him upon presenting to the inspector a verified claim in such form and containing such information as the inspector shall require and accompanied by the original invoice thereof, which claim shall set forth the total amount of such gasoline so purchased and used by him other than in motor vehicles, and shall state when and for what purpose the same was used. If the inspector be satisfied that the claimant is entitled to payment, he shall approve the claim. Upon the approval of any such claim the inspector shall draw his check on the gas tax account payable to the person entitled thereto. No such repayment shall be made unless the claim and invoice shall be presented to the inspector within four months from the date of such purchase.

Every person who shall make any false statement in any claim or invoice presented to the inspector, or who shall knowingly present to the inspector any claim or invoice containing any false statement, or shall collect, or cause to be paid to him or to any other person any such refund without being entitled thereto, shall forfeit the full amount of such claim and be guilty of a misdemeanor. ('25, c. 297, §10; '27, c. 434, §6; Apr. 19, 1929, c. 257, §1.)

No refund for truck hauling snow plows, etc.; but a refund for tractors hauling snow plows, etc. Op. Atty. Gen., June 1, 1929.

City entitled to refund for gasoline used in stationary engines, but not for that used in fire trucks, street sprinklers or a utility truck. Op. Atty. Gen., July 18, 1929.

The gasoline tax law does not permit a rebate or refund of taxes on gasoline used by county or other municipal subdivision of the state except taxes paid on gasoline which is used for purposes other than in a motor vehicle, such as gasoline used in road work other than hauling material. Op. Atty. Gen., May 28. 1931.

No refundment is made to person who has paid gas tax to bulk dealer when latter has failed to pay such tax to state. Op. Atty. Gen., Nov. 29, 1933.

Gas used by department of rural credit to propel motor vehicles by it on public highways is not exempt from tax. Op. Atty. Gen., Jan. 17, 1934.

Gasoline taxes will not be refunded to owners of trucks and busses doing an interstate business by reason of fact that adjoining state has instituted a new system of taxing such vehicles on gasoline used on highways of that state which was purchased in some other state. Op. Atty. Gen. (324i), Dec. 20, 1934.

State departments are not exempt from payment of tax. Op. Atty. Gen. (324m), Apr. 26, 1935.

2720-79½. Distributors to report the amount on hand.—It shall be the duty of every distributor and of every person who sells gasoline to report to the inspector the number of gallons of gasoline in his possession at the time this act takes effect, and the inspector shall thereupon determine and certify as herein provided the additional tax on account of such gasoline which is hereby imposed. (Act Apr. 19, 1929, c. 257, §2.)

2720–80. Gasoline used by United States not subject to tax—Refunds.

Does not extend exemption from tax in favor of United States postal special delivery messenger. Op. Atty. Gen., Jan. 3, 1934.

Owner of truck operating under contract with civil works administration of federal government is not entitled to refund on gasoline used. Op. Atty. Gen., Mar. 17, 1934.

Exemption from tax does not extend to state director of national emergency council who uses gasoline in an automobile which is driven from her home to place of employment. Op. Atty. Gen. (324e-1), June 28, 1934.

Gasoline used by National Guard during emergency is not exempt from tax. Op. Atty. Gen. (414a-3), Aug. 7, 1934.

State Emergency Relief Administration may purchase gasoline without paying state tax only to the extent that federal money is being used. Op. Atty. Gen. (324f), Jan. 14, 1935.

2720-83. [Repealed].

Repealed Apr. 22, 1933, c. 417, §3.

2720-86. Dealers must be licensed.—No person shall engage in or purport to be engaged in or hold himself out as being engaged in the business of buying or selling petroleum products as a Distributor unless he shall be licensed to carry on such business by the Chief Oil Inspector. (Act Apr. 22, 1933, c. 417, §4.)

Laws 1933, c. 417, §9, renumbers §2720-86, Mason's Minn. Stat. 1927, as §2720-91.

2720-87. Unlicensed dealers shall not be inspected.—No inspections shall be made for any person, partnership, association or corporation, subject to the provisions of this Act, not having a license within ninety days from the passage of this Act. (Act Apr. 22, 1933, c. 417, §5.)

Laws 1933, c. 417, §9, renumbers §2720-87, Mason's Minn. Stat. 1927, as §2720-92.

2720-88. Licenses.—License to engage in the business of handling petroleum products as hereinabove referred to shall be issued by the Chief Oil Inspector to any responsible person, partnership, association or corporation which shall apply therefor, and shall pay to the Chief Oil Inspector at the time of making application for license and annually thereafter a license fee of one dollar and further comply with the conditions herein provided, to-wit:

(a) The application shall be in writing and under oath and shall set forth the place or places where the applicant intends to carry on the business for which the license is desired; the kind and estimated volume of business to be done, the volume of business done during the preceding year, if any; the full names and addresses of persons constituting the firm, partnership, association or corporation, as the case may be.

(b) The Chief Oil Inspector shall examine the application submitted by each person, partnership, association or corporation. The Chief Oil Inspector shall require the applicant or licensee to execute and file with the Chief Oil Inspector, a bond to the State of Minnesota with corporate sureties to be approved by the Chief Oil Inspector, in such amount as hereinafter provided, the form to be fixed by the Chief Oil Inspector and approved by the Attorney General conditioned for the payment when due of all gasoline excise taxes, revenue inspection fees and penalties and accrued interest arising in the ordinary course of business or by reason of any delinquent moneys which may be due the Chief Oil Inspector of the State of Minnesota and such bond to cover any and all places of business within the State where petroleum products are distributed by the distributor or licensee. All licenses and bonds executed and delivered hereunder shall be for the duration of one year, expiring May 31st. The bond herein required shall be in twice the amount of the monthly average of the amount of gasoline excise taxes paid by the applicant during the year immediately preceding. As to new applicants the amount of such bond shall be twice the amount of the estimated average amount of gasoline excise taxes anticipated to be paid by such applicant. If any licensee desires to be exempt from furnishing such bond as hereinbefore provided he shall furnish an itemized financial statement showing the assets and the liabilities of the applicant and if it shall appear to the Chief Oil Inspector from the financial statement or otherwise that the applicant is financially responsible then the Chief Oil Inspector may exempt such applicant from furnishing such bond until the Chief Oil Inspector otherwise orders.

(c) Whenever the licensee shall sell, dispose of or discontinue his business during the term of his license, he shall at the time such action is taken, notify the Chief Oil Inspector in writing and shall surrender his license. (Act Apr. 22, 1933, c. 417, §6.)

Added to Mason's Minn. Stat., 1927, by Laws 1933, c. 417, §6. Former §2720-88 in 1931 Supp. is renumbered §2720-92a.

Requirements of this section are not affected by receivership. Op. Atty. Gen., Jan. 10, 1934.

2720-89. May require additional bonds.—The Chief Oil Inspector, whenever he is of the opinion that any bond heretofore given by any licensee is inadequate an amount as determined by this act for the prompt protection of the State, may require the licensee to give an additional bond in such amount as he may determine and direct the bond to be approved by the Chief Oil Inspector and conditioned as heretofore set forth. (Act Apr. 22, 1933, c. 417, §7.)

Added to Mason's Minn. Stat., 1927, by Laws 1933, c. 417, §7. Former §2720-89 in 1931 Supp. is renumbered §2720-92b.

