

May 17 1933

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ENROLLED BILL

(EXTRAORDINARY SESSION, 1933)

House Bill No. 2

(By Mr. *Hines*, Mr. Speaker)

Passed May 16, 1933

In Effect from Passage

passage

Takes effect.

Originated in the

Clerk of the House of Delegates.

Clerk.

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Chairman Senate Committee.

Chairman House Committee.

ENROLLED BILL

(H. B. No. 2)

[Passed May 10, 1933; in effect from passage.]

AN ACT to amend section two, and add sections twenty-six, twenty-seven and twenty-eight to article one; to amend sections one to fourteen, inclusive, article two; to add article two-(a); to amend sections one and six and add section six-(a) to article three; to repeal sections one to eighteen, inclusive, article four and substitute therefor sections one to thirty-eight, inclusive; to amend sections eight and nine and add section eight-(a) to article five; to amend article eight by adding sections twenty-eight to thirty-five, inclusive; to repeal article nine; to repeal sections one to eight, inclusive, article ten and substitute therefor sections one to twenty-five, inclusive; to repeal articles eleven, twelve, thirteen and fourteen; to amend sections one to eight, inclusive, article fifteen; all of chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, relating to roads and highways.

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James A. Hays

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Be it enacted by the Legislature of West Virginia:

That section two, article one, is amended and sections twenty-six, twenty-seven and twenty-eight added to article one; sections one to fourteen, inclusive, article two, are amended; article two-(a) is added; sections one and six, article three are amended, and section six-(a) added thereto; sections one to eighteen, inclusive, article four, are repealed and sections one to thirty-eight, inclusive, substituted therefor; sections eight and nine, article five are amended and section eight-(a) is added thereto; sections twenty-nine to thirty-five, inclusive, are added to article eight; article nine is repealed; sections one to eight, inclusive, article ten, are repealed, and sections one to twenty-five, inclusive, are substituted therefor; articles eleven, twelve, thirteen and fourteen are repealed; sections one to eight, inclusive, article fifteen, are amended, so that the above mentioned articles and sections of chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, shall read as follows:

ARTICLE I

Section 2. The words and terms "commission," "road commission," or "state road commission," shall refer to and mean "The State Road Commission of West Virginia." Wherever

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4 reference is made to the "commission" the power or duty pre-
5 scribed shall apply to the "state road commissioner," unless the
6 context clearly requires a different meaning.

Sec. 26. "Primary roads" shall mean all roads under the
2 control and operation of the state road commission, or are desig-
3 nated as state roads, at the time of the adoption of this act and
4 roads hereafter designated as primary roads.

Sec. 27. "Secondary roads" shall mean all roads and bridges
2 now operated as a part of the county-district road system, ex-
3 cept bridges and approaches maintained by county courts with-
4 in municipalities.

Sec. 28. "State road" shall include all roads classified and
2 prescribed as "primary roads" and "secondary roads." "Pub-
3 lic roads" shall mean all other roads and bridges under the
4 control of the county court or the governing body of a munici-
5 pality.

ARTICLE II

Section 1. "The State Road Commission of West Virginia"
2 shall be a corporation, and, as such may sue and be sued, con-
3 tract and be contracted with, and it shall have a common seal.

Sec. 2. The commission shall consist of the state road com-

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Wm. A. Hyatt

A. Hyatt

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2 missioner and four members appointed by the governor, by and
3 with the advice and consent of the senate. Commissioners in
4 office at the time this act goes into effect shall continue in office
5 until the new appointees have been appointed and qualified.

Sec. 3. The governor shall, with the advice and consent of the
2 Senate, appoint the members of the state road commission.

Sec. 4. No person while in the employ of, or holding, or who
2 has within twelve months held any official relation to, any per-
3 son, firm or corporation selling or furnishing any materials
4 entering into the construction, reconstruction, repair or main-
5 tenance of any road or highway of this state, or any part there-
6 of, or who is pecuniarily interested therein, as a stockholder or
7 otherwise, shall be a member of the state road commission; nor
8 shall any member of the commission be a candidate for or hold
9 any public office other than that of member of the commission.
10 A member of the commission shall not be a member of any po-
11 litical committee while a member of the commission. In case
12 any member of the commission becomes a candidate for or is
13 appointed to any other public office or any political committee,
14 his office as a member of the commission shall automatically be
15 vacated.

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Sec. 5. The term of office of the members of the commission shall be four years. The first appointments made under this act shall be as follows: Two members for two years and two members for four years. As these terms expire the offices shall be filled for four year terms.

Sec. 6. Members of the commission shall take and subscribe to the oath prescribed by the constitution before entering upon their duties. The oaths shall be filed with the secretary of state.

Sec. 7. The members of the commission shall receive an honorarium of ten dollars for each day actually served and the actual expenses incurred in performing their duties. The honorarium shall not exceed three hundred dollars per year.

Sec. 8. All vacancies in the state road commission that occur while the legislature is not in session shall be filled by appointment by the governor. This appointment, however, shall expire at the end of thirty days from the date on which the legislature next convenes in regular session. Prior to the expiration of the thirty days the governor shall transmit to the senate for its approval an appointment for the unexpired portion of the regular term. Vacancies occurring during a regular session of the legislature shall be filled as regular appointments

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10 before the end of the session and for the unexpired portion of
11 the regular term.

Sec. 9. The offices and meeting place of the state road com-
2 mission shall be in the office of the state road commissioner in
3 the capitol building.

Sec. 10. The commission shall hold two regular meetings, on
2 the third Monday in January and the third Monday in July
3 of each year. Special meetings may be convened on the call
4 either of the state road commissioner or of the governor.

Sec. 11. The state road commission shall be an advisory body
2 to the state road commissioner and shall have the following
3 powers and duties:

4 (1) To consider and study the entire field of legislation
5 and administration concerning roads and highways, and motor
6 vehicle regulation;

7 (2) To advise the commissioner concerning the highway
8 needs of particular localities or districts of the state;

9 (3) To recommend policies and practices to the commis-
10 sioner relative to any duty imposed upon him by law;

11 (4) To investigate the conduct and the work of the depart-
12 ment, and for this purpose it shall have access at any time to all

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13 books, papers, documents and records of the department;

14 (5) To advise or make recommendations to the governor
15 and legislature relative to the highway policy of the state;

16 (6) To keep minutes of the transactions of each session,
17 regular or special, which shall be public records and filed with
18 the department.

Sec. 12. The commissioner may submit to the commission, or
2 any committee thereof, at any regular or special meeting, any
3 matter upon which he desires the advice or opinion of the com-
4 mission.

Sec. 13. The state road commissioner shall furnish the com-
2 mission with all articles and supplies required for the public
3 use and necessary to enable the commission to perform the duties
4 imposed upon it by law. Such articles and supplies shall be ob-
5 tained by the commission in the same manner in which the
6 regular supplies for the department are obtained and the same
7 shall be considered and accounted for as if obtained for the
8 use of the commissioner.

Sec. 14. Upon the request of the commission, the commis-
2 sioner shall incorporate the proceedings of the commission in
3 his biennial report to the governor.

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ARTICLE II-A

Section 1. The governor shall, during the legislative session
2 of one thousand nine hundred thirty-seven, and every four
3 years thereafter, appoint, with the advice and consent of the
4 senate, a state road commissioner.

5 As soon as possible after the adoption of this act the gover-
6 nor shall appoint a road commissioner whose term shall last
7 until the first day of July, one thousand nine hundred thirty-
8 seven.

Sec. 2. No person while in the employ of, or holding any
2 official relation to, any person, firm or corporation selling or
3 furnishing any materials entering into the construction, recon-
4 struction, repair or maintenance of any road or highway of
5 this state, or any part thereof, or who is pecuniarily interested
6 therein, as a stockholder or otherwise, shall hold the office of
7 commissioner; nor shall the commission appoint any person or
8 persons as engineers, superintendents or foremen who sustain
9 such relation to such person, firm or corporation; nor shall such
10 engineers, superintendents or foremen thereafter become in any
11 way connected with or interested in any such person, firm or
12 corporation while in the employ of the commission; nor shall

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13 any commissioner, or any engineer, superintendent or foreman
14 appointed by the commission, be a candidate for or hold any
15 public office, other than that of commissioner or of employment
16 under the commission, or be a member of any political com-
17 mittee while acting as such commissioner or while employed by
18 him. In case any commissioner, or any servant or employee of
19 the commission, be a candidate for or hold any other public
20 office, or be a member of any political committee, his office as a
21 commissioner or position as employee, as the case may be, shall
22 automatically be vacated.

Sec. 3. The term of office of the commissioner shall be four
2 years, commencing on July first of the year of appointment.

3 The commissioner shall devote his entire time to the duties
4 of his office.

Sec. 4. All vacancies in the office of the commissioner that
2 occur while the legislature is not in session shall be filled by ap-
3 pointment by the governor, which appointment shall expire at
4 the end of thirty days after the date on which the legislature
5 next convenes. Prior to the expiration of the thirty days the
6 governor shall transmit to the senate for its approval an ap-
7 pointment for the unexpired portion of the regular term. Vacan-

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cies occurring during a session of the legislature shall be filled
as regular appointments before the end of the session and for
the unexpired portion of the regular term.

