THE ROLE OF THE COUNTY COMMISSIONERS IN ROAD IMPROVEMENT

By Charles A. West, Tippecanoe County Attorney, Lafayette

With the passing of time we have witnessed a revolution in modes of transportation and travel. With the motor age came the mighty problems of highways—establishment, construction, and maintenance. Before the advancement of modern transportation the highway problem was chiefly confined to the townships; but as traffic increased and the use of the motor vehicle extended to and became an integral part of all business, it soon became apparent that the township could not successfully cope with the situation and keep pace with the ever-increasing demands for better highways over which a great part of the business of this country is moving. With the rapid development of the different highway systems, there have also been placed within the jurisdiction of the board of commissioners greater duties and added responsibilities in dealing with one of the greatest departments of our government. Some of them may well be enumerated so that we can more readily appreciate such duties and responsibilities.

There are many laws which place upon the board of commissioners certain duties relative to the highways, and these laws may be briefly enumerated as follows:

**COUNTY UNIT ROADS**

*Section 8313, Burns Revised Statutes, 1926.* This is known as the County Unit Road Law, which authorizes the board of commissioners to locate, establish, construct, change, or improve and maintain a highway, whenever a petition is presented signed by 250 or more freeholders and voters of the county, not less than 15 of whom shall be from each of the majority of the townships. Under this law the board are the viewers; in fact, the entire matter rests with them, unless a remonstrance is filed by a greater number than the petition contains. This places squarely on the board the great responsibility not only of the decision of whether a proposed highway is of public utility and necessary for the welfare of the community and the traveling public, but of safeguarding the tax dollar of the taxpayer. It behooves every board of commissioners to use the best of business judgment in such expenditures and to disregard efforts made by groups and individuals for special benefits.

**THREE-MILE ROAD**

*Section 8380, Burns' Revised Statutes, 1926.* This is what is known as the Three-Mile Road Law and provides that when a petition signed by 50 or more freeholders and voters of a
township is presented, the board is authorized to construct a highway, not more than three miles in length; unless a remonstrance is filed by a greater number than the petition contains. This law differs from the County Unit Law in that it is confined to the townships and each township must pay for such construction. And again, the responsibility of the board is great and the best business judgment must be exercised. However, this law differs in another respect: that is, on petition filed, the board appoints viewers, two from districts other than the one within which the proposed highway is to be located, the third the county engineer. If no remonstrance is filed and the viewers' report is favorable, it is mandatory for the board to construct the road. This is the law of which we have seen in the press much criticism, some of it just and much of it unjust. In some of the articles which have appeared condemning this law and demanding its repeal, there has been an attempt to convey to the tax-paying public the impression that the board of commissioners are entirely responsible for the tax money expended on these roads. This is not true; many times—and, in fact, in the great majority of cases—when a petition will be filed containing from 100 to 1,000 names, petitioning for the construction of a road, those against it will not file a remonstrance and will not take the trouble to file an objection with the state tax board, but will sit idly by and then condemn a board for the construction of the highway. If this law is rightfully administered and not abused, either by the taxpayer or board, it is a good and reasonable law and enables a township to improve a needed highway which could not otherwise be improved.

COUNTY LINE ROADS

Section 8337, Burns 1926, makes provision for the establishment, repair, and maintenance of county line roads by the joint action of the commissioners of the adjoining counties.

Section 8370, Burns 1926, authorizes the board to construct highways between certain cities.

Section 8415, Burns, provides for the construction of highways on petition of landowners whose land lies within one mile of the proposed improvement.

Section 8433, Burns, provides for the construction of highways where a portion of the cost is paid by special assessment against lands benefited.

BRIDGES

The board of commissioners has control of all bridges within the county, except such bridges or culverts on township roads the cost of which does not exceed $100.

