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THE

ROAD AND PATROL LAWS
OF GEORGIA,

AS REVISED IN THE NEW CODE;

• ALSO,

THE ACTS OF 1862,

REFERRING TO THE SAME SUBJECTS,

MILLEDGEVILLE:

E. M. ORME & SON, PRINTERS.

FEBRUARY, 1863.



TITLE 6.—CHAPTER V.

ROADS, BRIDGES, FERRIES, TURNPIKES, CAUSEWAYS, CROSSINGS, &c.

ARTICLE 1. Public Roads.

ARTICLE 2. Road Commissioners and their Duties.

ARTICLE 3. Bridges, Ferries, Turnpikes and Causeways.

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ARTICLE I.

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§ 574. All roads laid out for public use by an act of the General Assembly, if not otherwise provided, or by an order of the Justices of the Inferior Court, are declared to be public roads.

§ 575. They shall be cleared of all trees, stumps, grubs and bushes, at least thirty feet wide, and of such limbs of trees as may incommode horse-men or carriages; stumps must be cut as nearly even with the surface as possible, and the carriage track must be at least five feet six inches wide.

§ 576. All bridges or causeways over small water courses, and causeways over swamps or low lands, shall be made and kept in repair by hands subject to work on roads; the pieces shall be laid across the road at least sixteen feet long, well secured, made fast, and covered with earth.

§ 577. The Justices of the Inferior Court must lay off their respective counties into road districts, and apportion the roads and hands so as to divide

the labor and expense, on account of roads, causeways and bridges, equally throughout said counties, all of which proceedings must be entered on the minutes.

§ 578. They must cause their Clerk to keep registered in a book in his office a list of all public roads, and road districts, in the county, to be added to and corrected from time to time as new roads or new districts are laid out or old ones altered or discontinued.

§ 579. On application to them for any new road, or alteration in an old road, they shall appoint three road commissioners, residing as near where such road is intended to pass as possible, and if they find it of public utility they must proceed to mark it out, and make their report under oath to such Justices, that it was laid out and marked conformably to law.

§ 580. If such Justices, on the investigation had, are willing to grant such road, or make alteration in an old road, they shall cause the Clerk to publish a citation for thirty days at the door of the Court House, and in a public gazette, if there is one in the county, giving a particular description of the new road, or the alteration, notifying all persons that on and after a certain day therein named, said new road or alteration will be finally granted, if no good cause is shown to the contrary.

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

§ 582. All public roads established without a substantial compliance with the provisions of the last named sections, are void.

§ 583. Applications for the discontinuance of an old road, in whole or in part, must likewise be made to such Justices in writing, and likewise published before it shall take effect.

§ 584. All public roads shall be laid out the nearest and best way to the place to which they are intended, and as little as can be to the prejudice of any private person's enclosed grounds.

§ 585. All white male inhabitants between the ages of sixteen and forty-five, all free male negroes and male slaves not under sixteen nor exceeding sixty years of age, are subject to work on the public roads, except such as are specially exempted.

§ 586. The same road hands shall not be compelled to work on more than one public road, which must come within three miles of their residence, except in opening a new road, when all the road hands of the road district are subject to work upon it.

§ 587. Road hands are not required to work exceeding five days at one time consecutively, nor more than fifteen days altogether, in twelve months, unless sudden emergencies require the immediate repairing of the roads, causeways and bridges within their respective districts.

§ 588. The several owners, managers or employers of male slaves shall, whenever required, furnish the overseers of the district with a list of them in writing, who are liable to work on the public roads, signed by them, under a penalty of paying three dollars for each male slave so liable to road duty and whose names are not furnished, to be collected as fines for not working the road.

§ 589. Overseers of roads in their respective districts shall summon all persons liable to road duty, within the district, at least one day before the time of working.

§ 590. Such summons must state the road to be worked, the time and place for meeting, and the implements required.

§ 591. Such overseers shall superintend the working on the roads assigned them by the commissioners, cause the same to be worked and repaired in the best possible manner, and make a return thereof to the commissioners in writing within five days after each time of working, of all defaults and deficiencies which may have taken place.

§ 592. When any road or bridge or causeway may become suddenly impassable, it is the duty of such overseer to call out as many hands as necessary to repair the same after giving one day's notice.

§ 593. They shall take notice of the time such hands are employed on such special workings, and shall excuse them from road duty an equal number of days out of the whole number all hands are required to work during the year.

§ 594. Every individual, by himself or slaves, liable to road duty, who, being duly summoned to work, shall neglect to obey such summons, and to carry the implements as ordered, or appearing with or without the implements, neglects or refuses faithfully to work, forfeits not less than one, nor more than three dollars for each hand for every day he or they fail to work.

