

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



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CHAPTER 8

Towns and Town Officers

POWERS—DUTIES—LIABILITIES

§1002. Powers of town meetings.

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

Subd. 3.

A taxpayer instituting suit on behalf of a town to recover illegal payments has no legal claim for attorneys' fees and expenses unless the town had previously authorized the action. Op. Atty. Gen., July 29, 1930.

Town may not employ attorney to appear in proceedings to enforce payment of delinquent real estate taxes, wherein taxpayers are seeking to have valuations reduced. Op. Atty. Gen., Oct. 1, 1930.

Subd. 6.

The town voters may appropriate money for construction of roads, but they cannot designate the particular road on which the money is to be spent, that being for the determination of the town board. Op. Atty. Gen., March 7, 1930.

Subd. 8.

This subdivision authorizes the sale of a town hall. Op. Atty. Gen., Oct. 24, 1929.

Subd. 9.

A leasehold interest in the land is sufficient title to support the designation of a site for a town hall. Op. Atty. Gen., May 29, 1930.

On the termination of such tenancy the designation fails and a new site may be selected upon a majority vote.—Id.

Two-thirds majority of the votes cast at a meeting are sufficient, and it is immaterial whether the vote is to change the town hall site when it is already in the geographical center of the township.—Id.

A majority of two-thirds of the votes present at a meeting is cast where there are not less than twice as many votes in the affirmative as there are in the negative. Op. Atty. Gen., June 7, 1930.

This subdivision and §§1031, 1032, 1046 set forth the conditions and procedure for change of a town hall site. Op. Atty. Gen., Oct. 24, 1929.

Special election may be called on same day as general election to vote on question of purchasing a site for a town hall. Op. Atty. Gen., Oct. 15, 1930.

§1002-1. Dissolution of township government—grounds for.

Laws 1929, c. 345, provides for discontinuance of towns in counties with area of over 750,000 acres, and population of not more than 8,500, and having not more than 10 organized towns.

§1002-9. Dissolution of townships.—Whenever the electors of any town, at the annual meeting or at a special meeting called for that purpose, shall have voted, by ballot to dissolve the town organization hereunder and the town board thereof shall adopt a resolution setting forth such facts and asking for the dissolution of the town, and a copy of such resolution, duly certified by the town clerk, shall be presented to the board of county commissioners of the county in which such town is located, such board of county commissioners may, by resolution, dissolve such town and attach the territory formerly embraced therein to the adjoining town or towns, or provide for the government of such territory as unorganized territory of the county. If such dissolved territory is added to an adjoining town the proposal therefor shall first have the approval of a five-eighths majority of the voting electors of such town

to which the dissolved territory is added. Upon the adoption of such resolution by the county board such town shall be dissolved and no longer entitled to exercise any of the powers or functions of an organized town. Provided that the county auditor shall give ten days' notice by one publication in the paper in which the proceedings of the county board are published of the meeting of the county board at which such petition will be considered. (Act Mar. 27, 1931, c. 96, §1.)

§1002-10. Copy of resolution to be filed with the Secretary of State.—A certified copy of the resolution of the county board declaring such town to be dissolved shall forthwith be forwarded by the county auditor to the secretary of state, who shall on receipt thereof make appropriate entry in the records of his office of the dissolution of such town. (Act Mar. 27, 1931, c. 96, §2.)

§1002-11. Disposition of funds.—Any funds belonging to said town remaining in or thereafter coming into the county treasury of the county in which such town was located shall be disposed of in the following manner:

Any road or bridge fund shall be expended by the county board of such county for road and bridge improvements wholly within the limits of such town; any other funds of such town shall, by the county auditor of such county, be used to pay all outstanding bonds, warrants or judgments against said town. If the funds so remaining are not sufficient to pay such outstanding bonds, warrants or judgments, then upon petition of the holders thereof, the county auditor shall spread a tax levy against the taxable property of said town in an amount sufficient to pay the same, which levy, however, shall not exceed the maximum amount which the town would have been authorized to levy for the purpose of paying such indebtedness if it had not been dissolved. If such levy shall not be sufficient to pay off such bonds, warrants or judgments the county auditor shall spread successive annual levies in the maximum amount which the town would have been able to levy for such purpose if it had not been dissolved until such warrants, bonds or judgments are paid in full, unless bonds are issued therefor as hereinafter provided. (Act Mar. 27, 1931, c. 96, §3.)