Sec. 5. The commissioner before entering upon the duties
of his office shall take and subscribe to the oath prescribed by
the constitution. He shall also execute a bond in the penalty
of twenty-five thousand dollars, conditioned according to law,
and approved by the governor. The bond and the oath shall
be filed with the secretary of state.

Sec. 6. The offices of the commissioner shall be located in
the state capitol building. The commissioner shall keep his
offices open at all reasonable times for the transaction of
public business.

Sec. 7. The commissioner shall receive a salary of six thou-
sand dollars and the necessary traveling expenses incident to
the performance of his duties. Requisition for traveling ex-
penses shall be accompanied by a sworn and itemized statement
which shall be filed with the auditor and permanently pre-
served as a public record.

Sec. 8. The commissioner shall employ such assistants and
employees as may be necessary to the efficient operation of his

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3 department. The road commissioner shall appoint for each
4 county a road supervisor and such assistant road supervisors as
5 he shall deem necessary, each of whom shall be a resident of such
6 county, and who shall possess all of the qualifications which may
7 from time to time be prescribed for such positions by the road
8 commissioner, and the duties and salaries of such supervisor and
9 assistants shall be fixed by the road commissioner, who shall have
10 authority to remove the same at his will and pleasure without
11 assigning cause therefor.

12 The commissioner shall require every employec who collects
13 fees or handles funds or who has custody of equipment and
14 supplies belonging to the state to take the constitutional oath
15 and give an official bond, properly conditioned and signed by
16 sufficient sureties in a sum to be fixed by the commissioner,
17 which bond shall be approved by him and filed in the office of
18 the secretary of state.

19 The commissioner shall fix their compensation, but the total
20 compensation paid to assistants and employees shall not exceed
21 in any one year the appropriation made by the legislature for
22 that purpose. All assistants and employees shall be appointed, or
23 employed, to serve at the will and pleasure of the commissioner.

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Sec. 9. The commissioner, in addition to the other powers
2 granted by this chapter, shall have the sole authority to:

3 (1) Exercise general supervision over the state road pro-
4 gram and the construction and maintenance of the state roads;

5 (2) Make rules and regulations for the government of his
6 department;

7 (3) Sign and execute, in the name of "The State Road Com-
8 mission" any contract or agreement with the federal govern-
9 ment or its departments, subdivisions of the state, corporations,
10 associations, copartnerships and individuals;

11 (4) Supervise the fiscal affairs and responsibilities of the
12 department;

13 (5) Make a general road or highway plan of the state and
14 compile and publish information relative to the mileage, char-
15 acter and condition of the roads;

16 (6) Determine the various methods of road construction best
17 adapted to the various sections in the state and establish stand-
18 ards for the construction and maintenance of roads and high-
19 ways;

20 (7) Conduct investigations and experiments, hold public
21 meetings and attend meetings and conventions inside or outside

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22 of the state as may, in his judgment, tend to promote better
23 highway construction;

24 (8) Cooperate with state and national organizations in ex-
25 periments and work for the advancement of highway construc-
26 tion;

27 (9) Enter private lands to make surveys or inspections for
28 road purposes;

29 (10) Acquire land necessary for roads and road mainte-
30 nance;

31 (11) Procure photostatic copies of any or all public records
32 on file at the state capitol of Virginia which the commissioner
33 may deem necessary or proper in ascertaining the location of
34 rights-of-way of public roads located or established in what is
35 now the State of West Virginia. A copy of any such photo-
36 static copies so made, when certified by the commissioner, may
37 be admitted as evidence in lieu of the original in any of the
38 courts of this state;

39 (12) Administer the motor vehicle law of this state as pro-
40 vided for in section twelve of this article;

41 (13) Keep a complete and accurate record of all proceedings,
42 record and file all bonds and contracts taken or entered into,

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43 and assume responsibility for the custody and preservation of
44 all papers and documents pertaining to his office. Rules and
45 regulations shall be recorded in a book especially kept for that
46 purpose, and may be in his discretion published for general
47 circulation. All other records and entries necessary to show
48 the official conduct of the department shall be preserved and
49 shall be public records and open for inspection during business
50 hours;

51 (14) Purchase as provided by law all equipment necessary
52 for the conduct of his department. Dispose of any equipment
53 either by public or private sale when such equipment can no
54 longer be used to advantage. The proceeds of such sale shall
55 be paid to the state treasurer and credited to the state road
56 fund;

57 (15) Conduct hearings as provided by this chapter;

58 (16) Report to the governor each year all information rela-
59 tive to the operation of the department and the construction
60 and maintenance of the state roads. Make such other reports
61 and recommendations as may be required by the governor or
62 which in his judgment would be beneficial to the general public;
63 and

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64 (17) Exercise any other power that may be necessary or
65 proper for the orderly conduct of his business and the effective
66 discharge of his duties. Invoke any legal or equitable remedies
67 for the enforcement of his orders or the provisions of this de-
68 partment.

Sec. 10. At the request of the state road commissioner, the
2 dean of the college of engineering of West Virginia university,
3 the director of the experiment station of the university and the
4 heads of the several departments of science shall render to the
5 commissioner all necessary aid and assistance in the perform-
6 ance of his duties, as the requirements of their respective offices
7 and positions will permit, without extra charge or compensation
8 for the service.

Sec. 11. The state road commissioner, in conjunction with
2 the West Virginia university, may hold annually a school of
3 good roads of not less than three days' duration, for the mem-
4 bers and employees of the state road commissioner. The com-
5 missioner shall fix the time for holding such schools and may
6 conduct them at the West Virginia university or at any other
7 place in the state: *Provided, however,* That no expense shall be
8 incurred to the state.

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Sec. 12. The commissioner shall have charge of the administration of the vehicle laws of this state, including the collection of all license fees and charges, forfeitures, costs and all other fees and charges arising therefrom or incident thereto. He shall issue all licenses, permits, registration certificates, receipts and other official documents provided for by this chapter; shall issue all necessary notices, and keep all books, maps, documents, and papers; shall devise a system of accounting which shall show accurately and concisely the amounts of all moneys received and paid out by him, the sources from which received, the purposes for which paid out, upon what roads or bridges, whether for construction, reconstruction or maintenance, and in what county expended.

Sec. 13. The state road commissioner may enter into such reciprocal contracts and agreements as he may deem proper or expedient with the proper authorities of other states, regulating the use, on the roads and highways of this state, of trucks, automobiles and any other vehicles owned in such other states and duly licensed under the laws thereof. The commissioner may confer and advise with the proper officers and legislative bodies of this and other states and federal districts of the

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9 United States, to promote reciprocal agreements under which
10 the registration of vehicles owned in this state, and the licenses
11 of operators and chauffeurs residing in this state shall be recog-
12 nized by other states and federal districts.

Sec. 14. All powers and duties vested in the commissioner,
2 except the power to sign contracts, may be exercised by the ap-
3 pointees or employees of the commissioner, under his direction;
4 but the commissioner shall be responsible for their acts.

Sec. 15. In all hearings and proceedings before the commis-
2 sioner, the evidence of witnesses and the production of docu-
3 mentary evidence may be required at any designated place of
4 hearing and summons may be issued by him. In case of dis-
5 obedience to a summons or other process so issued, the com-
6 missioner or any party to the proceedings before the commis-
7 sioner may invoke the aid of any circuit court in requiring the
8 evidence and testimony of witnesses and the production of
9 papers, books and documents. And upon proper showing, such
10 court shall issue an order requiring such persons to appear be-
11 fore the commissioner and produce all books and papers, and
12 give evidence touching the matter in question. Any person
13 failing to obey such order may be punished by such court as for

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14 contempt. A claim that any such testimony or evidence may
15 tend to incriminate the person giving the same shall not excuse
16 such witness from testifying, but such witness shall not be
17 prosecuted for any offense concerning which he is compelled
18 hereunder to testify.

Sec. 16. It shall be the duty of the attorney general of this
2 state and of his assistants, and of the prosecuting attorneys of
3 the several counties, to render to the commissioner, without
4 additional compensation, such legal services as it shall require
5 of them in the discharge of his duties under the provisions of
6 this chapter.

Sec. 17. Whenever in any of the provisions of this chapter
2 the same powers and duties have been conferred on, or pre-
3 scribed for, two or more officials or agencies, or whenever any
4 question as to the conflict of authority shall arise, the power and
5 authority of the state road commissioner shall prevail.

ARTICLE III

Section 1. There shall be a state road fund, which shall con-
2 sist of the proceeds of all state license taxes imposed upon
3 automobiles or other motor or steam driven vehicles; the regis-
4 tration fees imposed upon all owners, chauffeurs, operators and

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5 dealers in automobiles or other motor driven vehicles; all sums
6 of money which may be donated to such fund; all proceeds
7 derived from the sale of state bonds issued pursuant to any
8 resolution or act of the legislature carrying into effect the
9 "road amendment" to the constitution of this state, adopted
10 in the month of November, one thousand nine hundred twenty
11 and the "road amendment" to the constitution of this state,
12 adopted in the month of November, one thousand nine hundred
13 twenty-eight; all moneys and funds appropriated to it by the
14 legislature; all moneys and funds allotted or appropriated by
15 the federal government to this state for road construction and
16 maintenance pursuant to any act of the congress of the United
17 States; the proceeds of all taxes imposed upon and collected
18 from any person, firm or corporation and of all taxes or charges
19 imposed upon and collected from any county, district or munici-
20 pality for the benefit of such fund; the proceeds of all judg-
21 ments, decrees or awards recovered and collected from any
22 person, firm or corporation for damages done to, or sustained
23 by, any of the state roads or parts thereof; all moneys recovered
24 or received by reason of the violation of any contract respect-
25 ing the building, construction or maintenance of any state

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26 road; all penalties and forfeitures imposed, recovered or re-
27 ceived by reason thereof; and any and all other moneys and
28 funds appropriated to, imposed and collected for the benefit
29 of such fund, or collected by virtue of any statute and payable
30 to such fund.

