

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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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.

Under 1885 law, the village of Kenyon has authority to contribute to the support of a skating rink on schoolhouse grounds. Op. Atty. Gen., Feb. 27, 1929.

Under the 1895 laws bonds cannot be issued without vote of the electors, even for refunding warrants. Op. Atty. Gen., Mar. 25, 1929.

Village council under Laws 1885, c. 145, may sell or lease telephone exchange without consent of electors. Op. Atty. Gen., Apr. 16, 1929.

A village operating under Laws 1885, c. 146, on sale of its gas plant, after providing for payment of obligations of the gas plant, may transfer the surplus to the general fund. Op. Atty. Gen., Aug. 14, 1929.

Under Laws 1885, c. 145, §21(11), the Village of Hibbing may condemn land within the village for park purposes. Op. Atty. Gen., Dec. 26, 1929.

**Laws 1885, c. 145, §21. Third.**

Advertisement for bids for purchase of lands for park is not required. Op. Atty. Gen., May 19, 1930.

**Laws 1885, c. 145, §21. Fourth.**

Village council may change the salary of the deputy recorder at any time. Op. Atty. Gen., Jan. 16, 1930.

**Laws 1885, c. 145, §21. Twenty-fifth.**

Council may make annual tax levy without submission to voters. Op. Atty. Gen., Mar. 11, 1930.

**Laws 1885, c. 145, §46. Eighth.**

The compensation of the recorder is regulated by this section as amended in 1899, unaffected by Mason's Minn. St., §1178, which applies to villages operating under the 1905 act, and the salary fixed is for one year, and may be changed each year, notwithstanding Laws 1929, c. 413, extending the term of the recorder to two years. Op. Atty. Gen., Jan. 16, 1930.

Office of members of village council and village assessor are incompatible if the village is organized and operating under the 1885 Law, since the council is authorized to fix the compensation of officers and agents of the village. Op. Atty. Gen., Mar. 12, 1931.

A village organized under Laws 1885, c. 145, in making certain improvements may proceed either under the 1885 Laws or under Laws 1925, c. 382 [§§1918-15 to 1918-32], or Laws 1919, c. 65 [§§1815 to 1828]. Op. Atty. Gen., May 26, 1931.

**§1115. Incorporation, when effected.**

Second petition may be presented within year if there is a substantial change in the territory covered. Op. Atty. Gen., July 18, 1931.

**§1117-1. Villages may be incorporated within other villages.**—Whenever any village now or hereafter existing shall include 9,000 acres or more of land according to the United States government survey, and a portion of the land within such village has been or shall be improved by the construction of sidewalks, pavements, street curbs, street gutters and sewers, such portion so improved and land in such village adjacent or contiguous thereto, in all not exceeding 700 acres, and so conditioned as properly to be subjected to village government, if such area has a population of 500 or more, may become incorporated as a village separate and distinct from the existing village, provided the population of the remaining area shall not thereby be reduced below the limit fixed by law for the incorporation of a village. (Act Apr. 15, 1929, c. 184, §1.)

**§1117-2. Petition to County Board.**—100 or more of the voters, residing within the territory authorized to become incorporated, as a village under this act, may petition the county board of the county in which the whole or larger part of said lands are situated to call an election for the determination of such proposed incorporation. They shall first cause

to be taken a census of the resident population, and, if such resident population be found to be 500 or more the petition aforesaid shall be presented within eight weeks thereafter. It shall set forth the boundaries of the territory proposed to be incorporated under this act, the quantity of land embraced therein, the number of actual residents thereon, and the name of the proposed village. It shall be verified by the oaths of at least three of the petitioners declaring that such census was accurately taken within the dates specified and that the statements made in the petition are true. (Act Apr. 15, 1929, c. 184, §2.)

**§1117-3. Notice of hearing—Posting—Publication—Election.**—Upon the filing of a petition complying with the provisions of Section 2 hereof [§1117-2], the county board shall cause a copy thereof, with a notice attached fixing a time and place for holding such election, to be posted in three public places within the boundaries described and also three public places within the existing village outside of the territory proposed to be incorporated under this act. The time shall be not less than 20 nor more than 30 days after such posting, and the place shall be the usual and customary place for holding elections within the already existing village. If there be a qualified newspaper published within said limits, there shall also be two weeks' published notice of such election. (Act Apr. 15, 1929, c. 184, §2A.)

**§1117-4. Judges of election—Ballots.**—The board shall also appoint three inspectors, residents of said existing village, who shall act as judges of said election, and conduct the same, so far as practicable, in accordance with the laws regulating the election of town officers. Only voters residing within said existing village shall be entitled to vote. The ballot shall bear the words, "For incorporation—Yes—No," with a square after each of the last two words, in one of which the voter shall make a cross to express his choice. The inspectors shall at once make and file with the county auditor a certificate declaring the time and place of holding said election, that they have canvassed the ballots cast thereat, and the number cast both for and against said proposition. The certificate shall be signed and verified by at least two of said inspectors to the effect that the statements thereof are true. (Act Apr. 15, 1929, c. 184, §2B.)

**§1117-5. County Auditor to certify to Secretary of State.**—The auditor shall attach said certificate to the original petition, with a copy of the resolution appointing said inspectors, and the original proof of the posting and also publication, if any, of the election notice, and file the whole, as one document, in his office. If the certificate show that the majority of the votes cast were in the affirmative, he shall forthwith make the transmit to the secretary of state a certified copy of said document to be there filed as a public record, and thereupon the incorporation shall be deemed complete. If territory in more than one county is embraced within such corporate limits, he shall also forthwith make and transmit to the auditor of each county in which such incorporated territory will be situate a certified copy of such document to

be there filed as a public record, and thereupon the incorporation shall be deemed complete. If the vote be adverse, no subsequent petition shall be entertained within one year next after said election. (Act Apr. 15, 1929, c. 184, §2C.)

**§1117-6. Election of officers.**—Upon the filing of said copy with the secretary of state the county board shall appoint three inspectors residing within the newly incorporated village and said inspectors of election shall give notice of a meeting of the resident voters for the organization of such village and the election of its officers, fixing therein the date and hour of the meeting, which shall be at least ten days, and not more than 20 days, thereafter. Such notice shall be posted and published as in case of the original election. The voters present at the appointed hour and place, by a majority vote taken viva voce, shall appoint two judges and one clerk of the election, who shall take the oath, and be governed in the conduct of the election, so far as practicable, by the laws regulating the choice of town officers. They shall open the polls by proclamation, and receive all lawful votes offered by resident voters during a period of at least six hours, and until 7 o'clock P. M. They shall give to each officer chosen a certificate of his election, and such officers having qualified according to law, shall forthwith assume their official duties. All proper expenses of the incorporation, organization, and election shall be a charge upon said village. (Act Apr. 15, 1929, c. 184, §2D.)

**§1117-7. Villages to have all rights under general law.**—Villages incorporated under this act shall be vested with the rights, privileges and powers and subjected to the duties as set forth under the general village law of this state found in Sections 1117 to 1263, each inclusive, General Statutes 1923, as amended. The administration of the affairs of villages incorporated under this act shall be governed and controlled by said Sections 1117 to 1263, each inclusive, General Statutes 1923, as amended, so far as applicable. When the context so requires the word "town" wherever used in said Sections 1117 to 1263, each inclusive, shall mean previously existing village. (Act Apr. 15, 1929, c. 184, §3.)

**§1117-8. Not to affect existing village.**—The territory of an existing village remaining after the incorporation of a village under this act shall continue to be and remain a village municipal corporation with its rights, privileges, powers and duties unchanged by the incorporation of a village under this act. (Act Apr. 15, 1929, c. 184, §4.)

**§1117-9. Vacancies in certain cases.**—In the event that an officer of an existing village resides within the territory incorporated under this act, the completion of the incorporation of a village under this act shall forthwith create a vacancy in the office held by the person who is a resident of the territory incorporated under this act. (Act Apr. 15, 1929, c. 184, §5.)

**§1117-10. Drawing of warrants unlawful in certain cases.**—That from and after January 1, 1930, no village now or hereafter having

a population of more than 5,000 and less than 10,000, and an assessed valuation (exclusive of moneys and credits) of more than \$10,000,000 and less than \$20,000,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 23, 1929, c. 303, §1.)

Act is constitutional. 178M342, 227NW202.

**§1117-11. Officers may not incur indebtedness.**—Whenever from and after January 1, 1930, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power and no power shall exist, to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which shall be a charge against that particular fund, or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. (Act. Apr. 23, 1929, c. 303, §2.)

**§1117-12. May sell certificates of indebtedness.**—At any time after the annual tax levy has been certified to the County Auditor, and not earlier than October 10th in any year, the governing body of such village may for the purpose of the succeeding year, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in said tax levy for the purpose of raising money for any such fund, but no certificates shall be issued for any of said separate funds exceeding 50 per cent of the amount named in said tax levy, as spread by the County Auditor, to be collected for the use and benefit of said fund, and no certificate shall be issued to become due and payable later than December 31st of the year succeeding the year in which said tax levy, certified to the County Auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than 6 per cent per annum; each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, the total amount of said certificates so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of \$100.00 or a multiple thereof and may have interest coupons attached and shall be otherwise of such form and terms and be

made payable at such place as will best aid in their negotiation, and the proceeds of the tax assessed and collected as aforesaid on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy, and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 23, 1929, c. 303, §3.)

**§1117-13. Village to be on cash basis.**—From and after January 1, 1930, such village shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1929 shall be considered as the tax revenues for the year 1930, and thereafter in any such village taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 23, 1929, c. 303, §4.)

**§1117-14. May issue bonds in certain cases.**—If any such village prior to January 1st, 1929, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the Council thereof, without a vote of the electors. (Act Apr. 23, 1929, c. 303, §5.)

**§1117-15. Tax levy.**—The Village Council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution provide for a levy, for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocable until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be derived from two sources: (1) 30 per cent of the amount necessary to pay said bonds and interest, and no more, shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, water, light and building commission purposes, and library purposes for each year; and (2) 70 per cent of the amount necessary to pay said bonds and interest, shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light and building commission purposes, and library purposes for each year until all of said bonds are paid, in the same ratio as the tax levy for paying 70 per cent of the bonds and interest payable in any one year bears to the

total annual maximum tax levy that could be made for general corporation purposes, water, light and building commission purposes, and library purposes for said year. (Act Apr. 23, 1929, c. 303, §6.)

**§1117-16. Limitation of tax levy.**—The amount which may be included by any such village in its annual tax levy in each year hereafter made for the following purposes shall not exceed these limitations: (1) for general corporation purposes, 20 mills on the dollar of the taxable valuation of the village, less the amount hereinafter required to be set aside for the same year to pay principal and interest on bonds herein authorized; (2) for water and light and building commission purposes, 5 mills on the dollar of the taxable valuation of the village, less the amount hereinbefore required to be set aside for the same year to pay principal and interest on bonds herein authorized; (3) for library purposes, 3 mills on the dollar of the taxable valuation of the village, less the amount hereinbefore required to be set aside for the same year to pay principal and interest on bonds herein authorized. (Act Apr. 23, 1929, c. 303, §7.)

**§1117-17. May not contract indebtedness.**—Whenever any department, board or commission of such village having the power to expend money which shall not have been provided by law with a special tax levy, such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the Village Council. The Village Council shall by resolution prior to February 1, each year, set aside for each such department, board or commission such sum as it deems necessary and adequate for the proper operation thereof. The amount to be so set aside by the Village Council for the Park Department from the general corporation tax of the village, within the limits now provided by law, shall in no case exceed the amount that 8/10th of one mill will yield on the dollar of the taxable valuation of said village. (Act Apr. 23, 1929, c. 303, §8.)

**§1117-18. Village recorder to keep record.**—The Village Recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the Village Council and each department of such village. A record of expenditures for the Village Council and all its departments shall be presented to and examined at a regular meeting once each month by the Village Council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 23, 1929, c. 303, §9.)

**§1117-19. Violation a misdemeanor.**—Any member of the village council or other governing board or body, or other village officer or employee, knowingly participating in, and authorizing any violation of this act shall be guilty of a misdemeanor punishable by a fine not exceeding \$100.00 or by imprisonment in the county jail not exceeding three months for each offense; and every contract at-

tempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred, in violation of the provisions of this act shall be null and void in regard to any obligation thereby sought to be imposed upon the village, and no claim therefor shall be allowed by the village council nor any governing board; nor shall the village recorder or any other village or department officer or employee issue or execute, nor shall the village treasurer pay any warrant or certificate of indebtedness issued on account thereof. Each member of the village council or of any village board or other village officer or employee so participating in, or authorizing, any violation of this act shall be individually liable to the village or to any other person for any damages caused thereby and for the purpose of enforcing such liability without impairing any other remedy one-fourth of the salary of each such officer and employee shall be withheld from him and applied towards reimbursing the village or any such other person for such damages until all claims by reason thereof have been fully paid. Each member of the village council or village board present at a meeting of the board or council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract shall be deemed to have participated and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Act Apr. 23, 1929, c. 303, §10.)

**§1117-20. Members violating provisions may be suspended.**—Any member of the village council or governing board knowingly participating in or authorizing the violation of this act shall be liable to suspension from office. Any vacancy created thereby shall be filled according to law. (Act Apr. 23, 1929, c. 303, §11.)

**§1117-21. Last federal census to govern.**—For the purpose of this act, the last Federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 23, 1929, c. 303, §12.)

**§1117-22. Provisions severable.**—When a village has once come under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 23, 1929, c. 303, §13.)

**§1117-23. Inconsistent acts repealed.**—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 23, 1929, c. 303, §14.)

**§1117-24.** This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect in so far as they may be inconsistent with this act. (Act Apr. 23, 1929, c. 303, §15.)

**§1120½. Detachment of territory, etc.**

Sec. 2 of Laws 1909, c. 138, omitted from 1927 compilation, is amended by Laws 1931, c. 95. See post, §1120½a.

**§1120½a. Tax levy on detached land.**—Such separation from said village shall not release any such tract of land from liability on account of any outstanding indebtedness of such village existing at the time of its separation therefrom. The county auditor of the county in which such detached lands are situated shall spread against the territory so detached such levies of taxes as are necessary to enforce the liability for indebtedness herein provided. Such levies shall be made each year at a rate equal to the rate which is levied by the village upon the property remaining within the village for the purpose of paying off such indebtedness. The county auditor may require the village clerk to certify to him statements of the amount of indebtedness outstanding at the time of such separation and such other information as may be necessary to spread such levy and may also require that the village separate in its tax levies the moneys levied for the purpose of paying off such indebtedness. The moneys raised from such levies, both upon territory within such village and upon the territory detached therefrom, shall be paid to the village to be held in a special fund available only for the purpose of paying off such indebtedness. (Laws 1909, c. 138, §2; amended Mar. 27, 1931, c. 95, §1.)

This section is not repealed. The word "indebtedness" refers to outstanding orders as well as bonds, without distinction as to whether it is funded or floating. The apportionment is to be made by the county auditor. Op. Atty. Gen., Mar. 20, 1930.

**§1120½b. Same—application.**—This act shall apply where the detachment of such territory has taken place prior to the enactment hereof but where any portion of such indebtedness remains unpaid, as well as where proceedings for such separation are taken hereafter. (Laws 1909, c. 138, §3; added Mar. 27, 1931, c. 95.)

**§1126. Separate election and assessment district.**

If village has not been separated from town, then the valuation of all property in the township, including the property in the village, is to be taken into consideration for determining the taxable value of the property of the township. Op. Atty. Gen., Mar. 10, 1931.

Unless village has been separated from the town, a resident of village is entitled to participate in the affairs of the town and to hold office. Op. Atty. Gen., Mar. 27, 1931.

The mere organization of the village does not of itself operate to separate the village from the town for election and assessment purposes and does not require an apportionment of the debts or funds. Op. Atty. Gen., May 19, 1931.

**§1127. Joint property, etc.**

When village is organized personal property such as fire equipment and road equipment remains the property of the town. Op. Atty. Gen., May 19, 1931.

**§1128. Apportionment of money and debt.**

On separation village is not charged with any part of floating indebtedness of town, but is chargeable with support of paupers and tubercular persons resident in village. Op. Atty. Gen., Nov. 23, 1929.

Where bonds for roads and bridges were issued by a town before organization of a village, the bonds should be apportioned. Op. Atty. Gen., May 19, 1931.

Personal property taxes levied in 1930 and paid to a town in March, 1931, could not be re-

covered 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.

**§1134. Elections—Officers—Terms—Vacancies.**

Repealed by Act Apr. 27, 1929, c. 413, §6, so far as inconsistent with repealing act, set forth, post, as §§1152-9 to 1152-15.

Vacancies created in office of justice of the peace by Laws 1929, c. 413. Op. Atty. Gen., Dec. 20, 1929.

Officers elected Mar. 12, 1929, took office the first Tuesday in April in a village operating under Laws 1885, c. 145, §41. Op. Atty. Gen.

There is no provision for compensation of treasurers in villages operating under the 1905 law, §1073, applicable to towns probably not applying. Op. Atty. Gen., Apr. 15, 1930.

**§1135. Hours for opening and closing polls in villages.**

See §401-1.

**§1136. Hours for opening and closing polls in villages.**

Corrupt Practices Act [§§538 to 579] does not apply to elections in townships of less than 5,000 population. 174M333, 219NW284.

**§1146. Affidavit of candidate—Withdrawal.**

—Each candidate for such election shall not later than the fourteenth day preceding such election, file his affidavit with the village clerk stating his residence, that he is a qualified elector in such village, and the office for which he desires to be a candidate, and accompany the same with a fee of One Dollar. The filing of such affidavit and the payment of such fee shall be a prerequisite to having his name placed on the official ballot for such election. Any candidate who desires to withdraw prior to election and have his name omitted from the official ballot shall file with the village clerk at least ten days before the day of election an affidavit stating that he is no longer a candidate for the office for which he has filed. The names of all candidates who have not withdrawn in accordance with the provisions of this Act shall be printed in the sample ballot provided for herein and in the official ballots for such election. (As amended Apr. 16, 1931, c. 177.)

**§1149. Polls open from 8 A. M. to 8 P. M.**

See Laws 1929, c. 198, ante, §401-1, fixing time of opening and closing polls and repealing inconsistent acts.

**§§1152-1 to 1152-8. [Repealed in part].**

Repealed by Act Apr. 27, 1929, c. 413, §6, so far as inconsistent with repealing act, set forth, post, as §§1152-9 to 1152-15.

**§1152-2.**

Where village councilman resigns it is mandatory that the council appoint to fill the vacancy, and they have no power to call an election for that purpose. Op. Atty. Gen., June 15, 1931.

**§1152-9. Application.**—This act shall apply to all villages and boroughs in this state organized under any of the laws thereof. (Act Apr. 27, 1929, c. 413, §1.)

Does not affect township elections. Op. Atty. Gen., June 20, 1929.

This act applies to Janesville, created by Sp. Laws 1877, c. 18. Op. Atty. Gen., Nov. 14, 1929.

Applies to New Trier incorporated under Sp. Laws 1874, c. 10, as amended by Sp. Laws 1875, c. 38. Op. Atty. Gen., Nov. 15, 1929.

Does not apply to Litchfield. Op. Atty. Gen., Nov. 13, 1929.

Does not apply to St. Vincent. Op. Atty. Gen., Nov. 26, 1929.

Officers elected for terms involving fractional parts of years, in the readjustment, are entitled to only fractional parts of their yearly salaries. Op. Atty. Gen., Dec. 12, 1929.

Offices of village justices whose terms expire April 1, 1930, then become vacant and vacancy exists until the December, 1930, election. Offices expiring April 1, 1931, become vacant on that date until the December, 1931, election. The vacancies are to be filled by appointment by the village council and not by the Governor. Op. Atty. Gen., Dec. 20, 1929.

**§1152-10. Officers to be elected.**—In all of the villages or boroughs of this state the resident electors shall choose the following named officers under the provisions of this act: namely, a treasurer, two constables and a council composed of a president, a clerk and three trustees, and if said village or borough is a separate election district an assessor, and if there be no municipal court established in such village or borough two justices of the peace. All officers chosen and qualified as such shall hold office until their successors qualify. Vacancies in office may be filled for the remainder of the term for which said respective officers were elected by the council. (Act Apr. 20, 1929, c. 413, §2.)

Council of village may fill vacancy in office of village assessor. Op. Atty. Gen., June 5, 1931.

Where village councilman resigns, it is mandatory that the council appoint to fill the vacancy, and they have no power to call an election for that purpose. Op. Atty. Gen., June 15, 1931.

Vacancy in common council must be filled as provided by this act, as Mason's Stats., §1172, is not applicable to the filling of vacancies. Op. Atty. Gen., June 20, 1931.

**§1152-11. Date of election.**—All elective officers in such villages and boroughs in office when this act takes effect shall hold their offices for the terms for which they were respectively elected and any clerks whose terms would otherwise expire prior to January 1, 1931, shall continue to hold office until the end of December 31, 1930, and there shall be no village or borough election in March, 1930, and no clerks shall be elected in December, 1929. (Act Apr. 27, 1929, c. 413, §3.)

**§1152-12. Terms of office.**—All village elections for the terms and in the manner herein provided shall be held annually on the first Tuesday after the first Monday of December in each year at which the officers specified in Section 2 of this act [§1152-10] shall be elected for the terms following to-wit: President for a term of one year, one Trustee for a term of three years and all other such officers each for a term of two years.

All terms, except as herein otherwise provided, shall commence on the first secular day of January following the elections; provided, however, that if at the time of said election held on the first Tuesday after the first Monday in December, 1930, there are any such officers holding office, the term of which does not expire until after the first of January, 1931, their successors shall be elected to hold office only for that portion of the one or three year term commencing January 1, 1931, which shall remain after the expiration of the term of office of such officers whose term does not expire until after January 1, 1931.

Provided that where there is a municipal court established in any village or borough the judge or judges thereof shall continue in office for the balance of the term or terms for which they were elected, and any current term expiring before the 31st day of December, 1930, is hereby extended and shall expire on said 31st day of December, 1930. At the December election in 1930 a judge shall be elected in such villages and boroughs wherein the term of the judges expire prior to December 31, 1930, for a term commencing at the expiration of the current term of any judge, and expiring on the 31st day of December, 1934, and thereafter such judges shall be elected for four year terms, commencing on the first secular day in January following election and until their successors are elected and qualified. Provided, that the existing succession of terms of judges elected under the provisions of Chapter 4, General Laws 1925, [§§1152-1 to 1152-8], or any amendments thereto, shall be continued, and successors to such judges shall be elected for four year terms at the elections in December preceding the expiration of the terms of such judges, respectively. (Act Apr. 27, 1929, c. 413, §4.)

Taxes when payable without interest or penalties. 178M404, 227NW209.

Extension of term of recorder, held not to affect prior law as to annual fixing of compensation. Op. Atty. Gen., Jan. 16, 1930.

**§1152-13. Fiscal year to be calendar year.**—The fiscal year of all villages or boroughs in this state shall be the calendar year. (Act Apr. 27, 1929, c. 413, §5.)

**§1152-14. Laws repealed.**—General Statutes 1923, Section 1134, is hereby repealed insofar as inconsistent herewith and Chapter 4, General Laws 1925 [§§1152-1 to 1152-8], and Chapter 411, General Laws 1927 [§1152-4], are hereby repealed insofar as inconsistent herewith, and all acts and parts of acts inconsistent herewith are also likewise repealed. (Act Apr. 27, 1929, c. 413, §6.)

**§1152-15. Provisions severable.**—The various provisions of this act shall be severable and if any part or provision shall be held to be invalid this shall not invalidate any other part of provision thereof. (Act Apr. 27, 1929, c. 413, §7.)