§ 595. If any other instruments than ordinary farming tools are necessary to keep the road in repair, the overseer may receive them in exchange for the labor of hands, or may apply to the Justices of the Inferior Court, who may authorize him to contract for such as may be necessary, and pay for the same out of the County Treasury.

§ 596. When a person liable to road duty makes an application to the Road Commissioners for a proportion of road for himself and hands to work on and keep in repair, they shall parcel off to each applicant some equal and just portion of said road, to be increased or diminished, according to the number of hands, and to be judged of by the commissioners.

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

§ 598. If the applicants do not accept the portion of road assigned them by the commissioners, they must still work in common with the other hands of their road districts.

§ 599. If, after having accepted such portions, they neglect to keep them in good repair, they are liable to all the penalties and forfeitures to which commissioners are liable for neglect of duty, besides the usual road fines on the hands.

§ 600. If such commissioners assign any person a portion of road thus to work, which, taking into consideration his number of hands as compared to the number liable to do road duty on such road, is not an equal share of the labor, any white male road-worker of the same road and district, may complain to the Justices of the Inferior Court at any time, and on giving such person three days' notice thereof in writing, such Justices may summarily hear all the evidence, and if they believe the complaint is just, they shall revoke such grant by the commissioners, and so have them instantly informed by their Clerk.

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

§ 602. Such commissioners must issue executions under their hands and seals, against all defaulters who fail to render a good excuse, directed to any lawful Constable, who shall levy and collect the same as executions issued from the Justices' Courts.

§ 603. When such *fi. fas.* are collected within ten days thereafter, the amounts must be paid to any one of the commissioners, one-half of which shall be paid to the overseer having had charge of the hands fined; the other half to the County Treasurer, to be used in the building or repairing of bridges.

§ 604. If Constables neglect their duty in collecting such *fi. fas.*, or fail to pay over the money, they are subject to rule and suit at the instance of such commissioners, as though the *fi. fas.* had issued from a Justices' Court.

§ 605. The liens of such judgments are the same as any other judgment, and claim according to their priority in the distribution of money, except that no property is exempt therefrom, and if illegalities or claims are interposed, they must be returned as though issued from a Justices' Court, in which the road district is situated in whole or in part.

§ 606. Overseers are authorized to make use of any timbers for the use of the roads, and may make contracts with owners of land for other timber, if indispensable, and if they disagree as to the value, the overseer shall appoint one arbitrator and the owner another, who, without further formality, shall assess the value, and if they disagree, to call in an umpire, whose decision is final, the valuation so awarded must then be reduced to writing, and

signed by the arbitrators, and upon the production of the same, with a certificate of the overseer, that he used the timber assessed, must be allowed by the Justices of the Inferior Court, and paid out of the County Treasury.

§ 607. They shall measure all that part of the road to which they may be appointed, beginning at the Court House, and at the end of each mile set up a post or mark on some conspicuous place, which shall designate the number of miles from thence to said Court House, and the overseer in the next adjoining district shall likewise begin to measure and mark at the last mile post in the district thus measured; but when such district shall end at some county line he shall, by some post or mark, designate the distance from such county line to their respective Court Houses.

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

§ 609. If any overseer fails to comply with the provisions of the two immediately preceding sections he forfeits not exceeding fifty dollars, to be imposed and collected as other fines against him.

§ 610. If any overseer omits to do his duty with respect to the roads, bridges, and causeways under his charge, for as much as thirty days from the time the necessity for any immediate work occurs, unless hindered by extreme bad weather, or other Providential cause, he shall be indicted for a misdemeanor, and on conviction shall be fined or imprisoned, at the discretion of the Court, and is also liable for all damages at the suit of any person injured by such omission.

§ 611. Hands liable to road work, employed as laborers on the line of any Railroad of this State belonging to an incorporated Company, or by any contractors constructing Railroads, are exempted from work on the public roads, provided the public road overseer having charge of them respectively are paid one dollar per day for each hand so liable, which money shall be expended in hiring hands to work on the roads.

§ 612. When any person shall feel aggrieved by any road proposed to be laid out through any of his land, unless otherwise provided in the Charter thereof, or some special law, he may petition in writing the Justices of the Inferior Court, either of whom shall direct their Clerk to issue a warrant under his hand, directed to the Sheriff of the county, to summon from the vicinage a jury of freeholders to try such question of damage, who shall be sworn by some Justice of the Peace to truly and impartially assess any damage the owner will sustain by means of such new or altered road, and said Justice shall preside over their deliberations.