31 When any money is collected from any of the sources afore-
32 said, it shall be paid into the state treasury by the officer whose
33 duty it is to collect and account for the same, and credited to
34 the state road fund, and shall be used only for the purposes
35 named in this chapter, that is to say: (a) To pay the principal
36 and interest due on all state bonds issued for the benefit of said
37 fund, and set aside and appropriated for that purpose; (b) to
38 pay the expenses of the administration of the road department;
39 (c) to pay the cost of maintenance, construction, reconstruction
40 and improvement of all primary roads; (d) to pay the cost,
41 maintenance, construction, reconstruction and improvement
42 of all secondary roads.

Sec. 6. On or before the first day of July of each year the
2 state road commissioner shall ascertain and determine the total
3 amount of available funds for expenditure in the whole state
4 for the construction and reconstruction of state roads during

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5 such annual period. Of the amount so ascertained the commis-
6 sioner may set aside as a "reserve fund" not to exceed twenty
7 per cent thereof, to be used and expended by him in his dis-
8 cretion in making desirable connections or economizing in con-
9 struction.

10 All moneys received from the federal government for road
11 construction shall be expended as provided, or as may hereafter
12 be provided by act of congress.

13 If at the end of any annual period, any money in the reserve
14 fund remains unexpended or unappropriated, it shall be placed
15 in the general fund for reserve and distribution during the next
16 biennial period.

17 The remaining eighty per cent, or, if such reserve fund is not
18 set aside, then all the funds shall be appropriated in the follow-
19 ing order and preference:

20 (1) For the construction, reconstruction, maintenance of the
21 primary roads, and to comply with the requirements for the
22 receipt of aid from the federal government. The funds available
23 under chapter one of the acts of the legislature, one thousand
24 nine hundred thirty-one, shall be distributed and expended as
25 provided by that act;

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26 (2) For the maintenance of all secondary roads, as provided
27 in section six-(a) of this article;

28 (3) For the construction and reconstruction of the secondary
29 roads as prescribed in section six-(a) of this article.

Sec. 6-(a) The state road commissioner shall expend funds
2 for the maintenance of secondary roads and for their construc-
3 tion and reconstruction justly among the several counties, and
4 as will best serve the interests of the state and the convenience
5 of its inhabitants; giving equal consideration in the alloca-
6 tion of funds, to the ratio of the county's population to the
7 population of the state and the ratio of secondary road mileage
8 in the county to the total secondary road mileage of the state:
9 *Provided*, That any money heretofore advanced to any county
10 for payment for rights-of-way, and which has not been repaid by
11 such county to the state road commission at the time this act
12 becomes effective, shall be a charge against and shall be deducted
13 from any funds allocated to such county, as herein provided, for
14 construction, reconstruction or maintenance of secondary roads
15 in such county, and not more than eighty per cent annually of
16 such state road funds so allocated shall be paid to such county

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17 before or until all such advancements made to such county have
18 been so repaid to the state road commission.

ARTICLE IV

Section 1. The state road system shall consist of the pri-
2 mary and secondary roads of the state as defined in article
3 one of this chapter. The authority and control over the state
4 roads shall be vested in the state road commissioner.

5 The county courts shall retain the superintendence and ad-
6 ministration of roads and bridges and public landings that
7 remain under their jurisdiction as provided by section one,
8 article ten of this chapter.

Sec. 2. The commissioner shall take over the county-district
2 roads on the first day of July, one thousand nine hundred
3 thirty-three, and shall assume charge of their further con-
4 struction, reconstruction and maintenance as a part of the
5 state road system.

Sec. 3. Upon the adoption of this act, the commissioner shall,
2 when by him deemed necessary, make surveys to determine the
3 relative importance, service and condition of the secondary
4 roads. Whenever adequate maps do not exist, the commissioner
5 shall prepare a map of the secondary roads of each county as

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6 the work progresses and file a copy of the map in the office of
7 the clerk of the county court with an order of the commission
8 showing the official act and giving a general description of the
9 roads in the county.

Sec. 4. The authority and control over the state roads vested
2 in the state road commissioner shall include the power to:

3 (1) Locate and relocate any primary or secondary road;
4 and upon the petition of any interested party or upon his own
5 initiative create, extend or establish any new road that shall be
6 necessary.

7 In the classification and the improvement of secondary roads
8 the road commissioner shall consult and advise with the county
9 court of the county in which the roads are situated before classi-
10 fying or improving such roads. In the event that agreement
11 between the road commissioner and the county court on these
12 matters is not reached, the matters in difference shall be sub-
13 mitted to the state road commission for decision;

13-a (2) Upon petition and hearing, or after due investigation,
13-b upon his own initiative, discontinue any road no longer neces-
13-c sary;

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14 (3) Construct, reconstruct, repair and maintain the state
15 roads;

16 (4) Allocate the cost of retaining walls for the protection
17 of a state road or its right-of-way to the cost of construction,
18 reconstruction, improvement or maintenance;

19 (5) Close any state road while under construction or repair
20 and provide for a temporary road during the course of con-
21 struction or repair;

22 (6) Adjust damages occasioned by the construction, recon-
23 struction or repair of any state road or the establishment of
24 any temporary road;

25 (7) Fix standard widths for rights-of-way, bridges and
26 approaches; fix the grades on all state roads; and provide for
27 the acquisition of land necessary for cuts and fills;

28 (8) Purchase or lease all necessary machinery, equipment
29 or materials, and acquire all necessary ground and buildings
30 for their storage;

31 (9) Purchase, produce and sell road materials as provided by
32 section twenty-five of this article;

33 (10) Test and standardize materials used in the construction
34 and maintenance of state roads;

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- 35 (11) Establish a uniform system of road signs and markers;
36 (12) Classify and designate by number the routes within the
37 primary and secondary road system;
38 (13) Institute complaints before the public service commis-
39 sion concerning intrastate freight rates, car service, and move-
40 ment of road materials and machinery;
41 (14) Make such administrative rules and regulations as are
42 necessary to give effect to the powers granted by this chapter.

Sec. 5. The state road commissioner may acquire by right
2 of eminent domain any land or water, or any interest therein, or
3 any rights, ways or easements thereon or thereover, for the pur-
4 pose of constructing, widening, straightening, grading or alter-
5 ing any state road or for the purposes enumerated in section
6 twenty-five of this article, or to provide a detour or temporary
7 road or bridge while a road is in the process of construction,
8 reconstruction, improvement or repair, or for any other pur-
9 poses authorized by any provision of this chapter, whenever a
10 just compensation cannot be agreed upon by the owner or
11 claimant of such property, for such taking, use or damage.
12 The proceedings for the purposes aforesaid may be instituted

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13 in the name of the commissioner, and prosecuted and determined
14 as provided in chapter fifty-four.

Sec. 6. The cost of acquiring all rights-of-way for road pur-
2 poses shall be paid out of the state road fund.

Sec. 7. The state road commissioner shall promptly file
2 with the clerk of the county court of each county, all changes
3 in titles to rights-of-way, maps, plats, surveys and all discon-
4 tinuances of state roads within the county.

Sec. 8. No railroad or electric or other railway shall be con-
2 structed upon the roadbed of any state road, except to cross
3 the same, nor shall any person, firm or corporation enter upon
4 or construct any works in or upon such road, or lay or main-
5 tain thereon or thereunder any drainage, sewer or water pipes,
6 gas pipes, electric conduits or other pipes, nor shall any tele-
7 phone, telegraph or electric line or power pole, or any other
8 structure whatsoever, be erected upon, in or over any portion of
9 a state road, except under such restrictions, conditions and regu-
10 lations as may be prescribed by the state road commissioner.
11 Whenever any railroad or electric or other railway, heretofore
12 or hereafter constructed, shall cross any state road, it shall be
13 required to keep its own roadbed, and the bed of the road or

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14 highway at such crossing, in proper repair, or else to construct
15 and maintain an overhead or undergrade crossing, subject to
16 the approval of the state road commissioner; and the tracks
17 of such railroad or railway at grade crossings shall be so con-
18 structed as to give a safe and easy approach to and across the
19 same, and when the construction of such approaches is made
20 necessary by a change in the railroad grade at the grade cross-
21 ing, the cost shall be upon the railway company.

Sec. 9. The state road commissioner shall have the juris-
2 diction and the power, whenever in his judgment it is neces-
3 sary for the safety of the traveling public, to order any rail-
4 road company, either steam or electric, owning or operating
5 a railroad in this state, to separate the grades or relocate a
6 road where any state road crosses at grade the railroad tracks
7 of such railroad company, and shall have the power to determine
8 the location of the crossing or road to be substituted, the grade
9 thereof, and whether it shall pass over or under the railroad
10 track or tracks, and also the power to relocate any road or
11 street so that grade crossings may be eliminated.