**§1163-1. Salaries of village officers in certain villages.**— \* \* \*

(2) In Villages not included in any of the foregoing classifications, having both a population of not less than One Thousand Five Hundred inhabitants and an assessed valuation of not less than Four Million Five Hundred Thousand (\$4,500,000) dollars, or having a population of not less than One Thousand two hundred inhabitants and an assessed valuation of not less than Six million (\$6,000,000) dollars, the salary of the President is fixed at Eighty (\$80.00) dollars per month and the salary of each Trustee at Sixty (\$60.00) dollars per month. (As amended Mar. 9, 1931, c. 47, §1.) \* \* \*

(4) In villages, not included in any of the foregoing classifications, having both a population of not less than Four Hundred inhabitants and an assessed valuation of not

less than One Million (\$1,000,000) Dollars, the salary of the President is fixed at thirty-five (\$35.00) dollars per month, and the salary of each trustee at twenty-five (\$25.00) dollars per month. (As amended Apr. 25, 1931, c. 362, §1.)

"Assessed valuation" means assessed valuation as finally fixed by the Minnesota Tax Commission. Op. Atty. Gen., Apr. 26, 1929.

Offices of member of village council and village assessor are incompatible in view of this section, which bases salaries upon assessed valuations of the village. Op. Atty. Gen., Mar. 12, 1931.

#### **§1172. Special elections.**

This section is not applicable to the filling of vacancies in the common council. Op. Atty. Gen., June 20, 1931.

Village councils may not hold special elections to submit to the voters, question of whether or not public dances shall be held on Sunday nights. Op. Atty. Gen., June 22, 1931.

**§1174. Treasurer—Duties, bond, accounts, etc.**

Village is entitled to dividends on bank liquidation until its claim for deposit is paid in full, and until that time surety on treasurer's bond is not entitled to subrogation. Op. Atty. Gen., June 16, 1930.

Bond of village treasurer containing exceptions to liability of surety, held objectionable. Op. Atty. Gen., Aug. 15, 1930.

#### **§1175. Financial statement by clerk.**

It is necessary to set forth in the financial statement a complete list of outstanding unpaid warrants, and it is not enough to set forth the aggregate amount thereof. Op. Atty. Gen., Jan. 26, 1931.

#### **§1177. Clerk—Bond—Deputy.**

Deputy recorder may hold other compatible salaried position, such as clerk of municipal court. Op. Atty. Gen., Feb. 26, 1929.

Under Mason's Stat., 1927, §1186, subd. 1, village council organized under 1905 law may fix salary of deputy clerk. Op. Atty. Gen., Feb. 26, 1929.

This section does not apply to villages operating under the 1885 act [Mason's Minn. St., 1927, pp. 218-226], but Laws 1925, c. 270 [§1111, notes], from which this section was derived in constructing the 1905 village code, is still operative as to villages existing under the 1885 act, and the office of deputy recorder has no fixed term, and the incumbent need not be appointed each year, and his salary is subject to change by the council at any time. Op. Atty. Gen., Jan. 16, 1930.

#### **§1178. Same—Duties—Compensation.**

Power of council of village operating under 1885 act to fix salary of recorder yearly where his term has been extended to two years by Laws 1929, c. 413. Op. Atty. Gen., Jan. 16, 1930.

Clerk of village organized under the 1885 Laws receives no fixed compensation, but his salary is determined each year in advance by the council, and such council may require the clerk to perform duties in connection with the reading of electric light meters, collecting money for lights, etc., and allow compensation therefor. Op. Atty. Gen., Feb. 7, 1931.

#### **§1181. Justices—powers—duties—fees.**

**Correction**—The following words were omitted after line 15 of this section: "where a village is situated in more than one county, the justices of the peace and constables of such vil—."

Laws 1885, c. 145, §41 [§1111, notes, Mason's Minn. St., 1927], as amended, and not this section, governed a village operating under the former act, as regarded justices of the peace. Op. Atty. Gen.



**§1186. Council—Powers—Ordinances.**

(1).

Village council of village organized under 1905 law may fix compensation of deputy clerk appointed under §1177. Op. Atty. Gen., Feb. 26, 1929.

Council of village incorporated under Laws 1885, c. 145, and electing not to come under the 1905 Revised Laws, has power to fix the compensation of the village assessor on any reasonable basis that it deems proper. Op. Atty. Gen., June 20, 1931.

(4).

Under subd. 4, it is discretionary with the village council to demand bond of officers appointed. Op. Atty. Gen., May 1, 1929.

Offices of village marshal and street commissioner are not incompatible. Op. Atty. Gen., Feb. 25, 1931.

(5).

Village has inherent power to hire a person to take charge of public playgrounds. Op. Atty. Gen., June 10, 1930.

(6).

Does not authorize council to employ surveyor to replat village. Op. Atty. Gen., May 14, 1930.

(7).

A village may extend its water mains to some fifteen families living about fifteen hundred feet from the platted portion of the village, if the principal purpose is to furnish fire protection, and cost may be paid by a general tax levy, but the town cannot join with the village in making the extension. Op. Atty. Gen., May 13, 1931.

(8).

An ordinance prohibiting use of village street for distribution of gasoline or other automobile service by hose or other appliances extending over curb is valid, even as to pumps already constructed on the sidewalk. Op. Atty. Gen., May 25, 1931.

A village may remove gasoline pumps and other obstructions from its street. Op. Atty. Gen., May 25, 1931.

A village organized under Laws 1885, c. 145, §21(11) [Mason's Minn. St., 1927, pp. 218-226], may improve streets by applying tarvia or oil without a petition of the property owners and without assessing the cost against abutting property. Op. Atty. Gen., May 27, 1931.

This section is not applicable to a village operating under Laws 1885, c. 145 [Mason's Minn. St., pp. 218-226]. Op. Atty. Gen., May 27, 1931.

(9).

Village ordinance prohibiting the keeping of dog kennels without reference to whether such kennels created a nuisance held invalid. 173M 61, 216NW535.

(18).

Village council may extend its water mains and pay for the same by general taxation and the expense could be paid out of the general fund of the village or out of the waterworks fund. Op. Atty. Gen., April 4, 1931.

ACTS RELATING TO PARTICULAR LOCALITIES.

L. 1921, c. 417, §1, amended by L. 1929, c. 206. See §2061.

**§1188. Council to license public dance halls.**

Village councils may not hold special elections to submit to the voters, question of whether or not public dances shall be held on Sunday nights. Op. Atty. Gen., June 22, 1931.

**§1192. Tax for entertainment.**

Repealed by Laws 1927, c. 79 [§§1933-17 to 1933-22]. Op. Atty. Gen., Oct. 28, 1929.

**§1199. Contracts—Members excluded—Bids.**

Village is not required to advertise for bids in purchasing automobile to be used on road work and to be paid for out of road or poll tax. Op. Atty. Gen., Apr. 5, 1929.

A village cannot lease personal property under a contract permitting it to pay \$1 at the expiration of the lease and retain the property. Op. Atty. Gen., May 5, 1931.

**§1200. Control of streets.**

Town board is without jurisdiction to vacate part of a town road which runs through the unplatted portion of a village organized under Revised Laws 1905, c. 9, and such highway may be vacated only by action of the village council. Op. Atty. Gen., April 6, 1931.

**§1201. Vacating streets.**

Vacated portion of village street reverts to the owner of abutting property. Op. Atty. Gen., Mar. 13, 1931.

**§1205. Street improvement—Assessments.**

Village is under no obligation to place culverts and fill in between village street and adjoining lot so as to afford access to it. Op. Atty. Gen., April 30, 1931.

If entire width of street is taken over as a state trunk highway, village is under no obligation to fill in cut in front of property and install a culvert so that property owner can get access to highway, especially where such property is a filling station which will necessitate extensive filling. Op. Atty. Gen., April 27, 1931.

**§1215-1. Road taxes in villages—Assessment.**—All road taxes, except poll taxes, may be required to be paid in cash in any village in this state whenever a majority of the voters of such village voting by ballot upon the question shall so determine. Such question shall not be voted upon unless a petition signed by at least ten voting tax payers of such village, praying for the payment in cash of all road taxes, is filed with the clerk or recorder of such village ten days before the annual election in such village, in which case the clerk or recorder shall specify in the notice of such annual election that such question will be voted upon. If such question is decided in the affirmative, all taxes thereafter assessed for the maintenance and repair of roads and bridges in such village shall be paid in money and disbursed by the village council or governing board of such village as other village taxes. The village council or governing board of such village may assess all the property of such village not to exceed six mills on the dollar on the last assessed valuation thereof, and if they so assess, they shall certify the same to the county auditor for extension and collection, the same as other village taxes, and before such taxes are collected, such village council or governing board of such village may pledge the credit of the village by issuing village orders not to exceed the taxes so assessed, to the expense of road and bridge work. Provided, however, that for the year 1909, upon a petition as above provided for, being filed with the village clerk or recorder on or before the last Tuesday in March of said year, the village council may cause a special election to be held for the purpose of voting upon said question, by giving the notice required in the case of special elections in villages. ('09, c. 435, §1.)

The publisher has inserted the above act as having been inadvertently omitted from the statutes, but the attorney general rules that

this section is no longer in force. Op. Atty. Gen., Nov. 5, 1930.

**§1222. Claims, how audited and paid.**

Village cannot take care of payment of wages of laborers by a pay roll system. Op. Atty. Gen., May 5, 1930.

**§1225. Tax levy.**

Tax for band purposes authorized by Mason's Stat. 1927, §1933-17, may be levied in excess of 2% limit fixed by this section. Op. Atty. Gen., July 5, 1929.

**§1225-1. Villages not to draw orders.**—That from and after January 1, 1932, no village now or hereafter having a population of more than 250 inhabitants, and less than 500 inhabitants, and an assessed valuation of more than \$300,000, and less than \$600,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 25, 1931, c. 397, §1.)

**§1225-2. Not to create indebtedness.**—Whenever from and after January 1, 1932, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy, payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officers, board or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which shall be a charge against that particular fund, or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. (Act Apr. 25, 1931, c. 397, §2.)

**§1225-3. May issue certificates of indebtedness.**—At any time after the annual tax levy has been certified to the county auditor, but not earlier than October 10 of the year preceding the year for which the tax levy is made, the governing body of such village may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any fund named in the tax levy for the purpose of raising the money for any such fund, but the certificates outstanding for any such separate funds shall not at any time exceed 50 per cent of the amount of taxes previously levied for such fund remaining uncollected and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made, and said cer-

tificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, the total amount of said certificates so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denomination of \$100.00, or a multiple thereof, and may have interest coupons attached and shall be otherwise of such form and terms and may be made payable at such place as will best aid in their negotiation, and proceeds of the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificate for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 25, 1931, c. 397, §3.)

**§1225-4. Tax revenues for 1932.**—All taxes levied in 1931 shall be considered as the tax revenues for the year 1932, and thereafter in any such village, taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 25, 1931, c. 397, §4.)

**§1225-5. May issue bonds.**—If any such village prior to January 1, 1931, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the council thereof, without a vote of the electors; provided that if any moneys received from taxes levied in 1930 and payable in 1931, or income from local sources received since January 1, 1931, have been used prior to the issuance of bonds authorized by this act for the retirement of indebtedness existing January 1, 1931, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid. (Act Apr. 25, 1931, c. 397, §5.)

**§1225-6. Tax levy to retire bonds.**—The village council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due, and sufficient to pay the cost of operat-

ing said village subject to the limitations herein fixed. Such tax levy shall be irrevocable until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be derived from two sources: (1) 50 per cent of the amount necessary to pay said bonds and interest, and no more shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, park and park board, library and water, light, power and building commission purposes, and other special taxes which may be levied annually as provided by law; and (2) 50 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, park and park board and library purposes for each year until all of said bonds are paid, in the same ratio as the tax levy for paying 50 per cent of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation purposes, water, light, power and building commission purposes, park and board and library purposes for said year. Funds designed to pay and retire any bonds of such village outstanding and unpaid at the time this act takes effect shall likewise be added to the annual levy and shall be held not to be subject to any limitations of law now imposed upon tax levies of villages. (Act Apr. 25, 1931, c. 397, § 6.)

**§1225-7. Boards of departments not to incur indebtedness.**—Whenever any department, board or commission of such village has the power to expend money such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the village council or to pay maturing bonds outstanding at the time this Act takes effect. The village council shall by resolution, prior to February 1, each year, set aside for each such department, board or commission, such sums as it deems necessary and adequate for the proper operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 25, 1931, c. 397, § 7.)

**§1225-8. Village recorders to keep record of allotment.**—The village recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the Village Council and each department of such village. A record of expenditures for the village council and all its departments shall be presented to and examined at a regular meeting once each month by the Village Council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 25, 1931, c. 397, § 8.)

**§1225-9. Federal census shall govern.**—For the purpose of this act, the last federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determin-

ing hereunder the population of any such village. (Act Apr. 25, 1931, c. 397, § 9.)

**§1225-10. Change in valuation or population not to change status.**—When a village has once come under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 25, 1931, c. 397, § 10.)

**§1225-11. Provisions separable.**—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 25, 1931, c. 397, § 11.)

**§1225-12. Inconsistent acts repealed.**—This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect insofar as they may be inconsistent with this act. (Act Apr. 25, 1931, c. 397, § 12.)

**§1225-13. Villages may not issue orders without funds.**—That from and after January 1, 1932, no village now or hereafter having a population of more than 600 inhabitants, and less than 900 inhabitants, and an assessed valuation of more than \$1,000,000 and less than \$1,500,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 20, 1931, c. 277, § 1.)

**§1225-14. Shall not incur indebtedness.**—Whenever from and after January 1, 1932, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy, payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which shall be a charge against that particular fund, or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. (Act Apr. 20, 1931, c. 277, § 2.)

**§1225-15. May issue certificates.**—At any time after the annual tax levy has been certified to the county auditor, but not earlier than October 10th of the year preceding the year for which the tax levy is made, the governing body of such village may, by resolu-

tion, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any fund named in the tax levy for the purpose of raising money for any such fund, but the certificates outstanding for any of such separate funds shall not at any time exceed 50 per cent of the amount of taxes previously levied for such fund remaining uncollected, and no certificate shall be issued to become due and payable later than December 31st of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, the total amount of said certificates so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of \$100.00, or a multiple thereof, and may have interest coupons attached and shall be otherwise of such form and terms and may be made payable at such place as will best aid in their negotiations, and the proceeds of the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued, except as herein provided. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 20, 1931, c. 277, §3.)

**§1225-16. Revenues for 1931.**—All taxes levied in 1930 shall be considered as the tax revenues for the year 1931, provided the outstanding indebtedness is funded and paid by the issuance of bonds as herein authorized, and thereafter in any such village, taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 20, 1931, c. 277, §4.)

**§1225-17. May issue bonds.**—If any such village prior to January 1, 1931, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the council thereof, without a vote of the electors; provided that if any moneys received from taxes levied in 1930 and payable in 1931, or income from local sources received since January 1, 1931, have been used prior to the issuance of bonds authorized by this Act for the retirement of in-

debtedness existing January 1, 1931, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were so paid; and provided further, that such bond issue may also include the amount of attorneys' fees and incidental expenses reasonably incurred in connection with placing such village on a cash basis and the issuance of such refunding bonds. (Act Apr. 20, 1931, c. 277, §5.)

**§1225-18. Tax levy to pay bonds.**—The village council of any village issuing bonds pursuant to the authority of this Act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full, or a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocable until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be derived from two sources: (1) 57 per cent of the amount necessary to pay said bonds and interest, and no more, shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, water, light, power and building commission purposes, and library purposes for each year, and other special taxes which may be levied annually as provided by law; and (2) 43 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, and library purposes for each year until all of said bonds are paid, in the same ratio as the tax levy for paying 43 per cent of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation purposes, water, light, power and building commission purposes, and library purposes for said year. (Act Apr. 20, 1931, c. 277, §6.)

**§1225-19. Boards or commissions may not incur indebtedness.**—Whenever any department, board or commission of such village has the power to expend money such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the village council. The village council shall by resolution, prior to February 1st, each year, set aside for each such department, board or commission, such sum as it deems necessary and adequate for the proper operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 20, 1931, c. 277, §7.)

**§1225-20. Recorder to keep record.**—The village recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the village council and each department of such village. A record of expenditures for the village council and all its departments shall be presented to and ex-

aminated at a regular meeting once each month by the village council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 20, 1931, c. 277, §8.)

**§1225-21. Federal census to govern.**—For the purpose of this Act, the last federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 20, 1931, c. 277, §9.)

**§1225-22. Application of act.**—When a village has once come under the provisions of this Act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 20, 1931, c. 277, §10.)

**§1225-23. Provisions separable.**—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 20, 1931, c. 277, §11.)

**§1225-24. Inconsistent acts repealed.**—This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect insofar as they may be inconsistent with this Act. (Act Apr. 20, 1931, c. 277, §12.)

**§1225-25. Villages not to draw orders.**—That from and after January 1, 1932, no village now or hereafter having a population of more than 1,400 inhabitants, and less than 1,600 inhabitants, and an assessed valuation of more than \$700,000, and less than \$2,000,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 25, 1931, c. 388, §1.)

**§1225-26. Not to create indebtedness.**—Whenever from and after January 1, 1932, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy, payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and inter-

est accruing thereon. (Apr. 25, 1931, c. 388, §2.)

**§1225-27. May issue certificates of indebtedness.**—At any time after the annual tax levy has been certified to the county auditor, but not earlier than October 10 of the year preceding the year for which the tax levy is made, the governing body of such village may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any fund named in the tax levy for the purpose of raising money for any such fund, but the certificates outstanding for any of such separate funds shall not at any time exceed 50 per cent of the amount of taxes previously levied for such fund remaining uncollected, and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made, and said certificate shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, the total amount of said certificate so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of \$100.00, or a multiple thereof, and may have interest coupons attached and shall be otherwise of such form and terms and may be made payable at such place as will best aid in their negotiation, and the proceeds of the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 25, 1931, c. 388, §3.)

**§1225-28. Tax revenues for 1932.**—All taxes levied in 1931 shall be considered as the tax revenues for the year 1932, and thereafter in any such village, taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 25, 1931, c. 388, §4.)

**§1225-29. May issue bonds.**—If any such village prior to January 1, 1931, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a

vote of the council thereof, without a vote of the electors and such bonds shall mature in equal annual installments extending over a period of not more than twenty years; provided that if any moneys received from taxes levied in 1930 and payable in 1931, or income from local sources received since January 1, 1931, have been used prior to the issuance of bonds authorized by this act for the retirement of indebtedness existing January 1, 1931, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were so paid. (Act Apr. 25, 1931, c. 388, §5.)

**§1225-30. Tax levy to retire bonds.**—The village council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocable until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be derived from two sources: (1) 52 per cent of the amount necessary to pay said bonds and interest, and no more shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, park and park board, library, and water, light, power and building commission purposes, and other special taxes which may be levied annually as provided by law; and (2) 48 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, park and park board and library purposes for each year until all of said bonds are paid, in the same ratio as the tax levy for paying 48 per cent of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation purposes, water, light, power and building commission purposes, park and park board and library purposes for said year. Provided however, that if any bonds of said village are outstanding and held by the State of Minnesota that such state bonds shall be retired upon maturity through the levy of a tax sufficient to pay the same when due, and said levy shall be in addition to all others herein provided for, and shall not be subject to any of the limitations provided for herein. (Act Apr. 25, 1931, c. 388, §6.)

**§1225-31. Boards or departments not to incur indebtedness.**—Whenever any department, board or commission of such village has the power to expend money such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the village council or to pay maturing bonds outstanding at the time this Act takes effect. The village council shall by resolution, prior to February 1, each year, set aside for each such department, board or commission, such sum as it deems

necessary and adequate for the proper operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 25, 1931, c. 388, §7.)

**§1225-32. Village recorders to keep record of allotment.**—The village recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the village council and each department of such village. A record of expenditures for the village council and all its departments shall be presented to and examined at a regular meeting once each month by the village council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 25, 1931, c. 388, §8.)

**§1225-33. Federal census shall govern.**—For the purpose of this act, the last federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 25, 1931, c. 388, §9.)

**§1225-34. Change in valuation or population not to change status.**—When a village has once come under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 25, 1931, c. 388, §10.)

**§1225-35. Provisions separable.**—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 25, 1931, c. 388, §11.)

**§1225-36. Inconsistent acts repealed.**—This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect insofar as they may be inconsistent with this act. (Act Apr. 25, 1931, c. 388, §12.)

**§1225-37. Villages to be on cash basis.**—That from and after January 1, 1932, no village now or hereafter having a population of more than 2,000 inhabitants, and less than 3,000 inhabitants, and an assessed valuation of more than \$3,000,000, and less than \$4,000,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 25, 1931, c. 342, §1.)

**§1225-38. Officers may not incur indebtedness.**—Whenever from and after January 1, 1932, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy, payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which shall be a charge against

that particular fund, or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. (Act Apr. 25, 1931, c. 342, §2.)

**§1225-39. Governing board may sell certificates.**—At any time after the annual tax levy has been certified to the county auditor, but not earlier than October 10 of the year preceding the year for which the tax levy is made, the governing body of such village may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any fund named in the tax levy for the purpose of raising money for any such fund, but the certificates outstanding for any of such separate funds shall not at any time exceed 50 per cent of the amount of taxes previously levied for such fund remaining uncollected, and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, the total amount of said certificate so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of \$100.00, or a multiple thereof, and may have interest coupons attached and shall be otherwise of such form and terms and may be made payable at such place as will best aid in their negotiation, and the proceeds of the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for any one year many, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 25, 1931, c. 342, §3.)

**§1225-40. Tax levies for 1932.**—All taxes levied in 1931 shall be considered as the tax

revenues for the year 1932, and thereafter in any such village, taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 25, 1931, c. 342, §4.)

**§1225-41. Village may issue bonds.**—If any such village prior to January 1, 1931, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the council thereof, without a vote of the electors; provided that if any moneys received from taxes levied in 1930 and payable in 1931, or income from local sources received since January 1, 1931, have been used prior to the issuance of bonds authorized by this act for the retirement of indebtedness existing January 1, 1931, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were so paid. (Act Apr. 25, 1931, c. 342, §5.)

**§1225-42. To provide for tax levy.**—The village council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocable until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be derived from two sources:

(1) 52 per cent of the amount necessary to pay said bonds and interest, and no more, shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, water, light, power and building commission purposes, and library purposes for each year, and other special taxes which may be levied annually as provided by law; and (2) 48 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, and library purposes for each year until all of said bonds are paid, in the same ratio as the tax levy for paying 48 per cent of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation purposes, water, light, power and building commission purposes, and library purposes for said year. (Act Apr. 25, 1931, c. 342, §6.)

**§1225-43. Departments of board shall not incur indebtedness.**—Whenever any department, board or commission of such village has the power to expend money, such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the village council. The village council shall by resolution,

prior to February 1, each year, set aside for each such department, board or commission, such sum as it deems necessary and adequate for the proper operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 25, 1931, c. 342, §7.)

**§1225-44. Recorder to keep record of allotments.**—The village recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the village council and each department of such village. A record of expenditures for the village council and all its departments shall be presented to and examined at a regular meeting once each month by the village council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 25, 1931, c. 342, §8.)

**§1225-45. Federal census shall govern.**—For the purpose of this act, the last federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 25, 1931, c. 342, §9.)

**§1225-46. Change in population not to affect law.**—When a village has once come under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 25, 1931, c. 342, §10.)

**§1225-47. Provisions separable.**—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 25, 1931, c. 342, §11.)

**§1225-48. This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect insofar as they may be inconsistent with this act.** (Act Apr. 25, 1931, c. 342, §12.)

**§1229. Water and light plants.**

Village is without power to operate water-works at a profit, its duty being to reduce rates if existing rates are too high. Op. Atty. Gen., June 3, 1930.

Approval by voters unnecessary for changes, alterations or extensions where no bonds are required to issue. Op. Atty. Gen., Aug. 16, 1930.

Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant through a contract stipulating that it is to be paid for out of earnings of the plant. Op. Atty. Gen., July 10, 1931.

**§1235. Operation of plants.**

Whether rate to be charged by city for water must be based on the quantity of water used by any consumer regardless of the use to which the water is put, query. Op. Atty. Gen., June 27, 1931.