§1002-12. Payment of indebtedness.—In the event that the outstanding bonds, warrants and judgments shall exceed the maximum amount which may be raised by one year's levy as provided for herein, the county board may issue funding or refunding bonds in the manner provided by law for the issuance of county funding or refunding bonds to take up such warrants, judgments or bonds. Provided, that any bonds so issued shall not be an obligation of the county but shall be an obligation of the territory formerly included in such town, and shall be payable out of levies made against the property in such territory as herein provided, and such restriction shall be printed upon the

face of such bonds. Except as herein otherwise provided such bonds shall be issued pursuant to the provisions of Laws 1927, Chapter 131, [§§1938-3 to 1938-13] and the tax levy required by Laws 1927, Chapter 131, Section 5, [§1938-7] shall be made against the property of the territory formerly included in such town at the time of the issuance of such bonds. (Act Mar. 27, 1931, c. 96, §4.)

§1002-13. Property to revert to county.—

Any property, real or personal, of such town which is needed for county purposes shall become the property of the county, but the reasonable value thereof, as determined by the county board, shall be credited to such town and used for the purpose of paying off outstanding bonds, warrants or judgments as herein provided. Any other property of such town shall become the property of the county without any allowance being made therefor. Any surplus funds of said town, after all obligations have been paid as herein provided, shall be credited to the general fund of the county. (Act Mar. 27, 1931, c. 96, §5.)

§1006. Taxes in certain towns.

Levy for general town purposes in towns having less than \$100,000 valuation is limited to \$250, notwithstanding salaries of supervisors exceed that amount. Op. Atty. Gen., Nov. 21, 1929.

§1016. Same—May accept gifts.

Will held not to create a gift in trust for perpetual care of cemetery lot. 174M568, 219NW 919.

§1027-1. Fire protection and apparatus, etc.

The question of providing fire protection, purchasing fire apparatus, and determining the amount of money to be raised, may be considered only at an annual town meeting, and not at a special meeting. Op. Atty. Gen., Mar. 18, 1931.

Where question submitted was whether a city and four surrounding towns should purchase a fire truck, each town to bear one-fourth of the cost thereof, and only three of the towns submitted the question, the three towns were not authorized to purchase the truck with the assistance of the city, but if the fourth town shall vote favorably at the next annual meeting, the arrangement may be carried out. Op. Atty. Gen., June 6, 1931.

§1027-4. Same—Tax levy contracts with adjacent city or village.

Liability under Workmen's Compensation Law. Op. Atty. Gen., Feb. 1, 1929.

Except as provided in this section, and to protect property in village endangered, village cannot send fire trucks out of limits. Op. Atty. Gen., Feb. 25, 1929.

TOWN MEETINGS

§1029. Annual meeting.

Where the town meeting place was burned and rebuilt, the annual meeting might be held in the rebuilt building by petition under §1030. Op. Atty. Gen., Feb. 15, 1930.

Where a two-thirds vote is required there must be twice as many votes of those present at the meeting for a proposition as there are against a proposition; and where a bare majority is required one vote difference in favor of the proposition is sufficient. Op. Atty. Gen., June 7, 1930.

§1030. Place for holding annual town meeting, etc.

Op. Atty. Gen., Feb. 15, 1930; note under §1029.

§1031. Special meetings.

Separation of township from village cannot be considered at a meeting called under this section, but must be determined at an annual meeting under §1099. Op. Atty. Gen., June 3, 1930.

There is no limit to the number of special meetings that may be called to consider a given proposition. Op. Atty. Gen., June 7, 1930.

The question of providing fire protection, purchasing fire apparatus, and determining the amount of money to be raised, may be considered only at an annual town meeting, and not at a special meeting. Op. Atty. Gen., Mar. 18, 1931.

Where a village is organized and town supervisors residing within the proposed village resign, it is discretionary with the town board as to whether the vacancies should be filled by appointment or by calling a special town meeting. Op. Atty. Gen., May 19, 1931.

Electors may increase levy for town road and bridge purposes at a special meeting duly called. Op. Atty. Gen., June 10, 1931.

§1033. How organized.

Annual meeting cannot be held between 8:00 and 9:00 o'clock A. M. Op. Atty. Gen., Feb. 18, 1929.

§1038. Polls opened and closed.

Op. Atty. Gen., Feb. 18, 1929; note under §1033.

§1043. Manner of canvassing.

Where two candidates at a town election received the same number of votes, and a drawing was had, and the successful candidate was afterwards found to be a nonresident of the district, the unsuccessful candidate is not entitled to the office, but there is a vacancy to be filled by the town board. Op. Atty. Gen., April 25, 1930.