The changing, locating, relocating, vacating, or opening of highways comes directly within the jurisdiction of the board of commissioners.
MAIL ROUTES

Section 8527, Burns 1926. This law provides that it shall be the duty of the board of commissioners to keep in repair and passable condition all roads over which the mail is routed, and the law provides that on receiving notice that such mail route roads are impassable or in bad repair the board shall without delay improve such roads, regardless of whether there is an appropriation of money available or not, and pay the cost out of any money in the county treasury not otherwise appropriated. This is an exception to the law that expenditures cannot be made without an appropriation being first made, and a penalty is placed on the commissioners if they fail.

THE TAX LEVY

Section 8508, Burns' Revised Statutes 1926, provides that the board of commissioners shall fix the tax levy for the purpose of raising money sufficient to maintain the county highways. Therefore, we see that it is not only the authorized right but the duty of the board to fix this levy in an amount sufficient to maintain such highways but to do so in such a manner as will protect the great investment of money in them. In certain counties there has been some question about this law; yet it seems clear that this provision is an exception to the general statute which places the fixing of a levy with the county council. Of course, it is always advisable for the board of commissioners and the county council to co-operate and be in harmony in all such matters. At the same time, this is a sound and reasonable law, because, since the responsibility of the management of the highway department rests on the board of commissioners, it would be very foolish to hold them responsible for the conduct of the department and then tie their hands by leaving them without the authority to raise sufficient money with which to maintain the roads and protect the investments already made.

HIGHWAY SUPERINTENDENT

With the creation of the county highway department, a great responsibility was placed directly upon the board of commissioners. The law directs that there shall be appointed a county highway superintendent who shall have direct charge of the management of this department. This man must be one of ability and experience in this line of work. The day has passed when, as in the old order of things, anyone could go out and maintain a road. He must not only know how to build highways; he must also know how to build culverts and bridges; he must know equipment and know how to preserve it; he must know how to maintain the greatest number of miles at the lowest cost to the taxpayer. He must be a business man and know how to operate within his budget with the
greatest efficiency. And finally, he must know how to handle and train highway men, for today this is a specialized business; and he must know how to spend money and get the best results for the least expenditure of money. Therefore, with this in mind, the legislature provided that the board of commissioners should appoint a highway superintendent and that this appointment should be for a period of four years. It also provided that he can be removed only when he actually fails in the performance of his duties; and this is as it should be, for an experienced man in this department will with continued service become more efficient and save the taxpayers money.

With this appointment, a legal contract is made, and it should be respected regardless of politics. However, we have seen in some counties in this state that because the political complexion of the board has changed, there has been an attempt not only to violate this law but also to violate a contract by filing trumped-up charges in order to bolster up a political machine or to answer the demands of political henchmen who do not consider the welfare of the department or the taxpayer's dollar. Not only are any commissioners who will be a party to such practices unworthy of the office they hold, but the taxpayer has no assurance that they will not violate their oath of office in other matters and prostitute the interest of the taxpayer to further political gain.

COMMISSIONERS' RESPONSIBILITIES

With the great amount of money invested in county highways, the board is placed under a great responsibility, not only to construct and maintain those highways so that modern transportation may be served and the traveling public may enjoy the best of roads, but to safeguard the tremendous investment of public funds that have been expended on a given highway system. Diligence must be used, not only to maintain such highways to a standard necessary for present and future transportation but so to manage the business affairs of the department in the most economical manner that the taxpayer will receive a dollar of value for every tax dollar expended. It would be folly to expend large sums of money on any given highway system and then neglect to maintain it in such a manner as to protect the investment already made.

In order to give the people the kind of highways which the times demand and at the same time protect the taxpayers' money already invested, sound judgment must be exercised by the board. They must see that the best workable system is employed in the operation of the department. Good, experienced men should be employed and retained when they have become efficient in their work. They must be judicious in the expenditure of the tax money, in the purchase of material and equipment, and in the letting of contracts. They must
also realize that the day has passed for political control of
the highway department. The practice of bygone years, that
a highway department should be used to build political
machines, must be eliminated; for if we are going to continue
to enjoy the further development of the highway systems, the
soundest of business judgment must be exercised to get re­
results and at the same time conserve the tax dollar.

