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ACT CREATING THE  
HIGHWAY DEPARTMENT  
OF GEORGIA

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RULES OF THE DEPARTMENT  
AND PUBLIC ROAD LAWS.

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HIGHWAY DEPARTMENT OF GEORGIA

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STATE OF GEORGIA  
HIGHWAY DEPARTMENT

## ACT CREATING THE HIGHWAY DEPARTMENT OF GEORGIA

### HIGHWAY COMMISSION CREATED.

An Act to designate the Prison Commission of Georgia, together with the State Geologist, the Dean of the College of Civil Engineering of the State University, and the Professor of Highway Engineering at the Georgia School of Technology, as the Highway Department of Georgia; to assent to the provisions of the Act of Congress approved July 11, 1916, known as the "Act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," and for other purposes.

Section 1. Be it enacted by the General Assembly of Georgia, and it is hereby enacted by authority of the same, That from and after the passage of this Act the Prison Commission of Georgia, together with the State Geologist, the Dean of the College of Civil Engineering of the State University, and the Professor of Highway Engineering at the Georgia School of Technology, shall constitute the Highway Department of the State of Georgia, and shall discharge all the duties prescribed by the Act of Congress approved July 11, 1916, known as the "Act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," to be performed by such State Highway Department, which they shall do without additional compensation to that now paid them, and under the provisions of the Act of 1908, allowing said Prison Commission to employ such civil engineers as therein provided.

Sec. 2. Be it further enacted, and it is hereby enacted by the authority of the same, That the assent of the State of Georgia is hereby given to the terms and provisions of said Act of Congress referred to in Section 1.

Sec. 3. Be it further enacted by the authority aforesaid, That all laws and parts of laws in conflict with this Act are hereby repealed.

Approved August 16, 1916.

# BY-LAWS OF THE GEORGIA STATE HIGHWAY DEPARTMENT.

## ARTICLE 1.

### Name, Officers, Meetings, Etc.

Section 1. Under the Act of the General Assembly creating this department, approved August 16, 1916, the legal title of this department is the Highway Department of Georgia. For convenience the term "Board" where used in these by-laws shall mean the full legal title of the Highway Department of Georgia.

Sec. 2. The Board shall annually elect a chairman and a secretary, who shall hold office until their successors are elected.

Sec. 3. It shall be the duty of the chairman of the Board to preside over all meetings thereof, regular and special; to call special meetings at his discretion, and to exercise such executive powers as the Board from time to time may determine.

Sec. 4. It shall be the duty of the secretary to attend all meetings of the Board, to keep careful minutes of its proceedings, to preserve all documents, maps, etc., pertaining to its work, and to perform such other clerical and financial duties as the Board may order.

Sec. 5. The Board shall meet in regular session on the third Tuesday in each month at the offices of the Board in the State Capitol. Regular meetings may be continued by adjournment to specified dates.

Sec. 6. Special meetings may be held upon call of the chairman, or three other members, by written notice specifying the business to be considered, and the date of the meeting. Such notice must be given at least five days in advance of the meeting.

Sec. 7. Until such time as the General Assembly shall provide funds for the direct maintenance of this Board the salary of the secretary will be fixed and paid by the Prison Commission of Georgia.

## ARTICLE 2.

### Engineering Staff.

Section 1. The engineering staff of the Board shall consist for the present of the permanent civil engineers now employed by the Prison Commission and of such other competent civil engineers skilled in road surveys and methods of road building as may be temporarily appointed to specific pieces of work by the formal action of this Board.

Sec. 2. Until such time as the General Assembly shall provide funds for the direct maintenance of this Board, the salary of said permanent engineer will be fixed and paid by the parties in whose service he is acting.

Sec. 3. The salary or fees of any temporary engineer, and the terms of his employment, shall be fixed by the Board at the time of his appointment.

Sec. 4. The traveling and survey expenses of all engineers of the Board prior to employment on actual construction shall be paid by the parties in whose service they are acting. In the case of temporary engineers, the salaries of the engineers shall be included in the surveying expenses.

Sec. 5. An engineer assigned by the Board to supervision of construction under a project agreement, will be paid his salary and field expenses out of the funds provided for said project. Said payments shall not exceed 10 per cent. of the total cost of the project.

Sec. 6. The Board shall investigate in advance the qualifications of engineers for temporary appointments. At least one must be highly qualified in bridge designing.

## ARTICLE 3.

### Relating to Projects and Action Thereon.

Section 1. Counties applying for Federal aid on road construction projects shall submit their applications to the Board in the manner prescribed by the Federal Aid Act of July 11th, 1916, and the rules and regulations pursuant thereto as set forth by the Secretary of Agriculture of the United States. The orderly steps in such submission and subsequent progress are as follows:

(a) Application to the Board on prescribed forms, accompanied by agreement on part of applicant to pay the cost of all necessary reconnaissance and preliminary investigations and surveys.

(b) The Board acts on the application by placing it on file and ordering a reconnaissance by an engineer of the Board. The engineer shall, in making said reconnaissance, go over the route or routes feasible between terminal points, inspect the adjoining roadways, confer and advise with the local authorities concerned, and make report to the Board upon the feasibility, the R. F. D. service rendered, and the traffic importance of the project, and upon the assurances of co-operation by adjoining counties in co-ordinating the project with the systematic network of Federal aid roads as adopted by the Board.

(c) Upon the approval of the engineer's report by the Board, the applicant will be notified and aided to prepare in detail, through an engineer appointed by the Board, the "Project Statement" in the form required by the Federal authorities. The Project Statement must be accompanied by binding contracts making the Board the legal agent of the applicant in construction and maintenance of the project and providing the applicant's share of the estimated cost of labor, material and equipment required by the project. Proper forms of contract will be furnished by the Board. The cost of surveys must be included.

(d) The Project Statement, when properly submitted, is acted upon by the Board, and, if approved, is forwarded to the U. S. Office of Public Roads, through which the U. S. Secretary of Agriculture acts upon these matters.

(e) When the said Project Statement is returned to the Board with Federal approval, the applicant is instructed to make the necessary location, surveys, maps, and estimates through a competent engineer appointed by the Board. Detailed instructions are given the engineer in accord with the Federal requirements as to how this survey shall be made and mapped. The expense of this survey is to be paid by the applicant.

(f) When the above survey with maps, quantities, and close estimate of cost are approved by this Board and bids thereon secured if work is by contract, the papers are sent to the Office of Public Roads. Upon final approval by that office, the "Project Agreement" is drawn up in the form prescribed by the U. S. Secretary of Agriculture; and when properly executed between the Board and the said Secretary of Agriculture the applicant is notified that construction work will be started by the Board under the contract as made.

(g) The Project Agreement will set forth all the specifications, terms of payment, system of vouchers to be used, and all other controlling details.

Sec. 2. No project will be considered eligible for Federal aid unless it forms a part of the system of roads adopted officially by this Board,

and shown on the key map by them approved: Provided, that projects of special importance and merit may be considered on other roads, if the assent of the Secretary of Agriculture be secured in advance of its submission.

Sec. 3. Until a more complete organization of the engineering staff is possible, a committee of this Board shall be raised to pass upon and approve the engineering data, designs, specifications and estimates of cost connected with all Project Agreements before the same are transmitted to the Federal authorities.

Sec. 4. All papers, maps, etc., arising under the provisions of this article must bear the stamped certificate of the Secretary of the Board in evidence of the Board's action and approval.

**ARTICLE 4.**

**Relating to Sessions and Order of Business.**

Section 1. The Board shall meet in open session to receive applications, to give hearings upon proposed projects and other matters of interest, and to make announcements of important action.

Sec. 2. The Board shall meet in executive session for the transaction of the detail business which comes before it.

Sec. 3. All motions or proposals affecting the decision of business (outside of the ordinary mentions involving parliamentary procedure only) shall be submitted in writing before vote thereon is taken, to the end that accurate minutes may be kept of the actions of the Board.

Sec. 4. Order of Business:

- Roll Call.
- Reading and Approval of Minutes.
- Consideration of Special Orders.
- Report of Committees.
- Unfinished Business.
- New Business, including hearings in open session from parties at interest in the work of the Board.
- Adjournment.

**ARTICLE 5.**

Section 1. These by-laws can be changed only at a regular meeting of the Board, thirty days' notice in writing having been given by the Secretary to each member of the change or changes proposed, and by a two-thirds vote of the membership of the Board, favorable to said change or changes.

**ARTICLE 6.**

Section 1. The presence of four members of the Board shall be necessary to constitute a quorum.

**RESOLUTIONS TO BE ADOPTED BY COUNTIES CO-OPERATING UNDER THE FEDERAL AID LAW.**

STATE OF GEORGIA,

\_\_\_\_\_County.

At a meeting of the Board of County Commissioners (or Ordinary as the case may be) having charge of the roads and revenues of said county, the following resolutions were adopted:

Resolved, That we hereby appoint the State Highway Department of Georgia as our duly constituted authority to submit for us projects for road building in this county to the Office of Public Roads of the United States at Washington for the approval of the Secretary of Agriculture, in accordance with the Federal Aid Road Act and the rules established pursuant thereto; and we hereby agree and bind the County of \_\_\_\_\_ to furnish the required equipment, labor and material necessary to construct the road, or roads, as projected in said county, under the direction and supervision and according to the plans and specifications of the said State Highway Department. We agree to levy a tax sufficient for said purpose in consideration of said county being reimbursed by the Federal Government of 50 per cent. of the cost of said labor and material as expended on said project not to exceed \$10,000.00 per mile.

We further agree to properly maintain said road and to levy a tax for and to set aside each year sufficient funds to guarantee the proper maintenance of and the making of the needed repairs on and the preservation of a reasonable surface on said highway, considering the type of road, to be constructed under an agreement with the State Highway Department and the Federal Government.

This \_\_\_\_\_ day of \_\_\_\_\_, 191\_\_\_\_\_.

.....  
Chairman.

.....  
Clerk.

**PUBLIC ROAD LAWS OF GEORGIA.**

1. (6520) (5852) Paragraph 1. Ordinary. The powers of a court of ordinary shall be vested in an ordinary for each county, from whose decision there may be an appeal (or, by consent of parties, without a decision) to the superior court, under regulations prescribed by law.

2. (6521) (5853) Par. 2. Powers. The courts of ordinary shall have such powers, in relation to roads, bridges, ferries, public buildings, paupers, county officers, county funds, county taxes, and other county matters, as may be conferred on them by law.

3. (6548) (5879) Par. 1. Power to create county commissioners. The General Assembly shall have power to provide for the creation of county commissioners in such counties as may require them, and to define their duties.

4. (6562) (5892) Par. 2. Taxing power of counties limited. The General Assembly shall not have power to delegate to any county the right to levy a tax for any purpose, except for educational purposes in instructing children in the elementary branches of an English education only; to build and repair the public buildings and bridges; to maintain and support prisoners; to pay jurors and coroners, and for litigation,

quarantine, roads and expenses of courts; to support paupers and pay debts heretofore existing; to pay the county police, and to provide for necessary sanitation.

5. (428) Intercounty improvements. The authority of the counties, or of any two or more counties, having in charge the establishment, construction, improvement and maintenance of county public works, shall be authorized and permitted, and shall have complete authority and power to act jointly and co-operate in the establishment, construction, improvement and maintenance of a system of intercounty public roads traversing and connecting the territories of the counties co-operating, and shall have full power and authority to jointly establish, construct, improve and maintain other intercounty public improvements upon such terms and conditions, and under such direction, control and authority as shall be determined by the authority of the counties so co-operating.

6. (431) Expense prorated. The pro rata or proportionate expense of each of the counties so co-operating of the entire or total expenses of the establishment, construction, improvement and maintenance of such intercounty public roads, and other intercounty public improvements, and of the creation, organization, government, use and maintenance of such working force, or chaingang, shall be jointly determined by the authorities of the several counties co-operating in such work, and shall be severally levied, assessed, taxed, raised and paid by the respective counties so co-operating, as such moneys for such purposes are now levied, assessed, taxed, raised and paid.

7. (628) (508) Rule of the road. The rule of the road requires travelers with vehicles, when meeting, to each turn to the right.

8. (629) (509) Public roads. All roads laid out for public use by an Act of the General Assembly, if not otherwise provided, or by an order of the ordinary, are declared to be public roads.

9. (630) (510) Size, extent of foot-logs, etc. Public roads shall be cleared of all trees, stumps, grubs and bushes at least thirty feet wide, and of such limbs of trees as may incommode horsemen or carriages; stumps must be cut as nearly even with the surface as possible, and the carriage track must be at least five feet six inches wide. And at all places on said public roads, where water may pond or flow, during any season, or for any considerable period in each year, so as to prevent the dry and convenient passage of pedestrians, the road hands shall place foot-logs or other convenient passways; the same to be so constructed as to be at all times above high-water mark at such places.

10. (631) (511) Roads may be classified. The several ordinaries of this State, with the concurrence of a majority of the road commissioners of their respective counties, shall designate such public roads in their respective counties, as in their discretion should be so designated, as second-class roads.

11. (632) (512) Width of second-class roads. All roads so designated shall be cleared of all stumps, trees, grubs and bushes, at least twenty feet, and of such limbs of trees as may inconvenience horsemen or carriages; the stumps to be cut as nearly even with the surface as possible, and the carriage track must be at least five feet and six inches wide; said roads shall be managed according to the road laws of this State, as far as the same may be applicable.

12. (633) (513) Third-class roads. Third-class roads shall be cleared of all stumps, trees, grubs and bushes, at least sixteen feet wide, and of all limbs of trees that may inconvenience horsemen or carriages; the stumps to be cut as near the surface as possible, and the carriage track must be at least five feet and six inches in width; and said roads shall be changed, worked and managed according to the road laws of this State, as far as the same may be applicable.

13. (634) (514) Bridges and causeways. All bridges or causeways over small watercourses, and causeways over swamps or lowlands, shall be made and kept in repair by hands subject to work on roads; the pieces shall be laid across the road at least sixteen feet long, well secured, made fast and covered with earth.

14. (635) (515) Road districts and apportionment of hands. The ordinaries must lay off their respective counties into road districts, and apportion the roads and hands so as to divide the labor and expenses on account of roads, causeways and bridges, equally throughout said counties; all of which proceedings must be entered on the minutes.

15. (636) (516) Public road registers. The county commissioners, and the ordinaries where there are no county commissioners, shall prepare and keep in their offices, open to the inspection of the public, a well-bound book, to be known as "Public Road Register," in which they shall have entered a list of all the public roads and road districts in the county subject to be worked at the county expense. Said register shall correctly show the length, and define the width of each road, together with a general description of every public road on said list; and shall also contain a plat of each road, whenever such plat may be necessary to clearly and accurately define its line. Said register shall be altered from time to time by said commissioners or ordinaries, as new roads are established, or old ones altered or discontinued. It shall be unlawful for the county authorities having charge of working the public roads of the county to work, directly or indirectly, any road or part of road that is not found on said register, or to continue to work any road or part of road after the same has been stricken from said register by said county commissioners or ordinaries.

16. (637) (517) Penalty for encroaching on registered road. If any person shall encroach upon any public road that has been registered as aforesaid, by erecting thereon, or upon any part thereof, a fence or building, or part of any fence or building or other structure, or if he shall in any other manner appropriate to his own exclusive use any part of any road registered as aforesaid, and shall fail to remove such fence, building, or other structure or encroachment upon the lines of such registered roads, within two days after being notified to do so by any road overseer, superintendent of roads, or road commissioner of the county, he shall be guilty of a misdemeanor.

17. (638) (518) Obstructing such road. If any person shall obstruct any road registered as aforesaid, by building a fence, or felling a tree, or cutting a ditch in or across it, or any part of it; or shall make or place in or across any such registered road, or part thereof, any obstruction of any kind which renders the use of said road unsafe or inconvenient; or shall dig or plow up the surface of any registered public road or remove any dirt or rocks from the same; or shall fill with dirt or obstruct any side ditch or drain of any public road, such person shall be guilty of a misdemeanor: Provided, that this section shall not prohibit the duly authorized acts of the public officers of the county.

18. (639) (519) Objections by landowners. Whenever any landowner shall believe that the lines of any public road registered as aforesaid encroach upon his property, he shall apply in writing to the county commissioners, or to the ordinary in counties where there are no county commissioners, to re-establish the lines of said road so far as the same touches his land, and no work shall be done on said road, upon the part thereof in dispute, until the issue thus raised has been finally determined. If on such application such landowner is dissatisfied with the decision made by the commissioners or ordinary, he shall at once petition such commissioners or ordinary to issue a warrant directed to the sheriff of the county to summon from the vicinage a jury of freeholders to try

such question of the true lines of said road, and the subsequent proceedings shall be the same as now prescribed in cases of landowners aggrieved by reason of any road proposed to be laid out through their lands: Provided, however, that this and the three preceding sections shall not become operative in any county until the grand jury of said county shall so recommend.

19. (640) (520) Public roads, how laid out or altered. On application for any new road, or alteration in an old road, the ordinary shall appoint three road commissioners, residing as near where such road is intended to pass as possible; and if they find it of public utility they must proceed to mark it out, and make their report under oath to such ordinaries that it was laid out and marked conformably to law.