TOWN BOARD

§1049. How constituted—Duties.—The supervisors of each town shall constitute a board to be designated "The Town Board of _____," and any two shall constitute a quorum except when otherwise provided. They shall have charge of all the affairs of the town not by law committed to other officers. They shall draw orders on the treasurer for the disbursement of money to pay the town expenses, and for all moneys raised by the town to be disbursed for any other purpose. They may prohibit or license and regulate the keeping of billiard, pool, and pigeonhole tables, bowling alleys, and roller skating rinks, and may license and regulate public dancing places, fix the price and time of continuance of such license, and, whenever in their opinion the public interest requires it, revoke the same. They may select and designate a bank as the depository of town moneys for a time not extending beyond their official term, on the execution by such bank of a sufficient bond to the town, in double the sum deposited, to be approved by the board and filed in the office of the town clerk, and thereupon may require the treasurer to deposit all or any part of the town moneys in such bank. Such designation shall be in writing, and shall set forth all the terms and conditions upon which the depositors are made, be signed by the chairman and clerk, and filed with the clerk. The town treasurer shall not be liable for the loss of money while so deposited, and all interest thereon shall belong to the town. (As amended Apr. 9, 1929, c. 143.)

Op. Atty. Gen., Mar. 5, 1929; note under § 1973-1.

Where town has prohibited roller skating rinks, owner of rink cannot rent or lease it to individual groups of people. Op. Atty. Gen., May 28, 1929.

Town board may designate as a depository a bank different than one selected by voters at an annual town meeting. Op. Atty. Gen., Apr. 8, 1931.

If money is on hand in the treasury of a town to the credit of the general fund, town board can expend it, notwithstanding that it is the result of an excessive levy, where such levy is not attacked by the tax payers. Op. Atty. Gen., July 23, 1931.

§1049-1. Town board to designate depository.—Whenever any town treasurer shall so request in writing, it shall become the duty of the town board to designate one or more state or national banks or trust companies as depositories of town funds, and thereafter the treasurer shall deposit all town funds therein. Such designation shall be in writing and shall set forth the terms and conditions upon which the deposits are made, be signed by the chairman and clerk of the town board, and be filed with the clerk. Provided, that such depository or depositories, not exceeding four in number, shall be authorized to accept deposits of town funds in an amount not exceeding \$2,000 in each such depository without furnishing a bond or other security therefor. (Act Apr. 20, 1931, c. 216, §1.)

§1049-2. Treasurer may select depositories.—Whenever a town board so requested shall fail to act as provided in section 1 hereof within 30 days after request is filed with the town clerk, the town treasurer may select one or more depositories, not exceeding four in number, for the safe keeping of town funds and deposit town funds therein to the extent of not more than \$2,000 in each depository so selected, without requiring security therefor. (Act Apr. 20, 1931, c. 216, §2.)

§1049-3. Treasurer not liable for loss.—The town treasurer, in the absence of negligence, shall not be liable for the loss of moneys while so deposited, within the limits above specified, occasioned by the closing or insolvency of a designated depository. (Act Apr. 20, 1931, c. 216, §3.)

§1049-4. Interest received to be credited to funds.—All interest received on funds deposited under the provisions of this Act shall be credited to the respective town funds. (Act Apr. 20, 1931, c. 216, §4.)

§1053. May transfer funds.

This section is not limited by §3194 except as to the funds arising from transfer from county to town systems of poor relief provided for in §3193. Op. Atty. Gen., March 24, 1930.

§1054. Town boards authorized to fix hour for opening polls.

See §401-1 fixing hours of opening and closing of polls.

BOARD OF AUDIT

§1056. Duties.

No claim against a town shall be considered or acted upon unless properly verified. Op. Atty. Gen., Mar. 11, 1931.

TOWN CLERK

§1064. Duties.

Town clerk is only bailee of books, papers and records, and is not an insurer of their safety. Op. Atty. Gen., Aug. 13, 1929.

Town clerk is not entitled to any fees for sweeping up the floor of the meeting room. Op. Atty. Gen., July 23, 1931.

§1067. Bond.

Where a defalcation occurs on the part of a public official who has succeeded himself as such for one or more terms and given different bonds assuring his fidelity to his trust, the liability falls upon the bondsmen who were such at the time of the defalcation, following Board of Education v. Robinson, 81M305, 84NW105, 83AmSt Rep374. 235NW615. See Dun. Dig. 8020(27).