Sec. 10. Whenever, in the judgment of the state road com-
2 missioner, it is necessary for the safety of the traveling public

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3 that the grades of a railroad and any state road should be
4 separated or a road relocated for that purpose, the state road
5 commissioner shall make a proper order to that effect and fur-
6 nish a copy thereof by registered mail to the president or at-
7 torney of record of the railroad affected by such order. Such
8 order shall specify the location of the crossing or road to be
9 substituted, the grade thereof and whether it shall pass over
10 or under the railroad tracks of the railroad company affected
11 by such order, the width of the crossing ordered to be con-
12 structed, and the angle at which the crossing so constructed
13 shall meet and converge into the roadbed on either side of the
14 railway tracks.

Sec. 11. Any railroad company dissatisfied with the order
2 of the state road commissioner directing the separation or elimi-
3 nation of grades at any point, may, within thirty days after the
4 receipt by the president or attorney of record of such railroad
5 company of a copy of the order directing the separation or
6-7 elimination at such grades, file with the state road commis-
8 sioner a protest giving the reasons of said railroad why such
9 order should not be enforced. On the filing of such protest, the
10 state road commissioner shall set down for hearing the matter in

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11 issue. On the hearing of the protest the state road commissioner
12 shall hear all evidence which may be offered by any party upon
13 the reasonableness of the separation or elimination of the grades,
14 and if the commissioner, from the evidence, shall find that the
15 construction of the work is necessary, he shall enter an order
16 to that effect, and direct that the work shall be proceeded with
17 in accordance with this article. Any party affected may avail
18 himself of any proceedings competent to test the validity of
19 the order.

Sec. 12. Within sixty days after the entry of any order by
2 the state road commissioner, directing a separation or elimina-
3 tion of grades at any point, as herein provided, unless legal
4 proceedings be taken, the railroad company affected by such
5 order shall, in the case of a separation of grades, prepare and
6 present to the state road commissioner for his approval, plans,
7 specifications and estimates of cost of the necessary approaches
8 thereto.

Sec. 13. Upon the approval of such plans and specifications
2 by the state road commissioner, the railroad company affected
3 shall secure sealed bids for the construction of such work, and
4 within thirty days after the approval of such plans shall re-

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5 ceive and open such bids, after having notified the road com-
6 missioner five days in advance of the day on which such bids
7 shall be opened. The work shall be let to the lowest responsible
8 bidder, subject to the provisions hereinafter contained. The
9 successful bidder shall be required to prosecute the work to
10 completion with reasonable diligence.

Sec. 14. The cost of preparing the plans, specifications and
2 estimates of cost, of securing bids and of the work of sepa-
3 rating the grades shall be borne equally by the railroad company
4 and the state.

Sec. 15. The state road commissioner shall have the authority
2 to order the rejection of any or all bids submitted for the con-
3 struction of any work ordered to be done under the provisions of
4 this article, and the railroad company shall secure new bids.
5 The state road commissioner or the railroad company affected
6 shall have the power to reject any and all bids, and elect to do
7 the work itself, in which event there shall not be charged to the
8 railroad company or to the state road commissioner any sum in
9 excess of what it would have been required to pay had the con-
10 tract been let to the lowest responsible bidder.

Sec. 16. In all cases the state road commissioner shall, as

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2 the work progresses, pay to the railroad company affected its
3 share of the cost of such work as herein provided, which pay-
4 ment shall be made upon estimates furnished by the chief engi-
5 neer of such railroad company. The state road commissioner
6 shall have the right to furnish an engineer, at his expense, who
7 shall act in cooperation with the engineering department of the
8 railroad company affected in the supervision of such work.

Sec. 17. All that part of the work constructed under this
2 article, lying within the right-of-way of the railroad company,
3 after the construction of the same, shall be maintained at the
4 expense of the railroad company, except that the railroad
5 company shall not be required to keep up the surface of the
6 roadbed of such road.

Sec. 18. Before the state road commissioner shall advertise
2 for any contract for the paving of any state road, he shall de-
3 termine upon and approve plans and specifications for the con-
4 struction of standard types of paving suitable for the project
5 contemplated, and shall include in the advertisement and pro-
6 posals for such work the types of paving approved.

Sec. 19. All work of construction and reconstruction of
2 state roads and bridges, and the furnishing of all materials and

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3 supplies therefor, and for the repair thereof, unless manufac-
4 tured or assembled by the commissioner shall be done and fur-
5 nished pursuant to contract, except that the commissioner
6 shall not be required to award any contract for work or for
7 materials or supplies for an amount less than three thousand
8 dollars. When the commissioner is about to construct, recon-
9 struct, or improve any road or highway, he shall file with the
10 clerk of the county court, or of the municipality, as the case
11 may be, in which such road lies, a certified copy of the plans
12 and specifications therefor, and a notice that the commissioner
13 is about to enter upon and proceed with the work in question.
14 If the work is to be done, or the materials therefor are to be
15 furnished, by contract, the commissioner shall thereupon ad-
16 vertise once each week for at least two successive weeks in two
17 newspapers of opposite politics, if there be such, but if not, then
18 in one newspaper published in each county or municipality in
19 which the road lies, and once in at least one daily newspaper
20 published in the city of Charleston, and in such other journals
21 or magazines as may to the commissioner seem advisable, for
22 sealed proposals for the construction or other improvement of
23 such road, and for the furnishing of materials therefor, accu-

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24 rately describing the same, and stating the time and place for
25 opening such proposals, and reserving the right to reject any
26 and all proposals. To all such proposals there shall be attached
27 the certified check of the bidder, or bidder's bond acceptable to
28 the commissioner, in such amount as the commissioner shall
29 specify in the advertisement, but not to exceed five per cent of
30 the aggregate amount of the bid; but such amount shall never
31 be less than five hundred dollars. Such proposals shall be
32 publicly opened and read at the time and place specified in the
33 advertisement, and the contract for such work, or for the sup-
34 plies or materials required therefor shall, if let, be awarded by
35 the commissioner to the lowest responsible bidder for the type
36 of construction selected. In case the commissioner shall reject
37 all bids, he may thereafter do the work with his own forces or
38 with prison labor, or may readvertise in the same manner as
39 before and let a contract for such work pursuant thereto. But
40 nothing in this section shall be so construed as to prevent the
41 commissioner from building, constructing, reconstructing or re-
42 pairing a road to any extent with prison labor without first
43 advertising and rejecting bids therefor.

Sec. 20. In any case where a contract for work and ma-

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2 terials shall be let as a result of competitive bidding, the suc-
3 cessful bidder shall promptly and within twenty days after
4 notice of award execute a formal contract to be approved as to
5 its form, terms and conditions by the commissioner, and shall
6 also execute and deliver to the commissioner a good and suf-
7 ficient surety or collateral bond, payable to the State of West
8 Virginia, to be approved by the commissioner, in such amount as
9 the commissioner may require, but not to exceed the contract
10 price, conditioned that such contractor shall well and truly
11 perform his contract and shall pay in full to the persons en-
12 titled thereto for all material, gas, oil, repairs, supplies, equip-
13 ment, and labor used by him in and about the performance
14 of such contract. An action, either at law or in equity, may
14-a be maintained upon such bond for a breach thereof by
15 any person for whose benefit the same was executed or by
16 his assignee. The bidder who has the contract awarded to him
17 and who fails within twenty days after notice of the award
18 to execute the required contract and bond shall forfeit such
19 check or bond, and the check or bond shall be taken and con-
20 sidered as liquidated damages and not as a penalty for failure
21 of such bidder to execute such contract and bond. Upon the

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22 execution of such contract and bond by the successful bidder
23 his check or bond shall be returned to him. The checks or
24 bonds of the unsuccessful bidders shall be returned to them
25 promptly after the bids are opened and the contract awarded
26 to the successful bidder. A duplicate copy of such contract and
27 bond shall be furnished by the state road commissioner in loose
28 leaf form, to the clerk of the county court of the county in
29 which such contract is to be performed and it shall be the
30 duty of the clerk to bind and preserve the same in his office,
31 and index the same in the name of the commissioner and of the
32 contractor.

Sec. 21. Every contract made by the state road commissioner
2 shall be made in the name of the state by "The State Road
3 Commission" and shall be signed by the state road commissioner
4 and by the contractor and be approved as to form and regularity
5 by the attorney general or by other competent counsel.

Sec. 22. Contracts authorized by this chapter shall not be
2 let to any person, association of persons, firm, company or cor-
3 poration, connected, directly or indirectly, with any combina-
4 tion in the form of an unlawful trust in restraint of trade, or
5 who has an understanding, directly or indirectly, to limit, in

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6 any manner, competition in bidding upon the construction of
7 any state road or bridge, or for furnishing any materials. Any
8 such combination or unlawful trust is hereby forbidden. Any
9 person, association of persons, firm or corporation entering into,
10 or being a part of, any such combination or unlawful trust shall
11 be guilty of a misdemeanor, and, upon conviction thereof, shall
12 be fined not exceeding one thousand dollars; and every person,
13 county or state officer, or any employee of any county of the
14 state, or of the state road commissioner or other person con-
15 nected therewith, directly or indirectly, and any officer or mem-
16 ber of a corporation, who shall be engaged in any way in pro-
17 moting any such combination or unlawful trust, or in aiding or
18 abetting the same, or knowingly committing any acts in pur-
19 suance thereof, in addition to being subject to the fine aforesaid,
20 may, in the discretion of the court, be imprisoned not exceed-
21 ing six months.