2720-90. May make regulations.—The Chief Oil Inspector may issue regulations not inconsistent with law to assist in the enforcement of this act. Such regulations shall have the full force and effect of law when duly promulgated. The Chief Oil Inspector may exercise the authority vested in him under other laws to assist in the enforcement of this Act. (Act Apr. 22, 1933, c. 417, §8.)

Added to Mason's Minn. Stat., 1927, by Laws 1933, c. 417, §8. Former §2720-90 is renumbered §2720-92c.

2720-91. Penalty for violation.—Any person who fails or refuses to comply with any of the provisions of this Act shall be guilty of gross misdemeanor. (Act Apr. 22, 1933, c. 417, §10.)

Former §2720-91 is renumbered §2720-92d.

2720-92a. Apportionment of gasoline tax funds.—All moneys accruing to the state road and bridge fund from taxes imposed on the use of gasoline under authority of Section 5 of Article 9 of the constitution shall be distributed and used in the manner and for the purposes hereinafter set forth. (Act Apr. 22, 1929, c. 283, §1.)

This section was numbered 2720-88 in Mason's 1931 Supplement. It is renumbered 2720-92a to conform to change in numbering made by Laws 1933, c. 417.

Duty of public to care for the poor is absolute and any fund may be transferred to poor fund, except where they are held for a specific purpose imposed by law, and money in road and bridge fund raised pursuant to §2565(5) may be transferred, but a different rule applies with reference to gas tax money received pursuant to Laws 1929, c. 283. Op. Atty. Gen. (107a-12), July 3, 1935.

2720-92b. State Auditor, State Highway Commissioner to apportion funds.—On or before the first Tuesday in April of each year the commissioner of highways, the state treasurer and the state auditor shall estimate the probable sum of money that will accrue during the current calendar year to the state road and bridge fund from such tax and shall apportion such sum among the several counties of the state as herein provided and the commissioner of highways shall forthwith send a statement of such apportionment to the state auditor and to the county auditor of each county showing the amount apportioned to each county during such year. (Act Apr. 22, 1929, c. 283, §2.)

This section was numbered 2720-89 in Mason's 1931 Supplement. It is renumbered 2720-92b to conform to change in numbering made by Laws 1933, c. 417.

County may issue warrants in anticipation of gasoline tax as estimated and apportioned by state officers. Op. Atty. Gen., Sept. 23, 1933.

2720-92c. State Auditor to draw his warrant.—The state auditor shall on August 1 of each year draw his warrant on the state road and bridge fund in favor of each county for the amount to which such county is entitled under said apportionment out of the receipts from such tax during the first half of the current calendar year and shall on February 1 of each year draw his warrant on the state road and bridge fund in favor of each county for the amount to which such county is entitled under said apportionment out of the receipts from such tax during the last half of the next preceding calendar year. (Act Apr. 22, 1929, c. 283, §3.)

This section was numbered 2720-90 in Mason's 1931 Supplement. It is renumbered 2720-92c to conform to change in numbering made by Laws 1933, c. 417.

2720-92d. Limitations of amount to each county.—Not less than three-fourths of one per cent nor more than three per cent of the moneys accruing to the state road and bridge fund from such tax shall be apportioned to any one county in any one year. In the making of such apportionment regard shall be had to the mileage of county and town roads and the traffic needs and conditions of the respective counties. (Act Apr. 22, 1929, c. 283, §4.)

This section was numbered 2720-91 in Mason's 1931 Supplement. It is renumbered 2720-92d to conform to renumbering made by Laws 1933, c. 417.

2720-92e. County board to designate county aid roads.—The county board of each county is hereby authorized to designate as a county aid road any county or town road therein and any portion of a county line or town line road with the construction and maintenance of which such county or any town therein is charged, but no state aid road, except a State Aid Parkway, shall be designated as a county aid road. Such designation shall be evidenced by resolution of the county board and by an order signed by the chairman thereof and countersigned by the county auditor, which order shall be filed in the office of the county auditor. Such designation may by like resolution and order be revoked at any time.

All county aid roads shall be constructed, improved and maintained by the county. A certified copy of the resolution either designating or revoking a county aid road shall be filed with the commissioner of highways. Provided that the County Board of any County may designate as a county aid road any road situate in the unplatted portion of any village in said county by a resolution adopted by unanimous vote of such Board. Such designation may by resolution and order adopted by a majority vote, be revoked at any time. (Act Apr. 22, 1929, c. 283, §5; Jan. 9, 1934, Ex. Sess., c. 60, §1.)

This section was numbered 2720-92 in Mason's 1931 Supplement. It is renumbered 2720-92e to conform to renumbering made by Laws 1933, c. 417.

Sec. 2 of Act Jan. 9, 1934, cited, provides that the act shall take effect from its passage.

Op. Atty. Gen., Apr. 28, 1933; note under §2720-93.

Taxpayer has no right to appeal from action of county board in designating a town road as a county aid road. Op. Atty. Gen., Aug. 31, 1929.

Op. Atty. Gen., Aug. 21, 1929; note under §2551.

Roads designated as county aid roads prior to passage of this act must be redesignated as such gasoline tax cannot be used to pay expenses of maintaining roads prior to designation. Op. Atty. Gen., Sept. 20, 1929.

Employment of town supervisor on county aid road is not prohibited by §1096, Mason's Stat. Op. Atty. Gen., May 3, 1930.

Under this section, construed with section eight, the county board may designate a small portion of a road with a view of building a bridge under this act. Op. Atty. Gen., June 16, 1930.

A county board has authority to buy a right of way and construct a new road, and if a township refuses to contribute the amount fixed by the county board, board would be justified in refusing to build the road. Op. Atty. Gen., Mar. 17, 1931.

The amendment made by Laws 1931, c. 221, applies only to county aid roads designated as such subsequent to its approval, and an agreement of town made in March to pay approximately three-tenths of cost of a road must stand. Op. Atty. Gen., Oct. 1, 1931.

State Aid parkways may be designated by county board within corporate limits of city of fourth class. Op. Atty. Gen. (379c-11), Mar. 5, 1935.

Judicial road may be dseignated as county aid road. Op. Atty. Gen. (377b-4), Mar. 27, 1935.

Town board cannot alter or vacate road designated county aid road. Op. Atty. Gen. (380b-2), May 1, 1935.

2720-93. Use and disposition of gas tax.—The moneys apportioned to each county under the provisions hereof shall be used solely in the construction, improvement and maintenance of county aid roads therein, including bridges, culverts and other structures appurtenant to such county aid roads, and shall be expended by the county board on such county aid roads as it shall determine and in the manner herein provided. All county aid roads constructed under the provision of this act shall be construed under the supervision and according to plans and specifications made by the county highway engineer, filed with the county auditor and approved by the county board. (Act Apr. 22, 1929, c. 283, §6; Apr. 20, 1933, c. 325, §1; Apr. 1, 1935, c. 96.)

Subject to limitations of section 7 of Laws 1929, c. 283, gasoline tax money may be used in buying graders and other road equipment. Op. Atty. Gen., June 1, 1929.

Mason's 1927 Statutes, §2563, relating to plans and specifications, is not applicable to this act. Op. Atty. Gen., May 1, 1930.

Mason's 1927 Statutes, §2595, is applicable to the construction of county aid roads. Id.