§1070. To pay audited accounts.

Assignee of a town order given in place of preceding orders was equitable owner of such preceding orders. 181M510, 233NW236. See Dun. Dig. 7855, 9656.

Four town orders issued by clerk signing his own name and also the chairman's name by the clerk, pursuant to custom, were valid. 181M510, 233NW236. See Dun. Dig. 9656.

Town officers held estopped from questioning validity of town orders executed by clerk, signing his own and chairman's name. 181M510, 233NW236.

Town orders were non-negotiable. 181M510, 233NW236. See Dun. Dig. 886, 9656.

Town orders must be signed by the chairman of the town board, and cannot be signed by a chairman pro tem. Op. Atty. Gen., Jan. 20, 1931.

§1071. Order of payment—Interest.

The proper method of paying interest on warrants of a village is to procure an additional order from the recorder representing the amount of accrued interest, which order is to be paid at the time the original registered order is paid. Op. Atty. Gen., Mar. 18, 1931.

§1073. Fees.

The limitation with respect to townships whose assessed valuation is over \$1,000,000 is a limitation on the 1917 amendment and not on the rest of the section as it originally read. Op. Atty. Gen., Jan. 17, 1930.

Doubt expressed as to whether this section can be applied to villages operating under the 1905 act. Op. Atty. Gen., Feb. 23, 1929, Apr. 15, 1930.

Fixing of salary at annual town meeting applies to the ensuing year, the salary for the preceding year being governed by this section. Op. Atty. Gen., March 19, 1930.

Balance remaining in treasury at end of fiscal year, and then turned over to incoming treasurer, should not be included in calculating the compensation of the outgoing treasurer. Op. Atty. Gen., Aug. 20, 1930.

It is not necessary that town board or the annual town meeting allow a bill for the treasurer's compensation, and he may simply deduct it. Op. Atty. Gen., Aug. 20, 1930.

Moneys in the treasury when treasurer assumes office cannot be said to have been "paid into the town treasury," and town treasurer is not entitled to allowance of two per cent thereon. Op. Atty. Gen., Aug. 20, 1930.

Town treasurer is not entitled to allowances on sums which are transferred from one fund to another within the town treasury. Op. Atty. Gen., Aug. 20, 1930.

The limitation that none of the provisions of the act shall affect the salary of any town treasurer in any township whose assessed valuation is over \$1,000,000 is a limitation upon the 1917 amendment, and not upon Gen. Stats. 1913, §1161, and such town treasurers are governed by the section as it was before the amendment of 1917. Op. Atty. Gen., Apr. 13, 1931.

GENERAL PROVISIONS

§1074. Officers elected.

Correction—Note with respect to election and term of office of clerk and treasurer, should read, "See §§1074-4, 1074-5, herein."

Superseded by §2575. Op. Atty. Gen., Mar. 18, 1930.

Members of town board, owning property in town do not vacate their offices by removing to a village within the town unless the village is a separate election district and the removal is permanent. Op. Atty. Gen., Mar. 6, 1930.

This section was repealed by Laws 1913, c. 235, §42, which was in turn repealed and re-enacted by Laws 1921, c. 323, §35 (§2575 herein), and the election of an overseer was without effect. Op. Atty. Gen., Mar. 18, 1930.

Person convicted in federal court cannot vote or hold office of town clerk. Op. Atty. Gen., Apr. 3, 1930.

A town cannot be divided into three districts for the purpose of having one supervisor elected from each district. Op. Atty. Gen., Mar. 23, 1931.

Town treasurer appointed assessor automatically vacated his position as treasurer by qualifying as assessor, and it was immaterial that town board refused to accept his resignation as treasurer. Op. Atty. Gen., May 11, 1931.

A town constable may not be paid for doing general police duty in a thickly settled portion of a township. Op. Atty. Gen., July 23, 1931.

§1074-1. Town board may establish voting districts.—The board of supervisors in any town in this state having a population, including the residents of all villages which are a part of such town for election and assessment purposes, of 10,000 or more, may, by resolution adopted thirty days in advance of the annual town meeting, provide for the division of such township into not more than eight voting districts for the purpose of electing town officers, and in such resolution shall designate a polling place for each voting district established and fix the hours of voting for candidates for town offices at such election and shall appoint two judges and as many clerks as may be required to serve in each voting district as a board of registration and election board. Such division shall be only for the purpose of electing candidates for town office and shall not change the manner of transacting other business at town meetings. The notice of the annual meeting in such case shall describe the different voting districts and the polling places in each and shall state that candidates for town office will be voted on only at such polling places and that all other business of the annual meeting will be transacted at the usual place of meeting, the time and place of which shall be specified in such notice.