Sec. 23. Any person, firm or corporation offering for sale
2 or selling to the state any paints, metal or metal culverts, fence
3 or fencing, or any other materials or supplies for use upon or
4 in the construction of any road or bridge or part thereof, shall,
5 if requested, furnish therewith a certificate under oath, showing

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6 its purity, chemical constituents, and the percentage of im-
7 purities contained therein. Any person, firm or corporation
8 knowingly making or furnishing a false certificate shall be
9 guilty of perjury.

10 Any contract made by reason of any false statement or rep-
11 resentation may be cancelled by order of the court.

Sec. 24. Materials or supplies shall be used in the construc-
2 tion, reconstruction, improvement, repair, or maintenance of
3 state roads only when tested, standardized and approved in
4 writing by the state road commissioner.

Sec. 25. For the purpose of obtaining materials to be used
2 in the construction and maintenance of state roads and high-
3 ways, the state road commissioner is hereby authorized and
4 empowered, on behalf of the state, to establish stone quarries,
5 stone crushing plants, brick kilns, cement plants, and other
6 plants deemed by him needful or necessary in the prosecution
7 of his work, and to acquire lands and appurtenances requisite
8 thereto. The commissioner shall also have the power to rent,
9 purchase, condemn or acquire by any other lawful method, stone
10 quarries, gravel, clay, sand, and other deposits, with rights-of-
11 way thereto, and wharves, landings, switches and storage places

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12 for shipping or receiving materials; hire or purchase all means
13 of transportation for the same; remove such materials from
14 such lands and other places; prepare such materials for use;
15 manufacture such materials into road making products; pur-
16 chase all necessary machinery, tools and other equipment; make
17 such contracts and employ such labor as may be needful or nec-
18 essary to establish and operate such plants; acquire, prepare,
19 manufacture and transport such materials for use, and to do
20 all other things needful or necessary in connection with the
21 purchase, production, accumulation and distribution of such ma-
22 terials for the uses aforesaid. All costs and expenses incidental
23 thereto shall be paid out of the state road fund. The commis-
24 sioner may sell the surplus of such materials, products or equip-
25 ment to any county or municipality of the state, or to any per-
26 son, firm or corporation, at not less than actual cost, when the
27 same are to be used exclusively in the building of roads, streets
28 and alleys in this state. The commissioner shall pay to the
29 state treasurer the funds received therefor, to be credited to the
30 state road fund.

31 The commissioner is empowered to enter into contracts with
32 the proper authorities of other states to establish, jointly, plants

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33 for the preparation and manufacture of cement, brick, stone
34 and other materials to be used in the construction of roads as
35 provided herein, and to operate jointly such plants, acquire all
36 materials and do all other things necessary for such operation,
37 and the disposition of the products thereof, for the more eco-
38 nomic prosecution of the work of building and maintaining
39 public roads.

Sec. 26. The state road commissioner shall designate and
2 may, at any time, relocate and redesignate as a connecting part
3 of a primary road, any bridge or street within a municipal
4 corporation. The commissioner shall construct, reconstruct,
5 improve and maintain the designated connecting part at the
6 cost and expense of the state: *Provided, however,* That any
7 existing free bridge forming a connecting link between two
8 counties and two state routes is hereby adopted as part of the
9 state road system and shall hereafter be maintained by the state.

Sec. 27. The state road commissioner shall exercise the same
2 control over connecting parts in municipalities, except the
3 regulation of traffic, that he exercises over the state road system
4 generally, but he shall assume no greater duty or obligation
5 in the construction, reconstruction and maintenance of streets

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6 as primary roads than he is required to assume in the case of
7 state roads outside of municipalities.

Sec. 28. Before the state road commissioner shall construct,
2 reconstruct, improve or repair a section of a primary road
3 within a municipality he shall give to the municipality notice
4 and a reasonable opportunity to lay all necessary pipes and
5 make all necessary connections for any purpose, where the duty
6 is imposed by law upon the municipality. The municipality
7 shall, by ordinance, compel all public service companies and
8 abutting property owners to lay all necessary pipes and to
9 make all necessary connections along and in the line of the sec-
10 tion of the primary road, before the construction, reconstruc-
11 tion, or improvement is started.

12 In the event that the municipality after it has been served
13 with notice in writing by the commissioner of his intention to
14 improve such street and has been requested to lay all necessary
15 pipes and make all necessary connections shall fail to comply
16 with such request, within sixty days after service of such notice,
17 the commissioner may thereupon lay such pipes and make such
18 connections and necessary cost and expense thereof shall be
19 chargeable by the commissioner against the municipality. Upon

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20 the neglect or refusal of the municipality or public service
21 company to pay such costs and expenses within sixty days
22 after the completion of the laying of such pipes and making
23 such connections the commissioner may collect the same by
24 proper action in any court having jurisdiction. But the costs
25 and expenses shall not be chargeable against the municipality
26 to the extent that the same would impose an indebtedness
27 against the municipality in excess of the amount allowed by
28 existing law.

Sec. 29. The taking over of streets as provided in section
2 twenty-six shall not affect any franchise now existing or here-
3 after granted.

Sec. 30. The taking over of any street as a primary road
2 shall not affect any existing contract for construction, recon-
3 struction or improvement.

Sec. 31. The state road commissioner may, by reasonable
2 rules and regulations, govern the widths and grades of streets
3 designated as primary roads. He may regulate the opening of
4 pavement for the construction or repair of service lines or
5 substructures, and may require adequate bond to secure the
6 proper replacement of the pavement. He may also make other

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7 reasonable regulations concerning the construction and maintenance of the street.

9 In the absence of regulations by the commissioner, the municipal authorities may continue to exercise the same authority that they have over other streets within their jurisdiction.

Sec. 32. The state road commissioner shall take over streets designated as primary roads within municipalities on the first day of July, one thousand nine hundred thirty-three.

Sec. 33. The commissioner shall inspect all bridges upon state roads. If any bridge is found to be unsafe, the commissioner shall promptly condemn, close and repair it.

Sec. 34. When it is necessary and proper to connect a state road with a public highway of an adjoining state, the state road commissioner, with the approval of the governor, is authorized to enter into a contract with the proper authorities of the adjoining state for the joint purchase, erection, and maintenance of a bridge across the stream separating this state from the adjoining state. The commissioner shall file with the governor a report in writing, with necessary maps, plans and specifications of the bridge, showing the estimated cost, and all other

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10 facts that he may deem necessary, or that may be required by
11 the governor.

Sec. 35. The state road commissioner, incidental to the
2 construction and maintenance of state roads, shall have the
3 power and authority to change or divert any stream of water
4 which is not navigable, in order to avoid or facilitate the cross-
5 ing thereof, or to economize in the construction or maintenance
6 of any such road, or to protect the same from damage. To
7 effect a change or diversion of any such stream, he may exercise
8 the right of eminent domain.

Sec. 36. Whenever the safety or convenience of the travel-
2 ing public demands it, the state road commissioner may con-
3 struct and maintain sidewalks along state roads. Any person,
4 at his own expense, may build, with the permission of the state
5 road commissioner, a sidewalk along any state road for the free
6 use of the public. The commissioner shall order the sidewalk
7 removed if it interferes with the public travel. Any person
8 who, without authority, injures or destroys any such sidewalk
9 and fails to repair the same, shall be guilty of a misdemeanor,
10 and, on conviction thereof, shall be fined not less than five nor
11 more than fifty dollars.

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Sec. 37. The state shall not be made the defendant in any
2 proceeding to recover damages because of the defective con-
3 struction or condition of any state road or bridge.

Sec. 38. Except as otherwise provided, a person violating
2 any of the provisions of this article or any of the rules or
3 regulations of the state road commissioner shall be guilty of a
4 misdemeanor, and upon conviction shall be fined not less than
5 ten nor more than one hundred dollars, or be imprisoned not
6 less than five nor more than thirty days, or both.

ARTICLE V

Section 8. Only such contracts shall be renewed, or new con-
2 tracts made, between the state and individuals for the employ-
3 ment of convicts confined in the state penitentiary as may be
4 necessary to employ all convicts not otherwise employed under
5 the provisions of this article.

Sec. 8-(a). The state road commissioner may contract with
2 the sheriff of any county for the services of persons sentenced
3 to the county jail according to section six, article eleven, and not
4 needed for work on county projects.

5 Such contract shall state the number of prisoners desired,
6 which shall not be less than ten, and the length of time which



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7 the commissioner shall contract for their use. Prisoners so
8 contracted for shall not be used outside of the county in which
9 they were imprisoned.

10 So far as applicable, the contract governing the use, main-
11 tenance and care of prisoners in the state road force shall gov-
12 ern the use, maintenance and care of prisoners requisitioned
13 from the sheriff, except that so far as possible county prisoners
14 shall be segregated and used upon different projects from
15 prisoners from the state penitentiary.