There is no legal objection to the county board fixing a reasonable rate for the use of its road machinery on county aid roads and charging the county aid roads funds with such amount and crediting same to the road and bridge fund. Op. Atty. Gen., May 12, 1930.

The provision requiring that county aid roads shall be constructed under the supervision and according to plans and specifications made by the county highway engineer are mandatory. Op. Atty. Gen., June 28, 1930.

Moneys from the road and bridge fund of a county may be used to further the construction, improvement and maintenance of county aid roads. Op. Atty. Gen., Nov. 27, 1931.

County appointing its elected county surveyor as county highway engineer is not entitled to state aid. Op. Atty. Gen., Feb. 8, 1933.

Laws 1933, c. 325, amending Laws 1929, c. 283, by authorizing, and in certain cases compelling, use of money distributed to counties from gasoline taxes, for payment of principal and interest of county road or bridge bonds, is constitutional. Op. Atty. Gen., Mar. 29, 1933.

County cannot delegate authority to construct, improve and maintain county aid roads to townships. Op. Atty. Gen., Apr. 28, 1933.

A snow plow may be purchased out of moneys received by county representing proceeds of gasoline tax paid into road and bridge fund, but this equipment cannot be used on state aid or other roads except county aid roads. Op. Atty. Gen., Nov. 3, 1933.

Necessary engineering expenses of county engineer in surveying and preparing land for county aid road may be paid out of fund derived from gasoline tax. Op. Atty. Gen. (380b-1), Jan. 21, 1935.

Gas tax moneys may be used in construction of judicial road redesignated by county as county aid roads. Op. Atty. Gen. (377b-4), Mar. 27, 1935.

2720-94. County board may apportion funds.—Of the moneys so apportioned to each county and not used to pay interest or principal on county road or bridge bonds or warrants as provided in Section 6 of this Act, not less than twenty nor more than fifty per cent as the county board shall determine by resolution shall be devoted to the maintenance of

county aid roads and shall be expended by the county board in the various towns of the county substantially according to the mileage, traffic needs and conditions of county aid roads within each town within the county. Provided, however, that in any county where 35 per cent or more of the roads therein, including state and county aid and town roads lying outside of cities and villages have been improved and graveled or otherwise surfaced, the county board, by a resolution adopted by unanimous vote thereof, may use the whole of the money accruing to such county and not used to pay county or bridge bonds or warrants as provided by Section 6 of this act, for the maintenance of county aid roads therein.

The town board of any town may appropriate to the county, moneys out of its road and bridge fund, and any moneys so appropriated shall be expended by the county in the maintenance of county aid roads within such town. (Act Apr. 22, 1929, c. 283, §7; Apr. 20, 1933, c. 325, §2.)

Op. Atty. Gen., Mar. 29, 1933; note under §2720-93.

While a town must ordinarily pay for the cost of construction of a county aid road it cannot be compelled to contribute to the maintenance of the road after it has been constructed. Op. Atty. Gen., Feb. 18, 1930.

A township cannot expend any town funds in the construction or graveling of county aid roads, even under an agreement that the county board will later reimburse it when it obtains funds, though a township may appropriate money from its road and bridge fund to the county to be expended by the county. Op. Atty. Gen., Oct. 23, 1931.

Gas tax fund may be used to pay cost of constructing garage to house road machinery to be used on county aid roads. Op. Atty. Gen. (107b-16), June 5, 1935.

2720-94a. Emergency act.—This act is hereby declared to be an emergency measure and shall be in force and effect for a period of 2 years from and after April 20, 1935. Every law now in force inconsistent herewith is hereby suspended for a period of 2 years from and after April 20, 1935. (Act Apr. 20, 1933, c. 325, §3; Mar. 11, 1935, c. 39.)

2720-94b. Disposition of gasoline tax—Apportionment to cities and villages in certain cases.—That in any county of this state now or hereafter having an assessed valuation not to exceed $16,000,000 and a population of not to exceed 36,000 inhabitants, the County Board of any such county may appropriate and pay, as hereinafter provided, out of any such county's annual share or allotment of the excise tax on gasoline, to any city or village in any such county having within its corporate limits a public bridge crossing a navigable river, an amount not to exceed 10% of any such county's annual share of said gasoline tax allotment. Such annual appropriation as hereinbefore provided, shall be made only for the purpose of retiring and paying serial bonds and interest due annually, issued by any such city or village prior to February 1st, 1919, to pay for the construction of any such bridge. Provided, however, that the total principal amount of said existing unpaid bonds issued for such purpose does not exceed the sum of $25,000. (Act Apr. 25, 1935, c. 299, §1.)

Sec. 2 of Act Apr. 25, 1935, cited, provides that the act shall take effect from its passage.

2720-95. Townships to aid in construction of county aid roads.—The remainder of the moneys so apportioned to each county shall be devoted to the construction and improvement of county aid roads therein. No work of such construction or improvement shall be begun or any contract therefor let until the town within which lies the road so proposed to be constructed or improved shall have paid to the county toward the cost of such work an amount equal to not less than ten nor more than twenty per cent of the cost of such road within the township as the county board shall determine by resolution as such cost is estimated by the county highway engineer, or shall have included such amount in its annual levy for the town's road and bridge fund, provided that the county board upon unanimous vote may by resolution waive as to any town the requirement that it shall contribute toward the cost of constructing or improving county aid roads, whenever it shall appear to the county board that the enforcement of said requirement would be impracticable or unjust. In case of such levy such payment shall be made to the county not later than December 1 of the year following such levy with interest thereon from the commencement of such work at the rate of six per cent per annum. Provided that, such town may appropriate a further amount out of its road and bridge fund, to be expended by the county in the construction of such county aid roads in said town as the voters may determine. (Laws 1929, c. 283, §8; Apr. 20, 1931, c. 221, §1.)

The county board may designate a small portion of a road merely for the purpose of building a bridge with the aid of town funds. Op. Atty. Gen., June 16, 1930.

While the voters of a township must consent to the amount of a tax levy for roads and bridges, the town board, if it has funds on hand authorized by the voters, may appropriate same under this section without a vote of the people. Op. Atty. Gen., June 30, 1930.

Township may not borrow money in anticipation of future payments from gasoline tax. Op. Atty. Gen., Mar. 11, 1931.

After town meeting has voted to levy tax for construction of county aid roads, county auditor must extend the same and county board cannot waive the contribution. Op. Atty. Gen., Apr. 27, 1931.

After townships have actually paid money into the county treasury as contribution toward cost of constructing county aid roads, the county board is powerless to refund it. Op. Atty. Gen., Apr. 27, 1931.

Laws 1931, c. 221, amending this section cannot be given retroactive effect and applies only to county aid roads designated as such subsequent to the approval of the act on Apr. 20, 1931. Op. Atty. Gen., May 12, 1931.

Town cannot reimburse individual who has voluntarily contributed improvement of county aid road. Op. Atty. Gen., Mar. 2, 1934.

Terms of section with respect to contribution by township are exclusive and must be complied with. Op. Atty. Gen. (377b-3), Mar. 27, 1935.

2720-96. Unorganized townships.—Unorganized townships shall for the purposes of this act be deemed to be towns, and the county board shall as to such unorganized townships perform the duties and functions of the town board of organized townships. (Act Apr. 22, 1929, c. 283, §9.)