Such resolution shall also provide for the registration of voters on the first Tuesday in March, and only voters duly registered in accordance with the provisions or such resolution shall be permitted to vote for candidates for town office at such election. The laws relating to the registration of voters at general elections shall, so far as practicable, apply to and govern the registration of voters at town elections in such cases. (As amended Apr. 15, 1929, c. 196.)

§1074-3½. Certain Townships to Establish Election Districts.—The Board of Supervisors in any Town in this State having within the boundaries thereof, two or more duly incorporated Villages which are a part of such

Town for election and assessment purposes, may, by resolution adopted thirty days in advance of the annual town meeting, provide for the division of such township into not more than two voting districts for the purpose of electing town officers, and in such resolution shall designate a polling place for each voting district established and fix the hours of voting for candidates for town offices at such election and shall appoint two judges and one clerk to serve in each voting district as an election board. Such division shall be only for the purpose of electing candidates for town office and shall not change the manner of transacting other business at town meetings. The notice of the annual meeting in such case shall describe the different voting districts and the polling places in each and shall state that candidates for town office will be voted on only at such polling places and that all other business of the annual meeting will be transacted at the usual place of meeting, the time and place of which shall be specified in such notice. (Act Apr. 20, 1931, c. 265, §1.)

§1074-3½a. Town Board to canvass votes.—Each election board shall count the votes cast, proclaim the results and submit returns signed by the members of such board to the town board of supervisors, and within two days after the election the town board of supervisors shall meet as a canvassing board and declare the results appearing from said returns. In case of a tie the election shall be determined by lot under the direction of the town board. (Act Apr. 20, 1931, c. 265, §2.)

§1074-3½b. Election Supplies to Be Furnished.—Proper ballots, ballot boxes and election supplies shall be prepared by the town clerk and shall be furnished to the several election boards in advance of the election. All the provisions of the laws now in force relating to the counting, tallying and preserving of ballots at general elections shall apply, except that the town clerk shall be the final custodian of such ballots. (Act Apr. 20, 1931, c. 265, §3.)

§1075. Town and village assessors.

A village assessor once elected to the office and qualified holds over until his successor is elected and qualified. Op. Atty. Gen., June 5, 1931.

§1077. When to take oath.

Failure to take office within the time specified by law does not ipso facto create a vacancy which will prevent an officer from qualifying thereafter, if it is done before any steps are taken to declare a vacancy. Op. Atty. Gen., May 11, 1931.

§1078. Oath and bond, when filed.

Failure of treasurer to qualify creates vacancy which may be filled by appointment. Op. Atty. Gen., Mar. 21, 1929.

§1086. Vacancies.

Where two candidates at a town election received the same number of votes, and a drawing is had, and the successful candidate is afterwards found to be a nonresident of the district, the unsuccessful candidate is not entitled to the office, but there is a vacancy to be filled by the town board. Op. Atty. Gen., April 25, 1930.

Town board having appointed town treasurer as assessor had no right to rescind that appoint-

ment or to reconsider it. Op. Atty. Gen., May 11, 1931.

Where a village is organized and town supervisors residing within the proposed village resign, it is discretionary with the town board as to whether the vacancies should be filled by appointment or by calling a special town meeting. Op. Atty. Gen., May 19, 1931.

§1089. Compensation.

Member of town board may act as health officer and receive compensation therefor, in view of Mason's St. 1927, §5348. Op. Atty. Gen., Feb. 7, 1929.

Op. Atty. Gen., Nov. 21, 1929; note under § 1006.

Members of the town board cannot be reimbursed for actual expenses incurred while engaged on township work, and they have no authority to hire a car and have the owner present a bill to the town. Op. Atty. Gen., July 22, 1930.

Town clerk cannot charge to the town a specified sum for drawing and recording an order and filing the same after it has been cashed, but he is entitled to \$3 per day for services rendered to the town whether rendered at board meetings or not. Op. Atty. Gen., July 29, 1930.

A town supervisor who was sued to compel him to repay money to the town, and who had judgment against him for such money and then resigned, was legally qualified to later become a candidate. Op. Atty. Gen., Feb. 28, 1931.

Town supervisors are not allowed to charge for use of their automobiles. Op. Atty. Gen. Feb. 28, 1931.