20. (641) (521) Notice of application. If such ordinaries, on the investigation had, are willing to grant such road, or make alteration in an old road, they shall publish a citation for thirty days at the door of the court house, and in a public gazette if there is one in the county, giving a particular description of the new road or the alteration, notifying all persons that on and after a certain day therein named said new road or alterations will be finally granted, if no good cause is shown to the contrary.

21. (642) (522) Persons in possession to be notified. All persons, their overseers or agents, residing on land which such road goes through, except the applicants for the road or alteration, must be at the same time notified in writing, personally or by leaving it at their most notorious place of abode, that they may put in their claim for damages or be forever after estopped.

22. (643) (523) Void roads. All public roads established without a substantial compliance with the provisions of the three preceding sections are void.

23. (644) (524) Discontinuance of roads. Applications for the discontinuance of an old road, in whole or in part, must likewise be made to such ordinaries in writing, and likewise published, before it shall take effect.

24. (645) (525) Public roads must be laid out the nearest and best way. All public roads shall be laid out the nearest and best way to the place to which they are intended, and as little as can be to the prejudice of any private person's inclosed grounds.

25. (646) County surveyor or engineer may be employed in locating roads. The commissioners of roads and revenues of the several counties of this State, or the ordinaries of those counties not having such board of commissioners of roads and revenues, shall have power at their discretion to employ at the county's expense the county surveyor, or some other competent civil engineer, who shall assist the special road commissioners appointed for the purpose of laying out and locating new, or making changes in old roads; provided, that the per diem of such surveyor or civil engineer so employed shall not exceed two dollars.

26. (647) (526) Persons subject to road duty, and who exempt. All male inhabitants in this State, between the ages of sixteen and fifty years, shall be subject to work on the public roads, except ordained ministers of the gospel, who are in the regular discharge of ministerial duty, and in charge of one or more churches, and all men who have lost one arm or one leg. It shall be the duty of the superintendent of the Georgia State Sanitarium, Asylum for the Deaf and Dumb, and the Academy for the Blind, to furnish, under oath, to the ordinary or the commissioners of roads and revenues, where such officers exist, and where these institutions are located, a list of guards, watchmen, cooks, nurses and attendants employed on the first day of April of each year, and all such employees shall be exempt from road duty. The lessees of the penitentiary

convicts are required to furnish to the officers in charge of the roads in each county of the State where they are employed, a list, under oath, of all guards employed, and said guards or convicts shall be exempt by paying one dollar per day for each day of road working for which they are summoned and said roads are worked.

27. (648) (527) When hands are compelled to work. The same road hands shall not be compelled to work on more than one public road, which must come within three miles of their residence, or be the nearest public road to their residence, except in opening a new road, when all the road hands of the road district are subject to work upon it.

28. (649) (528) Length of time to work. Road hands are not required to work exceeding five days at one time consecutively, or more than fifteen days altogether, in twelve months, unless sudden emergencies require the immediate repairing of the roads, causeways and bridges within their respective districts.

29. (650) (529) List of hands. The several managers and employers of male persons shall, whenever required, furnish the overseers of the road district with a list (in writing) of those who are liable to work on the public roads, signed by them, under a penalty of paying three dollars for each male person of color so liable to road duty, and whose names are not furnished, to be collected as fines for not working the roads.

30. (651) (530) Road hands, how summoned. Overseers of roads in their respective districts shall summon all persons liable to road duty, within the district, at least one day before the time of working.

31. (652) (531) What the notice must contain. Such summons must state the road to be worked, the time and place for meeting, and the implements required.

32. (653) (532) Overseer, his duty. Such overseers shall superintend the working on the roads assigned them by the commissioners, cause the same to be worked and repaired in the best possible manner, and make a return thereof to the commissioners, in writing, within five days after each time of working, and report all hands who may be in default, upon their several roads, without receiving therefor any part of the fines which may be collected from said defaulters; and upon failure to report any defaulter or defaulters (and upon conviction thereof before the commissioners) shall be fined five dollars for each defaulter he so fails to return.

33. (654) (533) Extraordinary work. The county authorities of the several counties, having charge of the roads and revenues of each of said counties, are authorized and required to provide for the grading of the public roads of their respective counties, where said roads are too steep, too rough, or too boggy for practical use or the hauling of ordinary loads; and said officials are authorized and required to provide for any other extraordinary work on the public roads of their respective counties which cannot be done by the road hands subject to road duty under the laws of this State.

34. (655) (534) By what means to be done. Said officials may have said work enumerated in the preceding section done by use of the county chaingang, by contract let to the lowest and best bidder, or otherwise as may be to the best interest of their respective counties; and said officials shall be authorized to pay for said work out of any funds of their said counties not otherwise appropriated.

35. (656) (535) Selection of roads by grand jury. The grand juries of the respective counties are authorized to select such roads or sections of roads, if in their judgment any such roads exist in their respective counties, as cannot be made passable by the hands accessible thereto, and shall recommend to the ordinaries, or boards of roads and revenues,

or county judges (as the case may be), existing in their respective counties, to have said road put in proper order as provided in the two preceding sections, and they shall also recommend the manner in which said work may be done or contract let out.

36. (657) (536) Culverts, bridges and new roads. The provisions of the three preceding sections shall also apply to such culverts and short bridges not less than ten feet in length, and all new roads to be opened in said county, as the grand juries may recommend, as provided in the preceding section.

37. (658) (537) Roads, etc., suddenly becoming impassable. When any road, or bridge, or causeway may become suddenly impassable, it is the duty of such overseer to call out as many hands as necessary to repair the same, after giving one day's notice.

38. (659) (538) Special work deducted. They shall take notice of the time such hands are employed on such special workings, and shall excuse them from road duty and equal number of days out of the whole number all hands are required to work during the year.

39. (660) (539) Defaulters may be fined. Every individual liable to road duty, who, being duly summoned to work, shall neglect to obey such summons, and to carry the implements as ordered, or, appearing with or without the implements, neglects or refuses faithfully to work, shall be fined not less than one nor more than three dollars for every day he or they fail to work, or be imprisoned, at the discretion of the commissioners.

40. (661) (540) Extraordinary tools, how obtained. If any other instruments than ordinary farming tools are necessary to keep the roads in repair, the overseers may receive them in exchange for labor of hands, or may apply to the road commissioners in the district in which said instruments are needed, who shall apply to the commissioners of roads and revenues where such exist, otherwise to the ordinary, who may, in their discretion, issue to said road commissioners the needed instruments, taking their receipt for the same, to be returned during the month of January thereafter, or become responsible for the value of the same.

41. (662) (541) Roads may be apportioned. When a person liable to road duty makes an application to the road commissioners for a proportion of the road for himself and hands to work and keep in repair, they may, in their discretion, parcel off to such applicant some equal and just portion of said road, to be increased or diminished according to the number of hands, to be judged of by the commissioners: Provided, that said hands accepting such apportionment shall be amenable and subject to the direction and control of road commissioners, and subject to the same fines or imprisonment, in common with the other road hands, the same as though they had not accepted such apportionment of road.

42. (663) (542) Duty of persons to whom apportioned. Persons to whom portions of roads are thus apportioned must make annual returns to their respective commissioners, whenever they require them, of the number and names of their hands liable to road work, and after they have received and put in good repair their respective portions such hands shall not be transferred to any other part of the road, or compelled to do any other road work, so long as they perform their work satisfactorily to the commissioners.

43. (664) (543) Persons refusing to accept apportionment. If the applicants do not accept the portion of road assigned to them by the commissioners they must still work in common with the other hands of their road districts.

44. (665) (544) Penalty for failure to work. If, after having accepted such portions, they neglect to keep them in good repair, they are liable to all the penalties and forfeitures to which commissioners are liable for neglect of duty, besides the usual road fines on the hands.

45. (666) (545) Complaint against commissioners. If such commissioners assign any person a portion of road thus to work, which, taking into consideration his number of hands as compared to the number liable to do road duty on such roads, is not an equal share of the labor, any male road-worker of the same road and district may complain to the ordinary at any time, and on giving such persons three days' notice thereof, in writing, such ordinary may summarily hear all the evidence, and if they believe the complaint is just, they shall revoke such grant by the commissioners and have them instantly informed.

46. (667) (546) Defaulters may file excuse. All defaulters must file their excuses, if any, on oath, before the commissioners, who must meet at some place within the district for fining defaulters, of which place of meeting they shall give ten days' notice in writing at one or more of the most public places in the district, and no other notice shall be necessary.

47. (668) (547) Executions against defaulters. Such commissioners must issue executions under their hands and seals, or their warrants of arrest, as the case may be, against each defaulter who fails to render a good excuse, directed to any lawful constable, who shall levy and collect the same as executions issued from the justices' courts, or, as the case may be, arrest the defaulter and bring him before the commissioners to abide the judgment of the same.

48. (669) (548) Fines, how disposed of. When such fi. fas. or warrants are collected, within ten days thereafter the amounts must be paid to any one of the commissioners.

49. (670) (549) Constable may be ruled. If constables neglect their duty in collecting such fi. fas. or fail to pay over the money, or fail to make such arrests, and bring the parties arrested before the commissioners, they shall be subject to rule and suit at the instance of such commissioners, as though the fi. fas. or warrants had issued from a justice's court. In all cases where executions may be issued against road-hands in the employment of others, notice to the employers of the existence of such execution shall have the force and effect of a garnishment, and shall operate as a lien on what is due or to become due from such employer to such employee, and may be collected as in cases of garnishment.

50. (671) (550) Lien of commissioners' judgment. The lien of such judgments are the same as any other judgment, and claim according to their priority and in the distribution of money, except that no property is exempt therefrom, and if illegalities are claimed or interposed they must be returned as though issued as from a justice's court in which the road district is situated in whole or in part.

51. (672) (551) Timbers may be used. Overseers are authorized to make use of any timbers for the use of the roads, and may make contracts with owners of land for such other timber, if indispensable, and if they disagree as to the value the overseer shall appoint one arbitrator and the owner another, who, without further formality, shall assess the value; and if they disagree, to call in an umpire, whose decision is final. The valuation so awarded must then be reduced to writing and signed by the arbitrators, and upon the production of the same, with a certificate of the overseer that he used the timber assessed, must be allowed by the ordinary and paid out of the county treasury.

52. (673) (552) Road to be measured. They shall measure all that part of the road to which they may be appointed, beginning at the court house, and at the end of each mile set up a post or mark on some conspicuous place, which shall designate the number of miles from thence to said court house; and the overseer in the next adjoining district shall

likewise begin to measure and mark at the last mile post in the district thus measured; but when such district shall end at some county line, he shall by some post or mark designate the distance from such county line to their respective court houses.

53. (674) (553) Sign boards. They shall, at the fork of each public road, place, in some substantial and conspicuous manner, a board or other mark, designating thereon the most public place to which each road directs; and if any road is altered so as to make the fork at some other place, or as not to make necessary such sign boards, they shall be removed and replaced, or either, if necessary.

54. (675) (554) Overseers failing to put up posts and boards. If any overseer fails to comply with the provisions of the two preceding sections he forfeits not exceeding fifty dollars, to be imposed and collected as other fines against him.

55. (676) (555) Overseers in default. If any overseer omits to do his duty with respect to the roads, bridges and causeways under his charge for as much as thirty days from the time the necessity for any immediate work occurs, unless hindered by extremely bad weather or other providential cause, he shall be indicted, and is also liable for all damages at the suit of any person injured by such omission.

56. (677) (556) Railroad hands exempt, when. Hands liable to road work employed as laborers on the line of any railroad in this State belonging to an incorporated company, or by any contractors constructing railroads, are exempt from work on the public roads: Provided, the public road overseer having charge of them, respectively, is paid one dollar per day for each hand so liable, which money shall be expended in hiring hands to work on the roads.

57. (678) (557) Landowners aggrieved, how redressed. When any person shall feel aggrieved by any road proposed to be laid out through any of his land, unless otherwise provided in the charter thereof, or some special law, he may petition in writing the ordinary, who shall issue a warrant under his hand, directed to the sheriff of the county, to summon from the vicinage a jury of freeholders to try such question of damage, who shall be sworn by some justice of the peace to truly and impartially assess any damage the owner will sustain by means of such new or altered road, and said justice shall preside over their deliberations.

58. (679) (558) Jurors incompetent, when. No person is competent as a juror who claims any damage of the county or person for the same or any similar road, or who would be disqualified if the trial was before the superior court.

59. (680) (559) Trial, how conducted. The jury shall inspect the road and land in person, unless already familiar with them, and swear any witnesses that the owner or any person on the part of the county may offer, as to their opinion of the damages sustained.

60. (681) (560) Notice of trial. The sheriff shall notify the justice of the peace and the road commissioners of the district where the road lies, and the owner of the land, of the day and place of trial, and shall notify to attend then and there, as witnesses, any persons he may be requested to by such commissioners, or the owner.

61. (682) (561) Time and place of trial. He shall fix the time and place; the time not less than five nor more than twenty days, and the place as near the land as the proper house room can be obtained.

62. (683) (562) Objections to jurors. At the trial any person in interest may object to the impaneling of any juror for cause, and if from this or any other cause there are not twelve jurors impaneled and sworn the sheriff must proceed to procure tales jurors.

63. (684) (563) Trial may be postponed. The trial may be postponed or continued from day to day until completed, and if the justice of the peace summoned to attend should fail to preside, the sheriff must supply the vacancy, if necessary, from some other district.

64. (685) (564) Mistrial. If a mistrial occurs, the sheriff shall proceed de novo to summon other jurors, and all the proceedings shall be as at first, and so on until there is a verdict.

65. (686) (565) Certiorari. The judgment in such cases may be certiorated by the county or the owner of the land, as in certiorari from forcible entry and detainer trials, and if a new trial is ordered they shall proceed to procure a trial as previously.

66. (687) (566) Order for damages. When such judgment becomes final all the papers appertaining thereto must be filed in the office of the ordinary, who must grant an order for the damages assessed in favor of the landowner; but if such ordinary is satisfied that such damages transcend the utility of such road, or that part of it, he may revoke the road altogether, or order the same altered so as to avoid the land so damaged, or make the owner an offer of such compensation as the ordinary may think just.

67. (688) (567) Value of land, how estimated. In estimating the value of land when taken for public uses, it is not restricted to its agricultural or productive qualities, but inquiry may be made as to all other legitimate purposes to which the property could be appropriated.

68. (689) (568) Consequential damages. Prospective and consequential damages resulting therefrom may be also taken into consideration if the same are plain and appreciable; and on the other hand, the increase of the value of the land from the proposed public improvement may be considered, but in no case shall the owner be deprived of the actual damages by such estimated increase.

69. (690) (569) Overseer neglecting duty, etc. If any overseer within twelve months after his appointment neglects faithfully to discharge the duties required of him, he is subject to a fine not exceeding fifty dollars by the commissioners under whom he serves, who shall notify him of his neglect, and unless a good excuse is rendered to them within twenty days from the time of such notice, they shall issue execution for the fine assessed.

70. (691) (570) Altering or obstructing public road, penalty. If any person shall alter any public road or cut any ditch across, or alter the location of any bridge, or make any new bridge necessary by his act, without first obtaining an order therefor, he is guilty of a misdemeanor and shall be liable besides, by suit, for all damages any person may sustain thereby.

71. (692) (571) Commissioners or ordinary may sue railroads. Commissioners of roads and revenues, or ordinaries in counties where there are no commissioners, are empowered to bring any action against any railroad corporation that may be necessary or proper to sustain the rights of the public in and to any highway in any county, and to enforce the performance of any duty enjoined upon any railroad corporation in relation to any highway in any county in this State, and to maintain action for damages or expenses which any county may sustain or may be put to in consequence of any act or omission of any such corporation in relation to highways.

72. (693) (572) Obstructions not removed, fine, etc. When any person shall make any fence or cut any tree, or make other like obstructions in or across any public road, which is not removed in two days and a safe and a convenient way, at the time of the obstructions, made for travelers, he shall pay a fine of twenty dollars for each obstruction, to be

recovered by execution issued by the commissioners, as in cases of road fines, and shall be liable for any damages caused by the obstruction, from the first to the last, if the person injured used ordinary caution.

73. (694) (573) County authorities to lay out roads. The commissioners of roads and revenues, ordinary, or such other officer as has charge of county matters of each county in this State, shall have the sole right to lay out, open, change or discontinue public roads therein, and the sole management of the working of said roads; and said authorities shall have authority to appoint a superintendent of public roads when necessary, and also to appoint all overseers, guards and officers that may be required to successfully carry out the provisions of this article; to prescribe the duties of said superintendent, guards and officers, fix the terms of office of the same, and to prescribe and pay said appointees such salaries or wages as may be deemed proper.

74. (695) (574) Who subject to road duty. Each male citizen between the ages of sixteen and fifty years shall be subject to road duty (except those who are now exempt by law), and shall be required, when notified or summoned, to work on the public roads of the county of his residence for such length of time in each year as may be fixed, or to pay such commutation tax as may be fixed by said authorities: Provided, that no one shall be required to work for longer than ten days in any one year, nor shall said commutation tax be fixed at a sum that will amount to more than fifty cents per diem for the number of days work required.