2720-97. To be credited to County Road and Bridge Fund in certain counties.—All moneys apportioned under the provisions of this act to counties having a population of more than 200,000 shall be credited to the county road and bridge fund of such county and shall be appropriated and expended by such county upon public highways exclusive of trunk highways within such county, in such amounts as the county board of said county shall deem advisable, for the purposes and in the manner in which other moneys accruing to such fund may be appropriated and expended and such appropriations and expenditures shall not be limited or restricted by the provisions of Sections 5, 6, 7, 8 and 9 [§§2720-92 to 2720-96] of this act. (Act Apr. 22, 1929, c. 283, §10.)

2720-98. Provisions severable.—If any section, sentence, clause or phrase of this act is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this act. (Act Apr. 22, 1929, c. 283, §11.)

2720-99.—All acts and parts of acts inconsistent with the provisions hereof are hereby repealed. (Act Apr. 22, 1929, c. 283, §12.)

SAFETY RESPONSIBILITY ACT

2720-101. Definitions.—The following words as used in this Act shall have the following meanings:

(a) The singular shall include the plural; the masculine shall include the feminine and neuter as requisite;

(b) "Commissioner" shall mean Commissioner of Highways acting directly or through his duly authorized officers and agents.

(c) "Person" shall include individuals, partnerships, corporations, receivers, referees, trustees, exec-

utors and administrators, and the owner of any motor vehicle as requisite; but shall not include the state or any political subdivision thereof;

(d) "Motor Vehicle" shall include trailers, motorcycles, tractors, and every vehicle which is self-propelled.

(e) "Province" means any province of the Dominion of Canada.

(f) "Chauffeur" every person who is employed for the principal purpose of operating a motor vehicle, and every person who drives a motor vehicle while in use as a public or common carrier of persons or property. (Act Apr. 21, 1933, c. 351, §1.)

2720-102. Drivers license forfeited when.—The right and permission of any person to operate a motor vehicle, and the license of any person to operate a motor vehicle, who shall be final order or judgment of any Court of competent jurisdiction have been convicted of, or shall have forfeited any bond or collateral given for, a violation of any of the following offenses hereafter committed; to-wit:

(a) Manslaughter resulting from the operation of a motor vehicle.

(b) Driving a vehicle while under the influence of intoxicating liquor or narcotic drug.

(c) Any crime punishable as a felony under the motor vehicle laws of this State or any other felony in the commission of which a motor vehicle is used.

(d) Conviction or forfeiture of bail upon three charges of wreckless [reckless] driving all within the preceding twelve months.

(e) Conviction of a driver of a motor vehicle, involved in an accident resulting in the death or injury of another person, upon a charge of failing to stop and disclose his identity at the scene of the accident;

(f) An offense in any other State or in any Province of the Dominion of Canada, which, if committed in this State, would be in violation, as aforesaid, of any of the above specified provisions of the laws of this State; shall be revoked by the commissioner, and shall not at any time thereafter be renewed, nor shall he be thereafter permitted or licensed to operate any motor vehicle until he shall have given proof of his ability to respond in damages for any liability thereafter incurred resulting from the ownership or operation of a motor vehicle and arising by reason of personal injury to or death of any one person in the amount of at least Five Thousand ($5,000.00) Dollars, and subject to the aforesaid limit for each person injured or killed of at least Ten Thousand ($10,000.00) Dollars for such injury to or death of two or more persons in any one accident, and for damage to property of at least One Thousand ($1,000.00) Dollars resulting from any one accident. Such proof in said amounts shall be furnished for each motor vehicle owned or registered by any such person. If any such person shall fail to furnish said proof, his right and permission to operate a motor vehicle and his license to operate a motor vehicle shall be and remain revoked and shall not at any time thereafter be renewed nor shall any other motor vehicle be thereafter licensed or be permitted to be operated by him or in his name until such time as said proof is given. If such person shall not be a resident of this State the privilege of operating any motor vehicle in this State and the privilege of operation within the State of any motor vehicle owned by him shall be withdrawn and shall remain so withdrawn until he shall have furnished such proof. It shall be the duty of the Clerk of the Court, or of the Court where it has no clerk, in which any such judgment or order is rendered or other such action taken to forward immediately to the Commissioner a certified copy or transcript thereof, and such certified copy shall be prima facie evidence of the conviction, plea or forfeiture therein stated. In the event that such person appears to be a non-resident of this State, the Commissioner shall transmit a copy of such certified copy or transcript, certified to by him to the officer in charge of the issuance of the vehicle operators licenses and registration certificates of the State or Province of which such person appears to be a resident; provided, however, that if it shall be established to the satisfaction of the Commissioner, that any person, whether a resident or non-resident of this State, who shall have been convicted, pleaded guilty or forfeited bail or collateral, as aforesaid was, upon the occasion of the offense upon which such conviction, plea or forfeiture was based a chauffeur, or motor vehicle operator, however designated, in the employ of the owner of the motor vehicle involved in such offense or a member of the immediate family or household of the owner of such motor vehicle, then and in that event, if the person in whose name such motor vehicle is registered shall give proof of ability to respond in damages in accordance with the provisions of this Act, which proof shall be accepted, such chauffeur or other person, as aforesaid, shall be relieved of the necessity of giving such proof in his own behalf, provided further, however, that such chauffeur or motor vehicle operator shall also furnish proof of financial responsibility as in this Act provided for all motor vehicles registered in his name or owned by him. (Act Apr. 21, 1933, c. 351, §2.)

Financial responsibility act does not prevent registrar from registering and collecting annual registration tax for motor vehicle belonging to person whose driver's license has been suspended or revoked, but it does prohibit registrar from issuing license plates to such person until such time time as he has established his financial responsibility. Op. Atty. Gen. (291f), Oct. 8, 1934.

2720-103. Drivers license suspended when.—The right and permission of any person to operate a motor vehicle and license of any person to operate a motor vehicle, in the event of his failure to satisfy every judgment which shall have become final by expiration, without appeal, of the time within which appeal might have been perfected or by final affirmance on appeal, rendered against him by a court of competent jurisdiction in this or any other State, or the District of Columbia, or in the District Court of the United States, for damages on account of personal injury or damages to property in excess of One Hundred ($100.00) Dollars, resulting from the ownership or operation hereafter of a motor vehicle, shall be forthwith suspended by the Commissioner, upon receiving a certified copy or transcript of such final judgment from the court in which the same was rendered, showing such judgment or judgments to have been still unsatisfied more than thirty days after the same became final, and shall remain so suspended and shall not be renewed until the said person gives proof of his ability to respond in damages for future accidents as required by this Act. It shall be the duty of the court in which any such judgment is rendered to forward immediately after the expiration of said thirty days to the Commissioner a certified copy of such judgment or a transcript thereof. In the event the defendant is a non-resident it shall be the duty of the Commissioner to transmit to the officer in charge of the issuance of operators' permits or registration certificates of the State of which the defendant is a resident a certified copy of said judgment.