§ 613. No person is competent as a juror who claims any damage of the county or person for the same or any similar road, or who would be disqualified if the trial was before the Superior Court.

§ 614. The jury shall inspect the road and land in person, unless already familiar with them, and swear any witnesses that the owner or any person on the part of the county may offer, as to their opinion of the damages sustained.

§ 615. The Sheriff shall notify the Justice of the Peace and the Road Commissioners of the district where the road lies, and the owner of the land, the day and place of trial, and shall notify to attend then and there, as witnesses, any persons he may be requested to by such commissioners, or the owner.

§ 616. He shall fix the time and place, the time not less than five nor more than twenty days, and the place as near the land as the proper house-room can be obtained.

§ 617. At the trial any person in interest may object to the empaneling of any juror for cause, and if from this or any other cause there are not twelve jurors empaneled and sworn, the Sheriff must proceed to procure tales jurors.

§ 618. The trial may be postponed or continued from day to day until completed, and if the Justice of the Peace summoned to attend should fail to preside, the Sheriff must supply the vacancy, if necessary, from some other district.

§ 619. If a mistrial occurs the Sheriff shall proceed *de novo* to summon other jurors, and all the proceedings shall be as at first, and so on until there is a verdict.

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

§ 621. When such judgment becomes final all the papers appertaining thereto must be filed in the Clerk's office of the Inferior Court; the Justices thereof must grant an order for the damages assessed in favor of the land owner, but if such Justices are satisfied that such damages transcend the utility of such road, or that part of it, they may revoke the road altogether, or order the same altered so as to avoid the land so damaged, or make the owner an offer of such compensation as they may think just.

§ 622. In estimating the value of land when taken for public uses, it is not restricted to its agricultural or productive qualities, but inquiry may be made as to all other legitimate purposes to which the property could be appropriated.

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

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

§ 625. If any person shall alter any public road or cut any ditch across, or alter the location of any bridge, or make any new bridge necessary by his act, without first obtaining an order therefor, he is guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five nor more than one thousand dollars, and shall be liable besides, by suit, for all damages any person may sustain thereby.

§ 626. When any person shall make any fence or cut any tree, or make other like obstructions in or across any public road, which is not removed in two days and a safe and convenient way, at the time of the obstruction, made for travelers, he shall pay a fine of twenty dollars for each obstruction, to be recovered by execution issued by the commissioners, as in cases of road fines, and shall be liable for any damages caused by the obstruction, from the first to the last, if the person injured used ordinary caution.

§ 627. And when the main streets of any incorporated town or city continue in a state of neglect for three months, the Justices of the Peace therein are, by virtue of their office, Road Commissioners, and shall appoint overseers, apportion the hands that would be liable to road duty, throughout the town, have the streets worked on, as though they were public roads, and must, in every other respect, perform the duties of Road Commissioners, and for neglect of any other duty, or violation of any of the road laws, are liable to fine as such commissioners.

ARTICLE II.

COMMISSIONERS OF PUBLIC ROADS.

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§ 628. There shall be three commissioners for each road district, any two

of whom may act, and in case there is only one in a district, that one is invested with all the powers of the three, until the vacancies are filled.

§ 629. Such commissioners are appointed or re-appointed by the Justices of the Inferior Court, biennially, at their first meeting of the years of the appointments, and, whenever necessary, to fill vacancies at any time.

§ 630. Those thus appointed are compelled to serve, unless excused by such Justices, who shall receive for such excuse Provisional cause only.

§ 631. As soon as appointed, they shall be notified thereof in writing within ten days thereafter by the Clerk of the Inferior Court, and if such appointees do not, within ten days after receiving such notice, file their excuse in writing, under oath, in such Clerk's office, they shall be considered as having accepted.

§ 632. If a Clerk fails to give such notice, he is guilty of a contempt, and shall be, by such Justices, fined twenty dollars for each neglect.

§ 633. Such commissioners, while in office, are exempt from all jury, patrol, militia and other road duty, and are exempt from road duty after they go out of office, for the next two years, if they have served faithfully through their official terms.

§ 634. It is their duty—

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

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

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

4. To keep a book in which to enter—

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

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

5. To pay to the County Treasurer, as soon as collected, that portion of the fine money belonging to the county, to be used in the repairing or building of public bridges and causeways, and annually, on the first of December, to report to the Justices of the Inferior Court the condition of the public roads and bridges in their respective districts, the state of the finances, what executions are outstanding unpaid, and their condition.