75. (696) (575) County tax for roads. The commissioners of roads and revenues, or ordinary, as the case may be, shall levy a tax additional to any now authorized by law of not more than two-tenths of one per cent. on all the taxable property of the county, and the funds raised by said taxation, together with the commutation tax heretofore provided for shall be known as the "Public Road Fund" of the county, and shall be used and expended for the purposes of paying the salaries and wages, and for working, improving and repairing the public roads as herein set forth.

76. (697) (576) Provisions for working. Said authorities are authorized to work, improve and repair the public roads as follows:

1. They may work a chaingang (which said authorities are hereby empowered to organize; said gang to consist of the misdemeanor convicts of the county, or of any other county in this State that may be obtained without cost or for hire) and those who do not pay the commutation tax: Provided, that the convicts and those who do not pay the said tax shall not be worked together.

2. They may work free hired labor and those who do not pay the commutation tax.

3. They may have said roads worked, improved or repaired by contracting for the same, in such manner as they may deem fit, with private parties or corporations: Provided, that if the work is done by contract, the contractors shall be required to employ the chaingang, if established, and the labor of those who do not pay the commutation tax, and to pay for the same.

4. They may employ or combine any or all of said three above mentioned methods, or may use any other method or system that may be desired for accomplishing the work necessary to put and keep the public roads in good condition.

77. (698) (577) Machinery, tools, etc. Said authorities may purchase any and all machinery, implements, tools, wagons and stock necessary and required for working said roads, and may build such houses or

stockades, and purchase anything or article necessary and useful in landing and working the chaingang.

78. (699) (578) Fund, how spent. Said authorities shall expend said public-road fund in any manner they may deem best for putting and keeping the roads in thorough condition and repair.

79. (700) (579) Residents of cities not affected. The citizens of cities and towns shall not be required to work the public roads outside of the corporate limits, nor to pay the commutation tax.

80. (701) (580) Defaulters. Any person who has failed or refused to pay the commutation tax when demanded by the officer appointed by the authorities to make such demand, and who shall, without a good excuse, fail or refuse to appear at the time and place appointed to work when summoned or notified by the officer whose duty it is to give said summons or notice by the rules of the authorities having charge of the public roads, or who shall fail or refuse to do faithful work as ordered by the officers in charge of the work when he has appeared, shall be fined not less than one dollar nor more than five dollars for each day he fails to work, or be imprisoned in the common jail at the discretion of the authorities trying the case, or be sentenced to work in the chaingang for not longer than ninety days. If the authorities trying the case impose a fine upon the person convicted, it may be with the alternative of other punishment allowed by this section, in case said fine is not paid.

81. (702) (581) Defaulters, by whom tried. One or more of the commissioners of roads and revenues in counties having commissioners, and the ordinaries in counties where the ordinary has charge of county matters and public roads under this article, and the county judge in counties where said judge has charge of county matters and public roads, are empowered to try all defaulters, and said authority shall hold court or courts for the trial of said defaulters at any time or times, and at any place or places in the county that may be fixed by said authority: Provided, that ten days' notice be given of the time and place, or times and places, to defaulters.

82. (703) (582) Summoned by whom. Defaulters shall be summoned for trial by, or arrested by, such officer or officers as the commissioners or ordinary or county judge may appoint, or by any lawful constable of the county.

83. (704) (583) Provision, when of force. Sections 73 to 83, inclusive, shall not go into effect in any county in this State until it is recommended by the grand jury of said county, said recommendation to be made at any term of court, and the operation of this article shall be suspended in any county of this State upon a like recommendation of the grand jury, made at any term of court, after the lapse of three years from the time this article goes into effect.

84. (705) Election, when and how held. On the filing of any petition with any ordinary, signed by one hundred and fifty or more voters of the county of such ordinary, asking for an election to be held to determine whether the following plan shall be adopted for working the public roads of said county, the ordinary shall make an order providing for an election, and shall appoint a day for the same, and public notice of the date of the same, for four successive weeks in the newspaper in which the legal advertisements of such county are published; on the day appointed an election shall be held at the election precincts in such county, under the laws of this State controlling elections, and the consolidated returns shall be made to the ordinary of such county. No additional or other registration shall be required of voters at such election, but the registration had at the next preceding election shall be sufficient for any election under this article, and the name of any legal voter may

be added to the list of voters by the registrars on his taking the required oath, unless the board of registrars decide that such voter is disqualified. Voters shall have written or printed on their ballots the words "For the four-days' law," or "Against the four-days' law." In the event that "For the four-days' law" shall have a majority of the votes cast at such election, the ordinary shall so declare by appropriate order, and thereafter the following sections, from 85 to 90, inclusive, shall be the road law of that county.

85. (706) Men subject to road duty or commutation tax. Each male inhabitant of such county between the ages of twenty-one years and fifty years, who is not physically or mentally disabled, shall be subject to road duty four days for eight full hours in each day in each year, and no more: Provided any such person may be exempt from road duty by paying to the overseer the sum of three dollars or such amount as the road authorities shall fix, equivalent to four days' labor at the time notice is given to work on said road, and the overseer shall receipt such person for the commutation tax, and shall apply the same to the use of the road where the person was warned to work.

86. (707) Road tax. It shall be the duty of the board of commissioners or other taxing authorities of such county to levy a tax of not less than ten or more than twenty-five cents on each one hundred dollars of taxable property in such county, which shall be collected where and as the general tax is collected; and when the same is collected the said board shall apportion the same to the different districts of said county in proportion to the amount of taxable property of each, to be applied as hereinafter provided to the improvement of the public roads of each district.

87. (708) Apportionment of road tax. It shall be the duty of the authority of such county having charge of the appointment of district road commissioners under existing laws to appoint three discreet and suitable persons as district road commissioners, whose duty, in addition to that imposed by law, shall be to apply the ad valorem tax apportioned to their districts to the improvement of the roads of their respective districts in such manner as to them may seem expedient and best for the improvement of the public highways, and to this end they may employ overseers, labor, wagons and teams, and purchase material of every kind, tools and implements. The commissioners are authorized to use their discretion in the manner of working and improving the roads of their respective districts, but shall make no contracts and incur no liability beyond their ability to pay with funds raised for the year in which the liability is incurred. They shall keep a book of minutes showing all their acts, and a book of warrants in which shall be copied by them all the warrants they may draw on the county treasurer.

88. (709) Road hands, how apportioned and work done. It shall be the duty of district commissioners, as soon as practicable after the first day of January of each year, to apportion the persons subject to road duty residing in their respective districts upon the different roads thereof; to appoint overseers and cause the work for the time required of the road hands, under the provisions of this article, to be done in the manner indicated by and subject to all the provisions of the general road law of this State as it appears in the Code, which is of force, except as changed by this article; and such commissioners, so far as possible, shall work the roads of their respective districts at such time as will least interfere with the agricultural pursuits of the people.

89. (710) Oaths of commissioners and overseers. Road commissioners, before entering upon the duties assigned them, shall be sworn faithfully and diligently to perform their duties as such road commissioners, and they shall administer to the overseers appointed by them oaths for the faithful and diligent performance of their duties as such overseers,

90. (711) Road-working plan optional with the counties. It shall be optional with the counties to adopt the road-working plan provided by Article 2, or that provided by this article, as the counties may express their preference, as provided by law; but in all cases the plan adopted by popular vote shall prevail until superseded by law: Provided, that this article shall not repeal or affect any general or local law now of force, except in such counties as may adopt this article. On the filing of a petition with any ordinary in this State, signed by one hundred and fifty or more voters of the said county, asking for an election to be held to determine whether the plan provided by this article for working the public roads shall be suspended or not, the said ordinary shall make an order providing for an election, and shall appoint a day for the same, and shall publish the same for four successive weeks in the newspaper in which the legal advertisements of said county are published. On the day appointed an election shall be held at the election precincts in said county under the laws of this State controlling elections, and the consolidated returns shall be made to the ordinary of said county. No additional or further registration of voters of said county shall be required of the voters of said county, but the registration had at the last preceding election shall be sufficient for an election under this section, and the name of any legal voter may be added to the list of voters by the registrars on his taking the required oath, unless the said board of registrars decide that said voter is disqualified. Voters shall have written or printed on their ballots the words "For the repeal of the four-days' law," or "Against the repeal of the four-days' law." In the event that "For the repeal of the four-days' law" shall have the majority of the votes cast at such election, the ordinary shall so declare by proper order the said "Four-days' law" provided by this article shall be suspended from operation in said county, and the road law enforced on the 24th day of December, 1896, shall be enforced.

91. (712) Road hands, commutation tax. It shall be the duty of the ordinary, or commissioner of roads and revenues, to provide for the working of all public roads in said counties hereinafter specified. The same persons who are subject to road duty under the laws as they now exist, shall be subject to road duty under this article, between the ages of twenty-one and fifty years, and each person shall be subject to work on the public roads in the district in which he resides not more than four days in each year; but any person subject to road duty may relieve himself from said duty, by paying to the person authorized to receive the same the sum of not exceeding one dollar for each day he may be required to work, and a receipt from said party in any district shall be good and sufficient to relieve him from road duty for that year in any other district in said county: provided, said receipt shall be for so many dollars as he is summoned days to work.

92. (713) Road overseers, compensation of. The road overseers, when appointed as is provided, shall be paid the sum of not exceeding one and one-half dollars per day for each day that he actually works the roads, including the time required to summon the hands, as hereinafter provided for, said time to be judged of by the commissioner. They shall have charge of all the roads, and report the condition of the same to the road commissioners of the district, who shall direct them when and where to begin work. They shall then summon, under the direction of the road commissioners, such a number of hands as can be worked to the best advantage at one time, and proceed to work them on the roads. If the hands so summoned prefer to pay, and do pay, a commutation tax in lieu of work, they shall pay the entire amount of the commutation tax required of them for the number of days for which they have been summoned to work, and the overseers are authorized and required to receive and receipt therefor, and shall proceed to summon other

road hands necessary to fill up the number required. They shall continue to summon hands as those first summoned work out their time or pay the commutation tax, and shall continue to work on the roads from time to time as directed by the commissioner, until all the roads in the district are put in good order, or until all the hands have been exhausted. They shall then continue to work the roads with such other hands as the road commissioners may authorize them to employ. They shall take charge and care for all tools, implements, teams, and supplies furnished them by the district commissioners. In summoning hands regard shall be had, as far as practicable, to the roads nearest to the place where the hands summoned live in the same district.

93. (714) Time required of each hand. Road tax. Whenever the road commissioners of each district have assessed the number of days each road hand in their respective districts shall be required to work, not to exceed four days in each year, and have furnished the ordinary of said county with a list of road hands, and the number of miles of public roads in their respective districts, the ordinary, at the time when he assesses the taxes for other county purposes, shall also assess an ad valorem tax on all property in said county, not less than ten cents nor more than twenty cents on each one hundred dollars' worth of property, to be collected as other county taxes are collected, and paid over by the tax-collector to the county treasurer as a public-road fund, and be paid out for road purposes upon the order of the ordinary, who shall be, by virtue of his office, chairman of the board of roads and revenues, to be composed of the ordinary and one road commissioner from each district, who shall be elected by the road commissioners of each district from their number on the first Monday in January of each year; provided, that they may elect on the first Monday in any month to fill vacancies.

94. (715) Tax prorated between districts. It shall be the duty of said board to prorate the road tax to the several districts, according to the number of miles and character of roads in each district. Said board shall receive the same compensation per diem as is allowed grand jurors in said county. The cost of all tools and implements purchased by the commissioners of any district for working the public road shall be deducted from the amount prorated or apportioned to such district or districts.

95. (716) Road money, how expended. All commutation tax collected by the district overseers shall be paid by them to the district commissioners, who shall receipt them for the same. All money received by said commissioners for commutation tax and all moneys received by them from the county authorities on an ad valorem tax shall be used by the said commissioners in having the roads worked to the best advantage in their respective districts, and on or before the 31st day of December of each year the road commissioners shall make out and furnish to the county authorities a full and complete tabulated statement of the amount of money received and expended on the roads in their several districts, and shall exhibit receipts showing for what and to whom paid.

96. (717) Ad valorem tax, how paid. Any person subject to pay an ad valorem tax under this article shall be allowed the right and privilege to pay the same in material furnished, or labor with team performed on the public roads that they may be assigned to by the district commissioners, the price of which shall be regulated by said commissioners. A receipt therefor from the overseers and approved by one of the commissioners of said district shall be received by the tax-collectors of said county in payment of said ad valorem road tax.

97. (718) Bonds of overseers and commissioners. The road overseers who collect the commutation tax, and the commissioners who receive the same, or other road money, shall give good and sufficient bond, payable to the ordinary of said county.

98. (719) Counties to which sections apply. The provisions of Sections 91 to 98, inclusive, shall not become of force in any county where the provisions of Article 2 have been adopted as provided by law, until the grand jury of said county shall have recommended and adopted the provisions of this article; provided, that the provisions of this article shall not go into effect in any county until it has adopted the provisions of Article 3.

99. (720) Road duty and commutation tax in certain counties. In all counties in this State having an organized chaingang and having a city of not less than seventeen thousand inhabitants nor more than twenty-three thousand inhabitants according to the census of the United States, the time of work required of each person subject to road duty shall not exceed four days in each year; and each person so subject to road duty shall have the privilege of paying to the proper county authority having in charge the working of public roads in such counties the sum of two dollars at such time as may be fixed by such authority, and be fully discharged of such road duty for the year of such payment.

100. (721) Where required to work. No person subject to road duty in such counties shall be required to work the public roads without the limits of the militia district in which he resides.

101. (722) Age limits. No person under eighteen years of age nor over fifty years of age shall be subject to road duty in such counties.

102. (723) Tax, how expended. The fund so raised from the commutation tax shall be expended as provided by existing laws.

103. (724) (584) Three commissioners for each district, two may act. There shall be three commissioners for each road district, any two of whom may act, and in case there is only one in a district, that one is invested with all the powers of the three until the vacancies are filled.

104. (725) (585) How appointed. Such commissioners are appointed or re-appointed by the ordinary biennially, and, whenever necessary, to fill vacancies at any time.

105. (726) (586) Compelled to serve. Those thus appointed are compelled to serve unless excused by such ordinary, who shall receive for such excuse providential cause only; provided, that those who have served two years consecutively, shall have the right to resign a third appointment, if made immediately after two years' consecutive service.

106. (727) (587) Notified in writing. As soon as appointed, they shall be notified thereof in writing within ten days thereafter, by the ordinary, and if such appointees do not, within ten days after receiving such notice, file their excuse in writing, under oath, in such ordinary's office, they shall be considered as having accepted.

107. (728) (588) Exemptions of commissioners. Such commissioners, while in office, are exempt from all jury, patrol, militia, and other road duty.

108. (729) (589) Duties. It is their duty:

1. To appoint, within fifteen days, one or more persons in their respective districts as overseers of the road.

2. To apportion the roads and hands under their charge at the same time as equally and fairly as possible, and to furnish the several overseers with a list of the roads and hands under their respective charge.

3. To hear and determine upon all cases of default or other violation of the road laws within their jurisdiction (if not indictable only) at a court to be held by them within twenty days after every road-working, or as often as emergencies may require, and to issue executions or other process against the convicted.

4. To expend, as in their judgment will best serve the public good, all moneys coming into their hands from defaulting road hands, and from fines imposed upon and collected from overseers; provided, that such moneys are to be applied to improvements respectively of the roads whereon such defaulters may have been required to serve.

5. To cause to be served upon road defaulters three days' notice in writing, of the time and place of the meeting of such commissioners for the trial of defaulters. Such notice to be served by the overseer of roads or the constables of their respective militia districts upon such defaulters personally or by leaving the same at their most notorious place of abode.

6. To keep a book in which to enter:

(1) The several hands in their respective districts subject to road duty; to what roads and what parts thereof assigned, and under what overseer; changing and correcting it from time to time, as may be necessary.

(2) A list of all defaulters and persons fined, the amounts fined, amounts paid, what disposition made of the money, what executions issued and unpaid.

7. To pay to the county treasurer, as soon as collected, that portion of the fine-money belonging to the county, to be used in the repairing or building of public bridges and causeways; and annually, on the first of December, to report to the ordinary the condition of the public roads and bridges in their respective districts, the state of the finances, what executions are outstanding and unpaid, and their condition.

8. To inspect from time to time the public roads, bridges, and ferries within their districts, notice the character of the repairs, and observe if such road is regularly posted and direction boards put up as required by law, and if said bridges and ferries are in proper repair.

9. To exercise a general supervision over their respective overseers, and to fine them for neglect of duty, and to see that persons are indicted for the offenses set forth in the road laws.

10. To administer all oaths relative to the road laws, connected with their duties.

109. (730) (590) May punish for contempt. All road commissioners' courts in this State, when convened as such, may fine for contempt in any amount not to exceed five dollars or imprisonment not to exceed five hours, and any constable of the county in which the road commissioners' court is held is empowered to execute sentence of said courts.

110. (731) (591) Proceedings against commissioners for neglect of duty. Whenever the grand jury in any county in this State shall present any road commissioners for neglect of duty generally, or in any particular, it shall thereupon be the duty of the clerk of the court to issue a summons in writing, directed to such commissioners, commanding them to be and appear at the next term of the superior court in which the presentment is made, to answer the accusation of the grand jury, which said summons shall be served by the sheriff upon the commissioners at least twenty days before the court to which the same is returnable; and if, upon the investigation of the case, it shall appear that the accusation is made out by the proof, the judge shall thereupon impose upon such commissioners a fine not less than ten dollars nor more than two hundred dollars.