If any such motor vehicle owner or operator shall not be a resident of this state, the right, privilege, permission and license of operating any motor vehicle within the State shall be withdrawn and withheld while any final judgment against him shall be unstayed and unsatisfied for more than thirty (30) days and shall not again be renewed, nor shall any permit, operators' or chauffeurs' license be issued to him until every such judgment shall be stayed, satisfied or discharged, as herein provided, and until he shall have given proof of his ability to respond in damages for future accidents as required by Section Two (2) of this Act. (Act Apr. 21, 1933, c. 351, §3.)

2720-104. Motor vehicles operated with permission of owner.—Whenever any motor vehicle, after this

Act becomes effective, shall be operated upon any public street or highway of this State, by any person other than the owner, with the consent of the owner express or implied, the operator thereof shall in case of accident, be deemed the agent of the owner of such motor vehicle in the operation thereof. (Act Apr. 21, 1933, c. 351, §4.)

Power of state to make non-resident owner liable for negligence of borrower of car. 18MinnLawRev350.

Cases on similar statutes in other states. 19MinnLaw Rev241.

2720-105. Non-resident owner to be responsible.—The use and operation by a non-resident or his agent of a motor vehicle upon and over the highways of the State of Minnesota, shall be deemed an appointment by such non-resident of the Commissioner of the State of Minnesota, to be his true and lawful attorney upon whom may be served all legal processes in any action or proceeding against him, growing out of such use or operation of a motor vehicle over the highways of this State, resulting in damages or loss to person or property, and said use or operation shall be a signification of his agreement that any such process in any action against him which is so served, shall be of the same legal force and validity as if served upon him personally. Service of such process shall be made by serving a copy thereof upon the Commissioner or by filing such copy in his office, together with payment of a fee of $2.00 and such service shall be sufficient service upon the said non-resident; provided, that notice of such service and a copy of the process are within ten days thereafter sent by mail by the plaintiff to the defendant at his last known address and that the plaintiff's affidavit of compliance with the provisions of this Act are attached to the summons.

The court in which the action is pending may order such continuance as may be necessary to afford the defendant reasonable opportunity to defend any such action, not exceeding ninety days from the date of the filing of the action in such court. The fee of two dollars paid by the plaintiff to the commissioner at the time of service of such proceedings shall be taxed in his cost if he prevails in the suit. The said Commissioner shall keep a record of all such processes so served which shall show the day and hour of such service. (Act Apr. 21, 1933, c. 351, §5.)

Note.—This section conflicts with §2684-8 and seems to supersede it in part.

2720-106. Certificate as to responsibility—bond.—Proof of ability to respond in damages when required by this Act may be evidenced by the written certificate or certificates of any insurance carrier duly authorized to do business within the State, that it has issued to or for the benefit of the person named therein a motor vehicle liability policy or policies as defined in this Act, which, at the date of said certificate or certificates, is in full force and effect, and designating therein by explicit description or by other appropriate reference all motor vehicles with respect to which coverage is granted by the policy certified to. The Commissioner shall not accept any certificate or certificates unless the same shall cover all motor vehicles registered in the name of the person furnishing such proof. Additional certificates as aforesaid shall be required as a condition precedent to the registration of any additional motor vehicle or motor vehicles in the name of such person required to furnish proof as aforesaid. Said certificate or certificates shall certify that the motor vehicle liability policy or policies therein cited shall not be cancelled or expire except as hereinafter provided. If such person be a non-resident, a certificate as aforesaid of an insurance carrier authorized to transact business in the State or Province in which the motor vehicle described in such certificate is registered, or if none be described, then in the State or Province in which the insured resides shall be accepted.

The Commissioner shall be notified of the cancellation or expiration of any motor vehicle liability policy of insurance certified under the provisions of this Act at least ten days before the effective date of such cancellation or expiration. In the absence of such notice of cancellation or expiration said policy of insurance shall remain in full force and effect. Additional evidence of ability to respond in damages shall be furnished the Commissioner at any time upon his demand.

Such proof may also be the bond of a surety company, duly authorized to do business within the State, or a bond with individual sureties, each owning unencumbered real estate, same to be scheduled in the bond, approved by the Commissioner, which said bond shall be conditioned for the payment of the amounts specified in Section 2 hereof, and shall not be cancellable except after ten days' written notice to the Commissioner. Such bond shall constitute a lien in favor of the State upon the real estate of any surety, which lien shall exist in favor of and be enforced by any holder of any final judgment on account of damage to property over One Hundred ($100.00) Dollars in amount, or injury to any person or persons caused by the operation of such person's motor vehicle, upon the filing of notice to that effect by the Commissioner in the office of the Register of Deeds in the county in the State where such real estate shall be located.

Such proof of ability to respond in damages may also be evidence presented to the Commissioner of a deposit by such person with the State Treasurer who shall give his receipt therefor, of a sum of money or collateral the amount of which money or collateral shall be Eleven Thousand ($11,000.00) Dollars. But the Treasurer shall not accept a deposit of money or collateral where any judgment or judgments, theretofore recovered against such person as a result of damages arising from the operation of any motor vehicle, shall not have been paid in full. (Act Apr. 21, 1933, c. 351, §6.)

2720-107. Commissioner or treasurer to hold bond.—Such bond, money or collateral shall be held by the Commissioner or Treasurer to satisfy, in accordance with the provisions of this Act any execution issued against such person in any suit arising out of damage caused by the operation of any motor vehicle owned or operated by such person. Money or collateral so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages, including injury to property, and personal injury or death, as a result of the operation of a motor vehicle. If a final judgment rendered against the principal on the surety or real estate bond shall not be satisfied within thirty days after its rendition, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed said bond. (Act Apr. 21, 1933, c. 351, §7.)

2720-108. Commissioner to furnish record.—The Commissioner shall upon request furnish any insurer, person, or surety company a certified abstract of the operating record of any person subject to the provisions of this Act, which abstract shall fully designate the motor vehicle registered in the name of such person, and if there shall be no record of any conviction of such person as herein provided, the Commissioner shall so certify. The Commissioner shall collect for each such certificate the sum of One ($1.00) Dollar. (Act Apr. 21, 1933, c. 351, §8.)

2720-109. Commissioner to furnish information.—The Commissioner shall furnish any person who may have been injured in person or property by any motor vehicle, upon written request, with all in-

formation or record in his office pertaining to the evidence of the ability of any operator or owner of any motor vehicle to respond in damages. (Act Apr. 21, 1933, c. 351, §9.)

2720-110. License to be returned to commissioner, when.—Any operator or any owner, whose operator's permit, permission or license to operate a motor vehicle shall have been suspended, revoked, or withdrawn as herein provided, or whose policy of insurance or surety bond shall have been cancelled or terminated, or who shall neglect to furnish additional evidence of ability to respond in damages upon request of the Commissioner shall immediately return to the Commissioner his operator's license. If any person shall fail to return to said Commissioner his operator's license, said Commissioner shall forthwith direct any sheriff or other official having police authority to secure possession thereof and to return the same to the office of the Commissioner. Any person failing to return such operator's license, and any person operating a motor vehicle in violation of any of the provisions of this Act shall be guilty of a misdemeanor. (Act Apr. 21, 1933, c. 351, §10.)