Sec. 9. All penitentiary convicts employed on state roads
2 under contract with the state road commissioner shall be
3 transported from and to the penitentiary under the direction
4 of the warden thereof. Such prisoners may be transported any-
5 where in the state for road work. The state road commissioner
6 shall provide suitable quarters for such convict road force, to
7 be constructed, when practicable, with convict labor. He shall
8 supply such force with all necessary food, cooking utensils, beds
9 and bedding, and provide means of transportation for such con-
10 victs and such camp equipment, when necessary, from place
11 to place or to and from the work of such convicts. The con-
12 tract between the state board of control and the state road com-

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13 missioner for convict road work may provide for payment out of
14 the state road fund of the expenses of the transportation and
15 wages of prisoners engaged in road work and for their maintenance,
16 nance, clothing, food, quarters, guards and supplies.

ARTICLE VIII

Section 29. Municipal authorities shall not make or enforce
2 force any ordinance, order, rule or regulation decreasing or
3 increasing the size and weight limits of vehicles upon the
4 streets designated as a connecting part of any primary road
5 contrary to general law. But any incorporated city or town
6 shall have the power to regulate or forbid the parking of
7 vehicles upon any such designated streets within its limits,
8 and to regulate the progress of traffic at street intersections in
9 congested districts thereof. In case a municipality restricts to
10 one direction traffic upon a connecting link of a primary road
11 and thereby necessitates the designation of other streets as
12 connecting links, the state road commissioner shall not be required
13 to maintain such additional streets unless he shall expressly
14 assume the obligation. The commissioner shall have
15 authority to apply to any court having jurisdiction for a man-

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16 damus to compel any municipality to perform its duties under
17 this section.

Sec. 30. The state road commission, as to state roads, and
2 the councils or other municipal authorities acting in lieu there-
3 of of all incorporated municipalities, as to the streets and
4 alleys of their respective municipalities (except as to streets
5 forming a part of or connecting link in the primary road sys-
6 tem), shall have the power and authority to classify their re-
7 spective roads, streets and alleys, and to regulate and restrict
8 the use of tractors, traction engines and commercial vehicles
9 thereon, and may designate such class of vehicle, and the weight
10 thereof, including load, that may travel thereon or pass over
11 the same.

12 All orders, ordinances, by-laws, rules and regulations so made,
13 adopted and promulgated shall be made a matter of record by
14 the body adopting the same, and signed by the state road com-
15 missioner, or the mayor and recorder of such municipality or
16 other corresponding officers thereof. Such orders, ordinances,
17 by-laws, rules and regulations, when and as promulgated and
18 authorized, shall be printed by the commissioner, or municipal
19 body by whom adopted, for free distribution within the state

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20 or the political subdivision to which they apply. A printed
21 copy of such orders, ordinances, by-laws, rules and regulations,
22 when made by the road commissioner, shall be filed with the
23 secretary of state and a copy sent to the clerk of the county
24 court of each county affected thereby. Printed copies of such
25 orders, ordinances, by-laws, rules or regulations, when made
26 by the council or other governing body of a municipality, shall
27 be filed with its recorder or other corresponding officer, and
28 copies delivered to all police and other municipal officers in
29 the municipality. Copies of any such order, ordinance, by-
30 law, rule or regulation, made and entered by any of the bodies
31 aforesaid, shall be delivered to any person interested, free of
32 charge, upon request. The printing and distribution of any
33 such order, by-law, rule or regulation shall be sufficient notice
34 to the public of the provisions, requirements and effect thereof.
35 Every general regulation adopted by any of the bodies afore-
36 said shall state the date on which it takes effect, which shall
37 not be less than thirty days after its adoption and promulga-
38 tion.

39 When any road, street or alley is classified as aforesaid and
40 the use of commercial vehicles thereon is regulated or restricted,

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41 or the class of vehicle and the weight, including load thereof,
42 that may travel thereon or pass thereover has been fixed by
43 ordinance, resolution or by-law as aforesaid, the general law
44 regulating the class and character of such commercial vehicles,
45 motor driven or otherwise, and the maximum weight of load
46 that may be transported over roads, streets and alleys gen-
47 erally, shall be subordinate to the classification, rules and reg-
48 ulations made and adopted by the state road commissioner and
49 municipalities of this state as in this section provided.

50 A "commercial vehicle" within the meaning of this section
51 shall include any vehicle designed or used for the transporta-
52 tion of merchandise or freight.

53 Any person who shall use any such road, street or alley in
54 violation of any such order, ordinance, by-law, classification,
55 restriction or regulation shall be deemed guilty of a misde-
56 meanor, and upon conviction thereof, fined not less than ten
57 nor more than one hundred dollars, and shall moreover be
58 liable to the state road commissioner or the municipality, as
59 the case may be, for any and all damages occasioned by such
60 use.

Sec. 31. The state road commissioner, as to state roads,

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2 and the councils, or other municipal authorities acting in lieu
3 thereof, of all incorporated municipalities within the state, as
4 to the streets and alleys in their respective municipalities
5 (except as to streets forming a part of or connecting link in
6 the primary road system), shall have the power and authority
7 to prohibit or restrict traffic upon any of the roads, streets or
8 alleys within their respective jurisdictions, by motor driven
9 or animal drawn vehicles, when such traffic is likely, by reason
10 of weather conditions, or the season of the year, to damage such
11 road, street or alley, and may make and adopt such reasonable
12 orders, ordinances, by-laws, rules and regulations, as may, in
13 their judgment, be necessary to prevent such damage, and to
14 insure the proper use of such roads, streets and alleys during
15 such weather conditions or season of the year.

16 All orders, ordinances, by-laws, rules and regulations so
17 made, adopted and promulgated shall be made a matter of
18 record by the body adopting the same, and signed by the state
19 road commissioner or the mayor and recorder of such mu-
20 nicipality or other corresponding officers thereof, as the case
21 may be. Such orders, ordinances, by-laws, rules and regula-
22 tions, when and as promulgated and authorized, shall be printed

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23 by the commissioner or municipal body by whom adopted, for
24 free distribution within the state or the political subdivision to
25 which they apply. A printed copy of such orders, ordinances,
26 by-laws, rules and regulations, when made by the state road
27 commissioner, shall be filed with the secretary of state and a
28 copy sent to the clerk of the county court of each county af-
29 fected thereby. Printed copies of such orders, ordinances, by-
30 laws, rules or regulations, when made by the council or other
31 governing body of a municipality, shall be filed with its recorder
32 or other corresponding officer, and copies delivered to all police
33 and other municipal officers in the municipality. Copies of any
34 such order, ordinance, by-law, rule or regulation, made and en-
35 tered by any of the bodies aforesaid shall be delivered to any
36 person interested, free of charge, upon request. The printing
37 and distribution of any such order, by-law, rule or regulation
38 shall be sufficient notice to the public of the provisions, require-
39 ments and effect thereof. Every general regulation adopted by
40 any of the bodies aforesaid shall state the date on which it takes
41 effect, which shall not be less than thirty days after its adop-
42 tion and promulgation.
43 The provisions and requirements of any order, ordinance,

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44 by-law, rule or regulation, made, adopted or promulgated, by
45 virtue of the provisions of this section, may be enforced by any
46 officer or person in charge of the maintenance of any road,
47 street or alley included therein, after notice, by signs plainly
48 stating the prohibited or restricted use of such road, street or
49 alley and the period of time in which prohibition or restric-
50 tion applies, which shall have been placed at the beginning and
51 end of each section of road, street or alley over which traffic
52 is so prohibited or restricted.

Sec. 32. The provisions of this chapter shall apply in gen-
2 eral throughout the state, and, except as provided in the two
3 preceding sections of this article, no political subdivision
4 thereof shall make or enforce any ordinance, order, rule or
5 regulation imposing fines and penalties in conflict with those
6 prescribed in this chapter or increasing or decreasing the speed,
7 size and weight of vehicles as in this chapter defined. But
8 any incorporated city or town in this state shall have power
9 to enact and enforce ordinances and regulations limiting the
10 speed, size and weight of vehicles on such streets, alleys and
11 other public thoroughfares within its limits as are not desig-
12 nated by the state road commissioner as connecting parts of

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13 the primary road system, and to regulate or forbid the parking
14 of vehicles upon any designated streets, alleys and other public
15 thoroughfares within its limits, and to regulate traffic at street
16 intersections and in congested districts.

Sec. 33. Whenever any person, firm or corporation has
2 damaged or is likely to damage, by means of heavy loading or
3 unusual traffic, any state road to such an extent that the cost
4 of repairs or maintenance will be more than the average cost
5 of repairs or maintenance of other roads of like type and con-
6 struction, the road commissioner shall have power to regulate
7 the loading of such vehicles and to assess the excessive cost of
8 repairs and maintenance of such roads against the person, firm
9 or corporation causing such damage and require the payment
10 thereof before further use of such road by such person, firm
11 or corporation is permitted.

Sec. 34. Nothing in the general rules contained in this chap-
2 ter regulating traffic shall be so construed as to authorize the
3 use of any road, street or alley by any person, firm or cor-
4 poration in such manner or for such purpose as would be de-
5 structive thereof. Any person making use of any road, street
6 or alley in this state in such a manner or to such an extent as

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7 to be destructive thereof, or as is mentioned in the preceding
8 section, shall be liable to "The State Road Commission," the
9 county court or the municipality, as the case may be, for dam-
10 ages by reason thereof, and the same may be recovered by ap-
11 propriate action in any court having jurisdiction thereof.