111. (732) (592) Complaint against road commissioners. Any citizen, by petition in writing to the ordinary, judge of the county court, or board of commissioners of roads and revenues, as they may respectively have jurisdiction over the appointment of road commissioners, may

make complaint against any road commissioners appointed for any road district of the petitioner's county, for neglect of duty generally or in any particular, which petition shall be sworn to; and it shall thereupon be the duty of the officer to whom such petition is addressed to issue a summons in writing, directed to such defaulting commissioners, commanding them to be and appear before such county authorities, at the usual place of sitting, on a day certain, to answer the accusation in the petition contained, which summons shall be served by the sheriff or his deputy upon the commissioners complained against, at least twenty days before the day of hearing; and if, upon investigation of the case it shall appear that the accusation is made out by the proof, the county authorities shall impose a fine upon such commissioners of not less than ten dollars nor more than two hundred dollars. If such commissioners have been duly cited and served and fail to appear, the tribunal to which such summons is made returnable may proceed ex parte, and execution shall issue against such commissioners for any fine imposed, which shall be executed by the sheriff or his deputy, and the lien of such execution and the property subject thereto shall be the same as against defaulting road-workers.

112. (733) (593) Penalty. Upon the hearing of the case against such defaulting commissioners, it shall be lawful for the tribunal trying the case to impose an alternative punishment of imprisonment in the county jail for a term not exceeding ten days, and if the tribunal hearing the case shall fine such commissioners, they shall thereupon be removed from office, and other commissioners shall be forthwith appointed in their place.

113. (734) (594) Failure to appear. If they have been duly cited and served and fail to appear, the court may proceed ex parte.

114. (735) (595) Clerk shall issue execution. The clerk of the court is directed to issue executions against them for the fine and costs, which shall be executed by the sheriff. The lien of such executions, and the property subject thereto, are the same as those against defaulting road-workers.

115. (736) (596) A public road being a district line. When any public road may be on a road-district line, and the ordinary has not specially assigned it to any particular district or set of commissioners, the commissioners of each district shall co-operate in arranging the hands and appointing overseers for such road.

116. (737) (597) Books, who furnishes. The book such commissioners are required to keep must be furnished by the ordinary, at the expense of the county, and out of the road money, if any, and when full must be deposited in his office.

117. (738) (598) Commissioners, by whom discharged. After the commissioner has faithfully served through the term of his appointment, he may obtain from the ordinary a certificate of such fact.

118. (739) Inspectors, duties, and control of. The commissioners of roads and revenues for all counties in this State having a population of more than fifteen thousand people, according to the census of the United States, shall have the power, upon recommendation of the grand jury, to employ one or more persons to be known as "Inspector of Roads and Bridges;" provided, that nothing in this article shall affect counties having over eighty-five thousand population already having such system as herein provided.

119. (740) Duties of inspectors. It shall be the duty of such inspectors to examine routes for new roads and report thereon, to make constant and careful examination of the existing roads and bridges of the county for which they may be appointed, and report the condition of the

same to the commissioners as often as may be necessary and as often as directed by the commissioners; to guard and look after the county chain-gang and capture escapes therefrom, and do all such other things in reference thereto when and as directed by the commissioners.

120. (741) May be deputy sheriffs. The sheriff of any county which employs such inspectors shall, on the request of the commissioners, appoint them deputy sheriffs, and as such they shall have power to make arrests for any violations of the criminal laws of this State, as other deputy sheriffs, but as to all arrests such inspectors shall report to the sheriff of their county as other deputy sheriffs report.

121. (742) Chief inspector. Where more than one inspector shall be appointed in any county, the commissioners shall have power to designate one of them as "chief inspector."

122. (743) Control of inspectors, their salaries and tenure of office. Said inspectors shall be under the control of the county commissioners and such rules as the commissioners may make in pursuance of law; they shall be employed subject to be discharged at any time by the commissioners for any cause satisfactory to them, and shall have such salaries out of the county treasury as the commissioners may think right and proper.

123. (744) (599) Public bridges, ferries, causeways, etc. All bridges or ferries, turnpikes, or causeways erected or permitted by any Act of the General Assembly, if not otherwise provided, or by order of the ordinaries, for public purposes, are declared to be public.

124. (745) (600) Bridges, ferries, etc. They are divided:

1. Those established by the county which are free to every one.
2. Those established by the county where toll is charged generally or specially.
3. Those established by individuals under the authority of law or by virtue of a prescriptive right.
4. Those established by individuals without such rights, who accommodate the public or any portion of them for a compensation.

125. (746) (601) Ordinary may establish for benefit of county. The ordinary may put a ferry or causeway, or both, or may establish a toll-bridge for the benefit of the county; but when on any such county bridge, ferry, or causeway toll is charged, the county is liable as individuals owing them and the owners of lands must be compensated as in other cases.

126. (747) (602) Power of ordinaries over public bridges, ferries, causeways, etc. The ordinaries of the several counties have authority:

1. To appoint the places for the erection of the public bridges, county ferries, turnpikes, and causeways, and to make suitable provision for their erection and repairs by letting them out to the lowest bidder, hiring hands, or in any other way that may be for the public good and agreeable to law.
2. To require sufficient bond and good security for the faithful performance of all such work and contracts, and to indemnify for all damages occasioned by a failure so to do.
3. To license any person to establish such bridge, ferry, turnpike, or causeway, not exceeding ten years, which may be renewed at the expiration thereof.
4. To fix the rates of toll for crossing any such where the toll can lawfully be charged, and regulate those previously established, or that may afterwards be established, so as to conform to what is both reasonable and usual on such watercourses: provided, such charges are not

specially regulated by the General Assembly in some Act of incorporation to the exclusion of such ordinaries.

5. To exercise a general supervision over such, and to see that they are kept in proper order and properly attended to, and to require, from time to time, as the occasion may demand, sufficient bond and good security from the proprietors thereof, conditioned for their keeping in repair a sufficient and safe bridge, flat, rope, turnpike, or causeway, and all other appointments necessary for a good ferry, and competent and faithful attendance by day and night, and to indemnify the public against all damages by reason of a failure so to do.

127. (748) (603) Condition of contractor's bond. When a public bridge, ferry, turnpike, or causeway, is let out, the contractor must, in his bond, make a condition also to keep it in good repair for at least seven years, and as many more years as the contract may be for: provided, that such contract may be let out under existing laws without requiring the aforesaid condition in the contractor's bonds, if, in the opinion of the commissioners of roads and revenues, or of the ordinary in counties where there are no such commissioners, it would be to the public interest to dispense with said condition in said bond: provided, however, that in every case the county shall be primarily liable for all injuries caused by reason of any defective bridges, whether erected by contractors or county authorities.

128. (749) (604) Bond must be approved. All bonds taken from contractors or proprietors must be approved by the ordinary, filed in his office, and by him recorded in books kept for that purpose.

129. (750) (605) Additional bond may be required. If, when an additional bond is required, it is not given within ten days from the time the proprietor, or his agent, is notified by the ordinary, the license must be revoked.

130. (751) (606) Roads, bridges, etc., to be kept in repair. When any such work shall require repairing, it is the duty of any one or more road commissioners, in whose road district the same is, to give notice in writing to the contractor or one of his sureties, stating the repairs necessary to be made, and requiring them to be done within a reasonable time, stating the time.

131. (752) (607) Repairs, by whom to be made. If such repairs are not made within the time required, they shall employ some other persons forthwith to make them, and upon report to the ordinary of their cost, he shall issue an execution against such contractor and his sureties for the expense of such repairs and the costs.

132. (753) (608) If defendant resists payment of such execution, how tried. If the defendant resists the payment of said execution at law, it must be returned for trial by jury, if demanded, either to the justice's court of the district where the defendant resides upon whose property the levy is made, or to the superior court of the county, according to the principal amount thereof.

133. (754) (609) Contractors cannot be road commissioners. Persons who have undertaken the building or keeping in repair any bridge, ferry, turnpike, or causeway, or are sureties for such persons, can not be road commissioners of the road district which embraces such, and if, after having been appointed, they become such contractor or surety, the ordinary must declare a vacancy and appoint some other persons in their stead.

134. (755) (610) Bridges, etc., crossing county lines, how kept up. When a bridge or ferry is necessary over any watercourse which divides one county or more counties from each other, each county must contribute equally toward the building and keep the same in repair, or in such

proportion as would be just, taking into consideration the taxable property of each, and the amount expended by each in construction of bridges and other passways.

135. (756) (611) The remedy when one county refuses to contribute. If any county refuses to undergo its fair proportion of such expenses, the other county or counties may construct the work, compel the other to contribute by suit, and, until such contribution takes place, may have exclusive control thereof, and charge toll thereon against all the citizens of the refusing county.

136. (757) (612) Toll-bridges, etc., crossing county lines, how licensed. The toll-bridges or ferries over watercourses making county lines may be licensed by either county, and in such cases the bonds must be approved, filed, and recorded in the county where the license is granted.

137. (758) (613) No private ferry shall be established, when. No private ferry charging toll shall be established on any watercourse within three miles of where public bridges are previously erected and kept up, but bridges may be erected at the public expense at places on the same stream, other than those where bridges are previously erected, if not violative of any special provision of the law.

138. (759) (614) Distance, how computed. When exclusive right is granted to any person to prevent others from erecting bridges or ferries, or the like, within a given distance from the same, it shall be computed by the course of the stream.

139. (760) (615) Posting rates of toll. Every proprietor of bridges, ferries, turnpikes, and causeways, where toll is allowed to be charged, must fix a board in a conspicuous place, as near the same as practicable, on which shall be the various rates of toll.

140. (761) (616) Landowner may construct bridges, etc., on his own land. Any person who may be the owner of any land through which a stream may pass, on both sides thereof, may establish any bridge or ferry thereon, at his expense, and may charge lawful toll for crossing, according to the rates of other bridges and ferries on the same stream, or, if none other, the customary rates over such streams elsewhere.

141. (762) (617) Excessive rates shall not be demanded. If such person shall demand excessive rates, any person may complain to the ordinary of the county, and if the rates are excessive, he must reduce and fix them.

142. (763) (618) Rates to be examined annually. The ordinary of each county must once each year examine the rates charged in their counties, and keep fixed the rates of toll for the several bridges, ferries, turnpikes, and causeways within the limits of their county, which have the right to charge them, and must enter the same on their minutes.

143. (764) (619) Persons making excessive charges, how punished. If any person shall charge more than the lawful rates, or more than indicated by the board, for the second offense, in addition to the fine, he forfeits his franchise.

144. (765) (620) Fords, bridges, etc., not to be obstructed. No person authorized to have a bridge or ferry on his own land will be permitted to stop up or obstruct any ford, bridge, or ferry.

145. (766) (621) Bridges, etc., not to be discontinued. After a person has once established such bridge or ferry, he shall not discontinue the same without first giving public notice thereof by advertisement posted on the court-house door and in a public gazette, if there is one published in the county, for at least sixty days.

146. (767) (622) Proprietors liable for neglect. Any proprietor of any bridge, ferry, turnpike, or causeway, whether by charter or prescrip-

tion, or without, or whether by right of owning the lands on the stream, are bound to prompt and faithful attention to all their duties as such; and if any damage shall occur by reason of non-attendance, neglect, carelessness, or bad conduct, he is bound for all damages, even if over and beyond the amount of any bond that may be given.

147. (768) (623) On failure to take bond the county is liable. The provisions of the preceding section apply to all contractors for the establishment of such, when damages accrue from want of good faith in performing their several contracts, and if no bond or sufficient guarantee has been taken by the ordinary, the county is also liable for the damages.

148. (769) (624) Persons shall not be detained at public crossings. Any person unreasonably detained at a public ferry, toll-bridge, turnpike, or causeway may for each detention recover of the owner ten dollars before any justice of the county.

149. (770) (625) Persons charging toll after charter expires. If any person demands or receives toll for crossing any ferry, bridge, or causeway, or turnpike, after the revocation of his license or forfeiture of his charter, or, having a right for a ferry, allows the banks on either side to be out of repair for more than five days at any one time, or fails to provide good and safe boats of a size sufficient for the accommodation of the public, furnished with competent and sufficient ferrymen, for the safe and speedy passage of all persons, vehicles, horses and stock, or, in case of a toll-bridge or causeway, fails to keep the same in good repair, without a reasonable excuse for such failures, to be determined by the court, he is guilty of a misdemeanor.

150. (771) (626) Private ferries. If any person who keeps a private bridge, ferry, turnpike, or causeway, passes any person for toll, the owners incur the same liability and penalties as those permitted by law.

151. (772) (627) Remedy against delinquent bridge owners. If any owner of any chartered toll-bridge or a turnpike road, the charter of which was granted by any of the courts, or by the Legislature of this State, shall fail or refuse to keep the same in good repair, and in terms of the provisions of its charter, it shall be the right of any person to file with the ordinary of the county in which such charter was granted, a petition (in writing) setting forth the parties and the facts and praying for the remedy hereinafter set forth.

152. (773) (628) Citation, service, and jury. On the filing of said petition with the ordinary, he shall issue a citation, directed to the sheriff of said county, his deputy, or any lawful constable, requiring the defendant to appear before him at the court-house of said county, on a day therein named, to defend said suit. A copy of said petition and citation shall be served upon the defendant, either in person or by leaving the same at his most notorious place of abode, or, if he be without the county, then upon the gate-keeper, at least fifteen days before the time for trial. And said ordinary shall also cause a jury of twelve men to be summoned to try the issue in such case.

153. (774) (629) Issue, oath of jury, continuance. When said cause is called and set down for trial, the ordinary shall cause an issue of facts to be made upon the pleadings and tried before said jury. The jurors shall take the general oath prescribed for jurors in common-law actions in the superior courts of this State: provided, that either party shall have the same rights of continuance as in other cases at common law, and, in case of continuance, the ordinary shall fix the time of hearing the same.

154. (775) (630) Verdict, and its effects. On the return of the verdict of the jury, if the issue be found in favor of the defendant, judgment shall be entered against the plaintiff for costs of suit; but if the issue be found against the defendant, judgment shall be entered against said

defendant for costs of suit and also suspending his right to collect further tolls on said bridge or road until after the next term of the superior court of said county, after which it shall not be lawful for any tolls to be collected on any such bridge or road during the operation of said judgment: provided, however, that the owner or any person interested in such toll-bridge or turnpike road may afterwards put the same in good repair, and on making the same clearly appear to the ordinary, said ordinary may enter an order vacating said judgment, so far as the same operates as a suspension of the right to collect tolls.

155. (776) (631) Proceedings may be at any time; fees. All the proceedings set forth in the four preceding sections may be had in term time or during vacation; and the fees of the ordinary for the whole service shall be five dollars, the jurors' one dollar each for every day engaged, and the sheriff's or constable's fees—the usual fees for like services.

156. (777) (632) Injuries, avoiding payment. If any person break or injure any gate to a toll-bridge, turnpike, or causeway, or obstruct, injure, or destroy such bridge or causeway, pass around or under the same with intent to avoid the payment of toll, such person forfeits to the owner ten dollars for each of such acts, and is also liable for the damages.

157. (778) (633) Right of way. Damages for the right of way are to be assessed in the manner prescribed for public roads and private ways.

158. (779) (634) Grants to land. Grants to land on watercourses, with the appurtenances, convey no right of public bridge or ferry.

159. (780) (635) Grant for ferry. The grant of a ferry franchise conveys no right to build a bridge, or the contrary.

160. (781) (636) Value of land, how estimated. In determining the value of land taken for a bridge, its prospective value as a bridge site and its present value as a ferry, if one is in use, may be taken into the calculation.

(Note: Numbers in brackets refer to Code 1910 sections.)

## AN ACT

To create a Prison Commission for the State of Georgia; to define their duties, powers and compensation.

Section 1. The General Assembly of Georgia do enact, That within thirty (30) days from the passage of this Act the Governor shall appoint three (3) intelligent and upright citizens, from different sections of the State, who shall be known as the Prison Commission of the State of Georgia, and who shall hold office until their respective successors are elected and qualified as hereinafter provided. At the next general election in October, 1898, one commissioner shall be elected, and at each following general election one commissioner shall be elected. The Commission so appointed by the Governor shall cast lots and determine which of the said commissioners shall hold office until the general election in October, 1898, which shall hold until the general election of 1900, and which shall hold until the general election of 1902, and until their respective successors are elected and qualified.

Sec. 2. Be it further enacted, That before entering upon the discharge of the duties of their office, each commissioner shall take the oath required by all public officers, and shall execute a bond, with good security, in the sum of five thousand dollars (\$5,000.00), payable to the Governor of Georgia and his successors in office, conditioned for the faithful performance of the duties devolving upon him, which bond shall be approved by the Governor, and filed and recorded as other bonds.

Sec. 3. Be it further enacted, That the Commission shall have an office in the Capitol, and such books, stationery, stamps, and other office supplies as may be needed shall be provided as such supplies are now furnished to the other State House officers. They shall select a clerk, whose duty shall be determined by the board, whose compensation shall not exceed \$1,200.00 per annum, and in addition thereto actual traveling expenses while in the discharge of his duties, and who shall hold office at the pleasure of the board.