2720-111. Commissioner to cancel bond.—The Commissioner may cancel such bond or return such evidence of insurance, or the Treasurer may, with the consent of the Commissioner return such money or collateral to the person furnishing the same, provided three years shall have elapsed since the filing of such evidence or the making of such deposit, during which period any such person shall not have been convicted of any of the offenses or violated any provisions of the Motor Vehicle Laws specified in Section 2 of this Act, and provided no suit or judgment for damages as aforesaid, arising from the ownership, maintenance, or operation hereafter of a motor vehicle shall then be outstanding or unsatisfied against such person. The Commissioner may direct the return of any money or collateral to the person who furnished the same upon the acceptance and substitution of other evidence of his ability to respond in damages, or at any time after three years from the expiration of any registration or license issued to such person, or at any time in the event of the death or insanity of the person required to furnish such proof, provided no written notice shall have been filed with the Commissioner stating that such suit has been brought against such person by reason of the ownership, maintenance or operation of a motor vehicle and upon the filing by such person with the Commissioner of an affidavit that he has abandoned his residence in this State, or that he has made a bona fide sale of any and all motor vehicles owned by him, and does not intend to own or operate any motor vehicle in this State for a period of one or more years. (Act Apr. 21, 1933, c. 351, §11.)

2720-112. Forgery a felony.—Any person who shall forge, or without authority sign any evidence of ability to respond in damages as required by this Act or by the Commissioner in the administration of this Act shall be guilty of a felony. (Act Apr. 21, 1933, c. 351, §12.)

2720-113. Motor vehicle liability policy.—"Motor vehicle liability policy," as used in this Act shall be taken to mean a policy of liability insurance issued by an insurance carrier, authorized to transact business in this State, or issued by an insurance carrier authorized to transact business in the State or Province in which the motor vehicle therein described is registered, or if none be described, then in the State in which the insured resides, to the person therein named as insured, which policy shall designate, by explicit description or by appropriate reference, all motor vehicles with respect to which coverage is intended to be granted by said policy, and shall insure the insured named therein against the loss from the liability imposed upon such insured by the law for injury to or the death of any person, other than such person or persons as may be covered, as respects such injury or death by any workman's compensation law, or damage to property except property of others in charge of the insured or the insured's employees growing out of the maintenance, use or operation of any such motor vehicle within the continental limits of the United States of America or in the Dominion of Canada; or which policy shall, in the alternative, insure the person therein named as insured against loss from the liability imposed by law upon such insured for injury to or death of any person, other than such person or persons as may be covered as respects such injury or death by workmen's compensation law, and or damage to property except property of others in charge of the insured or the insured's employees, or other agents, growing out of the maintenance, operation or use by such insured of any motor vehicle, except a motor vehicle registered in the name of such insured, and occurring while such insured is personally in control, as driver or occupant, of such motor vehicle within the continental limits of the United States of America, or the Dominion of Canada, in either case, to the amount or limit of Five Thousand ($5,000.00) Dollars exclusive of interest and costs, on account of injury to or death of any person, and subject to the same limit as respects injury to or death of one person of Ten Thousand ($10,000.00) Dollars exclusive of interest and costs, on account of any one accident resulting in injury to or death of more than one person: and of One Thousand ($1,000.00) Dollars for damage to property of others as herein provided resulting from any one accident or a binder pending the issuance of any such policy or an endorsement to an existing policy both as hereinafter provided; provided that this Section shall not be construed as preventing such insurance carrier from granting in a "Motor Vehicle Liability Policy" any lawful coverage in excess of or in addition to the coverage herein provided for nor from embodying in such policy any agreements, provisions or stipulations not contrary to the provisions of this Act and not otherwise contrary to law. And provided further that separate concurrent polices whether issued by one or several carriers, covering respectively (a) personal injury or death as aforesaid, and (b) property damage shall be termed, "Motor Vehicle Liability Policy" within the meaning of this Act. (Act Apr. 21, 1933, c. 351, §13.)

2720-114. Copy of policies to be filed with commissioner of insurance.—Except as herein otherwise provided, no motor vehicle liability policy shall be issued or delivered in this State until a copy of the form of policy shall have been on file with the Commissioner of Insurance for at least thirty (30) days, unless sooner approved in writing by the Commissioner of Insurance, nor if within said period of thirty (30) days the Commissioner of Insurance shall have notified the carrier in writing that in his opinion specifying the reasons therefor the form of policy does not comply with the laws of the State. The Commissioner of Insurance shall approve any form of policy which discloses the name, address and business of the insured, the coverage afforded by such policy, the premium charged therefor, the policy period, the limits of liability and the agreement that the insurance thereunder is provided in accordance with the coverage defined in this Section and is subject to all the provisions of this Act. (Act Apr. 21, 1933, c. 351, §14.)

2720-115. Provisions of policy.—Every such motor vehicle liability policy shall be subject to the following provisions, which need not be contained therein.

(a) The satisfaction by the insured of the final judgment for such loss or damage shall not be a condition precedent to the right of the carrier to make payment on account of such loss or damage.

The policy may provide that the insured, or any other person covered by the policy shall reimburse the insurance carrier for payments made on account of any accident, claim or suit involving a breach of terms, provisions or conditions of the policy, and further if the policy shall provide for limits in excess of the limits designated in this Act, the insurance carrier may plead against any plaintiff, with respect to the amount of such excess limits of liability, any defenses which it may be entitled to plead against the insured. Any such policy may further provide for the pro-rating of the insurance thereunder with other applicable vaild and collectible insurance.

(b) The policy, the written application, if any, and any rider or endorsement which shall not conflict with the provisions of this Act shall constitute the entire contract between the parties.

(c) The insurance carrier shall, upon the request of the insured, deliver to the insured for filing or at the request of the insured shall file direct, with the Commissioner, an appropriate certificate as set forth in Section 6 hereof.

(d) Any carrier authorized to issue motor vehicle liability policies as provided for in this Act, may, pending the issue of such a policy, execute an agreement, to be known as a binder, or may, in lieu of such a policy, issue an endorsement to an existing policy; each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. (Act Apr. 21, 1933, c. 351, §15.)

2720-116. Reserve. liability.—Any carrier authorized to issue motor vehicle liability policies as provided for in this Act, shall compute its reserve liability for financial statement purposes in the manner prescribed for this type of insurance in Section 3304, Mason's Minnesota Statutes of 1927, upon premiums derived from rates which have received the approval of the Commissioner of Insurance. (Act Apr. 21, 1933, c. 351, §16.)

2720-117. To be cited as Safety Responsibility Act.—This Act may be cited as the Safety Responsibility Act. (Act Apr. 21, 1933, c. 351, §17.)

2720-118. Commissioner to make rules and regulations.—The Commissioner shall make rules and regulations necessary for the administration of this Act. (Act Apr. 21, 1933, c. 351, §18.)

2720-119. Not restrictive.—Nothing herein shall be construed as preventing the plaintiff in any action at law from relying for security upon the other processes provided by law. (Act Apr. 21, 1933, c. 351, §19.)

2720-120. Provisions separable.—If any part, subdivision, or section of this Act shall be deemed unconstitutional, the validity of its remaining provisions shall not be affected thereby. (Act Apr. 21, 1933, c. 351, §20.)

2720-121. Acts supplemental.—This Act shall in no respect be considered as a repeal of any of the provisions of the State Motor Vehicle Law, but shall be construed as supplemental thereto. (Act Apr. 21, 1933, c. 351, §21.)