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

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

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

§ 635. In making up the list of road-workers, they must not include the following description of persons who are exempt from such duty, viz: Licensed ministers, teachers and students of colleges and schools, keepers of public grist mills, public ferrymen, keepers of toll bridges, turnpikes, causeways and plank roads, engineers and white persons in charge of cars or trains running on railroads, officers of the Confederate States, this State or any county thereof, and all others exempted by any special law.

§ 636. They are authorized to pay overseers two dollars per day for every day in actual service, out of the fine money, besides one-half of the balance of the fine money as compensation to him as informer, and if, by the end of each year, the fine money does not furnish enough to pay such overseers said per diem, it must be paid out of the County Treasury, if the proper commissioners certify to the Justices the amount such overseers are entitled to.

§ 637. If commissioners fail to discharge their duties, or any duty required of them as such, they, and each of them, shall be fined, by the Justices of

the Inferior Court, not less than fifty, nor more than two hundred dollars.

§ 638. When any person shall file his affidavit in writing in the Clerk's office of the Inferior Court, that any commissioner or set of commissioners have neglected their duty generally, or in any particular, or when the Grand Jury makes presentment of the same, or the bad condition of any portion of the public roads, or the said Justices, or any one of them, are satisfied such is the fact, and so inform their Clerk, it is his duty to issue a summons in writing, directed to said defaulting commissioners, commanding them to appear at a certain day therein named, before such Justices, to answer for their conduct, which shall be served on them by any officer or private person.

§ 639. If, on the hearing, the Justices fine the commissioners cited, they shall also pass an order removing them from office, and forthwith appoint other commissioners.

§ 640. If they have been duly cited and served, and fail to appear, such Justices may proceed *ex parte*.

§ 641. The Clerk of the Inferior Court is directed to issue executions against them for the fine and costs, which shall be executed by the Sheriff. The lien of such executions, and the property subject thereto, are the same as those against defaulting road-workers.

§ 642. When any public road may be on a road district line, and the Justices of the Inferior Court have not specially assigned it to any particular district or set of commissioners, the commissioners of each district shall cooperate in arranging the hands and appointing the overseers for such road.

§ 643. The books such commissioners are required to keep must be furnished by the Justices of the Inferior Court at the expense of the county, and out of the road money, if any, and when full must be deposited in the office of the Clerk of the Inferior Court.

§ 644. After the commissioner has faithfully served through the term of his appointment, he may obtain from the Clerk of the Inferior Court a certificate of such fact.

ARTICLE III.

BRIDGES, FERRIES, TURNPIKES, AND CAUSEWAYS.

SECTION.

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SECTION.

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§ 645. All bridges or ferries, turnpikes or causeways, erected or permitted by any act of the General Assembly, if not otherwise provided, or by order of the Justices of the Inferior Court, for public purposes, are declared to be public.

§ 646. They are divided—

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

§ 647. The Justices of the Inferior Court may put a ferry or causeway, or both, or may establish a toll bridge for the benefit of the county, but when on any such county bridge, ferry or causeway, toll is charged, the county is liable as individuals owning them, and the owners of lands must be compensated as in other cases.

§ 648. The Justices of the Inferior Court of the several counties have authority—

1. To appoint the places for the erection of public bridges, county ferries, turnpikes and causeways, and to make suitable provision for their erection and repairs by letting them out to the lowest bidder, hiring hands, or in any other way that may be for the public good and agreeable to law.

2. To require sufficient bond and good security for the faithful performance of all such work and contracts, and to indemnify for all damages occasioned by a failure so to do.

3. To license any person to establish such bridge, ferry, turnpike or causeway, not exceeding ten years, which may be renewed at the expiration thereof.

4. To fix the rates of toll for crossing any such, where the toll can lawfully be charged, and regulate those previously established or that may afterwards be established, so as to conform to what is both reasonable and usage on such water courses, provided such charges are not specially regulated by the General Assembly in some act of incorporation to the exclusion of such Justices.

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

§ 649. When a public bridge, ferry, turnpike or causeway is let out, the contractor must, in his bond, make a condition also to keep it in good repair for at least seven years, and as many more years as the contract may be for.

§ 650. All bonds taken from contractors or proprietors must be approved by the Justices of the Inferior Court, filed in the office of the Clerk of the Inferior Court, and by him recorded in books kept for that purpose.

§ 651. If when an additional bond is required it is not given within ten days from the time the proprietor or his agent is notified by the Clerk of the Inferior Court, the license must be revoked.

§ 652. When any such work shall require repairing it is the duty of any one or more Road Commissioners in whose road district the same is, to give notice in writing to the contractor, or one of his sureties, stating the repairs necessary to be made, and requiring them to be done within a reasonable time, stating the time.