Sec. 4. Be it further enacted, That the Commission shall have complete management and control of the State convicts, shall regulate the hours of their labor, the manner and extent of their punishment, the variety, quality, and quantity of their food, the kind and character of their clothing, and shall make such other rules and regulations as will insure their safe keeping and proper care; and to appoint such officers, guards, and physicians as may be necessary.

Approved December 21, 1897.

## AN ACT

To provide for the future employment of felony and misdemeanor male convicts upon the public roads of the several counties of the State, except certain classes, and to provide for the employment of those not used upon such roads; to amend Section 1039 of the Code so far as the same relates to females, and to prevent the hiring of misdemeanor convicts to private persons, to make violations of certain provisions of this Act crimes, and to provide punishment therefor, and for other purposes.

Section 1. Be it enacted by the General Assembly of the State of Georgia, and it is hereby enacted by the authority of the same, That Section 1039, Volume 3 of the Code of 1895 be amended by striking therefrom the words "or on such other works as the county authorities may employ the chaingang," and inserting in lieu thereof the words "or on such other public works as the county or State authorities may employ the chaingang," and by adding to said section the following words: "If the convict be a female, the presiding judge may, in his discretion, sentence her to confinement and labor in the woman's prison on the State Farm in lieu of a chaingang sentence, not to exceed twelve months; provided, that the trial judge shall have the discretion also of sending any person convicted of a misdemeanor to the State Farm," so that said section, as amended, shall read as follows: "Every crime declared to be a misdemeanor is punishable by a fine not to exceed one thousand dollars (\$1,000.00), imprisonment not to exceed six months, to work in the chaingang or the public roads, or on such other public works as the county or State authorities may employ the chaingang, not to exceed twelve months, any one or more of these punishments in the discretion of the judge; provided, that nothing herein contained shall authorize the giving the control to private persons, or their employment by the county or State authorities in such mechanical pursuits as will bring the products of their labor into competition with the products of free labor. If the convict be a female the judge may, in his discretion, sentence her to labor and confinement in the woman's prison on the State Farm, in lieu of a chaingang sentence, not to exceed twelve months, provided that the trial judge shall have the discretion also of sending any person convicted of a misdemeanor to the State Farm."

Sec. 2. Be it further enacted, That all male felony convicts, except such as are now required by law to be kept at the State Farm may, after March 31st, 1909, be employed by the authority of the several counties and municipalities upon the public roads, bridges or other public works of said counties or municipalities as hereinafter provided. Any two or more of said counties of this State may combine for the purpose of working and improving the roads of their respective counties, by and with the consent and approval of the Prison Commission. In proportioning the convicts to the several counties, the Prison Commission shall have the power, in their discretion, to award the convicts to other counties than the one in which the conviction was had. A county shall have the right upon the approval of the Prison Commission, to deliver its quota of felony convicts and also its misdemeanor convicts, if it so desires, to another county, to be used in the construction and repair of public roads, bridges or other public works, and the county so receiving such convicts, shall have the right to compensate the county from which the convicts come, with work upon its public roads, bridges or other public works, or by exchange of an equal number of convicts.

Sec. 3. Be it further enacted, That any county which has not taken its quota of convicts may, at any time, apply to the Commission for them, and the Commission shall, as early as practicable, furnish the county with its quota of convicts.

Sec. 4. Be it further enacted, That the Prison Commission is hereby authorized, when in funds, to purchase the road-working machinery, appliances and teams, and to equip and organize road-working forces, the same to be used for the construction and repair of public roads, bridges, or other public works, in the counties not using their convicts under the foregoing sections when requested by the authorities of such counties so to do. The work to be done as far as practicable in proportion to the convicts which would have been assigned to each county in case the county had worked its convicts. The Commission may work in such counties as many more convicts in addition to said proportion as any county is willing to pay the expense of, and as the county may have at its disposal. When the Prison Commission works any force of convicts in any county, such county shall pay the expense thereof, including maintenance of equipment, to the Commission, of working the forces, and shall buy the material required for the work to be done in the county; the county authorities of such county are hereby authorized to pay said expense out of any funds raised for road purposes. Accurate books of account shall be kept by the Prison Commission of all work done and expenses incurred. In all cases, provided for in this section, the county authorities shall designate the roads to be so worked or constructed.

Sec. 5. Be it further enacted, That if all convicts are not disposed of under the preceding sections, the Prison Commission is hereby authorized to place convicts in counties desiring to use them in excess of their quota; counties shall have the right to use as many convicts as they desire, upon the terms and conditions as in this Act provided; provided, that in the event the request by counties should exceed the number of convicts on hand, they shall be prorated, between those counties making application for same. In such cases the Prison Commission shall keep an accurate account of such excess of convicts, charging them to each county receiving them and keeping an accurate account, showing the counties to which they would have gone had such county used its convicts, and crediting them to such counties, which excess shall be paid back in convicts when the county so credited with convicts desires to use its convicts in the construction and repair of its roads, bridges, or other public works.

Sec. 6. Be it further enacted, That any county may purchase, rent and maintain a farm, upon which to work any number of its convicts, in connection with working its convicts upon its public roads, bridges and other public works, and all products and supplies arising from said farm shall be used in the support of the convicts, improvement of its public roads, bridges and other public works, and in support of the county institutions.

Sec. 7. Be it further enacted, That this Act is not intended to repeal or alter any of the provisions of the Act, approved December 21, 1897, as amended by Act approved August 17, 1903, as to the management, care and control of felony and misdemeanor convicts and the duties and liabilities of the Prison Commission in regard thereto, except such as are changed by this Act, and except that the Secretary of the Commission shall receive a salary of \$1,800.00 per annum, and he shall give his entire time to the service of the Commission, and shall be required to take an oath to faithfully discharge his duties, and give a bond in such amount as may be fixed by the Prison Commission, payable to the Governor, conditioned for the faithful performance of his duties; and the pay of the guards shall not exceed \$50.00 per month, and that of a

warden \$100.00 per month; provided, that no person under the age of twenty-one years, and who does not furnish a certificate signed by three reputable citizens of his county, giving testimony of his good moral character, shall be employed as such warden, guard or other employee, and any such employee who shall make a false statement as to his age, in order to procure such employment, shall be guilty of a misdemeanor and on conviction shall be punished as provided by law. No guard or warden shall be employed or retained who drinks intoxicating liquors to excess, and no warden or guard shall be appointed who does not furnish a certificate from the ordinary of the county in which he resides that he is, in the opinion of said ordinary, a humane, sober and honest man.

Sec. 8. Be it further enacted, That all convicts, whether sentenced for felony or misdemeanor crimes, and all convict camps shall be under the direct supervision of the Prison Commission, which shall provide rules and regulations for the management, discipline and control of said convicts, and of said convict camps, subject to the approval of the Governor, and shall have lawful authority to summarily discharge for cause any employe having either care or charge of said convicts, or said convict camps, and it shall be the duty of the Prison Commission to require constant and thorough disinfection of the quarters of the convicts, and the observance and maintenance of sanitary rules and appliances.

Sec. 9. Be it further enacted, That it shall be the duty of some member of the Prison Commission to make personal visits to the various convict camps of the State, including the county road gangs, every six months, and to make a thorough inspection of every detail of management, plan of operation, and treatment of convicts; said visits to be made unawares to the authorities in charge of the various camps.

Sec. 10. Be it further enacted, That if the Prison Commission has on hand convicts not provided for under the foregoing sections of this Act, said Prison Commission may place upon said farms such convicts and work the same thereon. In connection with the handling of convicts upon farms, the Prison Commission shall employ such superintendents as in their discretion may be deemed necessary. The compensation of a superintendent shall not be more than twelve hundred dollars per annum and actual traveling expenses while in the discharge of his duties, together with a residence for himself and family to be located on the farm of which he is superintendent. No superintendent shall be allowed to keep any live stock at the State's expense. Superintendents shall be required to give their entire time and attention to the duties of their office and shall not engage in farming or any other business in their own behalf.

Sec. 11. Be it further enacted, That the Prison Commission is hereby authorized, if they deem it necessary, to employ not more than four supervisors, who shall visit the various counties, inspect the convicts and their work, and perform such other duties as may be required of them by the Commission. If practicable, civil engineers shall be selected for these positions. The salaries shall not exceed one hundred and fifty dollars per month and actual traveling expenses. The Commission shall also appoint such wardens and guards as may be necessary, and shall define their duties.

Sec. 12. Be it further enacted, That it shall be the duty of the supervisors to inform themselves thoroughly upon the subject of road building and assist as far as possible those in different counties and municipalities in planning and constructing public roads, bridges and works, and it shall be the duty of the Commission to furnish those representing the various counties of the State engaged in building roads, bridges

and public works information on the subject of handling their convicts, economically and successfully, with reference to the construction of public roads, bridges and other public works in which said counties and municipalities may be engaged.

Sec. 13. Be it further enacted, The clerk of the court wherein any person may be convicted and sentenced for violation of the criminal laws of the State shall notify the Prison Commission immediately thereafter by mail, of the conviction and sentence together with a description of the person sentenced, which shall give the name, crime, sentence, age, sex, height, weight, and apparent physical condition of such person; and the disposition made or to be made of said person.

Sec. 14. Be it further enacted, The Prison Commission shall keep a record of all convictions and sentences for violations of the criminal laws and of the final disposition of each case.

Sec. 15. Be it further enacted, That all laws and parts of laws in conflict with this Act be, and the same are hereby repealed.

Approved September 19th, 1908.

## FEDERAL AID ROAD ACT OF 1916

(PUBLIC LAW—No. 156—64TH CONGRESS.)

(H. R. 7617.)

AN ACT To provide that the United States shall aid the States in the construction of rural post roads, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to co-operate with the States through their respective State highway departments, in the construction of rural post roads; but no money apportioned under this Act to any State shall be expended therein until its legislature shall have assented to the provisions of this Act, except that, until the final adjournment of the first regular session of the legislature held after the passage of this Act, the assent of the governor of the State shall be sufficient. The Secretary of Agriculture and the State highway department of each State shall agree upon the roads to be constructed therein and the character and method of construction: Provided, That all roads constructed under the provisions of this Act shall be free from tolls of all kinds.

Sec. 2. That for the purpose of this Act the term "rural post road" shall be construed to mean any public road over which the United States mails now are or may hereafter be transported, excluding every street and road in a place having a population, as shown by the latest available Federal census, of two thousand five hundred or more, except that portion of any such street or road along which the houses average more than two hundred feet apart; the term "State highway department" shall be construed to include any department of another name, or commission, or official or officials of a State empowered, under its laws, to exercise the functions ordinarily exercised by a State highway department; the term "construction" shall be construed to include reconstruction and improvement of roads; "properly maintained" as used herein shall be construed to mean the making of needed repairs and the preservation of a reasonably smooth surface considering the type of the road; but shall not be held to include extraordinary repairs, nor reconstruction; necessary bridges and culverts shall be deemed parts of the respective roads covered by the provisions of this Act.

Sec. 3. That for the purpose of carrying out the provisions of this Act there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June thirtieth, nineteen hundred and seventeen, the sum of \$5,000,000; for the fiscal year ending June thirtieth, nineteen hundred and eighteen, the sum of \$10,000,000; for the fiscal year ending June thirtieth nineteen hundred and nineteen, the sum of \$15,000,000; for the fiscal year ending June thirtieth, nineteen hundred and twenty, the sum of \$20,000,000; and for the fiscal year ending June thirtieth, nineteen hundred and twenty-one, the sum of \$25,000,000. So much of the appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof shall be available

for expenditure in that State until the close of the succeeding fiscal year, except that amounts apportioned for any fiscal year to any State which has not a State highway department shall be available for expenditure in that State until the close of the third fiscal year succeeding the close of the fiscal year for which such apportionment was made. Any amount apportioned under the provisions of this Act unexpended at the end of the period during which it is available for expenditure under the terms of this section shall be reapportioned, within sixty days thereafter, to all the States in the same manner and on the same basis, and certified to the Secretary of the Treasury and to the State highway departments and to the governors of States having no State highway departments in the same way as if it were being apportioned under this Act for the first time: Provided, That in States where the constitution prohibits the State from engaging in any work of internal improvements, then the amount of the appropriation under this Act apportioned to any such State shall be turned over to the highway department of the State or to the governor of said State to be expended under the provisions of this Act and under the rules and regulations of the Department of Agriculture, when any number of counties in any such State shall appropriate or provide the proportion or share needed to be raised in order to entitle such State to its part of the appropriation apportioned under this Act.

Sec. 4. That so much, not to exceed three per centum, of the appropriation for any fiscal year made by or under this Act as the Secretary of Agriculture may estimate to be necessary for administering the provisions of this Act shall be deducted for that purpose, available until expended. Within sixty days after the close of each fiscal year the Secretary of Agriculture shall determine what part, if any, of the sums theretofore deducted for administering the provisions of this Act will not be needed for that purpose and apportion such part, if any, for the fiscal year then current in the same manner and on the same basis, and certify it to the Secretary of the Treasury and to the State highway departments, and to the governors of States having no State highway departments, in the same way as other amounts authorized by this Act, to be apportioned among all the States for such current fiscal year. The Secretary of Agriculture shall apportion the remainder of the appropriation for each fiscal year among the several States in the following manner: One-third in the ratio which the area of each State bears to the total area of all the States; one-third in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census; one-third in the ratio which the mileage of rural delivery routes and star routes in each State bears to the total mileage of rural delivery routes and star routes in all the States, at the close of the next preceding fiscal year, as shown by the certificates of the Postmaster General, which he is directed to make and furnish annually to the Secretary of Agriculture.

Sec. 5. That within sixty days after the approval of this Act the Secretary of Agriculture shall certify to the Secretary of the Treasury and to each State highway department and to the governor of each State having no State highway department the sum which he has estimated to be deducted for administering the provisions of this Act and the sum which he has apportioned to each State for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and on or before January twentieth next preceding the commencement of each succeeding fiscal year shall make like certificates for such fiscal year.

Sec. 6. That any State desiring to avail itself of the benefits of this Act shall, by its State highway department, submit to the Secretary of Agriculture project statements setting forth proposed construction of any rural post road or roads therein. If the Secretary of Agriculture approve a project, the State highway department shall furnish to him such sur-

veys, plans, specifications, and estimates therefor as he may require: Provided, however, That the Secretary of Agriculture shall approve only such projects as may be substantial in character and the expenditure of funds hereby authorized shall be applied only to such improvements. Items included for engineering, inspection, and unforeseen contingencies shall not exceed ten per centum of the total estimated cost of the work. If the Secretary of Agriculture approve the plans, specifications, and estimates, he shall notify the State highway department and immediately certify the fact to the Secretary of the Treasury. The Secretary of the Treasury shall thereupon set aside the share of the United States payable under this Act on account of such project, which shall not exceed fifty per centum of the total estimated cost thereof. No payment of any money apportioned under this Act shall be made on any project until such statement of the project, and the plans, specifications, and estimates therefor, shall have been submitted to and approved by the Secretary of Agriculture.

When the Secretary of Agriculture shall find that any project so approved by him has been constructed in compliance with said plans and specifications he shall cause to be paid to the proper authority of said State the amount set aside for said project: Provided, That the Secretary of Agriculture may, in his discretion, from time to time make payments on said construction as the same progresses, but these payments including previous payments, if any, shall not be more than the United States' pro rata part of the value of the labor and materials which have been actually put into said construction in conformity to said plans and specifications; nor shall any such payment be in excess of \$10,000 per mile, exclusive of the cost of bridges of more than twenty feet clear span. The construction work and labor in each State shall be done in accordance with its laws, and under the direct supervision of the State highway department, subject to the inspection and approval of the Secretary of Agriculture and in accordance with the rules and regulations made pursuant to this Act.

The Secretary of Agriculture and the State highway department of each State may jointly determine at what times, and in what amounts, payments, as work progresses, shall be made under this Act. Such payments shall be made by the Secretary of the Treasury, on warrants drawn by the Secretary of Agriculture, to such official, or officials, or depository, as may be designated by the State highway department and authorized under the laws of the State to receive public funds of the State or county.

Sec. 7. To maintain the roads constructed under the provisions of this Act shall be the duty of the States, or their civil subdivisions, according to the laws of the several States. If at any time the Secretary of Agriculture shall find that any road in any State constructed under the provisions of this Act is not being properly maintained he shall give notice of such fact to the highway department of such State and if within four months from the receipt of said notice said road has not been put in a proper condition of maintenance then the Secretary of Agriculture shall thereafter refuse to approve any project for road construction in said State, or the civil subdivision thereof, as the fact may be, whose duty it is to maintain said road, until it has been put in a condition of proper maintenance.