Financial responsibility act does not prevent registrar from registering and collecting annual registration tax for motor vehicle belonging to person whose driver's license has been suspended or revoked, but it does prohibit registrar from issuing license plates to such person until such time as he has established his financial responsibility. Op. Atty. Gen. (291f), Oct. 8, 1934.

2720-122. Effective March 1, 1934.—This Act shall take effect and be in force from and after the first (1st) day of March, 1934. (Act Apr. 21, 1933, c. 351, §22.)

DRIVERS LICENSE

2720-123. Definitions.—The following words: "Motor Vehicle," "Farm Tractor," "Owner," "Operator," "Chauffeur," "Non-resident," "Public Highway," as used in this Act shall be interpreted to have the meanings usually ascribed to them, except in those instances where the context clearly indicates a different meaning. (Act Apr. 21, 1933, c. 352, §1.)

2720-124. Driver's licenses.—Except as provided by Section 3 of this Act, no person 15 years of age or over shall on and after March 1, 1934, operate any motor vehicle upon the public highways of this State unless such person shall have made application for and secured a driver's license from the Commissioner of Highways for which he shall pay to the Commissioner of Highways the sum of 25 cents payable at the time of making such application. Provided, however, that when the license fee of 25c is paid by the head of a family, or household, licenses may be issued upon application therefor, to each of the members of the immediate family of the head of said family or household, without the payment of any other or additional fee. For the purposes of this Act, the term "immediate family," is hereby defined to mean all persons bound together by the ties of relationship and parents and children living together as members of one household under one head. Such application shall be made upon a form approved by the Commissioner.

Every applicant shall state his name, age, sex, and residence address, and what experience he has had in operating a motor vehicle; that he is competent to operate a motor vehicle upon the public highways of the state; that he knows of no physical impairment or defect or any other fact which would render him an improper and unsafe person to operate a motor vehicle. Every applicant shall also state whether or not he has been heretofore licensed, and if so, by what state, and whether or not the license has ever been suspended or revoked and if so, the date and reason for such suspension or revocation, together with such other facts pertaining to the qualifications of the applicant and his ability to operate a motor vehicle with safety, as may be required by the Commissioner. Thereupon license shall issue as of course.

To every person granted a license the Commissioner shall issue a certificate of license which shall bear thereon the distinguishing number assigned to the license and shall contain the name, age, sex, and residence address, and a space where such person shall write his usual signature with pen and ink. (Act Apr. 21, 1933, c. 352, § 2.)

2720-125. Exemptions.—Every person driving or operating a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn or moved upon the highways, and every person in the service of the Army, Navy, or Marine Corps of the United States when furnished a driver's permit and operating an official motor vehicle in such service, and persons licensed as chauffeurs under Laws 1929, Chapter 433 [§§2712-1 to 2712-8], shall be exempted from license under this Act. (Act Apr. 21, 1933, c. 352, §3.)

2720-126. Commissioner of highways to administer act.—The Commissioner of Highways shall be charged with the responsibility for the administration and execution of this Act. (Act Apr. 21, 1933, c. 352, §4.)

2720-127. Clerk of court may receive applications.—Any applicant for a license may file his application with the Clerk of the District Court of the county in which he resides and such clerk is hereby authorized to receive and accept the same upon the payment by the applicant to such clerk of an additional fee of ten cents for such service. The clerk shall then immediately forward such application to the Commissioner, together with the fee of 25 cents. (Act Apr. 21, 1933, c. 352, §5.)

Clerk of district court is authorized to appoint men in banks and stores in various towns in county to accept

applications for motor vehicle licenses. Op. Atty. Gen., Nov. 10, 1933.

In counties where fees received are to he paid into county treasury, fees collected in connection with automobile driver's licenses must also be paid into county treasury, but county board may appropriate sufficient funds to provide for additional clerk hire incident to performance of duties imposed in connection with issuing of such licenses, not to exceed probable income. Op. Atty. Gen., Jan. 15, 1934.

In all counties where salary of district court is paid partially on a fee basis, clerk may retain all fees collected by him in connection with issuance of automobile driver's licenses and he need not include such fees in his report to county board. Id.

2720-128. Persons under fifteen years of age not to be licensed.—No operator's license shall be granted to any person under the age of 15 years. (Act Apr. 21, 1933, c. 352, §6.)

2720-129. Non-residents need not have licenses.—During the period within which a motor vehicle of a non-resident may be operated in this State in accordance with law, such motor vehicle may be operated by its owner or a member of his family without a license, provided such owner and members of his family have fully complied with the laws of the state of their residence regarding the operation of motor vehicles. Such motor vehicles shall at all times display the license number plates issued therefor at the home, state or country of the owner. (Act Apr. 21, 1933, c. 352, §7.)

2720-130. Must carry certificate.—The licensee shall have his certificate of license in his possession while operating a motor vehicle upon the public highways of this state. Said certificate of license shall be subject to examination upon demand by any peace officer or by any officer authorized by law to enforce the laws relating to the operation of motor vehicles on the trunk highways, and the licensee shall, upon request of any such officer, write his name in the presence of such officer in order that the identity of the licensee may be determined. It shall be a complete defense to any charge under this section that the person so charged produce in court an operator's certificate of license theretofore issued to such person and valid, or produce evidence that he had made application therefor; that he had not received his certificate; but same had not been denied, at the time of his arrest. If a certificate of license issued under the provisions of this Act shall be lost or destroyed, the person to whom the same was issued may obtain a duplicate or substitute therefor upon furnishing satisfactory proof that such license has been lost or destroyed, and upon the payment of a fee of 25 cents. (Act Apr. 21, 1933, c. 352, §8.)

2720-131. Courts to certify convictions to commissioner.—Every court having jurisdiction of offenses committed under this Act or any law of this State regulating the operation of motor vehicles on public highways shall certify to the Commissioner a record of the conviction of any person in said court for a violation of any of said laws, and may recommend the suspension of the license of any person so convicted. The Commissioner acting upon such recommendation may suspend such license, but such suspension shall not be for a period of more than one year. Upon suspending the license the Commissioner shall require that the certificate of license be surrendered to him. At the end of the period of suspension the certificate of license shall be returned to the licensee. (Act Apr. 21, 1933, c. 352, §9.)

2720-132. Commissioner to revoke license.—(a) The Commissioner shall forthwith revoke the license of any person and require that the certificate of license be returned to him, upon receiving a record of the conviction of such person of any of the following offenses:

1. Manslaughter resulting from the operation of a motor vehicle.

2. Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drug.

3. Any crime punishable as a felony under the motor vehicle laws of this State or any other felony in the commission of which a motor vehicle is used.

4. Conviction or forfeiture of bail upon three charges of reckless driving all within the preceding twelve months.

5. A conviction of a driver of a motor vehicle, involved in an accident resulting in the death or injury of another person, upon a charge of failing to stop and disclose his identity at the scene of the accident.

(b) The Commissioner upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of such person is suspended, shall immediately extend the period of such first suspension for an additional like period. (Act Apr. 21, 1933, c. 352, §10.)

2720-133. Commissioner may suspend license.—(a) The Commissioner may immediately suspend the license of any person for a period of ninety days, without hearing and without receiving a record of conviction of such person of crime whenever he has reason to believe:

1. That such person has committed any offense for which mendatory revocation of license is provided in Section 10.

2. That such person has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death.

3. That such person is incompetent to drive a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for such person to drive a motor vehicle upon the highways. Provided, that deafness in itself shall not be deemed to be physical infirmity or disability in a driver.