Sec. 35. The state road commission, the county court of
2 each county, and the incorporated towns and cities of this
3 state, post and keep posted on or at each end of all bridges
4 over which they have jurisdiction, respectively, notices clearly
5 legible to the traveler upon the road, indicating the maximum
6 safe load or weight that may pass over such bridge at any
7 one time. But such notice shall not be required upon any
8 small stone, brick, concrete, arch or slab bridge whose capacity
9 clearly exceeds the weight that may lawfully pass over the
10 adjoining road.

11 No city, town or county court shall be liable for any damage
12 resulting to any person or property by reason of the breaking
13 of any bridge by transportation at any one time on or over the
14 same of any vehicle or animals weighing an amount in excess
15 of that indicated by such notices as the maximum safe load or
16 weight, but any owner or other person engaged in transport-

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17 ing, directing, driving or conducting the same in excess of
18 such weight over such bridge shall be liable for all damages
19 resulting therefrom.

ARTICLE IX

This article and all its sections are hereby repealed.

ARTICLE X

Section 1. The county court shall have the superintendence
2 and administration of the construction, reconstruction, repair
3 and maintenance of bridges and approaches to bridges situated
4 within municipalities and at the time of the adoption of this
5 act remaining under the control and jurisdiction of the county
6 court. The county court shall also have like authority over
6-a public landings. The term "roads and bridges" in this article
7 shall be construed to mean the bridges and approaches to
8 bridges which under this section remain within the jurisdiction
9 of the county court, unless the context clearly requires a dif-
10 ferent meaning.

11 Pursuant to section two, article four, this chapter, the county
12 court shall upon the first day of July, nineteen hundred thirty-
13 three, relinquish to the state road commissioner its authority
14 over county-district roads, and shall thereafter neither con-

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15 struct, reconstruct or maintain any road or bridge except as is
16 specifically authorized by this article.

17 The state road commission^{er} may purchase or rent from any
18 county court any or all road equipment and materials in their
19 possession and shall give preference in the purchase of such
20 machinery from the county courts that may be needed by the
21 commission and not needed for the maintenance and repair of
22 the roads, bridges and landings remaining under their control.

Sec. 2. So far as applicable, the county court shall have with
2 respect to the roads, bridges and public landings that remain
3 within their jurisdiction similar powers to those granted to the
4 state road commissioner by section four, article four of this
5 chapter.

Sec. 3. In the exercise of the power of eminent domain
2 with regard to the roads and bridges under their jurisdiction
3 the county court shall be governed in the same manner and to
4 the same extent as is the state road commissioner by section five,
5 article four of this chapter.

Sec. 4. The county court shall keep a record book, to be
2 known as the "road record" in which they shall record all
3 orders, papers, and documents pertaining to road matters and

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4 required by this chapter to be recorded. This book shall only
5 be used for the purposes specified. There shall also be filed
6 with the clerk of the county court all changes in title to rights-
7 of-way, maps, plats, surveys and all discontinuances of roads
8 and bridges under the jurisdiction of the county court.

9 The county court shall also provide the clerk with a record
10 book to be known as the "financial road record." It shall be in
11 the form prescribed by the state road commissioner. The county
12 court shall enter in it a record of county road bonds, county
13 road funds and the road bonds and funds of the several districts.
14 The record shall show the road upon which each item was
15 spent, whether for construction or reconstruction and the
16 kind thereof, or for maintenance, and the character of the road
17 maintained, and shall show whether the construction and main-
18 tenance was upon bridges or upon the roadbed proper.

Sec. 5. The provisions of section eight, article four of this
2 chapter relating to the protection of roadbeds shall apply to the
3 authority of the county courts over the roads and bridges with-
4 in their jurisdiction.

Sec. 6. The county court shall inspect all bridges under
2 its jurisdiction and control. If any bridge is found to be un-

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3 safe the court shall promptly condemn, close, and repair it.

Sec. 7. County courts and municipalities shall have the same
2 authority and shall follow the same procedure, so far as appli-
3 cable, in the elimination of grade crossings, on roads, bridges,
4 or public landings within their jurisdiction, as is provided
5 in sections nine to seventeen, inclusive, article four of this
6 chapter.

Sec. 8. In case the county court desires to contract for the
2 construction, reconstruction or maintenance of a road or bridge
3 or for the purchase of supplies and equipment, it shall adver-
4 tise for the letting of the contract by publishing once each week
5 for at least two consecutive weeks preceding the date of the
6 letting of the contract in two newspapers of general circulation
7 and of different politics, if there be such in the county, if not,
8 then in one paper of general circulation therein.

Sec. 9. All bids for work to be done by contract on roads
2 and bridges under the control of the county court shall be re-
3 ceived at the courthouse of the county at the time specified in
4 the advertisement, and shall be opened only in open court, and
5 the amount and items comprising each bid shall be publicly an-
6 nounced, and the contract, if let, shall be awarded to the lowest

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7 bidder for the type of construction selected. The contractor
8 shall give bond with security to be approved by the court in an
9 amount equal to fifty per cent of the contract price, conditioned
10 for the faithful performance of the contract.

11 After such bids have been opened the county court shall
12 publish immediately in two newspapers of opposite politics, if
13 there be such, published in the county, but if not, then in some
14 newspaper of general circulation therein, the names of all per-
15 sons bidding on such contract, together with the itemized
16 amount of their respective bids, designating the person to whom
17 such contract was awarded, if awarded, together with the
18 amount of his bid.

19 The court may reject any and all bids, and may thereafter
20 have the work done in any other manner that may deem ad-
21 visable. If there be two bids of the same amount for any sec-
22 tion of road, or for any other improvement thereon, the court
23 shall have the power to accept either of such bids.

24 The court may reserve from payment not more than twenty
25 per cent of the amount accruing on the contract until the
26 work has been completed and approved.

28 Any person who shall open any of the bids at any other time

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29 or place than herein provided, or shall make known the name
30 of the bidder, or the amount of his bid, otherwise than as herein
31 provided, shall be guilty of a misdemeanor, and, upon conviction
32 thereof, shall be fined not less than fifty nor more than two
33 hundred dollars, and be imprisoned in the county jail not less
34 than one nor more than six months. Any member of the county
35 court who shall violate any of the provisions of this section
36 shall be deemed guilty of a misdemeanor, and, upon conviction,
37 shall in addition to the penalties provided above forfeit his
38 office.

Sec. 10. A county court shall not enter into any contract
2 prohibited by the provisions of section twenty-two, article four
3 of this chapter.

Sec. 11. The county court may request a certificate of purity
2 of the chemical constituents and the percentage of impurities
3 contained in any materials or supplies offered to it for purchase.
4 Any person, firm or corporation willfully making or
5 furnishing a false certificate shall be guilty of perjury.

6 Any contract made by reason of any false statement or representation
7 may be cancelled by order of the court.

Sec. 12. In the event the county court shall decide to have

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2 work done other than by contract, the court shall make and
3 record their decision in the road record and thereupon they may
4 appoint a competent superintendent who shall have the super-
5 vision of the work. The court shall fix his compensation.

Sec. 13. The county court or person contracting with it shall
2 only use in the construction, reconstruction, improvement, re-
3 pair or maintenance of roads and bridges under its jurisdiction,
4 materials that have been standardized, tested and approved by
5 the state road commissioner.

Sec. 14. The county court shall see that all its appointees
2 and employees faithfully perform their respective duties, obey
3 its orders and expend money and perform labor only as ordered
4 and directed by the court and required by this chapter.

Sec. 15. For the purpose of obtaining materials to be used
2 in the construction and maintenance of roads or bridges under
3 the jurisdiction of the county court, the court is authorized to
4 establish and maintain stone quarries, stone crushing plants,
5 and erect such buildings in connection therewith as shall be
6 actually necessary in the prosecution of its work.

Sec. 16. All claims of any contractor or others, which may,
2 under the provisions of this chapter, be due to such contractor

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3 or other persons for labor done or materials furnished in and
4 about the construction, reconstruction or improvement of a road
5 or bridge under the jurisdiction of the county court, shall be
6 presented to the county court at the proper session thereof, and
7 if found correct, shall, upon the order or warrant of such court,
8 signed by the president and clerk thereof, be paid by the sheriff.
9 No claim shall be paid by the county court until a thorough
10 investigation of its validity has been made.

Sec. 17. Any person who sustains an injury to his person or
2 property by reason of any road or bridge under the control
3 of the county court or any street or sidewalk or alley in any in-
4 corporated city, town or village, being out of repair may recover
5 all damages sustained by him by reason of such injury, in an
6 action against the county court, city, town or village in which
7 such road, bridge, street, sidewalk or alley may be, except that
8 such city, town or village shall not be subject to such action
9 unless it is required by its charter to keep the road, bridge,
10 street, sidewalk or alley therein, at the place where such injury
11 is sustained, in repair. If it is not so required, the action and
12 remedy shall be against the county court. When judgment is
13 obtained against the county court, such court shall at the time

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14 of the laying of the next annual levy, levy upon the taxable
15 property of the district in which such injury is sustained a suf-
16 ficient sum to pay such judgment with interest and costs, and
17 the costs of collecting the same, and when it is obtained against
18 the city, town or village the proper corporate authorities there-
19 of shall lay such levies at the time of levying the next annual
20 levy on the property subject to taxation in such city, town or
21 village. And in case of a failure by either so to do, or pay the
22 judgment as required by law, the circuit court of the county
23 shall compel the laying of such levy, or the payment of such
24 judgment, or both, by mandamus.