§ 653. If such repairs are not made within the time required, they shall employ some other person forthwith to make them, and upon report to the Clerk of the Inferior Court of their cost, he shall issue an execution against such contractor and his sureties for the expense of such repairs and the costs.

§ 654. If the defendant resists the payment of said execution at law, it must be returned for trial by jury, if demanded, either to the Justices' Court of the district where the defendant resides upon whose property the levy is made, or to the Superior Court of the county, according to the principal amount thereof.

§ 655. Persons who have undertaken the building or keeping in repair any bridge, ferry, turnpike or causeway, or are surety for such persons, cannot be Road Commissioners of the road district which embraces such, and if after having been appointed they become such contractor or surety, the

Justices of the Inferior Court must declare a vacancy and appoint some other persons in their stead.

§ 656. When a bridge or ferry is necessary over any water course, which divides one county or more counties from each other, each county must contribute equally towards the building and keeping the same in repair, or in such proportion as would be just, taking into consideration the taxable property of each, and the amount expended by each in the construction of bridges and other passways.

§ 657. If any county refuses to undergo its fair proportion of such expenses, the other county or counties may construct the work, compel the other to contribute by suit, and until such contribution takes place, may have exclusive control thereof, and charge toll thereon against all the citizens of the refusing county.

§ 658. The toll bridges or ferries over water courses making county lines, may be licensed by either county, and in such cases the bonds must be approved; filed and recorded in the county where the license is granted.

§ 659. No private ferry charging toll shall be established on any water course within three miles of where public bridges are previously erected and kept up, but bridges may be erected at the public expense at places on the same stream, other than those where bridges are previously erected, if not violative of any special provision of the law.

§ 660. When exclusive right is granted to any person to prevent others from erecting bridges or ferries, or the like, within a given distance from the same, it shall be computed by the course of the stream.

§ 661. Every proprietor of bridges, ferries, turnpikes and causeways, where toll is allowed to be charged, must fix a board in a conspicuous place, as near the same as practicable, with black ground, on which shall be the various rates of toll; and if such is neglected, he shall be subject to indictment, and, on conviction, shall be fined not less than fifty dollars for every week he so neglects.

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

§ 663. If such person shall demand excessive rates, any person may complain to the Justices of the Inferior Court of the county, and if the rates are excessive they must reduce and fix them.

§ 664. The Justices of the Inferior Court of each county must once each year examine the rates charged in their counties, and keep fixed the rates of toll for the several bridges, ferries, turnpikes and causeways within the limits of their county which have the right to charge them, and must enter the same on their minutes.

§ 665. If any person shall charge more than the lawful rates, or more than indicated by the board, he is guilty of a misdemeanor, and on conviction must be fined in the discretion of the Court, and for the second offence, in addition to the fine, he forfeits his franchise.

§ 666. No person authorized to have a bridge or ferry on his own land will be permitted to stop up or obstruct any ford, bridge or ferry, and upon so doing he is guilty of a misdemeanor, and on conviction must be fined or imprisoned, or both, in the discretion of the Court.

§ 667. After a person has once established such bridge or ferry he shall not discontinue the same without first giving public notice thereof, by advertisement posted on the Court House door, and in a public gazette, if there is one published in the county, for at least sixty days.

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

§ 669. The provisions of the preceding section apply to all contractors for the establishment of such, when damages accrue from a want of good faith in performing their several contracts, and if no bond or sufficient guarantee has been taken by the Justices of the Inferior Court, the county is also liable or the damages.

§ 670. Any person unreasonably detained at a public ferry, toll bridge,

turnpike or causeway, may, for each detention, recover of the owner ten dollars before any Justice of the county.

§ 671. If any person demands or receives toll for crossing any ferry, bridge or causeway, or turnpike, after the revocation of his license or forfeiture of his charter, or having a right for a ferry allows the banks on either side to be out of repair for more than five days at any one time, or to provide good and safe boats of a size sufficient for the accommodation of the public, furnished with competent and sufficient ferrymen, for the safe and speedy passage of all persons, vehicles, horses and stock, or in case of a toll bridge or causeway, fails to keep the same in good repair, without a reasonable excuse for such failures, to be determined by the Court, he is guilty of a misdemeanor, and on conviction must be fined not less than twenty dollars.

§ 672. If any person who keeps a private bridge, ferry, turnpike or causeway, passes any person for toll, the owners incur the same liability and penalties as those permitted by law.

§ 673. If any person break or injure any gate to a toll bridge, turnpike or causeway, or obstruct, injure or destroy such bridge or causeway, pass round or under the same with intent to avoid the payment of toll, such person forfeits to the owner ten dollars for each of such acts, and is also liable for the damages.