**§1245. Water and light plant—Special tax in certain villages.**

Village cannot pay for electricity used for lighting streets and public buildings out of the water and light fund, it appearing that city furnished only water to its inhabitants. Op. Atty. Gen., June 1, 1929.

Power and building commission may not fur-

nish hydrant rental and light to village free of charge with the purpose of permitting the village to recoup its finances so that it may be able to purchase a fire truck, if the village does not levy a tax of five mills for such purpose. Op. Atty. Gen., April 27, 1931.

**§1247-1. Villages may pay salaries in certain cases.**—That in all villages having a population of more than 12,000 and an assessed valuation of more than \$60,000,000.00, the village council of such village be authorized to provide for the payment of salaries to the members of the water, light, power and building commission of such village, such salaries to be set by such village council and paid from the water and light fund of said village, provided, however, that the salary to be paid the chairman of such commission shall not exceed the sum of \$150.00 per month and the salary of the other members of such commission shall not exceed the sum of \$100.00 per month. (Act Apr. 20, 1929, c. 281, §1.)

**§1248. [Repealed].**

**Explanatory Note**—Repealed and re-enacted by Laws 1919, ch. 172, §4. The provision as re-enacted is set forth as §§1865, 1866, 1867, Mason's Minn. St. 1927.

Approval by voters unnecessary for changes, alterations or extensions where issue of bonds is not required. Op. Atty. Gen., Aug. 16, 1930.

A village which disposed of its light and heat distributing system to a private utility and granted a franchise to such company, which refused to install an extension to citizens of the village residing out of the settled portion thereof, could not appropriate money to pay for such extension upon the agreement of such citizens not to withdraw their property from the village limits for a period of three years. Op. Atty. Gen., July 1, 1931.

**§1249. [Repealed].**

**Explanatory Note**—Repealed and re-enacted by Laws 1919, chap. 172, §4. See §§1865, to 1867, Mason's Minn. St., 1927, for re-enactment.

**§1255. Parks and parkways in certain villages.**

Until a levy has been made under section 1258, the village council may appropriate money for park purposes under section 1264-4. Op. Atty. Gen., Apr. 10, 1931.

**§1256. Officers—Vacancies.**

It would be permissible to adopt a rule that in the absence of the president of the board, the vice-president may act and sign warrants. Op. Atty. Gen., Apr. 10, 1931.

**§1258. Tax levy—Park fund—Etc.**

Park board must turn gift money into the village treasury and expend it pursuant to warrants drawn upon it, and cannot expend such money without any restrictions and without the consent of the village council. Op. Atty. Gen., Apr. 10, 1931.

Op. Atty. Gen., April 10, 1931, note under §1256.

**§1264-1. Bonds for funding floating indebtedness.**

Act providing for placing certain villages on cash basis through issuance of bonds to fund outstanding indebtedness. Laws 1931, c. 277, ante, §§1152-13 to 1152-24.

**§1264-3. Acquisition of land for park, etc.**

Village has no power to purchase land for park on installment plan, though current tax levy is sufficient to pay first installment, it being insufficient to pay entire price. Op. Atty. Gen., Dec. 13, 1929.

Advertisement for bids for purchase of park lands is not required. Op. Atty. Gen., May 19, 1930.



**§1264-6. Police pension fund created in certain villages.**—In every village in this state now having or hereafter having a population of over 5,000 inhabitants and an assessed valuation of more than \$8,000,000, there may be created a police pension fund which shall be managed, controlled and distributed in accordance with the provisions of this Act. (Act Mar. 9, 1931, c. 48, §1.)

There is no provision of law for creation of a police relief association similar to the firemen's relief association in cities of the fourth class. Op. Atty. Gen., May 27, 1931.

**§1264-7. May incorporate—amount of pension.**—That every paid municipal police department now existing or which may hereafter be organized is hereby authorized to become incorporated pursuant to the provisions of Chapter 58, General Statutes 1923, and the laws amendatory thereto, and adopt a constitution and by-laws as a relief association, and is authorized to provide for and permit and allow such police relief association, so incorporated and organized, to pay out of and from any funds it may have received from any source a service, disability or dependency pension in such amounts and in such manner as its articles of incorporation and constitution and by-laws shall designate, not exceeding, however, the following sum per month to each of its pensioned members who shall have reached the age of fifty-five years or more, and shall have served 20 years or more in such department, or their widows and children under 16 years of age, viz:

Seventy-five Dollars (\$75.00) per month when such members shall have reached the age of fifty-five years or more and shall have served as a member of such paid Municipal Police Department for a period of twenty years or more in the Police Department of such village in which such relief association shall have been organized, or who has been disabled physically or mentally because of any injury received or suffered after at least one year of service as such member, while a member of such organizations and Police Department, so as to render necessary his retirement, from active police service and cause a total and permanent disability; provided, further, that no pension authorized by this Act shall be paid to any person while receiving compensation in any form, or sick benefit, from any county, city, village, township or other political subdivision of the state, or to any person after he removes his residence from the United States, or to any person who shall have been convicted of a felony for which he shall have been adjudged to be imprisoned, or who is an habitual drunkard, or to any person receiving a pension or sick relief from any other public relief association.

Provided, however, that said maximum monthly payments of Seventy-five Dollars (\$75.00) per month may be increased by adding thereto an amount not exceeding Three Dollars (\$3.00) per month for each year of active duty over twenty years of service before retirement; provided, further, that with such increases no pension or payment hereunder shall exceed the sum of One Hundred Dollars (\$100.00) per month; and provided, further, that no such pension shall be paid to any person while he remains a member of

the Police Department and no person receiving such pension shall be entitled to any other relief from the association. (Act Mar. 9, 1931, c. 48, §2.)

**§1264-8. Widows and children may receive pension.**—Pensions may be paid to any widow or child under 16 years of age of such pensioned and retired members of the police department, or to any widow or child under 16 years of age of any member who dies while in the service of the police department of any such village. (Act Mar. 9, 1931, c. 48, §3.)

**§1264-9. Amount of pension.**—Pensions may be paid by such police relief association to any widow or child under 16 years of age of any such pensioned and retired member of the police department, and to any widow or child under 16 years of age of any member who dies while in the service of the police department of such village, and such widow or child shall receive not to exceed the sums hereinafter provided for, viz.:

\$40.00 per month to such widow, and \$10.00 per month to each of such children under 16 years of age; provided that where such widow and such children reside together the money herein required to be paid to such children shall be paid to such widow for the support of such children, but that the money paid to such widow for herself and such children shall not exceed \$75.00 per month in all. Provided, further, that in the event of the death of both parents leaving a minor child or children under the age of 16 years of age, entitled to such pension, such sums as may be necessary for the care, maintenance and education of such child or children may be paid to the legal guardian thereof, but not to exceed the sum of \$75.00 per month to the children of any one policeman. Provided, further, that in the event that any such widow remarries, she shall receive no further benefits under this law; and provided, further, that said fund shall not be used for any other purpose than the payment of service, disability or dependency pensions, as herein provided, and for the relief of a sick, injured and disabled policeman. The word "member," as used in this Act, shall include policewomen, police matrons and assistant police matrons. (Act Mar. 9, 1931, c. 48, §4.)

**§1264-10. Not to be subject to process.**—No pension allowed or to be allowed by said police relief association under this act shall be subject to judgment, garnishments or executions or other legal process, and no person entitled to such pension shall have any right to assign the same nor shall said association have the power to recognize any attempted assignment or pay over any sum whatever which has been assigned, or attempted to be assigned (Act Mar. 9, 1931, c. 48, §5.)

**§1264-11. Association to have control of pension fund.**—Said association through its officers shall have full charge, management and control of the pension fund herein provided for, which said fund shall be derived from the sources herein stated: From gifts of real estate or personal property, and from the rents and sales thereof or the income therefrom. It shall also be the duty of the village recorder, treasurer or other disbursing officer of such village where a police re-

lief association has been duly incorporated and organized under the provisions of this Act, to deduct each month from the monthly pay of each member of such police department who is a member of the association and entitled to the benefits therefrom, a sum equal to one per cent of such monthly pay and to place the same to the credit of said police pension fund; it shall also be the duty of every police officer receiving any reward for services, in making arrests or otherwise, to pay unto said police pension fund all such rewards, and it shall be the duty of the chief of police of any such village to place to the credit of and pay into such police pension fund all monies coming into the hands of the police, when the same shall have been unclaimed for a period of six months, and to sell all unclaimed property coming into the hands of the police when the same shall have been unclaimed for a period of six months, and place the proceeds thereof to the credit of said police pension fund.

The Village Council or other governing body of such city shall each year, at the time the tax levies are made for the general revenues of the village, levy within the limits now permitted by law a tax of one-tenth of a mill on all the taxable property of such village, the amount of which tax shall not in the aggregate exceed the sum of Six Thousand Dollars (\$6,000) per annum, and which levy shall be transmitted to the County Auditor of the county in which the village is situated at the time the other tax levies are transmitted and shall be collected and the payment thereof shall be enforced in the same manner as the other taxes of such village. The Village Treasurer, when the moneys derived from such tax are received by him, shall credit the same to the Police Pension Fund, together with all penalties and interest collected thereon, and said moneys shall not be withdrawn from said fund or transferred to any other fund.

If at any time the balance on hand of the fund so raised by taxation as in this section provided, together with other resources, exceeds the sum of Fifty Thousand Dollars (\$50,000), then as often as this shall occur the levy of said sums shall be omitted for any year in which said condition shall exist, and if at any time the whole amount of the sums that may be raised by taxation in any year is not needed for the purpose of this Act and the maintenance of the said fund at Fifty Thousand Dollars (\$50,000) then said sum so to be raised by taxation in any such year shall be proportionately reduced to such amount as will be sufficient to carry out the provisions thereof.

The Village Treasurer shall, upon written direction of the governing board or Board of Directors of said Association, invest said funds in such interest bearing securities as are specified from time to time by the said Board of Directors, provided that the same shall be such securities as are prescribed from time to time by the statutes of Minnesota as securities for investments of the State Board of Investment. (Act Mar. 9, 1931, c. 48, §6.)

**§1264-12. Board of Directors.**—The governing board or Board of Directors of said association then incorporated shall consist of

five members, to be elected annually, who shall first hold their offices for one, two, three, four and five years, respectively, and thereafter each for a five-year term, or until the successor of each is duly elected and qualified, who shall serve without compensation and shall be active members of said Paid Police Department, and the Mayor or President and Village Treasurer shall be ex-officio members of said Board, and the Village Treasurer shall be the custodian of all funds of said association and shall disburse the same as directed by said Board. All vacancies occurring in the elective membership of said Board shall be filled by a special election called for that purpose. None of said members shall be eligible to vote upon any question relating to his benefits hereunder. (Act Mar. 9, 1931, c. 48, §7.)

**§1264-13. Board to file report.**—The said Governing Board of said Association shall file annually on or before the 1st day of September of each year with the Recorder of said Village a detailed report of the amount of money or property so received, expended and still remaining on hand to the credit of said fund. The books and records of said Board shall be open to inspection and audit by any taxpayer of said Village or his duly authorized representative. (Act Mar. 9, 1931, c. 48, §8.)

## CITIES

### §1265. How classified.

The rule that, where a city receives supplies or property and uses or consumes them it may be held liable for the reasonable value thereof, does not apply where there has been no material use and no one having authority has taken any part in the matter and prompt objection has been taken by taxpayers. 177M44, 224NW261.

### §1271. Framing charter.

The city of White Bear has authority under its home rule charter to condemn Goose Lake outside its corporate limits, as a sewage disposal plant, notwithstanding Sp. Laws 1881, c. 410. 172M255, 214NW930.

Minneapolis ordinance imposing liability on adjoining owners to sheath-pile in making excavation so as to protect walls on the adjoining property held invalid. 172M428, 215NW840.

Provision in home rule charter of Waseca that "no finer judgment recovered by the city shall be remitted or discharged except by vote of the common council and with the approval of the mayor" is valid. Op. Atty. Gen., Apr. 8, 1931.

City charter of Brainerd cannot regulate the employment of attorneys by the school district, which is not an integral part of the city government. Op. Atty. Gen., June 10, 1931.

Charter provisions of the City of Ely with respect to condemnation of land outside city are valid. Op. Atty. Gen., June 15, 1931.

**§1285-1. Election validated.**—That in all cases where an election has been held upon the question of the adoption of a charter pursuant to article 4, section 36, of the constitution, and notice of such election, properly stating the time, place and object thereof, was posted for more than 15 days prior thereto, but said notice was dated and first posted prior to the time the election was ordered by the governing body of the municipality, and where white ballots were used instead of lavender colored ballots at said election, and where a sample of said ballot was not pub-

lished for one week in the official newspaper, but the proposed charter was so published, and said charter was thereafter duly adopted at said election, all such proceedings for the adoption of the charter are hereby legalized and validated as against the following objections: (a) that the notice of election was posted before the election was ordered by the governing body; (b) that the ballots used were white in color; (c) that a sample ballot was not published for one week prior to the election in the official newspaper. (Act Apr. 13, 1931, c. 145.)

**§1293. Powers of mayor and council.**

The city of Hastings may lawfully enter into a contract for the rental of property for public purposes which it might lawfully acquire by purchase, but it cannot purchase such equipment under a conditional sale contract or on the installment plan under the guise of hiring the use thereof. Op. Atty. Gen., Jan. 26, 1931.

**§1300. [Repealed].**

Repealed by Laws 1929, c. 185.

**§1310 ½.**

**DECISIONS RELATING TO CITIES IN GENERAL**

City flushing street was engaged in corporate function and was liable for negligence. 174M 184, 218NW892.

Ordinances passed years ago but never published in full need not be re-passed, but may be published and made valid. Op. Atty. Gen., June 24, 1931.

Resolution "city attorney—\$70 per month; and in addition thereto a reasonable fee for investigation, preparation for trial, briefing and argument in district and supreme court," held not to sufficiently fix the salary under the charter of New Ulm. Op. Atty. Gen., July 11, 1931.

The passage of a resolution, instead of the adoption of an ordinance, if either were necessary, was permissible. State ex rel. Madsen et al v. Houghton, 233NW831. See Dun. Dig. 6749 (22).

**§1321-1. Building lines—establishment.**

175M379, 221NW535.

**PROVISIONS RELATING TO CERTAIN CITIES**

**§1322. Gas, electric and water plants.**

Liability for injuries from electric shock. 180 M125, 230NW469.

**§1326-1. Certain cities may contract use of sewers.**—Any city of the third or fourth class may contract for the use of its sewers by the owner or occupant of land outside and within one mile of the limits of such city. Any such contract heretofore made is hereby validated and confirmed. Provided nothing herein shall be construed as limiting any power now possessed by any such city under its home rule charter. (Act Feb. 28, 1929, c. 44.)

**§1328. Duty of treasurer—Exemption from liability.**

Where city treasurer has made deposits in excess of collateral securities given by a bank in lieu of a depository bond under §1973-1, city did not have a preferred claim on the theory that the over-deposit was a criminal offense. 172M324, 315NW174.

**§1329. Failure to designate.**

Act authorizing towns and villages and cities

of the fourth class to reimburse their treasurers for money paid because of loss of funds in insolvent banks. Laws 1931, c. 279, amending Laws 1931, c. 35. See, post, §1973-9.

**§1366. "Teachers" defined.**

Act providing for membership by county superintendents of schools in teachers' insurance and retirement fund. Laws 1931, c. 146, post. §§2953-1 to 2953-4.

**§1367. Appropriations for entertainment.**

Repeated by Laws 1927, c. 79 [§§1933-17 to 1933-22] Op. Atty. Gen., Oct. 28, 1929.

**§1372-7 ½. Port authority commission established.**—A Commission to be known as "Port Authority of . . . ." is hereby established in and for every city of this State which has, or shall have over 50,000 inhabitants and which is or shall be situated upon, or adjacent to, or which embraces or shall embrace within its boundaries, in whole or in part, a port or harbor located on a navigable lake or stream. This act is expressly declared to be applicable to all such cities, whether now or hereafter existing under a charter framed and adopted under Section 36 of Article 4 of the State Constitution or not. Where two or more port districts in cities of the first class are adjacent, they shall constitute a metropolitan port district, and there is hereby established therein a joint commission to be known as " . . . . Port Commission," the further designation in the name to be supplied and adopted by the commission. Such joint commission shall consist, ex officio, of all the commissioners of port authority in each district embraced in said metropolitan port district, and shall perform such functions and have such powers as may be delegated or extended to it by concurrent resolutions adopted from time to time by the port authorities in the constituent port districts. When so authorized such joint commission may exercise any or all the powers conferred by this act upon said port authorities. Any such port authority may subsequently withdraw or rescind its action or concurrence in any such resolution, and, upon proper notice thereof, the powers or functions of the joint commission shall to that extent be withdrawn. (Laws 1929, c. 61, §1; Apr. 9, 1931, c. 132.)

**§1372-7 ½ a. Members—Terms—Vacancies.**—Such Port Authority for any city shall consist of three commissioners who shall serve without compensation for their services, or any remuneration, save for expenses incurred in the performance of their duty. They shall be appointed by the city council of each city in and for which such Port Authority is hereby created. The first commissioners of any such Port Authority shall be appointed for terms as follows: one for two years; one for four years; and one for six years. Thereafter as the term of any Commissioner expires a successor shall be appointed to serve for a term of six years. Vacancies in the office of any commissioner shall be filled by the said council for the balance of the term in which such vacancy occurs. (Act Mar. 11, 1929, c. 61, §2.)

**§1372-7 ½ b. By-laws and rules—Duties.**—The commissioners constituting such Port Authority may adopt by-laws and rules of

procedure governing their action, not inconsistent with this or other laws, and shall adopt an official seal. They shall elect from among their number a president, a vice-president and a treasurer, and shall also elect a secretary who may or may not be a member of such commission; any of said offices except those of president and vice-president may be held by one commissioner. The said officers shall have the duties and powers usually attendant upon such offices, and such other duties and powers not inconsistent herewith, as may be provided by the Port Authority. The treasurer shall receive and be responsible for all moneys of the Port Authority from whatever source derived, and the same shall be deemed public funds. He shall disburse the same only on order signed by the secretary and countersigned by the president or vice-president, or other vouchers authorized by law, and each order shall state the name of the payee, and the nature of the claim for which the same is issued. He shall keep an account of all moneys coming into his hands, showing the source of all receipts, and the nature, purpose and authority of all disbursements, and at least once each year, at times to be determined by the Port Authority, shall file with the secretary a detailed financial statement of the Port Authority showing all receipts and disbursements, the nature of the same, the moneys on hand, and the purposes for which the same are applicable, the credits and assets of the Port Authority and its outstanding liabilities, which report together with the treasurer's vouchers, shall be examined by the Port Authority, and if found correct approved by resolution entered on the records. The treasurer of every Port Authority shall give bond to the state in a sum equal to twice the amount of money which will probably be in his hands at any time during any one year of his term, said amount to be determined at least annually by the Port Authority, such bond to be conditioned for the faithful discharge of his official duties, and to be approved as to both form and sureties by the Port Authority and filed with its secretary. (Act Mar. 11, 1929, c. 61, §3.)

**§1372-7½c. Depositories to be designated.**

—The Port Authority shall biennially designate a National or State Bank or banks as depositories of its money. Such depositories shall be designated only within the State of Minnesota and upon condition that bonds approved as to form and surety by the Port Authority and at least equal in amount to the maximum sum expected to be on deposit at any one time, shall be first given by such depositories to the Port Authority, such bonds to be conditioned for the safe keeping and prompt repayment of such deposits. Whenever any of the funds of the Port Authority shall be deposited by the treasurer in any such depository, the treasurer and the sureties on his official bond shall, to such extent, be exempt from liability for the loss of any such deposited funds by reason of the failure, bankruptcy, or any other act or default of such depository. (Act Mar. 11, 1929, c. 61, §4.)

**§1372-7½d. Territorial jurisdiction.**—The territorial jurisdiction and authority of the Port Authority shall cover and include all

portions of any city in and for which the same is created and established as aforesaid, and, all portions of such port or harbor within said city. Said city and said portions of such port or harbor, are hereinafter referred to as the Port District. (Act Mar. 11, 1929, c. 61, §5.)

**§1372-7½e. Not to levy taxes.—City to provide funds.**—The Port Authority shall have no right or authority to levy any tax or special assessment, nor to pledge the credit of the state, or any other subdivision or municipal corporation thereof; nor to incur any obligation enforceable upon any property, either within or without the Port District, other than property owned by said Port Authority. Annually, at such time as may be fixed by charter, resolution or ordinance of the city in and for which any such Port Authority is created, the Port Authority shall transmit to the council of such city a detailed estimate, in writing, of the amount of money which in its opinion will be required for the business and proper conduct of its affairs during the next ensuing fiscal year, in excess of any expected receipts from the conduct of its business, or other sources, and any such city, in addition to all other powers now possessed thereby, and in addition to, and in excess of any limitation upon the amount it is otherwise permitted by law to levy as taxes, is hereby granted the power and authority, in its discretion, to levy taxes for the benefit of, and for expenditure by, such Port Authority, not exceeding, however, in any one year an amount equal to a tax of fifteen one-hundredths of one mill upon the dollar of the assessed valuation thereof, upon all the taxable property in such city, excluding moneys and credits, and any amount so levied for such purposes shall be paid over by the City Treasurer to the treasurer of said Port Authority, for expenditure by it as above provided. The fiscal year of such Port Authority shall be identical with the fiscal year of such city. The board of county commissioners of any county in which any such city is located, is also hereby authorized to appropriate for the use of such Port Authority, and to include therefor in its levy for general revenue purposes, such amount as it may deem proper; provided that the total amount permitted by law to be levied by any county for general revenue purposes shall not be deemed increased by this provision. Any amounts so appropriated by the county shall be paid over by the County Treasurer to the Port Authority for expenditure by it as herein provided, at such times and in such manner as the county board may provide. (Act Mar. 11, 1929, c. 61, §6.)

**§1372-7½f. City to transfer property.**—

The city council of any such city may in its discretion, by majority vote, and with or without consideration, transfer or cause to be transferred to such Port Authority or may place in its possession and control, by lease, or other contract or agreement, either for a limited period or in fee, any dock, waterfront, or riparian property now or hereafter owned or controlled by such city, within the Port District, but nothing in this act contained shall be construed to impair or in any manner restrict any power of such city or any municipality to itself own, develop, use and

improve port or terminal facilities. Any such city may issue its bonds for, and appropriate the proceeds thereof, to the purchase, construction, extension, improvement and maintenance of docks, warehouses or other port or terminal facilities owned or to be owned or operated by such Port Authority under the same conditions, to the same extent and in the same manner as if such properties were public utility plants, needful public buildings and public conveniences from which revenue may be derived, and were owned or to be owned or operated solely by said city. Such city may also in its discretion and with or without compensation therefor furnish to such Port Authority offices, warehouses, or other structures and space with or without heat, light and other service, and such stenographic, clerical, engineering or other assistance as its council may determine. The city attorney or similar law officer of any such city shall be the attorney and legal advisor of said Port Authority, but this provision shall not impair the power of the Port Authority to employ additional counsel when in the judgment of its members such action is for any reason advisable. (Act Mar. 11, 1929, c. 61, §7.)

**§1372-7½g. Powers and duties.**—It shall be the general duty of any such Port Authority to promote the general welfare of the Port District, and of the port as a whole; to endeavor to increase the volume of the commerce thereof; to promote the efficient, safe and economical handling of such commerce, and to provide or promote adequate docks, railroad and terminal facilities open to all upon reasonable and equal terms for the handling, storage, care and shipment of freight and passengers to, from and through the port. It shall further be the special duty of such Port Authority;

(a) To confer with any similar body created under laws of any state embracing within its boundaries any part of any port or harbor of which the Port District forms a part, and insofar as agreement shall be possible to adopt in conjunction with said similar body a comprehensive plan for the regulation and future development and improvement of the entire harbor and port.

(b) To consider and adopt detailed and comprehensive plans for the regulation, future development and improvement of the Port District, which plans shall, so far as may be, be consistent with the general plan above referred to.