Sec. 18. Any person who may be injured by reason of a
2 turnpike, road or bridge belonging to any company or per-
3 son, or to any county in its corporate capacity, being out of
4 repair, may recover all damages sustained by him by reason of
5 such injury, in the manner prescribed in the preceding section,
6 against such company, person or county, or against the lessee
7 for the time being of any such road or bridge. Any judgment
8 against a city, town, village or county under this section may
9 be enforced by the circuit court by writ of mandamus.

Sec. 19. The county court shall at the close of each fiscal

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2 year determine the amount necessary to maintain, construct,
3 and reconstruct the roads, bridges and public landings within
4 its jurisdiction for the succeeding fiscal year.

Sec. 20. The county court shall include the amount deter-
2 mined under section nineteen of this article in the total
3 amount for which a general county levy is laid as provided by
4 article eight, chapter eleven, as amended.

Sec. 21. The bonded indebtedness incurred by the county
2 and by its magisterial districts for road purposes shall remain
3 the debt of the property originally pledged as security for the
4 payment of the obligation. The county court shall impose upon
5 the property in the county for county obligations, and in the
6 magisterial districts for district obligations, levies in the man-
7 ner provided in sections seven and thirteen, article eight, chap-
8 ter eleven, as amended, for the payment of the current require-
9 ments of principal and interest of the bonded indebtedness.

Sec. 22. Any county, district, group of districts or munic-
2 pal corporation may, in the manner provided by law, vote bonds,
3 or provide funds by special levy, according to the procedure pro-
4 vided by section fifteen, article eight, chapter eleven as amended,

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Sec. 23. The county court of each county shall levy for 2 road purposes a capitation tax of one dollar upon each male 3 inhabitant of the county who has attained the age of twenty- 4 one years and who is not a pauper or of unsound mind. The 5 capitation tax shall be collected by the assessor and the pro- 6 ceeds thereof shall be credited to the state road fund for the 7 benefit of and to be expended for the maintenance of the roads 8 of the county in which the tax was raised.

9 In lieu of the payment of the tax the taxpayer may apply
10 for work upon the roads of the county, and after one day's
11 satisfactory work he shall be credited with payment of his capi-
12 tation tax for road purposes.

Sec. 24. Delinquent lists of taxes uncollected under the provisions of this article shall be returned and disposed of as school and other district and county levies are returned and disposed of according to law. Such delinquent taxes shall be collected

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5 at the same time, and by the same officer, and in the same man-
6 ner as state and county taxes are collected, pursuant to chapter
7 eleven of this code.

Sec. 25. A person violating any of the provisions of this
2 article shall be guilty of a misdemeanor, and upon conviction
3 shall be fined not less than ten nor more than one hundred
4 dollars, or be imprisoned not less than five nor more than thirty
5 days, or both.

ARTICLE XI

This article and all its sections are hereby repealed.

ARTICLE XII

This article and all its sections are hereby repealed.

ARTICLE XIII

This article and all its sections are hereby repealed.

ARTICLE XIV

This article and all its sections are hereby repealed.

ARTICLE XV

Section 1. Any able-bodied male person over the age of
2 sixteen years, upon conviction before any court or justice of
3 the peace of an offense punishable with confinement in the
4 county jail, and sentenced to imprisonment in the county jail

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5 and to pay a fine and costs, may be sentenced to labor in the
6 preparation of road materials, or upon the roads, bridges and
7 public landings under the control of the county court. He may
8 be required to work during the term of his imprisonment and
9 until such fine and costs are satisfied.

10 Whenever any person is imprisoned by virtue of section nine,
11 article four, chapter sixty-two, and fails to execute the bond
12 therein provided, he may be required to work on the roads or
13 in the preparation of road materials, or both, until the fine
14 and costs are paid under the regulations prescribed by this
15 article.

16 Work shall not be required unless requested by the county
17 court; nor shall it be required on the streets or alleys of any
18 city, town, or village which under its charter is required to
19 keep its own streets and alleys in order, unless the corporate
20 authority thereof shall first arrange with the county authorities
21 to pay the keeper of the jail the amount to which he shall be
22 entitled for the board of the prisoners.

Sec. 2. The court or justice of the peace before whom any
2 such prisoner is convicted or imprisoned may omit from the
3 sentence that part of the penalty requiring such person to work

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4 on the public roads of the county, or in the preparation of road
5 material.

Sec. 3. The county court may provide for the working of
2 prisoners, and shall provide for their safekeeping while work-
3 ing, and to this end the border lines of the county shall con-
4 stitute and be considered the walls of the jail, and the rep-
5 resentative of the county court having such work in charge
6 is authorized to adopt safe and humane methods of discipline
7 and protection to enforce the provisions of this article and to
8 prevent the escape of the prisoners.

9 A county court shall not employ prisoners outside the county
10 where they are convicted or imprisoned except on the same
11 terms and conditions and under the same rules and regulations
12 as govern their employment within the county in which they
13 were convicted.

Sec. 4. If a person escapes while working under the provi-
2 sions of this article, and is recaptured, he shall be taken by the
3 officers having him in custody before a justice of the peace in
4 the county where such escape was made, and the justice may
5 after a trial and upon conviction for such escape sentence him
6 to labor on the roads and bridges under the control of the

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 A. H. Jones
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7 county court, or to the county jail, and in addition to the fine
 8 and sentence imposed at his previous trial, shall sentence him
 9 to not less than sixty days nor more than six months, and to
 10 pay the cost of making the arrest including all costs of trial;
 11 and in default of payment he may sentence the prisoner to work
 12 out such costs on the roads or in the preparation of road ma-
 13 terials, or both, as herein provided.

Sec. 5. The sheriff, with the approval of the county court,
 2 shall employ a sufficient number of persons to guard the pris-
 3 oners. The number of guards shall not exceed one for every
 4 ten prisoners. The county court shall fix the wages of the
 5 guards and have the control and authority over them.

6 The keeper of the jail shall file with the clerk of the county
 7 court a monthly statement showing the number of prisoners
 8 sentenced to work under the provisions of this article and the
 9 number of days work the prisoners performed.

Sec. 6. If the accused is sentenced to labor as provided by
 2 this article, the clerk of the court, or the justice of the peace
 3 before whom the person is convicted, shall certify to the jailer
 4 the length of sentence and the amount of fine in the manner
 5 and form following:

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6 Commitment by for imprisonment
7 for sentence, fine and costs.
8 State of West Virginia, County of ss:
9 To the sheriff or any constable of said county, and to the
10 jailer of said county:
11 Whereas, was this day convicted of
12 the crime of and was sentenced to
13 confinement in the county jail for the period of days,
14 or months, from this date, and to pay the state a fine of \$....
15 and costs incurred, amounting to the sum of \$.... itemized
16 on the back hereof, and to labor on the roads and bridges
17 under the control of the county court, or in the preparation
18 of road materials, until said fine and costs are paid, as pro-
19 vided in article eleven, chapter seventeen of the code.
20 You (the said sheriff or constable), are hereby commanded,
21 in the name of the said state, to receive and confine the said
22 in said jail, and to see that
23 the said labors according to
24 law until his sentence, fine and costs have been satisfied, or
25 until he is discharged according to law.

James A. Hays

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

26 Given under my hand and seal this day of,

27 19

28

29

Clerk of court or justice of peace.

Sec. 7. . A person charged with a misdemeanor, who is un-
2 able to furnish a recognizance or bail bond with satisfactory
3 sureties, may, after being committed to jail, elect to labor as
4 provided for by this article. The circuit, criminal or inter-
5 mediate court of any county, or the judge thereof in vacation,
6 may, in its discretion, enter an order permitting such person
7 to labor as provided for in this article until a time to be fixed
8 in the order.

9 If at the trial such person is convicted and sentenced to
10 imprisonment in the county jail, or to labor as specified in this
11 article, he shall be credited on his term with the number of days
12 already labored. If fined, he shall be credited on the fine and
13 costs with one dollar per day for each day he has labored.
14 If acquitted, he shall be paid out of the general county funds
15 one dollar per day for each day he has labored.

Sec. 8. Every person sentenced to labor as provided for by
2 this article and who has faithfully complied with all the rules

CORRECTLY ENROLLED

James L. Smith

Chairman House Committee.

Henry R.

Chairman Senate Committee.

Enrolled H. B. No. 2].

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3 and regulations prescribed by the county court governing such
4 labor shall be entitled to five day's deduction for each month's
5 jail sentence that is imposed upon him.

6 If any article, a section or part of an article or section of this
7 act is for any reason declared unconstitutional, or otherwise
8 invalid, the decision of the court shall not affect the validity of
9 any remaining article, section or part of an article or section
10 thereof.

CORRECTLY ENROLLED

James D. Smith
Chairman Senate Committee.

James D. Smith
Chairman House Committee.

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[Enrolled H. B. No. 2

B. M. Stiner
Speaker of the House of Delegates.

Geo. Stace
Clerk of the House of Delegates.

D. G. Matthews
President of the Senate.

Wm. H. Smith
Clerk of the Senate.

The within is.....*approved*.....

this *20th* day of *May*..... 1933.

H. S. Kump
Governor

Filed in the office of the Secretary of State
of West Virginia *MAY 20 1933*
Wm. S. O'BRIEN,
Secretary of State