§ 674. Damages for the right of way are to be assessed in the manner prescribed for public roads and private ways.

§ 675. Grants to land on water courses with the appurtenances, convey no right of public bridge or ferry.

§ 676. The grant of a ferry franchise conveys no right to build a bridge, or the contrary.

§ 677. In determining the value of land taken for a bridge, its prospective value as a bridge site and its present value as a ferry, if one is in use, may be taken into the calculation.

ARTICLE IV.

RAILROAD AND OTHER CROSSINGS.

SECTION.	SECTION.
678. Roads at Railroad crossings.	686. Must be done by overseer of Roads.
679. Extent of such crossings.	687. Executions against defaulting Company.
680. Erecting posts and blowing whistle.	688. Money raised—to whom paid.
681. Neglecting to erect such posts.	689. Railroad Company may defend.
682. Failing to blow the whistle.	690. Plank, Macadamized and other roads.
683. Proof of damage—onus on Company.	691. Public highways, bridges, &c.
684. Suits—when to be brought.	
685. Failing to keep crossings in order	

§ 678. All Railroad Companies shall keep in good order, at their expense, the public roads or private ways established pursuant to law, where crossed by their several roads, and build suitable bridges and make proper excavations or embankments, according to the spirit of the road laws.

§ 679. Such crossings include the width of land on both sides of the road allowed by charter or appropriated by the Company therefor, and for as many feet beyond, each way, as is necessary for a traveller to get on and off the crossing safely and conveniently.

§ 680. There must be fixed on the line of said roads, and at the distance of four hundred yards from the centre of each of such road crossings, and on each side thereof, a post, and the engineer shall be required, whenever he shall arrive at either of said posts, to blow the whistle of the locomotive until it arrives at the public road, and to simultaneously check, and keep checking, the speed thereof, so as to stop in time should any person or thing be crossing said track on said road.

§ 681. Should any Company fail or neglect to put up said posts the Superintendent thereof shall be guilty of a misdemeanor, and upon indictment and conviction thereof in the county where such failure occurs, shall be subject to a fine of not less than five hundred dollars nor more than one thousand dollars.

§ 682. If any engineer neglects to blow said whistle, as required, and to check the speed as required in section 680, he is guilty of a misdemeanor, and on indictment and conviction in the county where such failure occurs, he shall be punished by fine, not exceeding five hundred dollars and imprisoned not exceeding ninety days, or either, which the Company by whom he is employed is bound to pay.

§ 683. When such injury occurs, the onus is upon the Company to prove such fault on the part of the injured persons.

§ 684. Such snits may be located in the county where the injury occurs, and service perfected as in case for killing stock.

§ 685. When any road over which a crossing is required shall be obstructed, or not in good order at such crossing, a Road Commissioner, or an overseer of the road district where the crossing is, must notify the nearest agent or employee of the Company, in writing, to remove such obstructions, or to put such crossing in proper order within thirty days from the date of such notice.

§ 686. If such requisition is not complied with, it must be done by the overseer of the road, and within five days after he shall have discharged such duty, he must report, under oath, in writing, to the commissioners of the district, the amount and value of the services performed.

§ 687. The commissioners shall then issue execution, under their hands and seal, directed to any lawful officer, for the amount of such value, and the costs of the proceeding against such defaulting Railroad Company as in case of other road defaulters.

§ 688. The amount, when collected, must be paid to the persons who performed the labor, *pro rata*, and according to the labor performed by each, and for other expenses of said work, if any.

§ 689. The defendants may defend themselves from such *fi. fas.* as other defaulting road-workers may.

§ 690. The provisions of this article are, so far as applicable, extended to any plank, Macadamized, turnpike or other road belonging to private individuals or a joint-stock company.

§ 691. Public highways, bridges or ferries cannot be appropriated to railroads, plank roads or any other species of road, unless express authority is granted by some Constitutional provision in their charters,

TITLE 15.—CHAPTER V.

THE GOVERNMENT OF SLAVES AND FREE NEGROES.

ARTICLE 1. Patrol Laws.

ARTICLE 2. Other police regulations.

ARTICLE I.

PATROL LAWS.

SECTION.	SECTION.
1354. Patrol Commissioners.	1362. Patrol must keep arms, &c.
1355. Their oath.	1363. Duty of patrols.
1356. Must organize companies.	1364. Requisites of slave's permit.
1357. Must appoint captains.	1365. Power of patrol as to searches.
1358. Default of officers—how punished.	1366. May seize weapons on slaves, &c.
1359. Defaulters to be reported.	1367. When master may arm slave.
1360. Penalty for opposing patrols.	1368. Free negroes subject to patrol.
1361. Who are subject to patrol duty.	