(c) To confer from time to time with any such similar body and, so far as may be, to agree therewith upon legislation and regulations needed for the regulation and control of the port as a whole, and to recommend the adoption of such legislation and regulations to the appropriate councils, legislatures or other legislative and regulatory bodies.

(d) To determine upon legislation and regulations needed for the regulation and improvement of the conduct of navigation and commerce within the Port District and to similarly recommend the same.

(e) Either jointly with said similar body, or separately, to recommend to the proper de-

partments of the government of the United States, or any state or subdivision of either, or to any other body, the carrying out of any public improvement for the benefit of the port or Port District.

(f) To investigate the practices, rates and conduct of privately owned or operated dock, terminal and port facilities within the Port District, and to institute such proceedings and take such steps to remedy any abuses as may seem in the public interest. In connection with any such investigation, the Port Authority shall have power, by subpoena issued out of the district court of the county where the Port Authority is situated, to require the attendance of witnesses and the production of books and documents, and to examine witnesses under oath.

(g) Annually in January of each year to make written report to the city council of such city, giving a detailed account of its activities and of its receipts and expenditures during the preceding calendar year, together with such further matters and recommendations as it shall deem advisable for the advancement of the commerce and welfare of the Port District. (Act Mar. 11, 1929, c. 61, §8.)

**§1372-7½h. May hold property.**—The Port Authority, in its own name, shall have full power and authority to acquire, purchase, construct, lease or operate any terminal or transportation facility within said district; to make rules, regulations and charges for the use thereof, and for any service rendered; for such purposes to own, hold, lease or operate real and personal property; to borrow money, and to secure the same by bonds or mortgages upon any property held or to be held by it; to sell and exchange any real or personal property owned or held by it in such manner and on such terms as it may see fit, save that no real property owned by said Authority shall be so sold, exchanged or the title thereto transferred without the unanimous vote of all the members of the Port Authority. The Port Authority is hereby empowered to acquire by condemnation any property, corporeal or incorporeal, within said Port District which may be needed by it for public use; and the fact that the property so needed has been acquired by the owner under power of eminent domain, or is already devoted to a public use shall not prevent its acquisition by such Port Authority by the exercise of the right of eminent domain hereby conferred; provided, however, that no property now or hereafter vested in or held by the State of Minnesota, or any city, county, village, school district, township or other municipality shall be so taken or acquired by such Port Authority without the consent of such state, municipality, or public body. The necessity of the taking of any property by the Port Authority shall be determined by resolution duly adopted by the commissioners, which shall describe the property as nearly as may be, and state the use and purpose to which it is to be devoted. The acquisition of such property shall be thereafter accomplished by proceedings at law, as in taking land for public use by right of eminent domain under the laws of the State of Minnesota. (Act Mar. 11, 1929, c. 61, §9.)

**§1372-7 1/2 i. May employ engineers, etc.—**The Port Authority shall have power and authority, in its own behalf, to employ such engineering, legal technical, clerical, stenographic, accounting and other assistance as it may deem advisable; to enter into contracts for the erection, repair, maintenance or operation of docks, warehouses, terminals, elevators or other structures upon or in connection with property owned or controlled by it; to contract for the purchase and sale of real and personal property; provided, however, that no such obligation or expense shall be incurred save upon such terms and at times when existing appropriations, together with the reasonable expected revenue of said Port Authority from other sources, shall be sufficient to enable the same to be discharged when due; and neither the state nor any municipal subdivision thereof shall be liable on any such obligation. (Act Mar. 11, 1929, c. 61, §10.)

**§1372-7 1/2 j. Application.—**Until and unless otherwise provided by law, all laws now or hereafter vesting jurisdiction or control in the Railroad and Warehouse Commission of the State of Minnesota, the Interstate Commerce Commission or War Department of the United States or similar regulatory bodies, shall apply to any transportation, terminal or other facility owned, operated, leased or controlled by the Port Authority, with the same force and effect as if said transportation, terminal or other facility was so owned, operated, leased or controlled by a private corporation. The Port Authority shall have authority either alone or jointly with any similar body having jurisdiction of any part of such Port to petition any Interstate Commerce Commission, Railroad and Warehouse Commission, Public Service Commission, Public Utilities Commission or any like body, or any other federal, municipal, state or local authority, administrative, executive, judicial or legislative, having jurisdiction in the premises, for any relief, rates, change, regulation or action which in the opinion of the Port Authority may be designed to improve or better the handling of commerce in and through the said Port, or improve terminal and transportation facilities therein, and may intervene, before any such body in any proceeding affecting the commerce of the port, and in any such matters shall be considered along with other interested persons, one of the official representatives of the Port District. (Act Mar. 11, 1929, c. 61, §11.)

**§1377. Conciliation and small debtors court.**

See Laws 1927, c. 17, creating court of conciliation and small debtors court in Duluth.

Laws 1917, c. 263, §§3, 7, relating to conciliation court of Minneapolis, are amended by Laws 1929, c. 242.

Conciliation court of St. Paul. Laws 1929, c. 346, amends Laws 1921, c. 525, §3.

**PROVISIONS RELATING TO CITIES OF FIRST CLASS.**

**§1413. Annexation of territory.—**All or any portion of the territory of any incorporated village or city of the fourth class may be annexed to an adjoining city of the first class as follows: The council of any village or city

of the fourth class and situated within the same county shall, on the petition of one hundred freeholders, submit the proposition of annexing all or any portion of the territory of such village or city of the fourth class to an adjoining city of the first class to the voters of such village or city of the fourth class for their approval or rejection at the next regular village or city election, or at a special election called for the purpose. Ten days' notice of any election to vote on such proposition shall be given by posting three written or printed notices thereof in three of the most public places within said village or city, and shall state the time and place, when and where within said village or city of the fourth class such election will be held, and shall also state the proposition on which the said electors will vote. Notice of such election shall also be published for one full week prior to the date of said election in a newspaper printed or published in said village or city of the fourth class, and, if there be no newspaper printed or published in said village or city of the fourth class, then in a newspaper printed and published at the county seat of the county in which such village or city is located. The ballots shall have upon them the proposition to be voted upon, together with the words "for detaching" and "against detaching," and the said special election shall be held, conducted and the results thereof counted and canvassed in the same manner as in special elections held for other purposes in villages and cities of the fourth class. If the proposition to be voted upon is for the annexation of the entire territory of said village or city to such city of the first class, the ballots shall have upon them the proposition to be voted upon, together with the words "for annexation to the city of....." and "against annexation to the city of....." (As amended Apr. 24, 1929, c. 352, §1; Apr. 25, 1931, c. 403, §1.)

**§1414. To be voted on.—**If it appears that (5/8) five-eighths of the electors of such village or city of the fourth class casting their ballots upon the question of such election are in favor of the proposition, then and in such case the council of such village or city of the fourth class shall adopt a resolution reciting the results of such election and stating that such village or city of the fourth class consents to the detachment from it of the territory described and to the annexation of such territory to an adjoining city of the first class, or consents to the annexation of all the territory of such city or village of the fourth class to such adjoining city of the first class as the case may be and a certified copy of such resolution shall thereafter be filed with the clerk of such city of the first class, who shall present the same to the council of such city of the first class at its next regular meeting. (As amended Apr. 24, 1929, c. 352, §2; Apr. 25, 1931, c. 403, §2.)

**§1415-6. Annexation of cities of fourth class in certain cases.—**The governing body of any city of the fourth class now or hereafter organized, where the territory embraced in said city of the fourth class shall join and be contiguous to a part of the territory of any city of the first class, when such city of

the fourth class, or part thereof, by proceedings duly had, has voted to become annexed to said city of the first class, shall, on the petition of one hundred free-holders of said city of the fourth class, or any part thereof, submit the proposition of making all or any such part of the city of the fourth class annexed, or proposed to be annexed, to the city of the first class a part of the county wherein said city of the first class is located, to the voters of such city of the fourth class, or such part thereof, for their approval or rejection at an election to be held for that purpose not more than sixty days after the filing of such petition. (Act Apr. 24, 1929, c. 343, §1.)

**§1415-7. People to vote on annexation.**—Notice of any election to vote on such proposition shall be given by posting three written or printed notices thereof in three public places within said city of the fourth class or such part thereof, at least ten days prior to such election, which said notice shall state the time and place such election will be held, and shall also state the proposition on which the said electors will vote.

Notice of such election will also be published for at least one week prior to such election in a newspaper published in said city of the fourth class, or, if there be no newspaper published in said city of the fourth class, then in a newspaper published at the county seat of the county in which said city is located.

The ballots shall briefly and concisely state the proposition to be voted upon, together with the words, "For annexation" and "Against annexation" and such election shall be held, conducted and the results thereof counted and canvassed in the same manner as any other special or general election held for other purposes in cities of the fourth class. (Act Apr. 24, 1929, c. 343, §2.)

**§1415-8. Five-eighths vote required to annex.**—If it appears by such canvass that five-eighths of the electors of such city of the fourth class, casting their ballots upon the question at such election, are in favor of the annexation, then and in such case the governing body of such city of the fourth class shall adopt a resolution reciting the result of such election and stating that such city of the fourth class consents to the annexation of the territory embraced in said resolution to the county in which such city of the first class is located, and a certified copy of such resolution shall forthwith be filed with the county auditor of the county, in which said city of the fourth class is located and also with the county auditor of the county in which said city of the first class is located.

The county auditor of the county in which said city of the fourth class is located hereby is required to present the same to the board of county commissioners of the county in which said city of the fourth class is located at its next regular or adjourned regular meeting, and if no such meeting has been set, then at a special meeting to be called by said county auditor at a time not more than 20 days after the filing of such resolution in his office. (Act Apr. 24, 1929, c. 343, §3.)

**§1415-9. Duties of county board.**—If the board of county commissioners of the county in which such city of the fourth class is located finds that the territory described in such resolution is so conditioned as to properly be made a part of the county in which said city of the first class is located; it shall have the power, by resolution duly adopted, to consent to the annexation of such territory and to consent that it be made a part of the county in which said city of the first class is located.

Upon the adoption of such resolution it is hereby made the duty of the county auditor of such county to forthwith file a certified copy thereof with the county auditor of the county in which such city of the first class is located. (Act Apr. 24, 1929, c. 343, §4.)

Consent of both counties and both cities is necessary to annexation of cities. Op. Atty. Gen., July 26, 1929.

**§1415-10. County auditor to file certificates.**—Upon the filing of such certified copy of such resolution with such county auditor, such county auditor of the county in which the city of the first class is located is hereby required to present the certified copy of the resolution filed in his office by such city of the fourth class and the certified copy of the resolution so filed in his office from the board of county commissioners of the county in which such city of the fourth class is located at its next regular or adjourned regular meeting. (Act Apr. 24, 1929, c. 343, §5.)

**§1415-11. Territory to become part of city.**—Whenever the certified copy of resolution duly filed by such city of the fourth class with the clerk of such city of the first class, pursuant to Section 1413, General Statutes 1923 and the certified copy of resolution duly filed by the county auditor of the county in which the city of the fourth class is located with the county auditor of the county in which the city of the first class is located would allow the annexation of the same territory to the city of the first class and the county in which such city of the first class is situated and the council of such city of the first class shall have determined by resolution duly adopted and filed with the register of deeds of the county in which such city of the first class is situated to annex such territory, the board of county commissioners of such county in which such city of the first class is located shall have the power, by resolution duly adopted, to annex such territory and make it a part of the county in which said city of the first class is located; provided that, notwithstanding any existing law to the contrary, such city of the fourth class or any part thereof shall not become a part of such city of the first class until the filing of the certified copy of such resolution by the county auditor of the county from which the territory is to be detached with the county auditor of the county to which such territory is to be attached; and such territory shall not become detached from one county and attached to the other until the due adoption and filing of certified copies of resolutions providing for such city annexation by both the city of the fourth class and the city of the first class, and provided that such annexation shall not release the property annexed



from liability on account of any outstanding indebtedness of such city of the fourth class or of the county in which it is situated existing at the time of the annexation and taxes therefor shall be levied on said property annually until paid at the same rate as on other property in the county of which said city of the fourth class was a part, which levy shall be made by the county auditor of the county of said city of the first class on a certificate therefor from the county auditor of the county of which said city of the fourth class was a part and the proceeds of such levy shall be remitted by the county auditor as collected at the times provided by law for tax settlements, and provided further that the property so annexed shall thereafter be additionally subject, in the county to which it is annexed, to the same tax levy as the property in the county to which it is annexed whether for outstanding bonded indebtedness at the time of annexation of the county to which it is annexed or otherwise.

The county auditor of such county in which the city of the first class is located, after the adoption of any such resolution, shall file for record with the register of deeds of such county and in the office of the secretary of the state and in the office of the register of deeds of the county where such city of the fourth class is located, a certified copy of such resolution so adopted. (Act Apr. 24, 1929, c. 343, §6.)

**§1415-12. Not to affect collection of taxes.**

—No transfer of territory under the provisions of this act shall affect the collection of taxes levied at the date of the filing and recording of the resolution provided for in Section 6 of this act, but all such taxes shall be collected by the officers of the original county and all monies then remaining in or afterwards coming into the treasury of such original county, or into the possession of any officer of such county and belonging to such city of the fourth class or any school district or any part thereof in the territory transferred. All special assessments belonging to such city of the fourth class in the territory transferred, shall be apportioned and paid over to the city of which said city of the fourth class has become a part and to such school district in the same manner as it would have been paid to such city of the fourth class if such city of the fourth class or such school district had remained a part of such original county. (Act Apr. 24, 1929, c. 343, §7.)

**§1415-13. To become part of school districts.**—The territory embraced in the resolutions referred to in Section 6 of this act [§1415-11], shall, after the adoption of the final resolution as provided for in this act and its recording as herein provided, become and be thereafter a part of the school district of said city of the first class. (Act Apr. 24, 1929, c. 343, §8.)

**§1415-14. Annexation of lands.**—Lands outside any incorporated municipality and adjoining and contiguous to any city of the first class, now or hereafter having 350,000 inhabitants, within the same county in which said city of the first class is situated and which have been platted into subdivisions ap-

proved by the city council or chief governing body of such city and by the county board of such county and in which streets and alleys have been dedicated for public use, may be annexed to such city of the first class upon petition of the owner or owners thereof, which petition shall be in writing and shall be presented to and filed with the governing body of such city of the first class. The word "owner," as herein used, shall mean any and all persons or parties having any right, title, estate, lien or interest in the lands proposed to be so attached, other than the tax or assessment liens held by the state or any of its subdivisions. (Act Apr. 27, 1929, c. 414, §1.)

**§1415-15. Proceedings in annexation.**—Upon the presentation of such petition to the governing body of such city, the same shall be referred to the planning commission of such city, if one exists therein. If such planning commission by a four-fifths vote shall recommend the annexation of such lands and if such governing body finds that the territory described in such petition is so conditioned and so located as properly to be made a part of such city of the first class, it shall have power by resolution duly adopted by a four-fifths vote of such governing body to annex such territory, and immediately upon the adoption of such resolution, the territory annexed shall become a part of such city for all purposes. Thereafter the City Clerk of such city of the first class shall file with the Register of Deeds of the county wherein such city of the first class is situated, and in the office of the Secretary of State, a certified copy of the resolution adopted by such governing body, so annexing said territory to such city of the first class. (Act Apr. 27, 1929, c. 414, §2.)

**§1415-16. To be part of adjacent wards.**—Such annexed territory shall become parts of adjacent wards of such city of the first class, and the portions of such territory to be added to wards adjacent thereto shall be determined by the extension in straight lines of the ward lines of such adjacent wards. (Act Apr. 27, 1929, c. 414, §3.)

**§1415-17. Tax levies.**—Taxes levied and due and payable at the time of the passage of such resolution shall be collected and received by the proper officers of the county in which such city of the first class is located, and when so collected shall be transmitted by such officers to the state or governmental subdivision to which said taxes were originally due and payable. Taxes levied, but not due and payable at the time of the passage of such resolution, shall be collected and received by the proper officers of the county in which such city of the first class is located, and shall be distributed as if at the date of the levy thereof the said lands were a part of such city of the first class. All special assessments levied at the time of the passage of such resolution, for the making of any public improvement, and all assessments made to meet any bonded indebtedness in and of the governmental subdivision in which said lands were prior to the passage of said resolution located, and for the payment of which said lands have become obligated, shall, when collected by the proper officers of the county in



which such city of the first class is located, be transmitted to the governmental subdivision making such public improvement and the levy of assessment therefor. (Act Apr. 27, 1929, c. 414, §4.)

**§1415-18. Limitation on public improvements.**—For the period of 10 years after the annexation of any lands under this act, no works of improvement shall be done within such annexed territory under any law of this state or any provisions of charter of such city of the first class under which any portion of the cost thereof shall be paid for out of the general funds except the cost of such improvements at and in street intersections where no private property abuts against which said cost can be assessed or shall be assessed against any property outside the boundaries of said lands so annexed but during such term such lands shall be subject to assessments for any improvements either inside or outside the boundaries thereof permitted by such law or charter. (Act Apr. 27, 1929, c. 414, §5.)

**§1415-19. Applications.**—This act shall apply to all cities now or hereafter having over 350,000 inhabitants, including all such cities organized and operating under a home rule charter adopted under the provisions of Section 36, Article IV, of the state constitution, and the laws of the state relating thereto. (Act Apr. 27, 1929, c. 414, §6.)

Sec. 7 provides that act shall take effect from and after its passage.

**§1437. Police pensions.**—That every paid municipal police department now existing or which may hereafter be organized, is hereby authorized to become incorporated pursuant to the laws of this state, or adopt a constitution and by-laws as a relief association, to provide for and permit and allow such police relief association, so incorporated or so organized, or any police pension relief association now in existence and incorporated according to law, to pay out of, and from any funds it may have received from any source, a service, disability, or dependency pension in such amounts and in such manner as its articles of incorporation or the constitution and by-laws shall designate, not exceeding however, the following sum per month to each of its pensioned members who shall have reached the age of fifty years or more, and shall have served twenty years or more in such department, or their widows and children under sixteen years of age, viz:

A sum equal to one-half of the monthly compensation allowed such member as salary at the date of his retirement, when such member shall have arrived at the age of fifty (50) years or more and shall have served as a member of such paid municipal police department for a period of twenty (20) years or more in the police department of such city in which such relief association shall be so organized, or is so in existence, or, who has been permanently disabled physically or mentally because of any injury received or suffered while a duly authorized member of such paid municipal police department, so as to render necessary his retirement from active police service. Provided, however, that any such member who has been a member of such

paid municipal police department for twenty (20) years or more and who shall sever his connection with said paid municipal police department before he shall have attained the age of fifty (50) years, shall be eligible to the benefits of such police relief association of such city when he arrives at the age of fifty (50) years. Provided, further, that if any member retires under the provisions of the act before he has served one year in the grade in which he is serving when he retires, he shall receive the same compensation as though he had retired in the next lower grade. Provided, further, that no retired member shall receive less than seventy (\$70.00) dollars nor more than seventy-five (\$75.00) dollars per month, but commencing April 1, 1932, all retired members shall receive seventy-five (\$75.00) Dollars per month. Said pension shall be paid to any widow or child under sixteen years of age of any such pensioned and retired member of the police department or to any widow or child under sixteen years of age of any member who dies while in the service of the police department of any such city, or to any widow or child under sixteen years of age of any member, who after having been a member of such paid municipal police department for twenty (20) years or more, shall sever his connection with such paid municipal police department and who shall die before he arrives at the age of fifty (50) years, and such widow or child shall receive the sums hereinafter provided;

Forty (\$40.00) dollars per month to such widow and Ten (\$10.00) dollars per month to each of such children under sixteen years of age; provided, there where such widow and such children reside together the money herein required to be paid to such children shall be paid to such widow for the support of such children but the money paid to such widow for herself and such children shall not exceed seventy-five (\$75.00) dollars per month in all; provided, however, that in the event that any such widow remarries, she shall receive no further benefits under this law; provided, further, that said fund shall not be used for any other purpose than for the payment of service, disability or dependency pensions as herein provided.

The word "member" as used in this act shall include police women, police matrons and assistant police matrons. (As amended Apr. 8, 1931, c. 118, §1.)

**§1438. Payments—limitations.**—The pensions authorized by this act shall not be paid to any person while drawing salary in any amount from such city as an employee in any police department or from any department of the state or any county or municipality therein as an employee, provided, however, that this provision shall not affect the status as a pensioner of any person whose status as a pensioner has been fixed by retirement while another provision of law was in effect; and no member shall be entitled to said pension after he removes his residence from the United States, or who shall have been convicted of a felony, provided, that no widow or child under sixteen years of age of any member who shall have been convicted of a

felony, shall be deprived of their pension rights under this act by reason thereof unless such widow or child under sixteen years of age shall have been a party to the commission of such felony, and provided further that where such member so convicted of a felony is then receiving a pension, his wife or child under sixteen years of age who has not been a party to the commission of such felony shall receive the pension provided for herein in the event of the death of such member; and any person receiving the pension herein mentioned shall not receive or be entitled to receive any other or further pension or relief from said association. (As amended Apr. 8, 1931, c. 118, §2.)

**§1440. Association to have charge of funds.**

—Said association, through its officers, shall have full charge, management and control of the pension fund herein provided for, which said funds shall be derived from the following sources: From gifts of real estate or personal property, rents, money or from other sources. It shall also be the duty of the city treasurer of any city affected by this act to deduct each month from the monthly pay of each member of such police department, a sum equal to two per cent of such monthly pay, and place the same to the credit of the said police pension fund; it shall also be the duty of every police officer receiving any reward for services in making arrests, or otherwise, to place to the credit of the police pension fund all such rewards, and it shall be the duty of the chief of police of any such city to place to the credit of the police pension fund all moneys falling into the hands of the police that shall remain unclaimed for a period of six months, and to sell all unclaimed property falling into the hands of the police when the same shall have been unclaimed for a period of six months and place the proceeds thereof to the credit of the said police pension fund.

An amount or sum equal to three-fifths ( $\frac{3}{5}$ ) mill, in addition to the rate allowed to be levied by the charter of any city affected by this act, shall be annually assessed and levied at the time and in the manner that taxes for the other funds of such city are levied by the proper officers of each city where a police relief association now exists, upon each dollar of all the taxable property in such city as the same appears on the tax records of such city and such levy of said sum for the benefit of such police relief association shall be collected and apportioned by the proper officers of any county in which such city is located, in the same manner as are all taxes of such city, and all annual surpluses shall remain in said police pension fund. (As amended, Laws 1929, c. 311, §1; Apr. 8, 1931, c. 118, §3.)

**§1442-2. Service pension to be allowed.**

—That every such municipal department or bureau of health now existing, or which may hereafter be organized, may and hereby is authorized to become incorporated pursuant to the provisions of the General Statutes of Minnesota, and to adopt articles of incorporation and by-laws as a relief association to provide and permit said department or bureau of health, relief association so incor-

porated or so organized, to pay out of and from any fund that it may have received from the State of Minnesota or from any other source, a service or disability pension not exceeding, however, the sum per month hereinafter fixed, to each of its pensioned members who shall have reached the age of fifty years or more, and who shall have done active duty as a member of such health department or bureau for a period of twenty years or more in the city in which such relief association shall be so organized, or who having been disabled physically or mentally because of any injury or disability received or suffered while so employed as such member of such health department or bureau so as to render necessary his retirement from active service. Such member entitled to pension under the provisions hereof may be placed upon the pension list, and shall receive such pension as provided for in said articles of incorporation or constitution and by-laws, provided, however, that said funds shall not be used for any other purpose than for the payment of service and disability pensions as herein provided. Such pension shall be a sum equal to one-half of the monthly compensation allowed to such member as salary at the date of his retirement when such member shall have arrived at the age of fifty years or more, and shall have served a period of twenty years or more in such health department or bureau in the city in which such relief association shall be so organized, or shall have been disabled, physically or mentally, because of any injury or disability received or suffered while in the employ of such health department or bureau, so as to render necessary his retirement from active service. Provided, further, that no retired member shall receive hereunder less than \$70.00 nor more than \$75.00 per month. (As amended Apr. 18, 1929, c. 224, §1.)