4. That such person is an habitual reckless or negligent driver of a motor vehicle or has committed a violation of the laws of this state relating to the operation of motor vehicles. (Act Apr. 21, 1933, c. 352, §11.)

Financial responsibility act does not prevent registrar from registering and collecting annual registration tax for motor vehicle belonging to person whose driver's license has been suspended or revoked, but it does prohibit registrar from issuing license plates to such person until such time as he has established his financial responsibility. Op. Atty. Gen. (291f), Oct. 8, 1934.

Commissioner upon suspending license may not issue a restricted license because suspension deprives operator of ability to earn a livelihood. Op. Atty. Gen. (291f), Mar. 5, 1935.

2720-134. Must notify licensee.—(a) Whenever the Commissioner suspends the license pursuant to the provisions of Section 11 hereof, he shall immediately notify the licensee and afford him an opportunity of a hearing in the county wherein the licensee resides, or in the case of a non-resident, in the county in which such non-resident may be temporarily residing, and upon such hearing the Commissioner shall either rescind his temporary order of suspension or, good cause appearing therefor, may continue such suspension in effect for a period not exceeding 90 days.

(b) The Commissioner is hereby authorized to suspend or revoke the license of any resident of this state upon receiving a record of the conviction of such person in another state of an offense therein committed which, if committed in this state, would be grounds for the suspension or revocation of the license of the operator. The Commissioner is further authorized upon receiving a record of the conviction in this state of a non-resident driver of a motor vehicle, of any offense under the motor vehicle laws of this state, to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(c) The Commissioner shall not suspend a license for a period of more than one year and upon suspending or revoking any license shall require that such license, so suspended or revoked, shall be surrendered except that at the end of the period of suspension,

such license shall be returned to the licensee. (Act Apr. 21, 1933, c. 352, §12.)

2720-135. Suspended licensee may appeal to court.—Any person whose license has been suspended by the Commissioner, may file a petition within thirty days thereafter for a hearing in the matter in the District Court in the County wherein such person shall reside, and in the case of a non-resident, in the District Court in any County, and such court is hereby vested with jurisdiction, and it shall be its duty to set the matter for hearing upon ten days' written notice to the Commissioner and thereupon to take testimony and examine into the facts of the case to determine whether the petitioner is entitled to a license or is subject to suspension of license under the provisions of this Act and shall render judgment accordingly. (Act Apr. 21, 1933, c. 352, §13.)

2720-136. May apply for new license after one year.—Any person whose license has been revoked under the provisions of Section 10 hereof may, after one year from the date of such revocation, petition the district court of the county wherein he resides, or, in case of a non-resident, the district court of any county, for an order directing the commissioner to issue a certificate of license to him. The district court is hereby vested with jurisdiction and it shall be its duty to set the matter for hearing upon 10 days' written notice to the commissioner. At the hearing the court shall take testimony and examine into the facts of the case to determine whether the petitioner is entitled to a license and shall make its order, granting or denying the petition. If the petition is granted, the commissioner, upon receipt of a certified copy of the order of the court, shall issue such license: If the petition is denied, no renewal thereof shall be made during the period of one year from the date of the order of the court. (Act Apr. 21, 1933, c. 352, §14.)

2720-137. Misdemeanor to operate motor vehicle after suspension of license.—Any person whose operator's license has been suspended or revoked as provided in this Act, and who shall drive any motor vehicle upon the highways of this state while such license is suspended or revoked or who shall violate any of the other provisions of this Act shall be guilty of a misdemeanor. (Act Apr. 21, 1933, c. 352, §15.)

2720-138. Fees to be paid into state treasury.—All money received under the provisions of this Act shall be paid into the State Treasury and shall be credited to an operator's license fund and the entire amount or so much thereof, as shall be necessary for the expense of the administration of this Act, is hereby appropriated for that purpose. (Act Apr. 21, 1933, c. 352, §16.)

Fees need not be reported under §976 of the statutes. Op. Atty. Gen., July 22, 1933.

Commissioner of highways could purchase equipment and supplies for driver's license division on a deferred payment plan in anticipation of fees to be collected. Op. Atty. Gen., Sept. 12, 1933.

2720-139. Commissioner of highways may appoint agent.—Any duties required of, or powers conferred on the Commissioner of Highways under the provisions of this Act may be done and performed or exercised by any of his duly authorized agents. (Act Apr. 21, 1933, c. 352, §17.)

2720-140. Provisions separable.—If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. (Act Apr. 21, 1933, c. 352, §18.)

2720-141. Inconsistent acts repealed.—All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed. (Act Apr. 21, 1933, c. 352, §19.)

CHAPTER 13A

Vessels Navigating Lakes and Rivers

2740-1. Definition.—The words "motor boat" where used in this act shall include every vessel propelled by machinery, except tug and/or tow boats propelled by steam and operated upon any lakes or streams of this state, except lakes and streams situated in whole or in part north of the north line of township 52 as the same extends due west across the state and excepting likewise all waters constituting the boundary between the State of Minnesota and any other state. (Act Mar. 26, 1931, c. 88, §1.)

2740-2. Speed of motor boats.—No motor boat under the provisions of this chapter shall be operated at a speed greater than is reasonable and proper having due regard to the safety of other boats and persons. (Act Mar. 26, 1931, c. 88, §2.)

2740-3. Must have mufflers.—Every motor boat under the provisions of this chapter propelled by an internal combustion engine shall at all times be so equipped as to completely and effectually "muffle" and silence the sound of the explosions of such engine by diverting its exhaust under water, or otherwise. It shall be unlawful to operate any such motor boat so propelled by an internal combustion engine with the muffler or cut-out open on any navigable or public waters in this state other than international waters, waters constituting the boundary between the State of Minnesota and any other state, except while such motor boat is actually competing in a race licensed to be held pursuant to section 4 [§2740-4] hereof. (Act Mar. 26, 1931, c. 88, §3.)

2740-4. Mufflers may be open in races.—Such motor boats may be operated with mufflers or cut-outs open while actually competing in any race licensed to be held by the council or other governing body of the city, village, or town adjacent or nearest to that portion of the body of water on which such race is to be held. (Act Mar. 26, 1931, c. 88, §4.)

2740-5. Owner to report accidents.—Within 48 hours after a motor boat meets with an accident involving personal injury or loss of life, it shall be the duty of the owner or the person in charge of such motor boat to prepare a written report, setting forth the details of the casualty, which report shall be forwarded by mail or otherwise to the sheriff of the county in which the accident occurred. (Act Mar. 26, 1931, c. 88, §5.)

2740-6. Inconsistent acts repealed.—All prior acts or parts of prior acts inconsistent with the provisions of this act are hereby repealed. (Act Mar. 26, 1931, c. 88, §6.)

2740-7. Violation—penalties.—Any person who violates any section of this act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or imprisonment not exceeding thirty days, or both. (Act Mar. 26, 1931, c. 88, §7.)

2740-8. Effective July 1, 1931.—This act shall take effect and be in force from and after July 1st, 1931. (Act Mar. 26, 1931, c. 88, §8.)