§ 1354. The Justices of the Inferior Courts, in the month of November, annually, and before the tenth day thereof, shall appoint three citizens in each militia district to act as commissioners of patrol; they are to be notified of their appointments, and to be deemed as accepting, and vacancies are to be supplied, as in the case of road commissioners.

§ 1355. Such commissioners, within fifteen days after notice of appointment, shall appear at the Court House, and before the Clerk of the Inferior Court, take an oath, faithfully to discharge their duties, which fact said Clerk shall enter on his minutes.

§ 1356. They shall also, within five days from their qualification, make out a list of all persons in their several districts liable to do patrol duty, and organize from said lists two or more companies, not having more than ten in each company, and shall lay off said districts into as many divisions as they shall organize companies, assigning to each company its division, making a record of all such in a book kept for that purpose. No company shall be compelled to perform patrol duty out of its division, unless called on to aid another company, when needing it.

§ 1357. They must select some discreet person as captain, from and for each company, who shall be of good moral character, and not less than twenty-five years old, who must be notified of his appointment in writing, within ten days after it takes place; such notice must be accompanied with a list of the persons belonging to his company. A notice of one day to a member of a company, verbally or in writing, of the time and place he is required, is sufficient, but in cases of emergency he shall go in a shorter time, and immediately, if so required.

§ 1358. If any commissioner fails to discharge the duties required of him, without good excuse, to be judged of by such Justices, he shall be fined not exceeding one hundred dollars, for such failure. If the captain of a company thus fails, he shall be fined by the commissioners not exceeding twenty-five dollars for every such failure. If any member of a company fails to attend, after notice, at the time and place designated, armed and equipped as directed, or evades his duty, or is insubordinate, or departs himself insolently to the captain, while on duty, or otherwise violates the patrol law, he shall be fined not more than ten dollars for every such failure or offence.

§ 1359. The captains shall report all delinquencies to the commissioners, within twenty days after they occur, which shall be heard and determined by them in the same manner as road commissioners do in case of defaulters. All fines collected, after paying expenses, if any, shall be paid to the Educational Fund of the county.

§ 1360. If any person shall, by force, or otherwise, oppose any patrol company, or any member of one, while engaged in lawful duty, or prevent, or endeavor to prevent, any search or examination being made of any house or place, where it may be reasonably suspected that any negro liable to be punished, or apprehended, may be concealed, or shall annoy or menace such company, or its members, while in the performance of patrol duty, he is subject to indictment, and, on conviction, shall be fined not exceeding one hundred dollars; for a second offence may be imprisoned not exceeding sixty days, as well as fined.

§ 1361. All male white persons between the ages of sixteen and sixty are subject to patrol duty, (unless specially exempted,) and shall, by themselves or by substitute, perform patrol duty. Persons exempt from road-working are exempt from patrol duty, except in cases of emergency, when all persons are subject to the call of the captain or commissioners.

§ 1362. A person so subject shall keep always in readiness, and carry with him, on service, one good gun or pistol in order, together with at least six rounds of ball-cartridges.

§ 1363. The patrols shall examine the plantations in their divisions at such times as their discretion may dictate, but at least one day or night in fifteen; shall take up all slaves they see off their master's premises, if they know them, and when they do not know them, or they are not on such premises: all slaves without the fences, or outside the limits of an incorporated town, who have not some permission in writing to be absent, or some other writing or evidence showing the reasonableness of the absence, or who have not some white person in company, or who can give no good account of themselves. They shall correct such slaves by whipping with a switch, whip or cow-skin, not exceeding twenty lashes, and in such a manner as not to injure or permanently mark his body. If the slave is insolent or unruly after such chastisement, the patrol shall carry him to his master or employer, and all further whipping shall be in his presence. If he refuses to allow him whipped, he shall be carried to a Justice of the Peace, and all further whipping shall be under his direction.

§ 1364. A permit to a slave should specify the place or places where he is

allowed to visit, and the length of time he is permitted to be absent. No permit shall extend over a greater length of time than one month. A slave at the house of his wife, by permission of her master, needs no permit. A free person of color needs no permit in the day time.

§ 1365. The patrols have the power to search and examine all negro houses for offensive weapons and ammunition, and, on finding such, shall proceed according to law. They may pursue any fugitive slave who avoids them by hiding or running into any dwelling, or if they shall hear of any such being harbored in any dwelling of any white person, they shall first ask leave to search of the person in charge, if any, or to deliver up said slave, and if said person shall refuse to grant either, they, if they have seen such slave enter, or know that he is there, may enter therein and take him. The person refusing such permission, if the slave is found, is subject to indictment, and, on conviction, may be fined not exceeding one hundred dollars.