Sec. 8. That there is hereby appropriated and made available until expended, out of any moneys in the National Treasury not otherwise appropriated, the sum of \$1,000,000 for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and each fiscal year thereafter, up to and including the fiscal year ending June thirtieth, nineteen hundred and

twenty-six, in all \$10,000,000, to be available until expended under the supervision of the Secretary of Agriculture, upon request from the proper officers of the State, Territory, or county for the survey, construction, and maintenance of roads and trails within or only partly within the national forests, when necessary for the use and development of resources upon which communities within and adjacent to the national forests are dependent: Provided, That the State, Territory, or county shall enter into a co-operative agreement with the Secretary of Agriculture for the survey, construction, and maintenance of such roads or trails upon a basis equitable to both the State, Territory, or county, and the United States: And provided also, That the aggregate expenditures in any State, Territory, or county shall not exceed ten per centum of the value, as determined by the Secretary of Agriculture, of the timber and forage resources which are or will be available for income upon the national forest lands within the respective county or counties wherein the roads or trails will be constructed; and the Secretary of Agriculture shall make annual report to Congress of the amounts expended hereunder.

That immediately upon the execution of any co-operative agreement hereunder the Secretary of Agriculture shall notify the Secretary of the Treasury of the amount to be expended by the United States within or adjacent to any national forest thereunder, and beginning with the next fiscal year and each fiscal year thereafter the Secretary of the Treasury shall apply from any and all revenues from such forest ten per centum thereof to reimburse the United States for expenditures made under such agreement until the whole amount advanced under such agreement shall have been returned from the receipts from such national forest.

Sec. 9. That out of the appropriations made by or under this Act, the Secretary of Agriculture is authorized to employ such assistants, clerks, and other persons in the city of Washington and elsewhere, to be taken from the eligible lists of the Civil Service Commission, to rent buildings outside of the city of Washington, to purchase such supplies, material, equipment, office fixtures, and apparatus, and to incur such travel and other expense as he may deem necessary for carrying out the purposes of this Act.

Sec. 10. That the Secretary of Agriculture is authorized to make rules and regulations for carrying out the provisions of this Act.

Sec. 11. That this Act shall be in force from the date of its passage.

Approved, July 11, 1916.

## SUMMARY OF FEDERAL AID ROAD ACT OF 1916

The Federal aid road act was signed by the President and became a law on July 11, 1916.

### SUMMARY OF THE FEDERAL AID ROAD ACT.

Principle of the Act is: Co-Operation.

**Purpose of the Act.**—To promote construction of rural post roads by granting aid to the various States; to provide further money aid toward the construction of roads and trails wholly or partly within the national forests; to encourage supervision of roads within the State by competent State officials.

### PROVISIONS OF THE ACT.

**Total amount appropriated, \$85,000,000.**—\$75,000,000 to be expended on the rural post roads in the several States during the five-year period ending June 30, 1921; \$10,000,000 to be expended at the rate of \$1,000,000 a year in connection with the national forest roads.

Amounts to be expended from the major appropriation are:

\$5,000,000 for the year ending June 30, 1917;  
\$10,000,000 for the year ending June 30, 1918;  
\$15,000,000 for the year ending June 30, 1919;  
\$20,000,000 for the year ending June 30, 1920;  
\$25,000,000 for the year ending June 30, 1921.

A deduction for administration not to exceed 3 per cent of the appropriation for any one fiscal year is to be made by the Secretary of Agriculture, after which

The remainder of each year's appropriation is to be apportioned among the States in the following manner:

One-third in the ratio which the area of each State bears to the total area of all the States;

One-third in the ratio which the population of each State bears to the total population of all the States;

One-third in the ratio which the mileage of rural delivery and star routes in each State bears to the total mileage of rural delivery routes and star routes in all the States.

Roads which may be constructed under the act are defined as those over which the United States mails now are or may hereafter be transported, excluding streets and roads in places having a population of 2,500 or more, except that portion of such thoroughfares along which the houses average more than 200 feet apart.

Federal money may be expended on construction only.—The term "construction" is construed to include reconstruction and improvement of existing roads, but expenditure of funds is authorized upon only such projects as may be substantial in character.

The limit of expenditure which may be made by the United States upon any road is \$10,000 per mile, exclusive of the cost of bridges of more than 20 feet clear span. And in no event shall the share of the United States exceed 50 per cent of the total cost.

The Secretary of Agriculture is required, within 60 days after the approval of the act, to certify to the Secretary of the Treasury, to each State highway department, and to the governor of each State having no State highway department, the sum which he has estimated to be deducted for administering the provisions of the act and the sum which he has apportioned to each State for the fiscal year ending June 30, 1917, and on or before January 20 next preceding the commencement of each succeeding fiscal year he is required to make like certificates for such fiscal year.

The balance of the annual apportionment remaining unexpended at the close of any fiscal year in any State is to be available for expenditure in that State until the close of the succeeding fiscal year, except that an apportionment for any fiscal year to a State which has no State highway department is to be available for expenditure in that State until the close of the third fiscal year succeeding the close of the fiscal year for which the apportionment was made; in other words, in the absence of a highway department, it is to be available for four years from the beginning of the fiscal year for which the appropriation is made. Any amount remaining unexpended at the end of the period during which it is available is to be reapportioned within 60 days to all the States in the same manner and on the same basis as if it were being apportioned for the first time; and in the same manner the Secretary of Agriculture is to certify to the Secretary of the Treasury, to the State highway departments, and to the governors of States having no State highway departments, the amount of the apportionment to each State.

### TO RECEIVE THE BENEFITS OF THE ACT.

I. A State must, through its legislature, assent to the provisions of the act, except that, until the final adjournment of the first regular session of the legislature held after the passage of the act, the assent of the governor of the State shall be sufficient.

II. A State must have a State highway department. The term "State highway department" is construed to include any department of another name, or any commission or official, or officials empowered under the laws, to exercise the ordinary functions of a State highway department.

III. A State must submit to the Secretary of Agriculture, by its State highway department, a definite and comprehensive program of construction for the five-year period, or as much thereof as practicable, and subsequently from time to time an application for Federal aid, known as a project statement, setting forth proposed construction of each rural post road.

IV. A State must furnish, through its State highway department to the Secretary of Agriculture, upon his approval of a project, such surveys, plans, specifications, and estimates as the Secretary may require. Items included for engineering, inspection, and unforeseen contingencies shall not exceed 10 per cent of the total estimated cost of the work.

V. A State must agree, through its State highway department, with the Secretary of Agriculture upon the road to be constructed and the character and method of construction.

VI. A State must construct, under the supervision of its State highway department, the road or roads, including necessary bridges and culverts, approved by the Secretary of Agriculture. The work and labor are to be done in accordance with the laws of the State and rules and regulations made pursuant to the act, and subject to the inspection and approval of the Secretary of Agriculture.

VII. A State must properly maintain the roads constructed under the provisions of the act, except that in such cases as State laws impose the duty of maintenance upon civil subdivisions of the State, these must maintain the roads constructed. Proper maintenance is construed to mean the making of needed repairs and the preservation of a reasonably smooth surface considering the type of the road, but is not held to include extraordinary repairs or reconstruction. If at any time the Secretary of Agriculture shall find that any road constructed under the provisions of the act is not being properly maintained, he is directed to give notice of that fact to the highway department of the State. If within four months from the receipt of such notice the road has not been put in a proper condition of maintenance the Secretary of Agriculture is required to refuse thereafter to approve any project for road construction in the State, or civil subdivision, as the case may be, whose duty it is to maintain the road, until it has been put in a condition of proper maintenance.

A State prohibited by its constitution from engaging in any work of internal improvement may obtain its apportionment when any number of counties shall have appropriated or provided the proportion or share needed to be raised in order to entitle such State to its part of the appropriation.

Approval by the Secretary of Agriculture of the plans, specifications, and estimates submitted by a State highway department is followed by certification of the fact to the Secretary of the Treasury who thereupon is required to set aside the share of the United States payable on account of the project.

Partial and final payments for approved work are to be made by the Secretary of the Treasury, on warrants drawn by the Secretary of Agriculture, to the official, officials, or depository designated by the State highway department and authorized under the laws of the State to receive public funds of the State or county, but

No payment shall be greater than the United States' pro rata part of the value of labor and materials which actually have been put into the construction in conformity with the plans and specifications.

Freedom from tolls of all kinds is provided for all roads constructed under the act.

The Secretary of Agriculture is authorized to make rules and regulations for carrying out the provisions of the act; to employ assistants, clerks, and others from the eligible lists of the Civil Service Commission; to rent buildings outside the city of Washington, purchase supplies, materials, etc., and incur travel and other expenses such as he may deem necessary for carrying out the purposes of the act.

Inspection and approval by the Secretary of Agriculture at every stage of the proceedings is required. Except as to section 8 the Office of Public Roads and Rural Engineering will act for the Secretary in the routine administration of the act. The apportionment of funds and the selection of projects under section 8 will be handled by the Forest Service, while surveying and construction work will be under the supervision of the Office of Public Roads and Rural Engineering. General inquiries may be addressed accordingly.

#### NATIONAL FOREST ROADS.

The appropriation of \$10,000,000 for the survey, construction, and maintenance of roads and trails wholly or partly within the national forests is to be available until expended under the supervision of the Secretary of Agriculture.

To receive aid a State, Territory, or county must make a formal request through its proper officer and must enter into a co-operative agree-

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ment with the Secretary of Agriculture for the survey, construction, and maintenance of the desired roads or trails upon a basis equitable to both the State, Territory, or county and the United States.

The aggregate expenditures in any State, Territory, or county must not exceed 10 per cent of the value, as determined by the Secretary of Agriculture, of the timber and forage resources which are or will be available for income upon the national forest lands within the respective county or counties wherein the roads or trails will be constructed. The Secretary of Agriculture is required to make annual report to Congress of the amounts expended for this purpose.

The United States is to be reimbursed for expenditures made under agreement between the Secretary of Agriculture and a State, Territory, or county by the application by the Secretary of the Treasury of 10 per cent of all revenues from the forest beginning with the next fiscal year after the making of the agreement. This reimbursement is to continue until the whole amount advanced under the agreement shall have been returned to the United States from the receipts of the national forest within or adjacent to which the money is expended.

# RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE FOR CARRYING OUT THE FEDERAL AID ROAD ACT. (EXCEPT SECTION 8 THEREOF.)

Issued September 1, 1916.

## REGULATION 1.—DEFINITIONS.

For the purposes of these regulations, the following terms shall be construed, respectively, to mean—

Section 1. The Federal-aid road act, or the act.—An act of Congress entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916. (Public, No. 156, 64th Congress.)

Sec. 2. The Secretary.—The Secretary of Agriculture of the United States.

Sec. 3. Office of Public Roads.—The Office of Public Roads and Rural Engineering of the United States Department of Agriculture.

Sec. 4. Ten per cent fund.—Items for engineering, inspection, and unforeseen contingencies, not exceeding 10 per cent of the total estimated cost of the work.

Sec. 5. Authorized representatives of the Secretary.—The Director of the Office of Public Roads and such other officials and employes thereof as he may designate from time to time.

## REGULATION 2.—APPLICATION OF REGULATIONS.

Section 1. These regulations apply to all provisions, except section 8 of the act and shall not be applied to section 8 unless hereafter authorized or required by order of the Secretary.

Sec. 2. These regulations shall apply as fully where the State can not constitutionally engage in any work of internal improvements as in any other case, when any number of counties in such State shall appropriate or provide the proportion or share needed to be raised in order to entitle such State to its part of the appropriation apportioned under the act.

## REGULATION 3.—INFORMATION FOR THE SECRETARY.

Section 1. Before an agreement is made upon any road or roads to be constructed in a State, or the character and method of construction, upon request of the Secretary there shall be furnished to him, by or on behalf of the State, general information as to its laws affecting roads and the authority of the State and local officials in reference to the construction and maintenance of roads; as to schemes for future construction; and as to provisions made, or to be made, for constructing and maintaining roads upon which it is contemplated that the expenditure of money appropriated by or under the act will be proposed. The information furnished shall be sufficient to enable the Secretary to determine whether it is likely that the money apportioned to the State will be expended, and the

roads constructed will be properly maintained, in accordance with the terms of the act.

Sec. 2. Information requested by the Secretary or his authorized representative, relating to the maintenance of roads constructed under the provisions of the act, shall be furnished, from time to time, by the State highway departments, on forms supplied by the Office of Public Roads.

Sec. 3. Data furnished by or on behalf of a State shall be supplemented by such reports of the Office of Public Roads as the Secretary may from time to time require before he decides whether the State has complied with the terms of the act or has presented a project statement which should be approved.

## REGULATION 4.—PROJECT STATEMENTS.

Section 1. A project statement shall contain all information necessary to enable the Secretary to ascertain (a) whether the project conforms to the requirements of the act; (b) whether adequate funds, or their equivalent, are or will be available by or on behalf of the State for construction; (c) what purpose the project will serve and how it correlates with the other highway work of the State; (d) the administrative control of, and responsibility for, the project; (e) the practicability and economy of the project from an engineering and construction standpoint; (f) the adequacy of the plans and provisions for proper maintenance of roads; and (g) the approximate amount of Federal aid desired. With each statement there shall be submitted for the approval of the Secretary copies of the form of contract, together with all documents referred to therein or made part thereof, and of the contractor's bond which it is proposed to use on the project. No alteration of such forms shall be made until it is approved by the Secretary.

Sec. 2. Suitable forms for project statements will be supplied by the Office of Public Roads.

Sec. 3. Project statements for any fiscal year may be submitted at any time after the apportionment for that year shall have been made.

Sec. 4. Projects will be deemed preferred and recommended for approval by the State highway department in the order in which the project statements are submitted, unless it be otherwise specified in writing, but the Secretary may, in his discretion, consider the projects in a different order.

Sec. 5. Each project statement shall be accompanied by a sketch map showing the location of the proposed project and all main contiguous transportation features.

Sec. 6. Suitable samples of materials suggested for use in the construction of a project shall be submitted to the Office of Public Roads, whenever requested by it, for examination prior to the Secretary's decision on the project statement.

Sec. 7. Where any part of the cost of a project is to be furnished by a county or other local subdivision or subdivisions of a State, the project statement shall be accompanied by certified copy of each resolution of order, if any, of the appropriate local officials respecting the funds which are or will be made available, or respecting the supervision of the construction of the road and of the expenditure of the money provided or to be provided for paying such cost.

## REGULATION 5.—SURVEYS, PLANS, SPECIFICATIONS, AND ESTIMATES.

Section 1. Surveys and plans shall show, in convenient form and sufficient detail, according to accepted engineering practice, necessary data

in connection with the specifications and estimates, to enable the Secretary to ascertain and pass upon location, grades, drainage, bridges, other structures, special and unusual features, the work to be performed, and the probable cost thereof.

Sec. 2. Specifications shall set forth the proposed method of construction, type of construction, materials to be used, and other essentials, in such detail as to afford complete knowledge of all steps to be taken in the construction of the project.

Sec. 3. The estimate for each project shall show the estimated quantity and cost of each item of construction in detail and, separately, the 10 per cent fund, and shall not include any expense of advertising.

Sec. 4. Rights of way necessary for any project shall be provided, and any incidental damages to adjoining property due to construction work paid by or on behalf of the State, and the expense thereof shall not be included in the estimate or paid in any part, directly or indirectly, by the Federal Government.

Sec. 5. Grade crossings shall be avoided where practicable. The estimated cost of eliminating a grade crossing shall not include any amount the State, county, or other civil subdivision has received, is to receive, or is entitled to receive, directly or indirectly, as reimbursement or payment from the owner of a public utility for or on account of such elimination.

Sec. 6. No part of the expense of making surveys, plans, specifications, or estimates, by or on behalf of the State prior to the beginning of construction work, shall be included in the estimate or paid by the Federal Government.

Sec. 7. When plans, specifications, and estimates have been approved by the Secretary, no alteration thereof shall be made without his approval.

Sec. 8. For all projects for which statements are submitted after December 31, 1916, standards governing the form and arrangement of plans, specifications, and estimates will be hereafter prescribed and promulgated by the Secretary.

#### **REGULATION 6.—PROJECT AGREEMENTS.**

Section 1. A project agreement between the State highway department and the Secretary shall be executed, in triplicate, on a form furnished by him, previous to commencement of the construction of the project.

#### **REGULATION 7.—CONTRACTS.**

Section 1. No part of the Federal money set aside on account of any project shall be paid until it has been shown to the satisfaction of the Secretary that adequate means, either by advertising or by other devices appropriate for the purpose, were employed, prior to the beginning of construction, to insure the economical and practical expenditure of such money.

Sec. 2. Immediately on publication of advertisements, copies thereof shall be furnished to the Office of Public Roads.

Sec. 3. Bids shall be in such form that the unit prices at which the various services are to be performed and the various materials furnished will be clearly shown.

Sec. 4. Copy of the tabulated bid prices, showing the unit prices and the totals of each bid for every project, shall be furnished promptly to the Office of Public Roads.

Sec. 5. In advance of the acceptance of any bid, sufficient notice of the time and place the contract is to be awarded shall be given to the Office of Public Roads to enable it, if it so desire, to have a representative present. When a bid has been accepted prompt notice thereof shall be given to the Office of Public Roads.

Sec. 6. If the contract be awarded to any other than the lowest responsible bidder, the Federal Government shall not pay more than its pro rata share of the lowest responsible bid, unless it be satisfactorily shown that it was advantageous to the work to accept the higher bid.

Sec. 7. A copy of each contract as executed shall be immediately certified by the State highway department and furnished to the Office of Public Roads.