**§1442-3. Right to increase or reduce amounts not to exceed fifty dollars.**—Every such association shall at all times have and retain the right to increase or reduce the amount of such pension whenever, because of the amount of funds on hand or for other good reasons, such increase or reduction may seem advisable or proper to the board of management of said relief association, provided the pension herein authorized shall never exceed \$75.00 per month for each person pensioned. (As amended Apr. 18, 1929, c. 224, §1.)

**§1442-4. Not to be paid while drawing salary.**—The pension authorized by this act shall not be paid to any person while drawing salary in any amount from said municipality or who shall have been convicted of a felony for which he shall be adjudged to be imprisoned, or who is an habitual drunkard; and any person receiving the pension herein mentioned shall not receive or be entitled to receive any other or further pension or relief from said association. (As amended Apr. 18, 1929, c. 224, §1.)

**§1442-6. Association to have charge of funds.**—Tax levy.—Said association through its officers shall have full charge, management and control of the health department or bureau pension fund herein provided for,

which said fund shall be derived from the following sources; first, dues of its members and from the gifts of real estate or personal property, rents or money or other sources; second, the Commissioner of Finance or Department of Finance of any city affected by this act shall deduct each month from the monthly pay of each member of such department or bureau of health a sum equal to one per cent of such monthly pay and place the same to the credit of the said health department or bureau pension fund; third, an amount or sum equal to one-twentieth of one mill shall be annually assessed, levied and collected by the proper officers of such city where a health relief association exists, upon each dollar of taxable property in such city as the same appears on the tax records of such city, which said sum shall by the proper officers of said city be placed to the credit of the health department or bureau pension funds, and shall not be used or devoted to any other purpose than for the purpose of the health department or bureau pension fund. (As amended Apr. 18, 1929, c. 224, §1.)

**§1442-14. Same—Persons entitled to allowances, etc.**

See §1442-48, post.

**§1442-16. Same—Allowances to employees.**

Employee remaining disabled from May, 1918, to May, 1921, ceased to be an employee for that period though he was receiving workmen's compensation during that time, and he cannot claim a retirement allowance, having finally retired in December, 1921. 174M594, 219NW924.

**§1442-19. Same—service allowances—options.**

City employee entitled to retirement allowance, who instead of electing to receive a retirement allowance payable only throughout his life, effects "to receive the actuarial equivalent at that time" of his retirement allowance "in a lesser retirement allowance" payable throughout life must on his retirement select one of the three first options specified in this section, and cannot thereafter change without consent of retirement board. 173M589, 218NW119.

**§1442-41. Retirement of employees—credit on time.**

This section held not to apply to cases where an employee retired from service for the city more than five years before its passage, and at the time of his retirement was not entitled to any pension or retirement allowance. 174M594, 219NW924.

**§1442-42. Disability allowances in certain cities.**—That every city of the state now or hereafter having over 50,000 inhabitants, including each such city now or hereafter operating under a home rule charter adopted pursuant to the provisions of Section 36, Article IV, of the Constitution of the State, which adopts or has adopted a system of paying pensions or retirement allowances to retired municipal employes pursuant to Chapter 522, General Laws 1919 [§§1442-11 to 1442-34], and the retirement board in control of such system are hereby authorized to pay pensions or retirement allowances to each and every employe who at the time of ratification of the system provided by said Chapter 522, General Laws 1919, was, is or shall be then receiving compensation from the city under the provisions of Chapter 467, General Laws 1913 [§4330], and acts amendatory thereof

[Workmen's Compensation Act], and (a) who, at the time of the injury for which such compensation is paid, was, is or shall be receiving salary or pay as an employe in excess of \$750.00 per annum, or (b) who, at the time of retirement from the city service, had been or shall have been employed by the city for periods which in the aggregate equal 20 or more seasons of five or more months each in not to exceed an equal number of years; at rates of pay which did not provide an average amount in excess of \$750.00 per annum, and has attained the age of 55 years. (Act Mar. 28, 1929, c. 106, §1.)

**§1442-43. Amount of allowance.**—The pension or retirement allowance to which any such employe shall be entitled who at the time of the adoption of such plan had been receiving in excess of \$750.00 per annum shall be of the same amount and shall be calculated in the same manner as would have been pursued if the plan as provided by Chapter 522, General Laws 1919 [§§1442-11 to 1442-34], and acts amendatory thereof, had been in effect at the time when the injury was received for which such compensation is paid as provided by Chapter 467, General Laws 1913 [§4330], and acts amendatory thereof.

The pension or retirement allowance to which any such employe at rates of pay less than an average of \$750.00 per annum shall be entitled shall be of the same amount and shall be calculated in the same manner as provided in Section 6, Chapter 522, General Laws 1919 [§1442-16]. (Act Mar. 28, 1929, c. 106, §2.)

**§1442-44. Retirement board to determine amounts.**—It shall be the duty of the said retirement board to determine the annual amount of any such allowance and to provide for payment thereof; provided, that payment thereof shall not begin until the compensation as provided by Chapter 467, General Laws 1913 [§4330], and acts amendatory thereof, has ceased. (Act Mar. 28, 1929, c. 106, §3.)

**§1442-45. Tax levy.**—The retirement board in any such city shall include in the financial statement required by Section 14 of said Chapter 522, General Laws 1919 [§1442-24], the amount, in addition to all other amounts, of the portion of any such disability or retirement allowance chargeable against the city, and it shall be the duty of the proper city officials in such city to levy a tax sufficient to provide such amount in addition to the amount to be levied pursuant to said Chapter 522, General Laws 1919, and amendments thereof. (Act Mar. 28, 1929, c. 106, §4.)

**§1442-46. Powers of retirement board.**—The retirement board provided by said Chapter 522, General Laws 1919 [§§1442-11 to 1442-34], is hereby invested with all the rights, privileges and obligations relative to any such disability or retirement allowance and to the funds from which installments thereof are to be paid that pertain to the allowances and funds authorized by Chapter 522, General Laws 1919, including the right, privilege or obligation to cancel any such al-

lowance under conditions specified therein. (Act Mar. 28, 1929, c. 106, §5.)

**§1442-47. Members of park board may resign.**—In each city of the first class of this state now or hereafter having a population of 50,000 inhabitants or more including each such city now or hereafter operating under a home rule charter adopted under and pursuant to Section 36, Article 4, of the State Constitution, the Board of Park Commissioners of said city, if any such there be, shall have full power and authority to accept the resignation of any member of said Board, anything in the charter of said city to the contrary notwithstanding. (Act Apr. 11, 1929, c. 153, §1.)

**§1442-48. City employees pension.**—Every city of this state now or hereafter having over 50,000 inhabitants, which has heretofore adopted or shall hereafter adopt a system of paying pensions and retirement allowances to retired municipal employees pursuant to Laws 1919, Chapter 522 [§§1442-11 to 1442-34], or said act as amended, acting by and through its city council or chief governing body of the city, and the pension and retirement board in charge of such system, are hereby authorized and empowered to pay pensions and retirement allowances to the surviving spouse, dependents, heirs or nominees of any employee of the city in the contributing class who has heretofore died before attaining the minimum age for retirement on a service pension under the provisions of said act or said act as amended, and who has rendered or shall have rendered services to and been in the employ of the city, for 20 years or more prior to the date of his or her decease, and whose death was not or shall not be caused by an accident which occurred or shall occur while such employee was or shall be engaged in the performance of his or her duties as such employee.

The amount of such pensions and retirement allowances hereby authorized shall be the net amount of personal contributions made by such employee under the provisions of said act or said act as amended, prior to his or her decease, and interest thereon, and the net amount of the contributions made by the city in respect to such employee, with interest thereon. Such pensions and retirement allowances shall be calculated and determined in the same manner as provided in said Laws 1919, Chapter 522, as amended, for the calculation and determination of pensions and retirement allowances becoming payable under the provisions of said act and said act as amended.

It shall be the duty of the governing body of the city to levy annually a tax on the taxable property in the city sufficient to pay all pensions and retirement allowances hereby authorized, in addition to all other taxes authorized to be levied by said Chapter 522 and said act as amended; and it shall be the duty of the retirement board of the city to administer the proceeds of such additional taxes and cause the same to be paid to the person or persons entitled thereto under the provisions of this act and said Chapter 522 and said act as amended. (Act Apr. 20, 1931, c. 244.)

**§1478-1. Injured firemen or policemen may be reinstated.**—That in any city of this State now or hereafter having a population of more than 50,000 inhabitants the city council or other governing body in such city is hereby authorized and empowered to reinstate any injured fireman or policeman at any time within a period of five years after the date of an injury received in the course of his duties as such or the date of any sickness or incapacity which sickness or incapacity is traceable solely to his services as such fireman or policeman. (Act Apr. 24, 1931, c. 320, §1.)

**§1478-2. Inconsistent acts repealed.**—All laws or provisions or parts thereof inconsistent herewith are hereby repealed. (Act Apr. 24, 1931, c. 320, §2.)

**§1499-1. Directors of trusts to be created.**—That all rights, powers and duties of any city of this state of the first class having over 50,000 inhabitants, concerning all property and estate whatsoever, donated to any such city for the establishment or maintenance of a hospital or hospitals, the administration and management of which is now or shall hereafter become vested in or confided to such city, shall be exercised and discharged by such city through the instrumentality of a Board consisting of seven persons, to be called Directors of Trusts, who shall exercise and discharge all such rights, powers and duties and have control and management of any such hospital resulting from such charity or charities to the extent that the same have been or hereafter may be by grant, statute or otherwise vested in or delegated to such city. (Act Mar. 14, 1931, c. 56, §1.)

**§1499-2. Trustees—terms.**—The Mayor of such city shall be ex officio a member of the Board of Directors of Trusts and the other six members shall be residents of such city and appointed by the Judges of the District Court of the State of the District in which such city is located, by concurrent action of a majority of such Judges, for the following terms beginning with date of appointment; two for a term of two years; two for a term of four years and two for a term of six years, and thereafter as such terms expire the vacancies caused thereby shall be filled by appointment for six year terms. Said Judges by like concurrent action shall appoint members to fill out the unexpired term of any member who for any reason ceases to be a member before the expiration of his term.

The Judges of said District Court shall meet and take action upon any of the matters in this Section specified, upon call of the senior Judge of such District or upon the petition of the Mayor or any resident taxpayer of such city. (Act Mar. 14, 1931, c. 56, §2.)

**§1499-3. Powers and duties.**—The Directors of Trusts shall have power: to make rules and by-laws for the proper conduct of their business; to appoint and remove from time to time such agents and employes as in their judgment may be required for the proper discharge of their duties, and to determine the duties and compensation of all such agents and employes; to make such contracts and agreements in accordance with the con-

ditions of any such donation as in their judgment may from time to time be required in the administration and management of such property, and in conformity with the provisions of the city charter of such city and existing or future ordinances enacted by the common council relating to the award and conditions of contracts and generally, it shall be the duty of the Directors of Trusts, for and in the name of such city, to do, perform and discharge all and singular whatever acts and duties are or from time to time may become proper or necessary to be done by such city in discharge of its duties in connection with such use or trust, and to file with the City Clerk on or before February 15th of each year a report for the preceding calendar year showing all receipts and disbursements with sources and purposes thereof, together with a statement of assets under their control and property acquired or disposed of during such year, and such other general information as to the management and control of the trust property as in their judgment is proper. (Act Mar. 14, 1931, c. 56, §3.)

**§1499-4. City Treasurer to be custodian.**—The Treasurer of such city shall have custody of and be responsible for the safe keeping of all cash, securities, title papers, records and documents appertaining to the property, the administration and management of which devolves upon the Directors of Trusts, and shall furnish such information as to such cash and other property held by him as may be requested by said Directors of Trusts. He shall keep the cash and other property of each trust separate and pay out and deliver the same from time to time upon order of such Board of Directors of Trusts made in accordance with their rules and regulations in carrying out their duties as such Board of Directors of Trusts. (Act Mar. 14, 1931, c. 56, §4.)

**§1499-5. Directors to receive no compensation.**—The Directors of Trusts in the discharge of their duties and within the scope of their powers aforesaid shall be considered agents of the city, but no compensation or emolument whatever shall be received by such Director for such service, nor shall any such Director have or ever acquire any personal interest in any contract whatever made by such Directors of Trusts in carrying out their duties or powers as such; nor shall any such Director receive directly or indirectly any compensation for services rendered or material or supplies furnished to any person while an inmate of any institution conducted by such Directors of Trusts. Any such Director violating any of the provisions of this section shall thereby be disqualified from further acting as such Director and the vacancy so caused shall be filled under the provisions of Section 2 hereof [§1499-2]. (Act Mar. 14, 1931, c. 56, §5.)

**§1499-6. Application.**—This act shall apply to all cities of this state of the first class having over 50,000 inhabitants, including any such city operating under a charter adopted pursuant to Section 36, Article 4 of the State Constitution, except that it shall not apply to any city operating under a charter adopted pursuant to Section 36, Article 4 of the State

Constitution providing for a department or Board with authority to exercise and discharge the rights, powers and duties herein provided to be exercised and discharged by the Board of Directors of Trusts, nor to any city which now has erected and/or now maintains any such hospital jointly with any county. (Act Mar. 14, 1931, c. 56, §6.)

**§1504. Condemnation of land for harbors, etc.**

Boundary dispute between claimants of land condemned. 176M512, 223NW767.

**§1504-1. Public landings, wharves, docks, etc.**

For creation of a commission known as "Fort Authority" for certain cities over 50,000 population, see Laws 1929, c. 61, ante, §§1372-7½ to 1372-7½j.

**§1537. Condemnation, how conducted, etc.**

One obtaining market value of property was not entitled to an additional award for expense of removal from the premises. 176M389, 223NW 458.

**§1538-1. Streets and highways.**

This section does not repeal or modify the provisions of the charter of the City of St. Paul, providing for condemnation of land for street and highway purposes. 177M146, 225NW86.

**§1541-1. Cities may acquire exempt property.**—Each city of the first class now or hereafter having a population of 50,000 inhabitants or more, including each such city operating under a charter adopted pursuant to the provisions of Section 36, Article 4, of the Constitution of the State of Minnesota, is hereby authorized and empowered to acquire by purchase, condemnation, or otherwise any right or interest in land either platted or unplatted within the limits of said city, which interest in land consists of a right or privilege in the owner of said land to offset certain amounts against special assessments levied by the governing body, the city council or the board of park commissioners of such city for park or parkway purposes, or both. (Act Apr. 25, 1931, c. 385, §1.)

**§1541-2. Right of eminent domain.**—In the event that the chief governing body, city council or board of park commissioners of such city shall exercise such right by condemnation such body may do so under any laws provided for the condemnation of real property or eminent domain or under any provision of the charter of such city granting to such body the right of condemnation or eminent domain; or, it being for the best interests of such city, such chief governing board, city council, or board of park commissioners shall have the power and authority to acquire said rights by purchase, taking into consideration the present worth of such right to exemption and the probability or improbability that such exemptions would ever be used as an offset to future assessments for benefits. (Act Apr. 25, 1931, c. 385, §2.)

**§1541-3. May issue bonds.**—In order to carry out the purpose of this Act each such city is hereby authorized to issue bonds, or certificates of indebtedness to secure funds for the amount necessary to acquire said right, and the city council or other chief governing body shall levy annually a tax on all the tax-

able property of the city sufficient to meet the interest and the principal about to mature on said bond. (Act Apr. 25, 1931, c. 385, §3.)

#### §1552. Designation of land for streets, etc.

This act became a part of the Minneapolis Home Rule Charter, merely by reference to it. 177M122, 224NW845.

#### §1553. Proceedings for acquisition of lands.

—After the adoption of the resolution it shall be the duty of the city engineer to make and present to the council a plat and survey of such proposed improvement, showing the character, course and extent of the same and the property necessary to be taken or interfered with thereby, with the name of the owner of each parcel of such property so far as the engineer can readily ascertain the same, and such statement as may in the opinion of the engineer be proper to explain such plat and survey and the character and extent of the proposed improvement.

When such plat and survey shall be finally adopted by the city council, it shall be filed with the city clerk, and it shall be held to show correctly the character and extent of the improvement actually agreed upon and ordered by the city council.

Said plat shall also show the amount of land taken from each owner, so far as the owners may be known, and the lands contiguous to such improvements.

The city council shall then or afterwards appoint five freeholders of said city, no two of whom shall reside in the same ward, as commissioners, to view the premises and to ascertain and award the amount of damages and compensation to be paid to the owners of property which is to be taken or injured by such improvement, and to assess the amount of such damages and compensation and the expenses of the improvement upon the lands and property to be benefited by such improvement, and in proportion to the benefits to be received by each parcel and without regard to a cash valuation.

Three or more commissioners shall constitute a quorum and be competent to perform any duty required of such commissioners; and they shall be notified of their appointment, and vacancies in their number shall be filled by the city council, and they shall be sworn to the faithful discharge of their duties. They shall give notice by two publications in the official paper of said city that such survey and plat is on file in the office of the city clerk, for the examination of all persons interested, and that they will on a day designated in such notice, which shall be at least ten days after the first publication of such notice, meet at a place designated in said notice on or near the proposed improvement, and view the property proposed to be taken or interfered with for the purposes of such improvements, and ascertain and award therefor compensation and damages, and view the premises to be benefited by such improvement, and assess thereon in proportion to benefits, amount necessary to pay such compensation and damage and the cost of making the improvement, and that they will then and there hear such allegations and proofs as interested persons may offer. Any such commissioners shall meet and view the prem-

ises pursuant to such notice, and may adjourn from time to time, and, after having viewed the premises, may, for the hearing of evidence and preparation of their award and assessment, adjourn or go to any other convenient place in said city, and may have the aid and advice of the city engineer and of any other officer of the city, and adjourn from time to time. After viewing the premises and hearing the evidence offered, such commissioners shall prepare and make a true and impartial appraisal and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the making of such improvement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement, shall be benefited by such improvement, then the commissioners, in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owner, in respect to the remainder of the same property, and award him only the excess of the compensation or damages over and above such benefits.

The said commissioners shall then assess the amount of such compensation and damages so awarded upon the land and property benefited by such proposed improvements, together with the expense and cost of making the improvements as fixed by the city council, and in proportion to such benefits, but in no case shall the amount of such assessment exceed the actual benefit to the lot or parcel of land so assessed, deducting therefrom any damages or injuries to the same parcels which are less than such benefits, and assessing only the excess, and prepare and report to the city council their appraisal and award, and if in the judgment of said commissioners the whole amount of such compensation and damages, together with the cost of making such improvement, shall exceed the actual benefits to the specific property subject to assessment, they shall so indicate in their report and shall state the amount of such excess. Said commissioners shall also report to the city council an assessment list containing their assessment of such compensation, damages, and costs, or so much thereof as shall not exceed the actual benefits to the property so assessed, which list shall contain a brief description of each tract or parcel of property assessed, the name or names of the owners thereof, if known, and the amount assessed against each parcel of property and the amount of the excess of such compensation, damages and costs as aforesaid, which they shall return unassessed.

The commissioners may employ clerical assistance, and the cost thereof, as well as the commissioners' compensation, and the expenses of printing the notices required, including, among others, the notice of consideration by the city council, hereinafter referred to, estimated at the same rate per line as the cost of printing the prior notices, shall be added to the other amounts to be assessed and shall be assessed therewith. The city attorney shall represent the city before the commissioners and produce such evidence as the case may require.

The city council, may, however, provide by

the resolution appointing such commissioners that a certain specified percentage, not exceeding thirty-three and one-third (33 1/3%) per cent, of the total damages and cost of improvements, shall in any case be payable out of the city's general funds, and in that case the city's share shall be added to the amount of the certificates to be issued and sold under Section 10, and the city council shall from year to year levy a sufficient tax upon the taxable property of the city to pay the same, with interest. In such case the amount provided to be paid out of the general funds shall not be assessed.

Said commissioners shall, upon the completion of their said report, file the same with the city clerk and thereupon it shall be the duty of said city clerk to give notice to all interested parties by publishing, as soon as possible, in the official paper of said city a notice containing descriptions of the several lots and parcels of land taken for such proposed improvements, the amount awarded for the taking of each such lot or parcel, the names of the owner or owners of the same, descriptions of the several lots or parcels of land upon which benefits have been assessed, the amount assessed against each such lot or parcel and the names of the owner or owners of the same; the names of all owners referred to herein to be obtained from said commissioners, and, so far as may be necessary, from the records in the office of the county treasurer. Said published notice shall also designate and fix a place and time, not earlier than three weeks from date of publication of the same, at which a committee therein designated by the board of park commissioners or of said council will meet to hear and consider, from or on the part of the owner or owners of the several lots or parcels of land taken for such proposed improvement and of the several lots or parcels of land upon which benefits have been assessed, any and all objections to the making of such improvement, to the amount of damages awarded for the taking of or interference with the property involved, to the amount of the assessment for benefits to any property affected by such proceedings, and any and all claims of irregularities in the proceedings of the city council, board of park commissioners, or the commissioners so appointed by either thereof.

Immediately after the publication of such notice and at least two weeks prior to the time designated for the meeting of the committee specifically designated in said notice, the city clerk shall serve upon each of the owners of the several lots or parcels of land taken for such proposed improvement and of the several lots or parcels of land upon which benefits have been assessed, a copy of said published notice, by depositing the same in the postoffice of said city, postage prepaid in an envelope plainly bearing on its front in type no smaller than ten point the words "Notice of Tax Assessments for improvements affecting your property" directed to each of said persons at his last known place of residence, if known, to said city clerk, otherwise as obtained from the records in the office of the county treasurer; provided that the failure of any such owner or owners to receive such notice shall not in any wise operate to

invalidate any of the proceedings covered by this act.

Any person whose property is proposed to be taken, interfered with, or assessed for benefits, under any of the provisions of this chapter, and who objects to the making of such improvement, or who deems that there is any irregularity in the proceedings of the city council, or on the part of the commissioners so appointed by it, by reason of which the award of said commissioners ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property, or with the amount of the assessment for benefits to any property affected by such proceedings, shall appear at the hearing or file with said city clerk, designated in such published notice, at any time before said hearing or before the report and recommendation of said committee is filed, as hereinbefore provided, his written objection to the making of such improvement, or his objection to the damages awarded or benefits assessed, or his claim of said irregularities, specifically designating the same, and a description of the property affected by such proceedings.

At the time and place designated by such published notice for said hearing the city clerk shall present to said committee the report of the commissioner so appointed together with all written objections so filed with said city clerk and such committee shall then consider the same and hear said objectors, or their representatives, in person, and shall adjourn said hearing from time to time as may be necessary.

Within ten days from the conclusion of said hearing or hearings said committee shall file with said city clerk its report and recommendation on the matter so submitted, and upon such filing the city clerk shall give notice that such report and recommendation has been filed and that the same, together with said report of said commissioners, will be considered by said city council at a meeting thereof to be designated in said notice, which notice shall be published in the official newspapers of said city once a week for two consecutive weeks, the last publication thereof being at least two weeks before said meeting of said city council.

Said city council, upon the day fixed for the consideration of said reports and recommendation or at any subsequent meeting to which the same may stand over or be referred, may by resolution annul and abandon said proceedings, or may confirm such awards and assessments or any or either thereof, or annul the same, or send the same back to said commissioners for further consideration; and said commissioners may in such case again meet at a time and place to be designated in a notice which shall be published by said city clerk once in the official newspaper of said city and copies of which shall be similarly mailed by said city clerk to all interested persons, at least two weeks prior to said meeting, and hear any further evidence that may be adduced by interested persons, and may adjourn from time to time, and may correct any mistakes in such award and assessment and alter and revise the same as they may deem just, and again report the same to



said city council, who may thereupon confirm or annul the same.