If a resolution increasing compensation of town supervisors is adopted after balloting for officers had commenced, it is ineffective to bring about an increase. Op. Atty. Gen., Feb. 28, 1931.

There is no limitation on the total amount of fees which a town clerk may receive during the year. Op. Atty. Gen., July 23, 1931.

A town chairman appointed health officer pursuant to §5348 is entitled to compensation in addition to the \$90.00, but is not entitled to extra compensation if he is merely a member of the health board. Op. Atty. Gen., July 23, 1931.

§1095. Designation of places for posting of legal notices.—The voters at each annual town meeting shall designate three places in the town as public places at which the legal

notice shall be posted, and provide facilities for posting notices at such places—; provided, however, that in any town in which there is located within its geographical limits a city or village, one or more such notices may be posted in such city or village. (As amended Apr. 16, 1931, c. 182.)

Taxpayer participating in proceedings, held estopped to assert that notices were insufficient. 181M192, 231NW924. See Dun. Dig. 3217.

§1096. Officers—Contracts.

No recovery could be had for \$80 worth of work on the wings of a bridge for a township, where the work was never completed so that it could be accepted, and the work was of no value so that a recovery might be had as for a benefit received. 172M259, 214NW888.

Member of town board may act as health officer and receive compensation therefor, in view of §5348. Op. Atty. Gen., Feb. 7, 1929.

Town treasurer may be interested in contract with town. Op. Atty. Gen., Apr. 27, 1929.

Employment of member of board of supervisors to clearing and burning brush on road was illegal and town could not pay him expenses of prosecution wrongfully brought against him. Op. Atty. Gen., Aug. 28, 1929.

A town supervisor may be lawfully employed on the construction of a county aid road in his town, though the town board has appropriated to the county 30% of the cost thereof under Laws 1929, c. 283. Op. Atty. Gen., May 3, 1930.

Payments to minor sons of a supervisor for work on town roads is illegal where such sons have not been emancipated and are living with their parents. Op. Atty. Gen., July 29, 1930.

§1099. Separation from village.

Separation of township from village must be determined at a meeting called under this section, and not at a special meeting under §1031. Op. Atty. Gen., June 3, 1930.

Personal property taxes levied in 1930 and paid to a town in March, 1931, could not be recovered back by the village after the town voted to separate from the village at an election held in March, 1931. Op. Atty. Gen., May 20, 1931.

§1106. Filing claims—Demand.

This section is later than §766 of Mason's St. 1927, and claim need not be itemized or verified. 178M411, 227NW358.

CHAPTER 9

Villages and Cities

§1109. Villages and boroughs.

This section serves to keep alive Laws 1885, §145 [Mason's Minn. St., 1927, pp. 218-226], as to villages organized and operating thereunder, and all subsequent acts of the legislature, whether directly amendatory of the 1885 act or not, are still operative in such villages, if they constitute a part of the 1885 village code. Applying this rule Laws 1895, c. 270 [set forth herein in notes under §1111], not expressly amending the 1885 code, is still operative in such villages. Op. Atty. Gen., Jan. 16, 1930.

VILLAGES

§1111. What territory may be incorporated.

Laws 1885, c. 145, §21, 50 [Mason's Minn. St., 1927, pp. 218-226]. 231NW14.

Laws 1895, c. 270, is still operative in villages organized and operating under the village code of 1885. (Op. Atty. Gen. Jan. 16, 1930.) The text of the act is as follows:

"Sec. 1. The clerk or recorder of any incorporated village in this state may appoint under his hand and seal by and with the consent of the village council, a deputy for whose acts he shall

be responsible, and whom he may remove at pleasure."

"Sec. 2. Such deputy shall before entering upon his official duties, take the oath required by law which oath and appointment shall be filed in the office of the clerk of the district court of the proper county."

"Sec. 3. Such deputy shall possess all the powers and may perform all the duties of the village clerk or recorder except he shall not be a member of the village council."

"Sec. 4. This act shall take effect and be in force from and after its passage."

Officers elected Mar. 12, 1929, in a village operating under the 1885 act, took office on the first Tuesday in April, in view of Mason's St. 1927, §1134. Op. Atty. Gen.

Laws 1885, c. 145, §41, governed a village operating under such act with respect to justice of the peace rather than Mason's St. 1927, §1181, if the village was not organized pursuant to Rev. Laws 1905. Op. Atty. Gen.

The president of a village operating, under Laws 1885, c. 145, §18, has no power alone to appoint or remove a marshal. Op. Atty. Gen., Feb. 9, 1929.