§ 1366. On finding any weapons, or accoutrements, or ammunition, in any negro-house, or on the person, or in the possession of any slave or free persons of color, contrary to law, such patrol may seize and take away the same; but before the property shall be vested in the person seizing, he shall cause the same to be forfeited, as is elsewhere provided in this Code.

§ 1367. Nothing in this Code shall be construed to deny to any master the right, in time of invasion or insurrection, in good faith, to arm his trusty slave for the defence of himself or his property.

§ 1368. All the provisions of the patrol law, in this Code, shall apply to free persons of color, unless specially excepted. The permission of the guardian is substituted for that of the master.

ARTICLE II.

OTHER POLICE REGULATIONS.

SECTION.

1369. Unlawful assemblies of slaves.

1370. How dispersed.

1371. Certain officers have patrol powers.

1372. Defaulting officers—how punished.

SECTION.

1373. Property on slave—how claimed

1374. Any one may chastise slave, &c.

1375. Penalty against masters, &c.

1376. Slaves, &c., may not preach.

§ 1369. No congregation or company of slaves, exceeding seven males in number, shall, under any pretence, except for Divine worship, assemble themselves outside of any incorporated town, and then they must be under the control and presence of as many as five citizens of the neighborhood, except slaves who may assemble on their masters' premises when he or his overseer is present. Other slaves, by their masters' permission in writing, may also join in such assemblies.

§ 1370. Every Justice of the Peace, upon his knowledge or information from others, may go in person, or by warrant, directed to any officer or private person, or both, and command the assistance of other persons to disperse any assembly of negroes which may disturb, endanger the safety, or excite the apprehension of the community. Every negro taken at such assemblies may, by special order of such Justices, be corrected, without trial, by receiving, on the bare back, not more than twenty lashes, with the instrument allowed to be used by the patrols, and in the same manner.

§ 1371. Such officers or persons may be also specially empowered, by a Justice of the Peace of the district, under warrant, to do whatever the patrol may do, and to bring offenders to a speedy trial.

§ 1372. If any officer refuses to execute such warrant, or other person refuses to assist said officer when required, such officer or person shall forfeit and pay for each offence twenty-five dollars, to be recovered as in other actions of debt at the instance of the informer.

§ 1373. If such property or any goods shall be so seized which is the property of another, they shall be restored on the claimant making this oath.

"I swear that I have just right to certain property or goods (describing them) seized by a certain person, naming him, out of the possession of a

slave named (naming him) and that I did not directly, nor indirectly, permit said slave, nor any other slave, to keep or employ the same in violation of the law, but that they came to the possession of said slave (stating the manner).”

§ 1374. Any person may take up any negroes that shall be found out of the plantation or place where they belong, or incorporated town where they reside, acting unlawfully, or under suspicious circumstances, and if found with an offensive weapon shall take the same away, and if the negro is insolent, or refuses to answer, may whip said negro as the patrol may.

§ 1375. If any master, overseer, or employer shall permit his slave to carry arms contrary to law, or shall suffer any illegal public meeting, or unlawful feasting of slaves, not his own, without the permission of their owners, or under his charge, on his plantation, or other home, he shall forfeit for each offence five hundred dollars, one-half to the informer the other half to the Educational Fund of the county.

§ 1376. It shall be unlawful for any church, society, or other body, or any persons to grant any license or other authority to any slave or free person of color to preach, or exhort, or otherwise officiate in church matters.

An Act to change the second section of an Act entitled an Act to alter and amend the Road Laws of this State, approved December 19th, 1818, so as to extend and define the ages to which persons shall be liable to work on Public Roads.

SECTION I. *Be it enacted, &c.*, That from and after the passage of this Act, the second Section of the above recited Act be so altered and amended as to make all persons therein named, between the ages of sixteen and sixty, liable to perform Road duty.

SEC. II. *And be it further enacted*, That all male persons are and shall be considered as able bodied hands who are able to do ordinary field work.

SEC. III. *Repeals conflicting laws.*

Assented to December 4th, 1862.

An Act to amend the Patrol Laws of this State.

SECTION I. *The General Assembly do enact*, That from and after the passage of this Act, the Patrol Laws of this State be so amended as to make all free white male citizens of this State, between the ages of eighteen and sixty years, liable to do and perform patrol duty, notwithstanding any law or custom of this State to the contrary.

Assented to December 9, 1862.

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