Whenever the city council shall confirm any such award and assessment such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as hereinafter provided, and the city council shall proceed, at the same or at any subsequent meeting, to levy such assessment or such fractional part thereof as the city council may deem necessary to pay the costs of the proceedings and making the improvements therein upon the several parcels of land described in the assessment list reported by the commissioners, in accordance with the assessments so confirmed or in proportion to such assessments as herein provided. The city council may in its discretion delay the levying of such assessments in any proceeding under this act until the completion or substantial completion of the improvements proposed to be made therein, and the actual costs of such improvements and proceeding have been determined, which cost may include interest at 5% per annum on moneys actually advanced by the city, and thereupon the city council shall proceed to levy assessments in such proceeding, aggregating the amount of such costs or such portion of such costs as the city council shall have determined in conformity with the provisions of this act, upon the several parcels of land described in the assessment list reported to the city council by the commissioners in such proceeding, and such assessments so levied shall be in amounts proportionate to and not greater than the several amounts theretofore confirmed upon such parcels of land respectively by the council or by the court upon appeal in such proceeding. The city council shall cause to be made and shall adopt an assessment roll of such assessments, which may be substantially in the following form, or any other form the council may adopt:

The city council doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel. This assessment is made to defray the compensation and damages awarded for the taking of an injury to private property, and estimated cost of improvement, and in and about the.....as shown on the plat and survey of the same on file in the office of the city clerk of said city. This levy is made conformably to the report and assessment of commissioners duly appointed to make such assessment and in proportion to benefits from such improvements to accrue to the parcels and not exceeding the benefits to the parcels so assessed.

Name of Owner	Description	Amount
if known	of land Lot Block	Dollars Cents
"Done at a meeting of the council this .....		
.....day of.....		
A.D. 19....		
Attest.....		
City Clerk .....		
Pres't of the Council."		

(As amended Apr. 27, 1929, c. 419, §1.)

171M297, 214NW30, note under §1554.

Refusal of temporary injunction held proper in view of right of appeal from order of confirmation. 216NW228.

The amount of net award for compensation and damages incident to an improvement are to be added to the actual costs of doing the construction work, including incidental expense, in order to determine whether the total advancement exceeds the costs of the improvements. 172M454, 216NW222.

The fact that property being acquired by the Government cannot be assessed does not affect the validity of assessments of benefits against other property owners. Op. Atty. Gen., Mar. 17, 1931.

The State has no power to assess land belonging to the United States for benefits arising from local improvements, but land that is in process of being acquired by the Federal Government may be assessed subject to the condition of the title at the time the council is called upon to confirm the assessment. Op. Atty. Gen., Mar. 17, 1931.

**§1554. Same—Objections to confirmation—Appeal—Reappraisal—Appeal to Supreme Court.**

Property owner has no right of appeal to district court unless he files objections as required by statute. 171M297, 214NW30.

District court not having acquired jurisdiction of appeal by reason of failure of property owner to file objections as required by statute, it had no authority to consider question whether city acquired jurisdiction in condemnation proceeding. 171M300, 214NW32.

The commissioners need not make a specific award to each person interested in the property, since the court, retaining jurisdiction, may by proper notice and procedure have a determination made of the portion of the whole amount of damages so awarded to which each of the owners of individual interests is entitled. 175M300, 221NW14.

**§1555. Same—Awards—How paid—Assessments.**

171M297, 214NW30, note under §1554.

A city may, under certain circumstances, be called upon to pay more than one-third of the cost of a park. Op. Atty. Gen., Mar. 17, 1931.

**§1556. Right to abandon—Effect of award—Payment.**

175M300, 221NW14.

**§1557. Spreading of assessment installments.**—The city clerk shall transmit a certified copy of such assessment roll to the county auditor of the county in which the land lies, and the county auditor shall include 5 per cent of the principal amount of such assessment with and as part of the taxes upon each parcel for each year for twenty years, together with annual interest at the rate ascertained, as hereinafter provided. The city council and board of park commissioners may, however, by such concurrent resolution, determine that the amount of such assessment shall be collected in five or ten equal annual installments instead of twenty, and in such case the county auditor shall include a corresponding per cent of the principal amount of such assessment with and as part of the taxes of each year, together with such annual interest until the whole is collected. The county auditor shall include in the taxes for each year one of such installments, together with one year's interest upon such installment and all subsequent installments at the same rate, each of which, together with such interest, shall be collected with the annual taxes upon such land, together with like penalties and interest in case of default, all of which shall be collected with and enforced as the annual taxes and credited to the proper city fund. Any parcel assessed may be discharged



from the assessment at any time after the receipt of the assessment by the county auditor by paying all installments that have gone into the hands of the county treasurer as aforesaid, with accrued interest, penalties and costs, as above provided, and by paying all subsequent installments; or any parcel assessed may be discharged from the assessment by presenting certificates or bonds sold against such assessments a herein provided sufficient in amount to cover all installments due on such parcel and accrued interest, penalties and costs, and all installments yet to accrue, by surrendering such certificates or bonds to the county treasurer for cancellation or having endorsed thereon such installments, interest, penalties and costs. Said assessment shall be a lien on the land from the time of the making thereof as against the owner and every person in any way interested in the land. The owner of the land and any person interested therein may defend against such assessment at the time of application for judgment in the regular proceedings for the enforcement of delinquent taxes, but such assessment shall not be deemed invalid because of any irregularity, provided the notices have been published substantially as required, and no defense shall be allowed except upon the ground that the cost of the improvement is substantially less than the amount of the assessment, and then only to the extent of the difference between the assessment and the actual cost. Assessments made under this act shall be called special street and parkway assessments of the city of . . . . . and numbered consecutively. Whenever an assessment is certified as aforesaid by the city clerk to the county auditor, a duplicate thereof shall be sent to the city comptroller, and all such assessments shall be sufficiently identified by the name and number as aforesaid. (As amended Apr. 27, 1929, c. 419, § 2.)

**§1558. Same—Method of improvements—Assessments.**

171M297, 214NW30, note under §1554.

172M454, 216NW222, note under §1553.

The six-year statute of limitations applies to an action to recover damages for an injury to real property caused by a municipality in grading a street. 225NW816.

Where the injury is continuing, the owner may recover such damages as were caused within six years prior to suit. 177M565, 225NW816.

**§1563. Same—Bonds for improvements.**

171M297, 214NW30, note under §1554.

**§1590-1. Expenditures for exhibition, etc.**

**Correction**—The second paragraph of the note under this section in Mason's Minn. St. 1927 should appear under §1570.

**§1593. Auditoriums—definitions.**

Laws 1927, c. 131 [§§1933-3 to 1938-13], does not repeal Laws 1923, c. 21 [§§1593 to 1600], as amended, and Minneapolis does not come within the operation of Laws 1927, c. 131. 174M509, 219NW872.

**§1596. Same—Councils to have charge and control.**

City council of St. Paul may let a contract for the construction or alteration of an auditorium, notwithstanding adverse report of persons mentioned in St. Paul City Charter, section 312(a). Op. Atty. Gen., May 6, 1931.

**§1598. Same—Bonds in excess of limitations.**

This section and not §§1938-3 to 1938-13 governs bonded indebtedness in Minneapolis. 174M509, 219NW872.

**§1600-1. Stone quarries and docks—Bond issue for Referendum.**

This act pledges the credit of the city to the payment of the bonds, 172M374, 215NW511.

The statute is not invalid because the project authorized involves the opening of a street.—Id.

**§1600-4. Same—Use of proceeds of sale of bonds—Quarry and dock fund.**

The statute does not require the city to remove and distribute rock by its own equipment and by labor directly hired, but it may do such acts under contract. 172M374, 215NW511.

**§1614. Height of buildings in cities regulated.**

This section is valid. 21F(2d)440.

Legislative powers with respect to zoning in cities stated. 21F(2d)440.

The mere fact that a zoning ordinance is harsh and seriously depreciates the value of property is not enough to establish its invalidity. 21F(2d)440.

Ordinance passed under this section creating multiple dwelling district and prohibiting enlargement of factories erected therein, held valid. 35F(2d)657, aff'd 21F(2d)440.

City of Minneapolis had power to fix setback lines in a zoning ordinance. 171M231, 213NW907.

Setback lines in zoning ordinances may cast an uncompensated burden on property, under the police power. 171M231, 213NW907.

Action of city council in vacating a granted permit to erect a building in disregard of a setback line was not arbitrary or unlawful. 171M231, 213NW907.

The building restrictions imposed under the 1915 [§§1618 to 1624] law were not affected by the "zoning laws" of 1921 and 1923 and the ordinances adopted thereunder; such restrictions are in full force and effect. 233NW831. See Dun. Dig. 6525.

**§1615. May pass ordinances for enforcement.**

171M231, 213NW907, note under §1614, ante.

**§1617-1. Grant of Power.**—In order to provide for the proper and reasonable enforcement of regulations adopted pursuant to Chapter 217, Laws of Minnesota, for 1921 [§§1614-1617] governing the location, size and use of buildings, and to provide for such reasonable determinations of such regulations as will eliminate practical difficulties in the enforcement of such regulations and to provide for such reasonable variations in the terms of such regulations as will eliminate unnecessary hardship in the way of carrying out the strict letter of such regulations, the local governing body is hereby empowered to appoint a board of adjustment. (Act Apr. 24, 1929, c. 340, §1.)

**§1617-2. Board of adjustment.**—Such a local governing body may provide for the appointment of a board of adjustment, and in conformity with the provisions of this act may provide that the said board of adjustment may determine and vary the application of regulations adopted pursuant to the provisions of Chapter 217, Laws of Minnesota for 1921 [§§1614-1617], as amended, in harmony with their general purpose and intent, and the local governing body may provide by

ordinance for the enactment of general or specific rules governing the determination and variation of such regulations.

Where an officially established city planning commission already exists under the city charter it shall be the board of adjustment, otherwise the powers of the board of adjustment shall vest in the governing body who may delegate all or part of such powers to a committee of the governing body. The terms of the members of the board of adjustment shall be concurrent with their terms as members of the governing body or city planning commission. The board shall adopt rules in accordance with the provisions of any ordinances adopted pursuant to this act.

Appeals to the board of adjustment may be taken by any person aggrieved.

The board of adjustment shall fix a reasonable time for the hearing of the appeal, giving public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, or by agent, or by attorney.

The board of adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this act or of any ordinance adopted pursuant thereto.

2. To hear and decide all matters referred to it or upon which it is required to pass under such ordinance.

3. In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

In exercising the above mentioned powers such board may, in conformity with the provisions of this act, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The majority vote of the members of the board shall be sufficient to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance. (Act Apr. 24, 1929, c. 340, §2.)

**§1617-3. Application.**—The provisions of this act shall not apply to any city now or hereafter having provided for the establishment of a board of adjustment in conformity with the provisions of the city charter of such city. (Act Apr. 24, 1929, c. 340, §3.)

**§1618. Restricted residence districts.**—Any city of the first class may, through its council, upon petition of fifty (50) per cent of the owners of the real estate in the district sought to be affected, by resolution, designate and establish by proceedings hereunder restricted residence districts and in and by such resolution and proceedings prohibit the erection, alteration, or repair of any building or structure for any one or more of the purposes hereinafter named, and thereafter no building or other structure shall be erected, altered or repaired for any of the purposes, prohibited by such resolution and proceedings, which may prohibit the following, to-wit: hotels, restaurants, eating houses, mercantile business, stores, factories, warehouses, printing establishments, tailor shops, coal yards, ice houses, blacksmith shops, repair shops, paint shops, bakeries, dyeing, cleaning and laundering establishments, billboards and other advertising devices, public garages, public stables, apartment houses, tenement houses, flat buildings, any other building or structure for purposes similar to the foregoing. Public garages and public stables shall include those, and only those, operated for gain.

Nothing herein contained shall be construed to exclude double residences or duplex houses, so-called, schools, churches, or signs advertising for rent or sale the property only on which they are placed.

No building or structure erected after the creation of such district shall be used for any purpose for which its erection shall be prohibited hereunder.

The term "Council" in this act shall mean the chief governing body of the city by whatever name called.

Any district or any portion thereof created under the provisions of this act may be vacated and the restrictions thereon removed by the council upon petition of 50 per cent of the owners of the real estate in the original district. A portion of a restricted residence district may be vacated and relieved of the restrictions imposed thereon pursuant to this act by the council upon petition of the owners of the portion of the district sought to be relieved if such portion or lot sought to be relieved does not in any part lie between other portions of such restricted district, or if the portion sought to be relieved abuts upon a public street or alley along one border of such district and extends along said public street or alley the entire distance between cross streets, or if the portion or lot sought to be relieved is contiguous to, along one or both sides, or across a public street along its entire front from a parcel of land which shall be duly zoned under a valid municipal zoning ordinance for commercial, multiple dwelling or industrial purposes. The vacation of such district or portion thereof and the removal of the restrictions therefrom shall be accomplished in the same manner herein provided for the creation of any such district, and in the vacation of any such district or any portion thereof and the removal of such restrictions each and all of the provisions of this act as to allowance of damages and benefits to property affected and as to the appointment of commissioners to appraise such damages and benefits and the duties of such com-

missioners of the city clerk and of each and all of the other officers upon whom duties are herein imposed shall be complied with, and when such proceedings for the vacation of any such district or portion thereof shall have been completed the property included within such district or portion thereof so vacated shall be deemed relieved of each and all of the restrictions imposed in the proceeding creating such district. In the allowance of damages and benefits to property affected by any proposed vacation, no evidence shall be received, or consideration given to the existence of any other restriction or any restrictive or zoning ordinance, law, or regulation. (As amended Apr. 20, 1931, c. 290, §1.)

21F(2d)440, notes under §1614.

The building restrictions imposed under the 1915 law were not affected by the "zoning laws" of 1921 [§§1614 to 1617] and 1923 and the ordinances adopted thereunder; such restrictions are in full force and effect. 233NW831. See Dun. Dig. 6525.

The decision in State ex rel. Twin City Building & Investment Co. v. Houghton, 144M1. 174 NW885, 176NW159, 8ALR585, holding Laws of 1915, c. 128, constitutional, is adhered to. State ex rel. Madsen et al. v. Houghton, 233NW831. See Dun. Dig. 6525(91).

**§1619. Council given right of eminent domain.**—The council shall first, after causing the probable costs of the proceedings, if abandoned, to be deposited or secured by the petitioners, designate the restricted residence district and shall have power to acquire by eminent domain the right to exercise the powers granted by this act by proceedings hereinafter defined, and when such proceedings shall have been completed, the right to exercise such powers shall be vested in the city. (As amended Apr. 20, 1931, c. 290, §2.)

**§1620. Appraisal of damage \* \* \*.**

Fourth. The city clerk shall, after the first publication of such notice, and at least six days (Sundays excluded) prior to the meeting specified in said notice, serve upon each person having an interest as owner or mortgagee in each parcel of land in said district as shown by the records in the office of the register of deeds a copy of said notice by depositing the same in the postoffice of said city, with first class postage prepaid, in an envelope bearing on its front in type no smaller than ten point the words "Notice of Restricted Residence District proceedings Affecting Your Property" or "notice of Proceedings to Vacate Restricted Residence Districts Affecting Your Property," as the case may be, directed to such person at his last known place of residence, if known to the city clerk, but if not known, then to his place of residence as given in the last published city directory of said city, if his name appears therein, or obtained from the records of such owner's address last given on tax receipts in the office of the county treasurer or auditor, or, in the case of mortgagees, to the address, if any, appearing in the mortgage.

After the first publication of said notice, and at least six days (Sunday excluded) prior to the meeting specified in said notice, a copy of the same shall also be served upon the person in possession of each of said tracts or parcels of land, or some part thereof, if the same be actually occupied, in the same man-

ner as provided for the service of summons in a civil action in the district court. A copy of all subsequent notices relating to said proceedings which are required to be published, shall be mailed by said clerk in the manner above specified, immediately after the first publication thereof, to owners and mortgagees in the manner and to the address above provided and to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them. (As amended Apr. 20, 1931, c. 290, §3.) \* \* \*

Laws 1931, c. 290, §3, amends the fourth subdivision of this section.

**§1626-4. Bond issue.**

The limitation as to amount of bonds is repealed by §1626-12.

**§1626-5. Park commissioners authorized to establish but one flying field.**

The limitation as to number of flying fields is repealed by §1626-12.

**§1626-8. Cities may establish municipal airports.**—Each city of the first class now or hereafter having a population of 50,000 inhabitants or more, including each such city operating under a charter adopted pursuant to Section 36, Article 4, of the Constitution of the State of Minnesota, is hereby authorized and empowered to establish and maintain a municipal flying field and airport, to acquire land from time to time necessary for that purpose, and to erect thereon terminal and other buildings and structures necessary and suitable for the operation thereof. When deemed necessary land may be leased by any such city for the purposes hereof. (Act Apr. 25, 1929, c. 379, §1, superseding Act Apr. 3, 1929, c. 125, §1.)

**§1626-9. Cities may establish airport.**—The land so to be used, or acquired and used, by each such city may be used, or so acquired and used, whether the land be located within or without the limits of such city. Such land may be acquired from time to time by purchase, gift, devise, condemnation or otherwise, and the title so acquired by condemnation or purchase shall be in fee simple absolute, unqualified in any way whatsoever. When the right of condemnation is to be exercised, such condemnation proceedings shall be exercised only under and pursuant to the provisions of the statutes of the state of Minnesota relating to eminent domain; provided that wherever such city has already established an airport, such additional land should be contiguous thereto. (Act Apr. 9, 1931, c. 123, §1, amending Laws 1929, c. 379, §2, and superseding Laws 1929, c. 125, §2.)

**§1626-10. To fix charges.**—Each such city shall have the authority to determine the charges for the use of said municipal flying field and airport and the terms and conditions under which the municipal flying field and airport and its facilities may be used, provided that such charges shall be reasonable and uniform for the same class of service, to lease parts thereof to individuals, co-partnerships or corporations, to any municipal or state government or to the national government or to foreign governments or any department of either thereof for flying purposes

or any purpose incidental thereto, and to determine the terms and conditions of said leasing by said lessees and any lands acquired, owned, controlled, or occupied by such cities as herein provided shall and hereby are declared to be acquired, owned, controlled and occupied for a public purpose and as a matter of public necessity. (Act Apr. 25, 1929, c. 379, §3, superseding Laws 1929, c. 125, §3.)

**§1626-11. Disposition of revenues.**—The revenues obtained from the ownership and operation of any such municipal flying field and airport shall be used to finance the maintenance and the operating expenses thereof and to make payment of interest on and current principal requirements of any outstanding bonds or certificates issued for the acquisition or improvement thereof, and to make payment of interest on any mortgage heretofore made. That portion of revenue in excess of the foregoing requirements may be applied to finance the extension or improvement of said flying field and airport. (Act Apr. 25, 1929, c. 379, §4, superseding Laws 1929, c. 125, §4.)

**§1626-12. Bond issue.**—The limitation of bonds to the amount of \$150,000 for airport purposes and the limitation of one airport only to each city of the first class found in Chapter 62 of the Laws of Minnesota for 1927 [§§1626-4, 1626-5] are hereby expressly repealed, and each such city shall be authorized to issue bonds for the purposes defined in this act to an amount not to exceed \$450,000 in addition to all bonds heretofore issued for such purposes; except that in cities where a bond issue has been authorized in an ordinance approved by popular vote of the voters, the amount of such bond shall be limited to the amount authorized in said ordinance. No indebtedness, mortgage, lien or security shall be made, created, suffered, or incurred in the acquisition of land for such airport except as expressly authorized in this act. No land shall be purchased at an average price of more than \$600.00 an acre unless by condemnation proceedings. (Act Apr. 25, 1929, c. 379, §5, superseding Laws 1929, c. 125, §5.)

**§1626-13. Issue of bonds—Rate of interest.**—In order to carry out the purpose of this act each such city is hereby authorized to issue municipal flying field or airport bonds or certificates of indebtedness to secure funds for the purchase and improvement of the specified land or to meet the cost of purchase or erection of designated buildings and structures. Said bonds or certificates of indebtedness shall be issued by each such city in the manner prescribed by law or by the charter thereof for the issuance and authorization of issuance of bonds.

In any city having a board of estimate and taxation the bonds hereby authorized may be issued from time to time by vote of five-sevenths of all the members of the board after request thereto by vote of two-thirds of all the members of the city council and in no other manner and if so authorized shall be issued by said board of estimate and taxation. In cities not having a board of estimate and taxation such bonds may be issued and sold from time to time by vote of two-thirds of

all the members of the city council or other chief governing body subject to the right of referendum where provided in the charter of any such city. Such bonds shall bear interest at not exceeding 5% per annum payable semi-annually. The principal shall be payable serially in not more than 30 annual installments as nearly equal as may be. The city council or other chief governing body shall levy annually a tax on all the taxable property of the city sufficient to meet the interest and principal about to mature. The bonds or certificates hereby authorized, or any part thereof, may be issued and sold by each city notwithstanding any limitation contained in the charter of said city or in the law of this state prescribing or fixing limitations upon the bonded indebtedness of the city, but the full faith and credit of such city shall at all times be pledged for the payment thereof at maturity and for the payment of current interest thereon.

In case the jurisdiction of said airport be under a board of park commissioners in the cases provided in Section 7 [§1626-14] thereof, such board shall first request the city council that it request the issuance of bonds for such purposes.

The amount of all bonds heretofore or hereafter issued by any such city for the acquisition or improvement of a flying field or airport shall not be counted or included in the net indebtedness of the city or in any computation of the city's outstanding indebtedness for the purpose of determining the limit of net indebtedness of the city. (Act Apr. 25, 1929, c. 379, §6, superseding Laws 1929, c. 125, §6.)

**§1626-14. Authority may be exercised by governing body or board of park commissioners.**—The authority hereby granted may be exercised by the city council or chief governing body thereof, by whatever name designated, or may be exercised by the board of park commissioners or other body in charge of the park system of the city. When said authority shall have been so vested in said latter body either under the provisions of this act or under the provisions of Chapter 62 of the Laws of Minnesota for 1927 [§§1626-1 to 1626-7], said authority shall continue to be exercised by said body in control of the park system of such city, and whichever body shall be vested with such authority shall have full and complete authority to govern said field so acquired and to regulate by general ordinance the use of said land for flying and for other aviation purposes. (Act Apr. 25, 1929, c. 379, §7, superseding Laws 1929, c. 125, §7.)

**§1626-15. Proceedings legalized.**—In all cases where a city of the first class mentioned in this act has heretofore issued any bonds for the purpose of acquiring land and improving the same for a municipal flying field pursuant to an ordinance approved by the voters of such city, the proceedings heretofore taken in that regard are hereby in all respects validated and confirmed; any bonds already issued thereunder are validated and made legal obligations of such city, and such city is hereby authorized and empowered, pursuant to such proceedings, to issue further bonds for

said purposes up to the limit fixed in such approved ordinance, which bonds, when issued, shall be legal obligations of such city according to their terms. (Act Apr. 25, 1929, c. 379, §8, superseding Laws 1929, c. 125, §8.)

**§1626-16. Application.**—This act shall not apply to any city which has issued or shall issue bonds for municipal flying field and airport purposes as authorized by an ordinance referred to and approved by the voters of such city by popular vote. (Act Apr. 25, 1929, c. 379, §9, superseding Laws 1929, c. 125, §9.)

**§1626-17. Tax levy for Municipal airport.**—Each city of the first class of this State now or hereafter having a population of 50,000 inhabitants or more, including each city now or hereafter operating under a Home Rule Charter adopted under and pursuant to Section 36, Article 4 of the State Constitution, acting through its City Council or Chief Governing Body thereof by whatever name known or Board of Park Commissioners, is hereby authorized and empowered to levy annually on real and personal property of said City the tax not exceeding 1/20th of a mill on each dollar on the assessed valuation of said City for the purpose of operating and maintaining the municipal airport of said city. (Act Apr. 20, 1931, c. 273, §1.)

**§1626-18. To be additional powers.**—The provision of this Act shall be in full force and effect notwithstanding any provision in the Charter of said City to the contrary hereof. But no such levy shall be made unless authorized by the Board of Estimate and Taxation of said city, according to the provisions of the Charter of said city establishing said Board of Estimate and Taxation. (Act Apr. 20, 1931, c. 273, §2.)

**§1626-19. Provisions separable.**—If any provision of this Act shall be held to be unconstitutional, it shall not affect the balance of said Act. (Act Apr. 20, 1931, c. 273, §3.)