Sec. 8. The specifications and plans shall be made a part of the contract.

Sec. 9. No alteration in such contract shall be made without the approval of the Secretary.

#### **REGULATION 8.—CONSTRUCTION WORK AND LABOR.**

Section 1. Suitable samples of materials to be used in construction work shall be submitted, by or on behalf of the State highway department, to the Office of Public Roads whenever requested.

Sec. 2. Unless otherwise stipulated in writing by the Secretary or his authorized representative, materials for the construction of any project shall, prior to use, be tested for conformity with specifications, according to methods prescribed or approved by the Office of Public Roads.

Sec. 3. Unless otherwise specifically stipulated in the project agreement, bridges, viaducts, and underpasses shall have clear width of roadway of not less than 16 feet and clear head room of not less than 14 feet for a width of 8 feet at the center.

Sec. 4. No part of the money apportioned under the act shall be used, directly or indirectly, to pay, or to reimburse a State, county, or local subdivision for the payment of any premium or royalty on any patented or proprietary material, specification, process, or type of construction, unless purchased or obtained on open actual competitive bidding at the same or a less cost than unpatented articles or methods equally suitable for the same purpose.

Sec. 5. The supervision of each project by the State highway department shall include adequate inspection throughout the course of construction.

Sec. 6. Written notice of commencement and completion of construction work on any project shall be given promptly by the State highway department to the Office of Public Roads.

Sec. 7. Reports of the progress of construction, showing force employed and work done, shall be furnished, from time to time, whenever requested by the Secretary or his authorized representative.

Sec. 8. Labor, teams, materials, and equipment furnished, in lieu of money, by or on behalf of the State highway department on construction work shall be used only on such terms and conditions as are set forth in the project agreement.

#### **REGULATION 9.—RECORDS AND COST KEEPING.**

Section 1. A separate account for each project shall be so kept, by or under the direction of the State highway department, as to enable the secretary, or his authorized representative, to ascertain at any time the expenditures on and the liabilities against the project and, separately, the condition of the 10 per cent fund.

Sec. 2. Such other records of contract and force account work, and of inspections and tests by or on behalf of the State, shall be kept, by or under the direction of the State highway department, as will enable the Secretary, or his authorized representative, at any time to determine the condition of the construction and maintenance of, and the cost to the State and the Federal Government of the construction work and labor on any project.

Sec. 3. The accounts and records, together with all supporting documents, shall be open, at all times, to the inspection of the Secretary, or his authorized representative, and copies thereof shall be furnished when requested.

Sec. 4. Certified copies of pay rolls on force account work and of all vouchers for other expenditures shall be furnished, whenever requested by the Secretary or his authorized representative.

Sec. 5. Whenever requested by the Secretary or his authorized representative, unit costs on any project shall be kept on forms furnished by the Office of Public Roads.

#### REGULATION 10.—PAYMENTS.

Section 1. Vouchers, in the form provided by the Secretary and certified as therein prescribed, showing amounts expended on any project and amount claimed to be due from the Federal Government on account thereof, shall be submitted by the State highway department to the Office of Public Roads, either after completion of construction of the project or, if the Secretary has determined to make payments as the construction progresses, at intervals of not less than one month.

#### REGULATION 11.—OFFICE OF PUBLIC ROADS.

Section 1. Papers and documents required by the act or these regulations to be submitted to the Secretary may be delivered to the Office of Public Roads and from the date of such delivery shall be deemed submitted.

## RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER SECTION 8 OF THE FEDERAL AID ROAD ACT.

Issued September 1, 1916.

#### REGULATION 1.—DEFINITIONS.

For the purposes of these regulations the following terms shall be construed, respectively, to mean:

Section 1. Act. Section 8 of an act of Congress entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916. (Public, No. 156, 64th Congress.)

Sec. 2. Secretary. The Secretary of Agriculture of the United States.

Sec. 3. Office of Public Roads. The Office of Public Roads and Rural Engineering of the United States Department of Agriculture.

Sec. 4. Local authority. The State, Territory, or county, jointly or severally, making application for the survey and construction of a road or entering into a co-operative agreement with the Secretary.

Sec. 5. State. Any State or Territory.

Sec. 6. Road. A road, trail, or bridge.

Sec. 7. National forest road. A road constructed or to be constructed in co-operation with the local authorities under the direct supervision of the Secretary of Agriculture and paid for, in whole or in part, out of moneys made available by the act.

Sec. 8. Co-operative road. A road constructed or to be constructed under State, Territory, or county supervision and under co-operative agreement as provided in the act, but paid for out of funds other than those appropriated by the act.

Sec. 9. Construction. Reconstruction and improvement of roads, as well as original construction.

Sec. 10. Maintenance or properly maintain. The making of needed repairs and the preservation of a reasonably smooth surface, considering the type of road, but not extraordinary repairs or reconstruction.

Sec. 11. State highway department. Any department of another name, or commission, or official or officials, of a State empowered, under its laws, to exercise the functions ordinarily exercised by a State highway department.

#### REGULATION 2.—APPORTIONMENT.

Section 1. Ten per cent of each annual appropriation shall be withheld as a special fund, from which, as directed by the Secretary, the apportionment to any State as hereafter provided may be increased, and from which there shall be paid such amounts as the Secretary may find necessary for the general administration of the provisions of the act. The remaining ninety per cent of each annual appropriation shall be appor-

tioned to the States as follows: One-half on the basis that the aggregate area of the lands of the United States in the national forests in each State bears to the total land area of such State, and one-half in the proportion that the estimated value of timber and forage resources of the national forests in such State bears to the total value of timber and forage resources of the national forests of all the States: Provided, however, That in such apportionment the States of Florida, Michigan, Minnesota, Nebraska, North Dakota, and Oklahoma shall be considered as a unit of apportionment, and the States within which lands have been acquired by the United States under the provisions of the act of March 1, 1911 (36 Stat., 961), entitled "An act to enable any State to co-operate with any other State or States or with the United States for the protection of watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," known as the Weeks law, shall also be considered as a unit of apportionment.

Sec. 2. The apportionment for the fiscal year ending June 30, 1917, shall be made as of the date of the approval of these regulations, and on or before the 1st day of January next preceding the commencement of each succeeding fiscal year the Secretary will make like apportionment for such fiscal year.

Sec. 3. Any amounts apportioned to the States as herein provided remaining unexpended for a period of three years after such apportionment may be reapportioned by the Secretary to the several States in the manner provided for original apportionment.

#### REGULATION 3.—APPLICATIONS.

Section 1. Application for the survey, construction, and maintenance of roads under the act shall be made by the proper local authority to the Secretary upon forms furnished by the Forest Service and filed in the district office of the Forest Service for the district within which the proposed road is located. Any application by a county in a State having a State highway department shall, before filing, be referred to such department for its recommendation, which shall be filed with the application.

Sec. 2. Applications for the fiscal year ending June 30, 1917, shall be filed on or before October 1, 1916, and for each succeeding fiscal year on or before the 1st day of January next preceding such fiscal year.

Sec. 3. Each application shall contain: (a) Satisfactory evidence of authority to make application on behalf of the State, Territory, or county, and to enter into a co-operative agreement with the Secretary for the survey, construction, and maintenance of the proposed road; (b) a statement of the public needs to be served by the proposed road and the manner in and extent to which such road is necessary for the use and development of the resources upon which communities within or adjacent to the national forests are dependent; (c) a statement showing (1) the general location of the proposed road, (2) its termini, length, grades, and estimated cost, and (3) the name, population, and location with respect to the proposed road of each community that would be benefited thereby; and (d) proposals for co-operation, giving in detail the amount and extent of the co-operation offered, whether the money, materials, labor, or the construction of a co-operative road and whether co-operative moneys will be held and disbursed by the local authority or will be deposited in the United States Treasury in accordance with the provisions of the act of Congress approved June 30, 1914 (38 Stat., 415, 430), entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1915," creating a special fund of contributions for co-operative forest work, available until expended, for the payment of the

expenses of such work and for refunds to the contributors of amounts paid by them in excess of their share of such work.

Sec. 4. Applications which are not approved for the fiscal year for which made will be retained, and unless modified or withdrawn by the applicant will be considered for succeeding fiscal years.

#### REGULATION 4.—SELECTION OF PROJECTS.

Section 1. The Forest Service shall prepare: (a) A project plan for each State, providing, as far as practicable, for a comprehensive road system in the national forests, showing in the order of their importance the roads within or partly within the national forests which it believes should be constructed; (b) maps showing the road system for each national forest and delimiting the projects listed, as provided in section 3 hereof, with a mark or marks of identification for each; and (c) a statement for each county in which there is a national forest, showing the maximum amount which may be expended therein under the act. Such project plans, maps, and statements shall be submitted to the Secretary for approval, and after such approval shall be transmitted to the Office of Public Roads for its information.

Sec. 2. Unless satisfactory data are already available, reconnoissance surveys and preliminary cost estimates shall be made by or under the direction of the Office of Public Roads of all road projects for which proper application has been made.

Sec. 3. A list of the projects applied for, arranged as to each State in the order in which construction is recommended, shall be forwarded each year for presentation to the Secretary. The project list as approved by the Secretary shall determine the order of construction for each year.

#### REGULATION 5.—CO-OPERATIVE AGREEMENT.

Section 1. Upon the approval of any project list, a co-operative agreement for execution by the Secretary and the local authority shall be prepared by the solicitor from data furnished by the Forest Service and the Office of Public Roads for each of those projects, in the order listed, for which funds are or will be available, and shall provide for: (a) Surveys, plans, construction, and maintenance of the project to be done in accordance with these rules and regulations; (b) amount, value, and character of co-operation; (c) furnishing of labor and materials, the deposit of co-operative funds in the Treasury, or the disbursement of such funds by the local authority; (d) supervision and inspection during construction and approval upon completion; (e) final accounting to each party to the agreement of all labor or materials furnished and all moneys expended under the agreement; and (f) such other terms as in the opinion of the Secretary should be included.

Sec. 2. The basis of co-operation shall be the reconnoissance survey estimate of the cost of final survey and construction. Co-operation shall be expressed as far as feasible in percentages. If the location survey estimate of the cost of final survey and construction. Co-operation shall be expressed as far as possible in percentages. If the location survey estimates exceed the reconnoissance estimates by 25 per cent or more, the Secretary shall so notify the local authority, and at any time within 30 days either party to the agreement may apply for a modification thereof. If modifications can be agreed upon, a supplementary agreement, if necessary, shall be drawn; otherwise, either party may withdraw from the agreement upon 30 days' notice. In case of such excess, construction shall not be started nor advertisements made for bids until final agreement is reached.

Sec. 3. Each local authority will be required to co-operate as herein defined in an amount at least equal to 50 per cent of the estimated cost of the final survey and construction and the entire cost of maintenance of national forest roads, unless a satisfactory showing is made to the Secretary that such an amount of co-operation is inequitable. Co-operation by local authorities may be in the form of money, labor, materials, or the construction of co-operative roads, and the amount and value thereof shall be fixed by the Secretary. Co-operation in the form of road construction will be accepted only when such co-operative road connects with and is an extension of a national forest road, and to the extent only that such road is necessary to furnish a connection between a national forest road and the general State, Territory, or county road system. Such co-operative road may be either within or without national forest boundaries.

#### REGULATION 6.—SURVEYS, CONSTRUCTION AND MAINTENANCE.

Sec. 1. Upon the execution of a co-operative agreement the Office of Public Roads shall proceed with the survey and construction of the road in accordance with such co-operative agreement.

Sec. 2. National forest roads shall be constructed under the supervision of the Office of Public Roads, in accordance with plans prepared by it and approved by the Forest Service. The maintenance of such roads shall be under the supervision of the Office of Public Roads, unless otherwise provided in the agreement.

Sec. 3. Co-operative roads shall be constructed in accordance with plans made as provided in the co-operative agreement and approved by the Office of Public Roads and the Forest Service. Such roads shall be subject to approval by the Secretary on completion, and to inspection by the Office of Public Roads during construction and maintenance. Co-operative roads shall be maintained by the local authorities.

Sec. 4. If a co-operative road is not constructed as provided in the preceding section, or any road constructed under a co-operative agreement is not properly maintained in accordance with its terms, or there is failure to comply with any other of its terms, the Secretary will give notice of such fact to the proper local authority. If within four months from the receipt of such notice the terms of such agreement are not complied with, the Secretary will thereafter refuse to enter into any other co-operative agreement with such local authority until compliance has been made with the original agreement.

#### REGULATION 7.—ACCOUNTING.

Section 1. All Federal funds expended for road construction under the act and all co-operative funds which may be deposited in the United States Treasury in accordance with the act of Congress approved June 30, 1914 (38 Stat., 415, 430), mentioned in section 3 of regulation 3, shall be disbursed as directed by the Secretary of Agriculture.

Sec. 2. Co-operative funds used for the survey and construction of national forest roads but not deposited in the Treasury shall be disbursed by the local authority only upon vouchers approved by the Office of Public Roads.

Sec. 3. A separate account shall be kept, as directed by the Secretary, of all moneys disbursed for national forest roads showing the States and counties within which and the projects upon which such moneys have been expended, and the Secretary will furnish to the local authorities a detailed statement of such expenditures as soon as practicable after the completion of every project.

Sec. 4. Unless otherwise directed by the Secretary, records of the costs of survey and construction of all road projects, whether co-operative or national forest roads, shall be kept upon forms to be supplied by the Office of Public Roads. If the Secretary shall so direct, progress statements or reports shall be submitted from time to time to the Office of Public Roads on forms supplied by that office, and within 90 days after the completion of a project the local authority shall submit to the Secretary a final report of the project on a form supplied by the Office of Public Roads.

Sec. 5. Immediately upon the execution of a co-operative agreement the Secretary will notify the Secretary of the Treasury of the amount to be expended by the United States within or adjacent to any national forest thereunder, and upon the completion of each project and the closing of the project accounts relating thereto the Secretary will submit to the Secretary of the Treasury a statement of the total expenditures of Federal funds made on account thereof and the distribution of such expenditures to each national forest concerned.

## ARTICLE ON THE GOVERNMENT AND GOOD ROADS.

By Hon. David F. Houston, Secretary of Agriculture.

(American Review of Reviews, September, 1916.)

During the coming year there will be throughout the country increasing interest in the application of the new Federal law providing grants of money for country roads in the 48 States. So many bills have been introduced and discussed at Washington that the average reader is not quite clear as to the provisions of the measure that has now been placed on the statute books by Congress and the President. Appreciating the great interest that the present Secretary of Agriculture has shown in the progress of the movement for good country roads as bearing vitally upon all the problems of rural life we have requested him to make an authoritative statement as to the way in which the law would work in its relation to the respective States. In the midst of many public duties of exceptional importance, the Secretary has acceded to our request and prepared the following admirable statement dealing with the highway situation as affected by this new Federal law.—The Editor.

For many years there has been a definite and growing interest in good roads. In early times road improvement, such as was undertaken, was directed almost exclusively by local agencies.

To thoughtful men it was apparent that if satisfactory results were to be secured central control, at least by the States, should be established. Washington, writing to Patrick Henry, referred to the slight progress that was being made under the direction of the local jurisdictions and suggested the necessity of developing a central State body which should have as its function the promotion of a movement for better roads and for more effective administrative supervision of construction and maintenance.

Comparatively little headway was made for many years, and not until about the beginning of this century did State action begin to assume definite proportions or to develop the requisite control. About 12 years ago the total annual expenditure of the States for road building amounted to only \$2,000,000, but by 1912 the amount had increased to \$43,000,000, and it is estimated that at present the Nation is expending the equivalent of at least \$225,000,000 for road improvement. Along with the increased provision for road building there has come a great improvement in machinery for planning roads and for expending the funds. There has been a definite movement for the creation of State highway commissions. Three or four years ago only 29 of the States had any adequate highway machinery, while today 39 have fairly satisfactory commissions. The result has been better planning, great improvement in administrative methods, and a fuller return to the people for the money provided by them.

### THE NATIONAL GOVERNMENT'S INTEREST.

The interest in road development was manifested a number of years ago by the Federal Government in the provision for a Federal Office of

Roads in the Department of Agriculture. For a time this office had inadequate support. Its activities were limited largely to testing and research work, to the issuance of publications of an educational character, and to the giving of expert advice. More recently it has extended its activities in a number of directions, and especially in making demonstrations of the best methods of road building in different sections of the country.

The progress made by this office is revealed in the fact that the appropriations for the support of its ordinary activities have increased from \$279,400 for the fiscal year 1914 to \$599,200 for the fiscal year 1917. In 1912 the Congress placed an additional burden upon it. It made an appropriation of half a million dollars to be expended by the Secretary of Agriculture in co-operation with the Postmaster General in improving the condition of roads to be selected by them on which rural delivery was established or might be established, and provided that such improvements should be made under the supervision of the Secretary of Agriculture. This appropriation was made contingent on the contribution by the State or its civil subdivisions of double the amount provided by the Federal Government. There was thus placed under the immediate supervision of the Office of Public Roads the expenditure of a million and a half dollars in addition to its regular appropriation. The handling of the special fund furnished data of much value, and the results have been responsible in no inconsiderable measure for the larger provision recently made in the passage of the Federal aid road act, approved July 11, 1916.