We readily see the important part which the board of com­
missioners play in highway development. The time has come
when none but the best of business men should be placed on
these boards if the welfare of the department and the interest
of the taxpayer is to be served.

During the past year, mainly through the newspapers, the
various highway departments have been attacked under the
guise of a tax relief program. County boards have been un­
justly abused; highway superintendents have been unjustly
attacked; much propaganda has caused unfavorable comment
and dissatisfaction among people who have no way of know­
ing actual conditions and who do not take the time and trouble
to investigate. Yet those very people and certain organiza­
tions who are responsible for a great amount of unjust
criticism are the first ones to appear before the board and
insist on the expenditure of money to further either a selfish
purpose or a desire to make a showing favorable to their
respective organizations. And the same newspapers who are
attempting to have the people believe that they are fighting
the taxpayers’ battle never inform the people that by reason
of the enactment of laws favorable to the newspaper industry
the cost of useless legal advertising has increased within the
last ten years about 100 per cent. Thousands of dollars of the
taxpayers’ money could be saved on this item alone. Yet, let
the people attempt to repeal some of those useless and un­
necessary laws, and see what happens.

STATE HIGHWAY COMMISSION

Another duty of the board of commissioners is to co­
operate with the state highway department. The co-operation
of these two departments is very essential, and until a short
time ago it was the duty of the board of commissioners to ac­
quire all the right-of-way for the state roads through and
within their respective counties. This, of course, has been
changed, as the state now acquires the right-of-way.

The state highway commission should be commended for
the great work they have accomplished in developing a great
system of state roads. They have been gracious and con­
siderate in their dealings with the counties. However, there is
one thing with which I must take issue: that is the movement
which has been started to place all of the county roads in the
state highway system. The chairman of the commission in ad­
vocating this movement stated that the taking over of the
40,000 miles of county highways would enable the counties to reduce the county tax levy 16 cents. He had been misinformed on this. A check of the tax levy for 1932 in 89 counties shows that the average levy for the road fund is about 7 cents, and out of 89 counties only 8 have a higher levy than 16 cents. Therefore, no such relief could be had.

I do not believe that the state department should attempt to take over these local roads. The greater number of the highways maintained by the county highway department are local in character and serve only the local community within which they are situated. There is a local interest in these highways that cannot be served by the state. If there is a real desire to relieve the taxpayer, that is, the real property taxpayer, I believe the time has come that, the state highway system having been developed and extended until it controls about all the trunk lines of major importance, this department can successfully carry on its work and protect the investment already made without the use of the great amount of money which has been at their command. Enough of the gasoline money could be paid to the respective counties to enable them to maintain the county highway system and eliminate the local county levy for this department. And I believe that investigation will sustain me when I say that the state cannot maintain these local roads with as low a mileage cost as the counties can. It is a truism in government operation that any given department with too great an amount of money cannot be operated economically. By absorbing all county roads, this department would become too big, and it would be endangered in that it would be thrown wide open for political interests to use and build up a mighty political machine. That should and must not happen.

**REBUILDING OLD ROADS**
By Thomas D. Kelsay, Miami County Highway Superintendent

Being confronted with a small appropriation for our road program in Miami County during the past year, I found that I would be unable to build any new roads or to do any “blacktopping.” I therefore exerted my energy toward the rebuilding of as many of my old roads as the size of my appropriation would warrant. It not only proved successful, but also met with the approval of the taxpayers; and, inasmuch as they are our paymasters and employers, it behooves us to please them.

The rebuilding of old roads should become a part of the program of all highway superintendents. Too many superintendents have overlooked the needs of some of our gravel roads in their eagerness to place some “black-top” in the county sys-