**§1630-2½. Limitation in use of proceeds of bonds.**—That where bonds have been or may hereafter be issued, by a city of the first class having a population of 50,000 inhabitants or more, including all such cities operating under home-rule charters adopted under and pursuant to Section 36, Article 4 of the State Constitution, which bonds have been authorized by the voters of such city voting upon a proposition providing for the issuance of an aggregate amount of bonds for two or more distinct improvements, with a definite amount provided therein for each improvement, no part of the proceeds of such bonds shall be used until the governing body of the city has by resolution determined the projects and the amount of the proceeds of such bonds for such projects under each bond issue. (Act Apr. 3, 1929, c. 126, §1.)

**§1630-2½a. City to give notice of intent.**—Whenever any City Council, or other governing body, or official board of any city of the first class in the State of Minnesota, operating under a Home Rule Charter which has now or may hereafter have a population of 350,000 or more shall determine by the exer-

cise of the right of eminent domain or pursuant to any general or special law or proceedings or pursuant to authority granted by Home Rule Charter to lay out, extend, widen, straighten or open any street, avenue, alley, roadway, parkway or boulevard which may now or hereafter exist or to acquire lands or easements in lands therefor or to improve the same by grading, laying of water mains, constructing sewers, sidewalks, curbs and gutters, or to establish or construct subways, overhead railways or crossings, building line easements or boulevards in, upon or along the same or to acquire easements or rights in lands for the purpose of constructing bridges or viaducts or drains or ditches or to change the course of or divert any stream of water (except the Mississippi River) or who shall determine to acquire lands or buildings for public purposes for which there shall be levied a special assessment on any property for such purposes or who shall determine to regulate or restrict the use of buildings or lands by zoning pursuant to any law now or hereafter enacted authorizing the same shall give notice of such intent in accordance with Section 3 hereof. (Act Apr. 25, 1929, c. 383, §1.)

**§1630-2½b. Who served.**—Whenever any official of any such city shall, pursuant to any authority given him by law, ordinance or provision of the City Charter issue any order, decree, notice or warning in connection with any specific building or land not public property and including lands and buildings used or occupied by public service corporations shall serve a copy of such order, decree, notice or warning upon the owner of such lands or building, or both, affected by such notice in the manner provided in Section 3 [§1630-2½c] hereof. The notice herein provided for shall include notices given by the Commissioner of Health affecting the sanitary condition of buildings or property, also those with respect to the existence of communicable diseases. (Act Apr. 25, 1929, c. 383, §2.)

**§1630-2½c. Form of notice.**—The notices required in Sections 1 and 2 hereof shall be served upon the owner of such lands or buildings in the manner prescribed by Statute for serving notices in civil actions, in case the owner is a resident of such city and is known to the officer charged with the duty of making such service. In case the owner is not a resident of said city or is not known or cannot be found by reasonable investigation a copy of such notice shall be mailed to said owner if known and not a resident of such city or if not known to the person whose name appears on the records of the County Auditor or the Register of Deeds in the county in which such city is located as the person who last paid the taxes on such property by depositing a copy of such notice in the postoffice postage prepaid, and addressed to the person above specified in an envelope plainly bearing on its front in type no smaller than ten point the words "Important notice affecting your property." Such notice shall be general in its character, but shall include a statement of the nature of the proceeding which affects the property of the person to whom such notice is sent; the officer or de-

partment of the city from whom further information may be secured and the address to which written communications or personal requests may be made. (Act Apr. 25, 1929, c. 383, §3.)

**§1630-2 ½ d. Application.**—It is the intent of this act to provide only the manner in which notices shall be served upon owners of property in connection with official proceedings or actions above specified. It shall not affect provisions of any law only in so far as it relates to the giving of notice to owners. All other requirements, stipulations and provisions of each and all of said laws in so far as they are not inconsistent with this law shall be and remain in full force and effect. (Act Apr. 25, 1929, c. 383, §4.)

**§1630-2 ½ e. Act paramount.**—This act shall be paramount to and supersede any provisions of any law or charter which are inconsistent herewith. (Act Apr. 25, 1929, c. 383, §5.)

Sec. 6 provides that the act shall take effect from and after its passage.

HOUSING ACT FOR CITIES OF FIRST CLASS NOT UNDER HOME RULE CHARTERS

ARTICLE I  
GENERAL PROVISIONS

**§1630-4. Definitions \* \* \*.**

(12).

See subd. (12 ½) modifying this subdivision as to definition of "basement."

**(12 ½). Basement.**—In all cities of the first class which have heretofore or may hereafter adopt by charter or ordinance "The Housing Act" as provided in Chapter 137, Session Laws of 1917, as amended by Chapter 517, Session Laws of 1919, which regulates the space which must be left between a building and the adjoining building or between a building and the boundary line of the lot or lots on which it stands, by the number of stories in such building. A basement is a story partly underground but having at least one-half of its height above the curb level of the adjoining street and shall be counted as a story. (Act Apr. 22, 1929, c. 282, §1.)

See, also, §§3009, 4075.

ARTICLE II  
DWELLINGS HEREAFTER ERECTED

TITLE I  
LIGHT AND VENTILATION

**§1630-16. Side yards, etc.**

See §1630-4(12 ½).

**§1630-21. Buildings on same lot with a dwelling.**

This section is invalid for uncertainty. State v. Parker, 237NW409.

ARTICLE VI  
REQUIREMENTS AND REMEDIES

**§1630-114. Procedure.**

See Laws 1929, c. 282, ante, §1630-4(12 ½).

**§1630-117. Service of notice and orders.**

See Laws 1929, c. 282, §2, post §1630-127.

**§1630-127. Definitions—service of order.**—  
In all such cities of the first class the term

"issue an order" where same appears in said Housing Act to be issued by the commissioner of health, shall be construed to mean "serve an order in the manner provided for the service of a summons in a civil action in this state." The person upon whom any such order affecting real property shall be served shall be the owner of the real estate if known, or the agent of such owner when registered under the provisions of said Housing Act, or if the owner is not known and his identity cannot be determined the person whose name and address last appears upon a receipt for taxes paid upon such real estate in the office of the county auditor or county treasurer. No such order affecting real property shall be deemed to have been issued or served under the provisions of said Housing Act unless appended to such order is a notice to the owner that if he feels aggrieved thereby he shall appeal to the district court of the county in which the real estate is situated, within five days after the service of such order. (Act Apr. 22, 1929, c. 282, §2.)

**§1630-128. Appeal to District Court.**—Such owner may, within five days after the service of such order, appeal to the district court by the service of a notice so to do upon the commissioner of health or other chief health officer of said city and the filing of such notice with the clerk of the district court of the county where the real estate is situated. (Act Apr. 22, 1929, c. 282, §3.)

**§1630-129. Court to try issues.**—Upon such appeal the district court shall try de novo the entire question of whether or not the facts claimed by the commissioner and on which he seeks to base his order are true and whether or not such order constitutes a taking of said real estate or any right therein or part thereof without compensation and whether or not the changes or abatement ordered are reasonable in their nature and a reasonable time is allowed therefor and shall give judgment accordingly. (Act Apr. 22, 1929, c. 282, §4.)

**§1630-130. Tenants not to be served.**—Prior to the hearing and final determination of such appeal or the expiration of the time allowed therefor no order or notice shall be posted or served upon or delivered to the tenants of said real estate in any way and no other interference with the rights of the owner or lessees shall be allowed. Any person violating any of the provisions of this act shall be personally liable to the person injured or damaged thereby. (Act Apr. 22, 1929, c. 282, §5.)

**§1630-131. Inconsistent acts repealed.**—All laws or parts of laws and all charter provisions inconsistent herewith are hereby repealed. (Act Apr. 22, 1929, c. 282, §6.)

LAWS AFFECTING CITIES OF THE FIRST CLASS

Laws 1931, c. 255, authorizes reduction of special assessments under circumstances so limited as to require omission from the statutes.

Act Feb. 26, 1929, c. 40, legalizes appropriations made within 12 months preceding passage of act.

City of Minneapolis under home rule charter had power to reapportion the city by changing

the boundaries of its wards. *Granger v. City of Minneapolis*, 233NW821. See *Dun. Dig.* 6893.

### PROVISIONS RELATING TO CITIES OF SECOND CLASS

By the amendment of §1671, the provision as to primary elections is made applicable to cities of the second class.

**§1643-2. Association to fix pension.**—That every paid municipal police department now existing or which may hereafter be organized may and is hereby authorized to become incorporated pursuant to the provisions of any applicable law of this state, or adopt a constitution and by-laws as a relief association to provide and permit and allow said police relief association so incorporated or so organized to pay out of and from any funds it may have received from the State of Minnesota, or from any other source, a service pension in such amounts and in such manner, as its articles of incorporation or the constitution and by-laws shall so designate, not exceeding, however, the sum of \$45 per month to each of its pensioned members who shall have arrived at the age of 50 years or more, and shall have done active police duty as a member of such paid municipal police department for a period of 20 years or more in the police department of such city in which such relief association has been or shall be so organized, or who having been disabled physically or mentally because of any injury received or suffered while in the performance of his duty as such police officer, so as to render necessary his retirement from active police service may be placed upon the pension list, and shall receive such pension as provided for in said articles of incorporation or constitution and by-laws; provided, however, that if any such police officer shall die leaving a widow surviving him she may be paid as long as she remains unmarried such amounts not exceeding, however, the sum of \$40 per month and in such manner as the articles of incorporation or constitution and by-laws of said police relief association shall provide; provided, however, that said fund shall not be used for any other purpose than for the payment of service pensions and a disability pension as herein provided. (As amended Feb. 20, 1929, c. 31.)

**§1643-3. Same—Increase or decrease.**—Every such association shall at all times have and retain the right to increase or reduce the amount of such pension not to exceed \$45 per month whenever, because of the amount of funds on hand, or for other good reasons such increase or reduction may seem advisable or proper to the board of management of said relief association. (As amended Feb. 20, 1929, c. 31, §3.)

### §1649. Sprinkling of streets.

St. Cloud, now a city of the second class under home rule charter, may sprinkle streets and assess the cost thereof against benefited property. *Op. Atty. Gen.*, Feb. 7, 1931.

### §1650. Definition.

City in flushing a paved street to keep it in proper condition was engaged in a corporate, as distinguished from a public, function, and was liable for the negligence of its employees. 174M 184, 218NW892.

### §1664-28. Same—Application of law.

St. Cloud, now a city of the second class under home rule charter, may sprinkle streets and assess the cost thereof against benefited property. *Op. Atty. Gen.*, Feb. 7, 1931.

**§1664-43. Cities of second class may establish residence requirements and wage scale.**—That in all cities of the second class in the State of Minnesota the city council shall by ordinances duly enacted with appropriate penalty provisions for the enforcement thereof, have power and authority as follows:

(a) To establish residence requirements and require that in all construction or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, utilities, or any other public work involving the improvement of public property, including schools, all labor, either skilled or unskilled shall meet those requirements.

(b) To adopt a scale of wages to be paid in all public works and to require that it be a part of the specifications in contracts or be effective in all construction or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, utilities, or any other public work involving the improvement of public property, including schools on which work public moneys are to be expended. (Act Apr. 9, 1931, c. 121, §1.)

**§1664-44.** That these powers shall be in addition to all other powers now vested in such cities and in their city councils. (Act Apr. 9, 1931, c. 121, §2.)

### LAWS APPLICABLE TO CITIES OF SECOND CLASS

Laws 1931, c. 156, provides for redemption from all delinquent taxes on land in cities of the second class by payment of amount of special assessments with 6% interest.

### PROVISIONS RELATING TO CITIES OF THIRD CLASS

**§1671. Primary election in certain cities.**—The council of any city of the second and third classes operating under a home rule charter may by resolution or ordinance adopted at least four weeks before the date of any municipal election for city officers to be held therein, resolve or ordain that all municipal elections for city officers in said city shall be held and conducted under the primary election system provided for hereby, and thereafter the mode of nomination and election of elective officers of the city to be voted for at any municipal election shall be as follows; provided, however, that the provisions of this act shall not apply to any city whose boundaries extend into more than one county of the State. (As amended Jan. 20, 1931, c. 2.)

Brainerd is a city of the third class, and general laws relating to city elections in cities of the third class are now applicable to that city, except as its charter may contain provisions inconsistent therewith. *Op. Atty. Gen.*, Feb. 23, 1931.

### §1692. New charter.

Brainerd is a city of the third class, and general laws relating to city elections in cities of

the third class are now applicable to that city, except as its charter may contain provisions inconsistent therewith. Op. Atty. Gen., Feb. 28, 1931.

#### §1716. Appeal—Right of.

Laws 1931, c. 261, amends Laws 1919, c. 267, §3 omitted from the statutes as local.

### PROVISIONS RELATING TO CITIES OF FOURTH CLASS

#### §1722. Existing indebtedness—[Repealed].

The parenthetical credit at the end of this section as it appears in G. S. 1913 and G. S. 1923, should read "( '07, c. 221, §3; amended '11, c. 197, §1)."

**§1722-1. Exceptions.**—This act shall not be construed as in any manner superseding, repealing, amending or qualifying the provisions of any home rule charter heretofore adopted by any city or village under the laws of this state, and this act shall not in any manner apply to any such city or village. ('07, c. 221, §4.)

Omitted by mistake from G. S. 1913, and error repeated in later compilations.

**§1726-1. Detachment of unplatted land from city and special or independent school district in such city.**

This act is invalid as special legislation. 179 M358, 229NW346.

**§1726-6. Detachment of unplatted agricultural lands.**

This act is not unconstitutional because it does not require notice to land owners not joining in the petition, or as class or special legislation. Petition Clinton Falls Nursery Co. et al., 236NW195. See Dun. Dig. 1641, 1646, 1675, 1691, 6521.

**§1726-9. Scope of act.**—This act shall only apply to cities the limits of which also constitute a separate school district; and which are located wholly within one county. (Act Apr. 24, 1931, c. 318, §1.)

#### §1727. Taxes for general purposes.

Moneys and credits should be excluded in calculating the amount of tax which may be levied. Op. Atty. Gen., Feb. 6, 1930, July 3, 1930.

#### §1727-1. Rate of tax levy for certain cities.

The limit of the levy for current purposes in the city of Stillwater is to be based on the assessed valuation of real and personal property omitting the moneys and credits. Op. Atty. Gen., July 3, 1930, Feb. 6, 1930.

#### §1730. To what cities applicable.

General laws operating in all cities are not limited by a provision in a special charter that the general laws of the state shall not be considered as repealing the provisions of the charter. Op. Atty. Gen., Feb. 25, 1930.

#### §1731. Parks.

City of Sleepy Eye cannot under its charter expend money for improvements in park outside corporate limits. Op. Atty. Gen., May 5, 1931.

#### §1732. Park board—Powers and duties.

A city of the fourth class may not abolish a park board created under this section. Op. Atty. Gen., June 20, 1931.

#### §1736. Appropriation.

Funds received by a city for the condemnation of park property stand in the place of the property and must be used for park purposes. Op. Atty. Gen., June 20, 1931.

#### §1764. Purchase of electricity.

Guth et al. v. City of Staples, 237NW411; see notes under §200.

#### §1765-1. Disposition of surplus electricity, etc.

A city selling electricity to persons outside its limits under contract may discriminate in favor of residents of the city. Guth et al. v. City of Staples, 237NW411.

A city of the fourth class may sell surplus electricity to those outside the city limits regardless of whether the city itself manufactures the current or purchases from another. Guth et al. v. City of Staples, 237NW411. See Dun. Dig. 6687, 6689.

#### §1774. Expenditures of moneys for roads, etc.

County treasurer is required to pay over to a city of the fourth class situated in two counties all money raised from the real and personal property within the city limits by the county road and bridge tax levy, in addition to the moneys levied by the city. Op. Atty. Gen., May 8, 1931.

#### §1793. Police and health departments.

City of Springfield could pay certain bonds and interest out of its public utility fund. Op. Atty. Gen., Apr. 21, 1931.

**§1799-1. Cities and villages may issue bonds for sewage disposal plant.**—The governing body of any village or any city of the fourth class in the State of Minnesota operating under Home Rule Charter pursuant to the provisions of Section 36, Article 4, of the State Constitution is hereby authorized and empowered for the purpose herein designated, to issue the negotiable bonds of such village or city to the amount authorized by such village or city council; said bonds to be made in such denominations and payable at such places and at such times, not exceeding thirty years from the date thereof, as may be deemed best, to mature serially, and to bear interest at the rate not to exceed six per cent per annum, payable semi-annually, with interest coupons attached, payable at such place or places as shall be designated therein.

Provided that no such bonds shall be sold for less amount than the par value thereof and accrued interest thereon.

Provided also that such bonds shall be issued, negotiated and sold in accordance with the particular method prescribed by the laws governing villages or by the charter of the city so issuing such bonds, provided that this act and all proceedings taken hereunder shall be done pursuant to the provisions of Chapter 131, General Laws 1927 [ §§1938-3 to 1938-13 ].

Provided further also, that the bonds authorized by this act or any portion thereof may be issued and sold by any such village or city, notwithstanding any limitations contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city or village. (As amended Apr. 18, 1929, c. 244, §1.)

**§1799-2. Tax levy.**—The full faith and credit of any such village or city shall at all times be pledged for the payment of any bonds issued under this act and for the payment of the current interest thereon, and said



governing body of such village or city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity. (As amended Apr. 18, 1929, c. 244, §2.)

**§1799-3. Execution—Sale.**—All bonds issued under the authority of this act shall be sealed with the seal of the village or the city issuing the same and signed by the president of the village council or mayor and attested by the village or city clerk, except that the signatures to the coupons, attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be in such manner and in such proportions of the whole amount authorized by this act and at such times as may be determined by the said governing body of such village or city, and the bonds may be purchased by the state board of investment with the funds of the State of Minnesota. (As amended Apr. 18, 1929, c. 244, §3.)

**§1799-4. Proceeds not to be used for other purposes.**—The proceeds of any and all bonds issued and sold under authority of this act shall be used only for the purpose of constructing a sewage disposal plant for such village or city. (As amended Apr. 18, 1929, c. 244, §4.)

**§1799-5. Application.**—Nothing herein contained shall be construed to repeal or modify the provisions of any charter adopted pursuant to Section 36, Article 4, the constitution of this state, requiring the question of the issuance of bonds to be submitted to the vote of electors. (As amended Apr. 18, 1929, c. 244, §5.)

**§1799-6. Powers additional.**—The powers granted in this act are in addition to all existing powers of such villages or cities. (As amended Apr. 18, 1929, c. 244, §6.)

#### **§1800. Inspection of milk, dairies, etc.**

Ordinances may provide for inspection of both producers and dealers of milk sold within its limits and requires payment of inspection fee. Op. Atty. Gen., Dec. 11, 1929.

Municipalities may impose license on all producers and dealers selling milk within its limits, except as power may be affected by Const., Art. 1, §18. Op. Atty. Gen., Dec. 11, 1929.

#### **§1807. Ballots.**

Blank lines should be provided on ballots as provided in §284A. Op. Atty. Gen., Dec. 2, 1930.

#### **§1809. Australian ballot system to be used.**

This section is not superseded by Laws 1929, c. 198, relating to hours of opening and closing of polls. Op. Atty. Gen., Feb. 19, 1930.

This section does not apply to a city operating under a charter which makes provision for the time of opening and closing the polls. Op. Atty. Gen., March 31, 1930.

#### **§1815. Street and alley improvements, etc.**

Laws 1931, c. 317, legalizes proceedings previously had under this act.

The improvement of an alley cannot be made unless 35 per cent of the abutting owners petition for it, although a number of alleys are joined in one improvement and 35 per cent of all owners petition. 177M28, 224NW254.

Where bonds were sold pursuant to authority vested by law, and all these bonds have been

paid and there is a surplus in the special street improvement fund, such surplus belongs to the people who paid the assessments, and city council has no authority to transfer or loan the surplus to any other city fund. Op. Atty. Gen., July 2, 1931.

#### **§1824. Certificates of indebtedness authorized.**

Act Feb. 27, 1929, c. 43, validates certificates of indebtedness issued by boroughs under this act.

#### **§1825. Reassessment.**

Presumption of validity of assessment of the cost of a public improvement is rebuttable. 176M240, 223NW135.

#### **§1827. Appeal to district court.**

176M240, 223NW135; note under §1825.

**§1828-1A. Street sprinkling in fourth class cities—Payment for.**—In all cities of the fourth class the city council may in its discretion pay one-half of the cost of sprinkling the streets with water, out of the general revenue fund of the city, and may assess one-half of the cost to the property abutting the streets sprinkled. In case any county has property abutting a street so sprinkled, the county shall pay the cost of sprinkling the same on presentation to the county board thereof of a bill therefor properly verified ('19, c. 187, §1.)

**§1828-16½. Certain cities may establish police retirement fund.—Tax levy.**—That any city of the fourth class now or hereafter having property, exclusive of moneys and credits of an assessed valuation of more than \$4,000,000.00, may, at the discretion of the city council or other governing body, establish and provide by ordinance for the accumulation, administration and distribution of a police pension fund, or for the payment direct from current funds of pensions, for the benefit of all police officers retired or honorably discharged at or after reaching the age of 65 years, the last preceding 25 years of which time has been or shall have been spent as a police officer in the service of such municipality. Provided, however, that no such pension shall in any case exceed 40 per centum of the salary of such officer at the time of retirement, nor in any case exceed \$600.00 per year, nor in any case be paid after the death of such officer to any dependent or other person whomsoever, nor be subject to garnishment, attachment or other legal process.

To provide funds for the payment of such pensions the city council or other proper authority may levy a tax of not more than one-fifth of one mill on all the taxable property of such municipality, and may provide for the use for said purposes of some portion of the fines and penalties collected by said municipality from time to time. (Act Apr. 20, 1929, c. 278.)

#### **GENERAL INCORPORATION ACT FOR CITIES OF FOURTH CLASS**

**§1828-17. Incorporation — petition — first election.**—That inhabitants of contiguous territory not organized as a city and having not less than one thousand (1000) inhabitants nor more than ten thousand (10,000)

inhabitants, may become incorporated as a city of the Fourth Class as hereinafter provided:

(a) A petition addressed to the County Board of the County in which the whole or the larger part of said territory is situated, whether all or part of such territory had been theretofore organized into one or more adjoining boroughs or villages, or not, which is signed by one-fourth of the number of legally qualified voters residing in the territory proposed to be incorporated as a city that voted in said territory at the last preceding general election for state officers, may be filed with the County Auditor of said County praying that a city of the Fourth Class be established in said territory, and that an election be called to determine whether or not such city shall be incorporated. Such petition shall set forth the metes and bounds of the proposed city and of the several wards thereof, and the population thereof, and the number of voters voting in said territory at the last general election for state officers. The residence of each signer shall be stated opposite the signature, but the signatures to the petition need not be appended to one paper. The petition shall be verified by the oaths of at least three of the petitioners, declaring the statements made in the petition to be true. In addition thereto the petitioner procuring the signatures to each paper and petition shall make an oath before a person competent to administer oaths, that each signature is the genuine signature of the elector whose name purports to be thereto subscribed, and that each signer is an elector duly qualified to vote within the territory designated in the petition as the territory proposed to be incorporated as a city of the Fourth Class.

(b) If it shall appear that such petition is in due form, complies with the provisions hereof, and is signed by the proper number of electors residing in the territory sought to be incorporated in the proposed city, of which latter fact the affidavit of the petitioners procuring signatures on such paper and petition shall be prima facie evidence, the County Board shall adopt a resolution approving said petition and in said resolution shall designate the time and place of holding a special election upon said proposition, which election shall take place not less than 30 days nor more than 40 days from the time of presenting and filing said petition with the County Auditor; and the County Board in said resolution shall specify the location of the polling place in each ward, and that the polls will be open from 8 A. M. to 8 P. M., and shall prescribe a form of notice of such special election, a copy of which shall be attached to the resolution, in which notice shall be stated the time of such special election, the location of the polling place in each ward, the hours during which the polls shall be open, together with a statement of the question to be voted upon. Thereupon the County Auditor shall cause a copy of said petition, resolution and notice to be posted in at least five conspicuous places in said proposed city, at least 20 days prior to the date of such election, and shall cause said notice to be published in some legal newspaper published in the pro-

posed city at least once each week for two consecutive weeks prior thereto, and if there be no newspaper published therein, then in a newspaper published in the same county.