### ENORMOUS COST OF BAD ROADS.

There is no need of discussing the importance of good roads. They are essential to comfortable travel, to the economic production and distribution of farm products, to the development especially of satisfactory rural schools, and to the improvement of the social life of the Nation. Bad roads are very expensive possessions. It is estimated that it costs 23 cents under existing conditions to haul a ton a mile on the average country road and only 13 cents on a properly improved road, but this is not all the story.

The direct cost is very great and the indirect costs are possibly even greater. With bad roads the farmer is compelled to haul when he should be engaged in other activities, while with good roads he can plan his operations without reference to the weather. The States and the local units, as has been intimated, have strikingly recognized these truths by greatly increasing their appropriations and by devising better machinery.

### FEDERAL CO-OPERATION.

The question whether or not the Federal Government should participate in any large way directly in the construction of roads has long been before the American people. Hundreds of bills of almost every conceivable character have been introduced in Congress and debated. The Central Government has a very special and peculiar interest in good roads. It has under its control the transportation of mails, and, with the growth of the rural delivery, the difficulties confronting it in securing economic handling of mails have greatly increased and have been fully recognized.

The impression became general that the Federal Government should participate in the construction of roads, limiting its attention to those over which Federal mails are or may be carried. The constitutional warrant for such action rests on the authority of Congress to establish post offices and post roads. Furthermore, it was conceived to be reasonable that the people of the Nation should have the benefit of the knowledge

of both their State and Federal experts, and that the machinery of the two jurisdictions should be placed in a co-operative relation to render effective service to the people. The discussion turned largely on the specific proposals for legislation and on the matter of guaranteeing that money contributed for road building should be wisely expended, and that a dollar's worth of work should be secured from each dollar appropriated.

In 1913, as Secretary of Agriculture, I reviewed the good roads movement and indicated some of the provisions which, in my judgment, should be incorporated if legislation was to be enacted. In 1914 I returned to this subject in my annual report and said:

The problem, so far as the Federal Government is concerned, is how to inject its assistance into the situation primarily so as to secure efficient expenditure. The people of the Nation are intensely interested in this problem, and pressure will continue for action by the Federal Government. The matter is of sufficient importance to justify again an attempt to indicate the wise course of action in case the Federal Government is further to expand its activities and lend direct support. If direct Federal aid is to be expended, it should be done only under such conditions as will guarantee a dollar's results for every dollar of expenditure. . . . Legislation should provide for co-operation between the Federal Government and the States, and the State, through an expert highway commission, should be the lowest unit with which the Federal machinery should deal. If the Federal Government recognizes any other unit than the State highway commission, it will complicate the situation in those States where satisfactory developments have taken place, and it will retard movements in the right direction in other communities. If, on the other hand, the law recognizes only a central highway commission, it will strengthen the hands of those that now exist and secure the creation of such bodies in the 26 States that do not now have them. The mere creation of such bodies in every State would be a marked gain. The Federal department and the highway commission of each State should be empowered jointly to select the roads upon which the work is to be performed and to determine the manner and methods of constructing roads under projects mutually agreed upon previously.

It seems desirable that if Federal money is to be expended it should be limited to construction projects and should not be used for maintenance, and, furthermore, because of the time required for the development of the requisite machinery and because of the difficulty of assumption by either jurisdiction of a large initial burden the Federal appropriation should at first be relatively small.

Expenditure for maintenance would involve the Government in a very unsafe and uncertain course. It would be a continuing appropriation on a vast scale. It would seem only proper that if roads are secured the States and the communities should maintain them. I clearly recognize that it is difficult to draw the line between construction and maintenance on the simpler forms of road; but, after all, the line can be drawn and would be much clearer if proper methods of construction were pursued.

As an automatic check to a drain on the Federal Treasury, in case Federal aid is extended, provision should be made that each State shall make available for construction at least as much as is set aside by the Federal Government, preferably twice as much, and that it shall give a satisfactory guaranty to maintain the roads constructed. On all projects on which Federal money may be expended in co-operation with the States it should be provided that the two authorities shall fully co-operate, and that before Federal money is made available for any projects such projects shall have been mutually agreed upon by the Federal department

and the State authorities, with clear understandings as to methods of construction, specifications, materials, and the development of a road system.

It will be objected by some that this suggestion involves an invasion of State rights. As a matter of fact, it simply looks to the use of Federal money for the purpose for which it may be voted, and to its efficient expenditure. Those who fear invasion of State rights can easily obviate the danger by declining to ask for Federal money. If they demand Federal money they can not easily decline to have its proper and efficient expenditure safeguarded. It is no argument to assert that State agencies may be trusted. As a matter of fact, they are not the officials who have to assume the responsibility for the expenditure of Federal money. We do trust State authorities fully to vote and expend State funds. They assert the right to look after the expenditure of State funds, and do so with great jealousy. They should show a willingness to have the Federal officers assist in the supervision of the expenditure of Federal moneys.

One thought should be clearly held in mind, namely, that it is highly unwise to discourage State and local effort. Only in recent years have the States begun seriously to attack many of the problems which it was originally contemplated they should solve. If the Federal Government were to make a very large appropriation, it is not improbable that the States would begin to look to it somewhat exclusively for funds with which to build roads. Such a development would be calamitous.

#### FEATURES OF THE NEW LAW.

After considering many proposals and after long debate the Federal aid road act was passed by the Congress and approved by the President. It had practically the unanimous indorsement of the highway commissioners of the several States. It is based on sound principles. Its leading features are as follows:

1. It authorizes the Secretary of Agriculture to co-operate with the States through their respective State highway departments in the construction of rural post roads. This principle is important and significant. Heretofore the agencies of the State and the Federal Governments have too often usually proceeded entirely independently and not infrequently worked at cross purposes and sometimes in an antagonistic spirit. The principle of co-operation between the two Governments is extending and promises much for the people whom they serve.

2. No money appropriated by the act can be expended in any State until the legislature of the State shall have assented to the provisions of the act. It is provided that until the final adjournment of the first regular session of the legislature the assent of the governor may be sufficient, but since practically in every case appropriations will be needed and in some cases a State highway department will have to be created, the assent of the governor will not make possible actual operations.

The assent of the State will imply its acceptance of all the terms of the act and such action as may be necessary to enable it to co-operate effectively with the Federal department.

3. Federal money may be expended only for the construction of post roads. The term "construction" is interpreted to include reconstruction and improvement, the latter excluding merely the making of needed repairs and the preservation of a reasonably smooth surface. To maintain the roads constructed under the provisions of the act is made the duty of the States or of their civil subdivisions according to the laws of the several States, and it is provided that, if the Secretary of Agriculture shall find any road in any State so constructed is not being properly maintained within a given period, he shall give notice of this fact to the highway department and, if within four months from the receipt of the

notice the road has not been put in the proper condition of maintenance, no further aid can be extended to such State or civil subdivision.

Perhaps the weakest point in good roads legislation and practice has been the lack of adequate provision for maintenance. It will be essential under the terms of this act that, in considering proposed road projects, careful regard shall be given to the provisions to be made by the States or their civil subdivisions for the maintenance of roads in the discharge of this duty. The construction work in each State must be done in accordance with the laws of the State and under the direct supervision of the State highway department, but the Secretary of Agriculture is given power to inspect the work as it proceeds, to approve it, and to make the necessary rules and regulations for the enforcement of the act. It is stipulated that the projects shall be substantial in character and that expenditures of Federal funds shall be applied only to such projects.

4. There are appropriated out of the Federal Treasury for carrying out the general purposes of the act the following sums of money: For 1917, \$5,000,000; 1918, \$10,000,000; 1919, \$15,000,000; 1920, \$20,000,000; 1921, \$25,000,000. Unexpended balances for any State for any fiscal year shall be available until the close of the succeeding fiscal year and amounts apportioned for any fiscal year to any State which has not a State highway department shall be available for expenditure until the close of the third fiscal year succeeding that for which the apportionment was made. The latter part of this provision was inserted to permit States not having highway machinery to develop it.

A few States in the Union have constitutional provisions prohibiting the State from engaging in any work of internal improvement. The State, of course, may remove this disability. If it does not do so, then, if any number of counties in such State shall appropriate the proportion needed in order to entitle such State to its part of the appropriation apportioned to it under this act and all the other provisions of the act are complied with, the work may proceed. The wording of the act makes it clear that whether action is by the States or by counties, it must be adequate to meet the Federal apportionment to the State.

In accepting the terms of the act the State, as a matter of course, pledges its faith to the five-year program. This is important because it makes possible the arrangement of a comprehensive scheme of road building. Obviously the expenditure of the entire amount of money contemplated under the act should be planned at the outset as far as possible and road systems and projects conceived accordingly. This does not bind the State legislature to make an appropriation at the first session for the five-year period. This would be prevented by the constitution of many States; but it does involve a pledge of the State's faith to continue the appropriations according to the terms of the act; and even where the counties contribute the necessary funds the assent of the State must be had and the other terms of the act, such as the existence of a highway commission and the acceptance of the duty of maintaining roads, must be complied with.

5. The contribution of the Federal Government for the construction of any road is limited to 50 per cent of the estimated cost of it and can not exceed 50 per cent of the actual cost. The aggregate expenditure out of Federal funds for the construction over the country generally is \$75,000,000. At least as much more must be expended by the States for construction alone. The act, therefore, contemplates an aggregate expenditure for general road construction work over the country of \$150,000,000.

#### APPORTIONMENT OF FUNDS.

6. The Secretary of Agriculture, after making a deduction not exceeding 3 per cent of the appropriation for any fiscal year for adminis-

trative purposes, is authorized to apportion the remainder for each year among the several States on the basis of three factors—population, area, and mileage of rural delivery and star routes—each factor having a weight of one-third. The apportionment, as worked out for the fiscal year 1917, is as follows:

Alabama .....	\$104,148.90	Nevada .....	\$64,398.30
Arizona .....	68,513.52	New Hampshire .....	20,996.62
Arkansas .....	82,689.10	New Jersey .....	59,212.68
California .....	151,063.92	New Mexico .....	78,737.81
Colorado .....	83,690.14	New York .....	250,720.27
Connecticut .....	31,090.44	North Carolina .....	114,381.92
Delaware .....	8,184.37	North Dakota .....	76,143.06
Florida .....	55,976.27	Ohio .....	186,905.42
Georgia .....	134,329.48	Oklahoma .....	115,139.00
Idaho .....	60,463.50	Oregon .....	78,687.37
Illinois .....	220,926.23	Pennsylvania .....	230,644.17
Indiana .....	135,747.62	Rhode Island .....	11,665.71
Iowa .....	146,175.60	South Carolina .....	71,807.64
Kansas .....	143,207.40	South Dakota .....	80,946.02
Kentucky .....	97,471.91	Tennessee .....	114,153.48
Louisiana .....	67,474.66	Texas .....	291,927.81
Maine .....	48,451.50	Utah .....	56,950.15
Maryland .....	44,047.22	Vermont .....	22,844.47
Massachusetts .....	73,850.95	Virginia .....	99,660.71
Michigan .....	145,733.72	Washington .....	71,884.28
Minnesota .....	142,394.06	West Virginia .....	53,270.46
Mississippi .....	88,905.84	Wisconsin .....	128,361.07
Missouri .....	169,720.41	Wyoming .....	61,196.82
Montana .....	98,287.19		
Nebraska .....	106,770.81	Total .....	\$4,850,000.00

The basis of apportionment may slightly change, but, roughly speaking, the amount which each State will receive from the Federal Government after the first year may be ascertained by multiplying these sums by 2, 3, 4, or 5, and the aggregate amount for each State received from the Federal Treasury will be approximately as follows, to be met by equal contributions from the States:

Alabama .....	\$1,562,233.50	Minnesota .....	\$2,135,910.90
Arizona .....	1,027,702.80	Mississippi .....	1,333,587.60
Arkansas .....	1,240,336.50	Missouri .....	2,545,806.15
California .....	2,265,958.80	Montana .....	1,474,307.85
Colorado .....	1,255,352.10	Nebraska .....	1,601,562.15
Connecticut .....	466,356.60	Nevada .....	965,974.50
Delaware .....	122,765.55	New Hampshire .....	314,949.30
Florida .....	839,644.05	New Jersey .....	888,190.20
Georgia .....	2,014,942.20	New Mexico .....	1,181,067.15
Idaho .....	906,952.50	New York .....	3,760,804.05
Illinois .....	3,313,893.45	North Carolina .....	1,715,728.80
Indiana .....	2,036,214.30	North Dakota .....	1,142,145.90
Iowa .....	2,192,634.00	Ohio .....	2,803,581.30
Kansas .....	2,148,111.00	Oklahoma .....	1,727,085.00
Kentucky .....	1,462,078.65	Oregon .....	1,180,310.55
Louisiana .....	1,012,119.90	Pennsylvania .....	3,459,662.55
Maine .....	726,772.50	Rhode Island .....	174,985.65
Maryland .....	660,708.30	South Carolina .....	1,077,114.60
Massachusetts .....	1,107,764.25	South Dakota .....	1,214,190.30
Michigan .....	2,186,755.80	Tennessee .....	1,712,302.20

Texas .....	\$4,378,917.15	West Virginia .....	\$ 799,056.90
Utah .....	854,252.25	Wisconsin .....	1,925,416.05
Vermont .....	342,667.05	Wyoming .....	917,952.30
Virginia .....	1,494,910.65		
Washington .....	1,078,264.20	Total .....	\$72,750,000.00

#### STATES MUST TAKE THE INITIATIVE.

7. The State is the lowest unit with which the Federal Government may co-operate and only through a State highway department. This is made especially clear by the requirement that the Secretary of Agriculture and the State highway department of each State shall agree upon the roads to be constructed therein and the character and method of construction, and that any State desiring to avail itself of the benefits of the act shall by its State highway department submit to the Secretary of Agriculture project statements setting forth proposed road construction. If the Secretary approve such project the highway department shall furnish to him such surveys, plans, specifications, and estimates therefor as he may require.

It will be especially noted that there must be an agreement between the Secretary of Agriculture and the State highway department of each State on the roads to be constructed, that projects, plans, specifications, and estimates shall be submitted by the State highway department and approved by the Secretary of Agriculture before any Federal money can be expended.

The initiative under the act lies with the States, and the Federal Government can not begin operations until after the acceptance of the act by the State, a State highway department has been created, if none exists, and road projects and the requisite engineering data have been submitted to the Secretary of Agriculture and approved. It should be clear, therefore, to communities interested in road projects which might be considered under this act that they should place themselves in touch directly with their central State highway agency.

#### NATIONAL FORESTS AND GOOD ROADS.

8. Special provision is made to meet a situation arising especially in the Western States of the Nation because of the presence in those States of the Federal Government as a great landholder. In all the great Rocky Mountain and Pacific Coast States the Federal Government controls millions of acres of forest lands. There are many communities having a sparse population in which the Federal Government is the largest landholder. These communities are struggling to develop themselves and to secure outlets to adjoining communities and to markets. In many cases they have had to rely mainly on taxes on private holdings for means to finance their enterprises.

Heretofore the Federal Government has definitely recognized that the forests should contribute to the local development, as well as the national welfare, especially, by providing for the use of 35 per cent of all gross receipts from the forests for local public purposes; but in some sections there are little or no revenues from the forests, and it was clear that the community should not wait until the period of hardest struggle was past before any assistance was given them. The first need of many of the sections in undeveloped regions is for more and better roads. Without them their struggle to get a foothold is much more difficult. They remain isolated from neighbors and from the outside world with meager educational opportunities and conditions unfavorable to community life and to progress. To meet the situation, the Federal aid road act pro-

vides that out of any Federal money not otherwise appropriated the sum of \$1,000,000 a year for 10 years may be expended under the supervision of the Secretary of Agriculture upon request from the proper officers for the construction and maintenance of roads and trails within or only partly within the national forests.

It stipulates that officers of the proper jurisdiction shall enter into a co-operative agreement with the Secretary of Agriculture for the construction and maintenance of such roads or trails on an equitable basis when necessary for the use and development of resources upon which the community is dependent. It provides further that the aggregate expenditures in any State, Territory, or county shall not exceed 10 per cent of the value of the timber and forage resources within the area in which the roads or trails are to be constructed. It is contemplated that under this provision projects shall be carefully considered both on their relative and absolute merits and that on behalf of the Federal Government, under the direction of the Secretary of Agriculture, the work shall be undertaken by the Forest Service and the Federal Office of Public Roads in co-operation.

This Federal aid road act was designed not only to promote road building but also adequately to safeguard through efficient machinery the expenditure of all funds arising under it. There is a good reason for believing that these purposes will be realized. It is highly probable that it will do much more than this. As has been pointed out, the Nation is now annually spending the equivalent of \$225,000,000 for road building. The improvements of administrative agencies and methods which will certainly follow the operation of this act should lead to greatly increased efficiency in the expenditure of these large additional sums. In such case the Nation will realize great benefit not only from the expenditure of the joint funds but also of the separate surplus money of the States and communities.

How soon actual operations can begin in any State will depend upon the action of the State and the adequacy of its arrangements to meet the terms of the act. The Federal Government will be in position to proceed as soon as the rules and regulations are formulated and projects are presented for its determination.