(c) The County Board in its resolution shall also name three legally qualified voters residing in said proposed city, but not more than one from a single ward if there be three or more wards, who shall act as Inspectors of Election, who shall supervise the holding of said election and conduct the same in accordance with the laws applicable to the election of village officers in such territory. The County Board in its resolution shall also name and appoint three judges and two clerks of election for each ward who shall be legally qualified voters residing within the proposed city. They shall perform the duties of judges and clerks of election prescribed by the general election laws. When the polls have been closed they shall correctly count and record the results of the election, tabulating the same and delivering said results and tabulations to the Inspectors of Election. Thereupon the Inspectors of Election shall canvass the results of election and forthwith make and file with the County Auditor a certificate declaring the time and place of holding of the election, that they have canvassed the ballots cast thereat, and the number cast, both for and against said proposition, and the final results thereof. The certificate shall be signed and verified by at least two of said inspectors to the effect that statements thereof are true. The inspectors shall preserve all ballots, tally sheets, and tabulations pertaining to said election, and forward the same in sealed containers to the County Auditor as soon after said election as conveniently may be to be by him kept according to law.

(d) At such special election only the proposition of incorporation of the proposed city shall be submitted to the voters for acceptance or rejection. The ballots shall bear the words "For Incorporation of the City of . . . . ., Yes—No," with a square after each of the last two words, in one of which the voter may make a cross to express his choice. In the blank space shall be printed the name of the proposed city. Only voters having complied with the laws applicable to voting in the territory where they reside shall have the right to vote.

(e) The County Auditor shall attach said certificate of Inspectors of Election to the original petition, with a copy of the resolution of the County Board, and notice calling the election and naming the officers of election, and the original proofs of posting and publishing of the election notice, and file the whole as one document in his office. If the certificate shall show that three-fifths of the votes cast on the proposition were in the affirmative, he shall forthwith make and transmit to the Secretary of State a certified copy of said document to be filed there as a public document. (As amended Apr. 21, 1931, c. 289, §1.)

**§1828-18. Corporate powers in general.**—Upon filing of the petition aforesaid, with the Secretary of State as aforesaid, the inhabitants within the metes and bounds therein described shall thenceforth be a body politic

and corporate subject to and with the power to act under the authority of all the provisions of this act. They shall have power to sue and be sued, complain and defend in any court, make and use a common seal and alter it at pleasure; and take hold and purchase, lease and convey such real and personal or mixed estate as the purpose of the corporation may require, within or without the limits aforesaid; shall be capable of contracting and being contracted with; and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted and shall have and possess all the powers granted and applicable to cities of the Fourth Class not existing or operating under a Charter adopted in pursuance of Section 36, Article 4, of the Constitution of the State of Minnesota, or a special Charter, and the authorities thereof shall have perpetual succession. (As amended Apr. 21, 1931, c. 289, §2.)

**§1828-19. First election.**—Within 15 days after the completion of the incorporation of such city as aforesaid the County Board shall by resolution designate the time and place of holding the first election of officers therein, which shall be not less than 30 days or more than 40 days after filing of the incorporation papers with the Secretary of State. The County Board shall in the same resolution appoint three judges and two clerks of election for each ward, who shall be legally qualified voters residing in their respective wards, and in addition thereto shall appoint three legally qualified voters in said city, but not more than one from each ward thereof, if there be three or more wards, who shall conduct the said first election of officers in said city and who shall be the inspectors thereof, and shall take the usual oath or affirmation as prescribed in the general laws of the State to be taken by the judges and inspectors of elections, and shall have the power to administer the necessary oaths; and the persons so named as inspectors of the elections, shall hold and conduct the same in the manner and under the same penalties as provided by the laws of this state regarding elections and shall have power to fill vacancies in the board of inspectors, and among the judges and clerks of election.

When said city election is closed and the number of votes for each person voted for shall have been counted and ascertained, the judge and clerks of election shall make return thereof stating the number of votes for each person for each and every office and shall deliver or cause to be delivered such returns to one of the said inspectors within two (2) days after such election, and the said inspectors (or a majority thereof) shall meet and canvass said returns and declare the result within one (1) day thereafter. The inspectors canvassing said returns and declaring the result shall forthwith notify the officers elected of their election by written notice served upon such officers in person or left at their usual place of abode with some person of suitable age and discretion. (As amended Apr. 21, 1931, c. 289, §3.)

#### §1828-41. City attorney—Election—Duties.

In case of failure to appoint a city attorney, common council of the city of Shakopee could employ an attorney for the special purpose of giving legal advice or services and prosecuting any particular persons violating city ordinances. Op. Atty. Gen., May 26, 1931.

#### §1828-43. Chief of police—etc.

International Falls' home rule charter, Chapter 8, Section 1, permits the city council to either reduce or increase the number of officers under the chief of police. Op. Atty. Gen., April 27, 1931.

#### COMMON COUNCIL—GENERAL POWERS AND DUTIES

#### §1828-57. Powers and duties of council enumerated.

City council of a city of the fourth class could vacate parts of two streets and a railroad crossing where it was necessary for the reception of materials for use in the paving of a nearby trunk highway. Op. Atty. Gen., July 14, 1931.

(73).

This paragraph controls §1828-61, the words "appropriating money" having reference to original incurring of obligation, while §1828-61 is to be limited to authorization of the expenditure of the appropriation thus made. Op. Atty. Gen., Apr. 4, 1930.

#### §1828-61. Ordinances, regulations, etc.

This section is controlled by §1828-57, par. 73, and the provision as to majority vote has reference to the expenditure of an appropriation made by a three-fourths vote under such paragraph 73. Op. Atty. Gen., Apr. 4, 1930.

A resolution abandoning and closing hospital in city of Hastings, and referring to admission of patients and termination of employment of various employes, contained only one subject within the meaning of Hastings' charter, chapter 4, section 5, which subject was included in a title simply stating that it was a resolution to abandon and cease to operate the hospital. Op. Atty. Gen., April 20, 1931.

An affirmative vote of a majority of members of the city council of Hastings was sufficient for the closing of a hospital, and a two-thirds vote was unnecessary. Op. Atty. Gen., April 20, 1931.

#### TAXES

#### §1828-68. Tax levies—How made—etc.

City has no power to pay expenses of delegates from fire department to state firemen's association convention. Op. Atty. Gen., June 2, 1930.

#### FIRE DEPARTMENT

#### §1828-82. Chief engineer, assistant engineers, etc.

Where mayor of International Falls submits appointment of a person as chief of fire department and council refuses to confirm the appointment, there is no vacancy in the office and the old incumbment continues as such chief unless he has resigned, or a vacancy has otherwise been created. Op. Atty. Gen., May 29, 1931.

#### MISCELLANEOUS PROVISIONS

#### §1828-99. Laws repealed.

##### Laws affecting cities of the fourth class

Laws 1931, c. 184, legalizes obligations incurred or payments made for poor relief by cities of the fourth class, having population of less than 9,000, and assessed valuation in excess of \$14,000,000.

Laws 1931, c. 361, legalizes conveyances by fourth class cities operating under home rule charter of land outside city limits, such conveyances having been made without vote of the electors.

PROVISIONS RELATING TO CITIES VILLAGES, BOROUGHES AND TOWNS

**§1829. Right of eminent domain.**

Under §1271, notwithstanding Sp. Laws 1881, c. 410, the city of White Bear, under its home rule charter, could condemn Goose Lake, outside its corporate limits as a sewage disposal plant. 172M255, 214NW930.

**§1831. Damages—Notice of claim—Limitation.**

This section is applicable to injuries to property as well as to injuries to the person. 129M267, 152NW647.

City held not liable for injury to one who negligently broke a fire alarm wire, though at the time of his injury he was repairing the wire with the consent of the chief of the fire department. 171M391, 214NW656.

The notice to the municipality of the injury was sufficiently definite to appraise defendant of the place of the accident. 173M458, 217NW495.

Liability of city and abutting owner for injuries caused by defects in sidewalks. 172M35, 214NW671.

Liability of village for injuries growing out of collision of automobile with marker on unlighted street. 174M450, 219NW774.

A notice stating that accident happened on sidewalk in front of No. 2127 on First avenue, was sufficient although it misstated the distance from a cross street. 175M361, 221NW241.

Whether village was negligent in not removing ice and snow from sidewalk, held for jury. 175M361, 221NW241.

This section does not apply to an action to enjoin, or to recover damages for, an invasion upon private property by casting sewage thereon and creating a nuisance. 177M547, 225NW898.

Depression of cement blocks in sidewalk held such a defect as to warrant finding that city should have anticipated injury to pedestrian and was negligent in failing to repair it. 178M326, 227NW177.

Contributory negligence for jury. 178M326, 227NW177.

Evidence held not to warrant finding that defect in walk on bridge was cause of injury to pedestrian struck by automobile. 178M353, 227NW203.

Action for death must be commenced within one year from the occurrence of the loss or injury. 178M489, 227NW653.

City, held negligent in permitting dangerous condition from accumulation of snow and ice. 179M553, 230NW89.

Evidence held not to show negligence of village in maintaining sewer or that damage was caused by negligence. *Power v. Village of Hibbing, Itasca Bazaar Co. v. Same*, 233NW597. See Dun. Dig. 6666(95).

Damage from overflow of a sewer, caused by an extraordinary rainfall which could not reasonably have been anticipated or guarded against, where there was no negligence on the part of the village in the construction or maintenance of the sewer, cannot be recovered on the theory of trespass or nuisance. *Power v. Village of Hibbing, Itasca Bazaar Co. v. Same*, 233NW597. See Dun. Dig. 6664(91).

Rule of *res ipsa loquitur* held not to apply against a village in action for damages for overflow of sewer. *Power v. Village of Hibbing, Itasca Bazaar Co. v. Same*, 233NW597. See Dun. Dig. 7044.

In action for injuries received when stepping into open catch basin hole in sidewalk, negligence and contributory negligence held for jury. *Reid v. Village of Aitkin*, 233NW826. See Dun. Dig. 6844(98).

Evidence held to show city was negligent in paving and constructing a street, causing flooding of basement. *National Weeklies, Inc. v. J.*, 235NW905. See Dun. Dig. 10172.

City is liable for negligent operation of a snow plow. Op. Atty. Gen., Jan. 24, 1929.

Although not liable for damages done by fire trucks and police cars, a city is liable for dam-

age done through the negligent operation of street flusher. Op. Atty. Gen., Aug. 28, 1930.

**§1832. Claims for death—Notice.**

Action for death must be commenced within one year from the occurrence of the loss or injury. 178M489, 227NW653.

**§1841. Deposit of public funds.**

Where city treasurer has made deposits in excess of collateral securities given by a bank in lieu of a depository bond under §1973-1, city did not have a preferred claim on the theory that the over-deposit was a criminal offense. 172M324, 215NW174.

Where it is contemplated that the deposit shall be a continuing one, no date being fixed for its payment, the sureties are not released by renewals made without their consent. 174M56, 218NW444.

Where a certificate of deposit is taken for village money deposited with the bank, and such certificate is renewed from time to time, the renewal certificates, nothing else appearing, are not payments of the original deposit. 174M56, 218NW444.

Undertaking given instead of a bond will be enforced as a common-law bond. 174M56, 218NW444.

This section must be construed as a part of a depository bond, and liability of sureties is limited to the penalty of the bond, and where the bank closes, the liability of the sureties becomes absolute, and when they pay the loss they are subrogated to the rights of the obligee, and such right of subrogation cannot be questioned by the sureties on the treasurer's bond. 181M271, 232NW320. See Dun. Dig. 2701, 9045.

City treasurer of Le Sueur violates its charter where bank of which he is president is designated as depository, though he takes no part in the making of the contract on the side of the city. Op. Atty. Gen., May 14, 1931.

**§1845. Annexation of territory to certain cities and villages.**

A village annexing new territory was not entitled to any tax levied by the township board the preceding year. Op. Atty. Gen., Aug. 14, 1930.

There is no apportionment of indebtedness of township because part of it is annexed by a village. Op. Atty. Gen., Aug. 14, 1930.

Time and manner of contesting annexation of territory. Op. Atty. Gen., Aug. 14, 1930.

**§1854. Appointment of members of water, light, power and building commissions in cities having less than 10,000 inhabitants.**

It is mandatory for each member to act as president during the last year of his term. Op. Atty. Gen., Mar. 16, 1929.

**§1856. Secretary — Appointment — Duties and Powers—Bond—Compensation.**

Member of commission may not act as secretary. Op. Atty. Gen., Mar. 16, 1929.

**§1858. Rates, how fixed—Warrants—Etc.**

Power and building commission may not furnish hydrant rental and light to village free of charge with the purpose of permitting the village to recoup its finances so that it may be able to purchase a fire truck, if the village does not levy a tax of five mills for such purpose. Op. Atty. Gen., April 27, 1931.

**§1860-½. Cities or villages may rescind action.**—Any city or village which has heretofore or may hereafter avail itself of the provisions of Laws 1907, Chapter 412 [§§1852 to 1860], by the adoption of a resolution as therein provided, may rescind such action in the manner hereinafter provided. (Act Apr. 17, 1931, c. 190, §1.)

**§1860-½a. Petition—to be voted on.**—Upon the presentation of a petition in writing, signed by electors thereof equal to 15 per cent of the number who voted at the last preceding general municipal election, and not less than 50 in number, the council shall submit at the next general election occurring within 60 days thereafter, if any, the following question:

“Shall the action of this municipality in availing itself of the provisions of Laws 1907, Chapter 412, be rescinded?

Yes. . . . .  
No. . . . .”

If there is no general election to be so held, the council shall call a special election in the manner provided by law to be held not less than 30 days nor more than 45 days thereafter, and shall submit such question at such special election.

Notice shall be given and such election, whether general or special, shall be conducted, ballots counted and canvassed, returns made, and results declared in the same manner as in the case of other propositions submitted to the electors. (Act Apr. 17, 1931, c. 190, §2.)

**§1860-½b. Two thirds vote required to rescind.**—If two-thirds of the votes cast upon the proposition be in the affirmative, the provisions of said Laws 1907, Chapter 412 [ §§ 1852 to 1860 ] and of any law amendatory of or supplemental thereto, shall cease to apply to such city or village 30 days after the date of holding such election. (Act Apr. 17, 1931, c. 190, §3.)

**§1865. Leasing, selling or abandoning of water works or lighting plants.**—Any village or city of the fourth class in this state wherein there is constructed and in operation water works and lighting plant or water works or lighting plant for supplying water and light, or either of them, for public purposes or for the private use of its inhabitants or both, owned by any such city or village, may by resolution or ordinance of its governing body, passed and adopted in the usual manner, sell, lease or abandon any such plant or any specific part thereof, or discontinue wholly or in part the operations thereof; if a specific part of such plant is to be sold, leased or abandoned, or the operation thereof discontinued, such resolution shall state the specific part to be so sold, leased or abandoned, or to be discontinued. Before any such resolution or ordinance shall become effective, the same shall be submitted to the legal voters of such village or city at a regular village or city election or special election therein and approved by a two-thirds vote of the electors voting thereon at any such election. The ballots at any such election shall be printed and contain in full the resolution or ordinance to be voted upon and thereon immediately following the resolution or ordinance, there shall be printed in appropriate manner the words “yes” and “no” on separate lines and every voter desiring to vote in favor of such proposition shall thereupon make his cross (X) mark opposite the word “yes” and every voter desiring to vote against such proposition shall make such mark opposite the word “no.” In

case of villages such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for village officers, and in case of cities of the fourth class, such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for city officers in the respective cities of the fourth class according to the law or charter governing such city. (As amended Apr. 9, 1931, c. 133.)

172M392, 215NW673.

Where village maintains street lighting equipment connected with a transformer of a power company over poles belonging to the power company and a telephone company, the village cannot abandon its street lighting equipment without a vote of the people. Op. Atty. Gen., Jan. 22, 1930.

Neither Laws 1917, c. 172, nor any other law, permits a city of the third class, such as Austin, to sell its water and light plant, and that city can not sell its plant without amendment of its charter, or specific legislative authority. Op. Atty. Gen., Dec. 1, 1930.

Procedure and forms necessary for sale of water and light plants. Op. Atty. Gen., May 3, 1930.

**§1871. Powers and duties of park board.**—Said park board shall have full, absolute and exclusive control of, and power over, all real estate now or hereafter acquired by said municipality and set apart for park or boulevard purposes therein or in adjoining territory, and all public property used therein or therefore. Said board shall have power and authority to maintain the same, and to beautify and improve any and all such lands and the approaches thereto for the benefit of the general public; to erect and construct therein such roadways and paths, buildings, fountains, toilet rooms, or other improvements necessary to meet the requirements of the visiting public; to buy all necessary material and fuel required to carry out the provisions of this act; to make such reasonable rules and regulations for the government of the same as may be deemed necessary and proper; to employ such help in and about the conduct of such parks and boulevards as may be found necessary; to provide musical and other free entertainment for the general public; to employ a secretary at a salary not exceeding five hundred dollars per annum, whose duty it shall be to keep a full and complete record of all the transactions of said board, attend its meetings, and do and perform such other duties as may from time to time be required of him, by said board; to employ an attorney if found necessary to assist the board at a salary of not exceeding five hundred dollars per annum; to fix the compensation of any and all persons employed by said board; to audit and allow all just claims for labor, services or material furnished by order of said board, and endorse its approval of such claims thereon when allowed, which claims when so audited and allowed and endorsed shall be presented to the council of said municipality for payment and paid by said municipality as other claims are paid; provided, said board shall not have the right to sell, rent, lease or in any other way dispose of or encumber, or suffer, or permit the said property, or any part thereof, to come under the control of any other person or corporation whatever, pro-

vided, however, that where such park shall contain a pond or lake or any other body of water which can be used for the purpose of taking therefrom ice, the said park board shall have the power to lease the said pond or lake or any other body of water which the said park may contain for the purpose of taking therefrom ice. Said board shall also have power and authority to receive on behalf of said municipality any proper donations of statuary, shrubbery, trees, material, or other personal property for use in and about the said parks and boulevards. Said board shall make detailed report of all its doings and proceedings to the council at least once in three months. (As amended Apr. 21, 1931, c. 299.)

**§1880. Cities and villages may construct sewage disposal plants.**—In any city of this state having a population of 10,000 or less, and in all villages and boroughs of this state, whether organized under the General Laws or a special law, and in all such cities organized under home rule charters which do not provide a method of constructing sewers and assessing the cost thereof to benefited property, the city, village or borough council shall have power to maintain and extend any existing sewer system, to relay, alter or extend any existing sewer system and to establish and maintain a general system of sewers, to create sewer districts, and change, diminish or enlarge the boundaries thereof from time to time; to establish and maintain sewage treatment plants when deemed necessary. (As amended Mar. 27, 1931, c. 99.)

Where a municipality casts sewage upon private property and creates and maintains a nuisance thereon, the owner or lawful occupant may recover damages. 177M547, 225NW898.

Village may purchase tract to provide an outlet for sewage disposal plant. Op. Atty. Gen., Nov. 28, 1930.

**§1893. Fund for each proposed sewer.**

A village which issues warrants in anticipation of the collection of sewer assessments, and certificates of indebtedness in anticipation of collection of special assessments for laying water mains, may pay such warrants and certificates out of the general fund as a temporary loan, but must replace the moneys taken with interest. Op. Atty. Gen., June 26, 1931.

**§1918-12. Assessments for water mains.**—Whenever any such city, village or borough shall have caused water mains to be laid under a general bond issue and not by special assessment, to equalize the frontage assessments, the council may cause such existing mains, if they are of cast iron, to be examined by a competent engineer and if same are of suitable size and condition for continued use, such existing mains may be assessed against the property abutting thereon at an average cost of not to exceed eighty per cent of the cost of new mains of similar quality and construction, and this assessment of not exceeding eighty per cent shall be calculated by the engineers or other competent persons, and such assessment shall be prepared and provision made for its collection as in the case of new mains.

A hearing shall be held on old main assessments and may be at the same time as a hearing of the assessment of new mains, if new mains are at that time being laid, and

in all respects the action shall be the same as prescribed for new mains. (As amended Apr. 25, 1931, c. 345.)

Op. Atty. Gen., Oct. 2, 1930.

**§1918-14½. Governing body may construct and reconstruct sewers.**—Whenever the governing body of any village or city of the fourth class, whether operating under home rule charter or not, having power to maintain sewer and water systems within its limits, shall deem it necessary and shall so determine by resolution, it may construct, reconstruct or repair any service connection or connections between its water or sewer mains or pipes, in a street or other public ground, and the abutting property served by its main or mains. (Act Apr. 11, 1929, c. 157, §1.)

**§1918-14½ a. May assess benefits.**—Within sixty days after such municipality shall have completed such work and improvement, its governing body shall adopt a resolution fixing the time and place for the hearing of all persons interested in such construction or reconstruction or repair and the cost thereof and for ascertaining and determining the amount of benefit to the property for which such connection or connections are constructed, reconstructed or repaired, and such resolution shall be published once in a legal newspaper in said municipality or posted in three of the most public places therein. At the time and place named in said resolution, such governing body shall hear all persons interested in said work and improvement and the cost thereof. Thereupon, by resolution, such governing body shall determine and fix the amount of the benefits caused by said work and improvements to each lot, or parcel of ground for which such connection or connections are constructed, reconstructed or repaired and assess the amount of such costs, including the expense of giving said notice, against the lots or parcel of land so benefited in proportion to the benefit to the abutting property. A complete record thereof shall be kept by the clerk of such municipality in a separate book, which record shall contain a description of the property so benefited and charged with all the costs of such work and improvement, including the cost of giving such notice. (Act Apr. 11, 1929, c. 157, §2.)

**§1918-14½ b. Assessments may be collected with tax.**—The amount of the benefit to each lot or parcel of ground so determined, shall, together with part of all of the expense of giving such notice as such governing body may determine, be a charge against the same and a lien thereon, and if such charge is not paid within thirty days after such determination, the same shall continue to be a lien on the property so charged and bear interest at the rate of six per cent per annum, which charge shall be certified to the county auditor and extended upon the tax roll and levied against such property and collected as in case of county and state taxes. (Act Apr. 11, 1929, c. 157, §3.)

**§1918-19. Same—Hearings by council.**

The village of Harmony organized under the 1885 law and reincorporated under Revised Laws of 1905, may extend water mains without

submitting the matter to vote of the people. Op. Atty. Gen., April 4, 1931.

**§1918-22. Same—Proportionate share of costs, etc.**

Cost of sewers, gutters and paving, but not sidewalks, may be assessed against school property. Op. Atty. Gen., Eept. 10, 1930.

**§1918-25. Same—Assessments—etc.**

Purchaser at foreclosure sale of part of property subject to special assessment, held entitled to division of assessment. Op. Atty. Gen., April 2, 1930.

**§1918-42.—Same—Assessment of benefits on property benefited, etc.**

Cost of sidewalks cannot be assessed against school property. Op. Atty. Gen., Sept. 10, 1930.

**§1919. Tax for fire department relief fund.**

Association cannot use funds secured under §1919, 1920, for the purchase of fire apparatus. Op. Atty. Gen., Feb. 28, 1930.

Interest received on moneys in special fund cannot be placed in the general fund of the association. Op. Atty. Gen., Feb. 28, 1930.

Firemen's relief association may expend money from its special fund for the purchase of fire fighting equipment for a village as far as funds received under section 3726 are concerned, but not from funds arising under section 1919. Op. Atty. Gen., Apr. 21, 1931.

**§1919-1. Municipalities to fight fires outside of limits.**—The council or any other body of any municipality having control of its fire department may by resolution adopted by a five-sevenths vote, authorize its fire department or any portion thereof to attend and serve at fires outside of the limits of the municipality either within or without the state. In case the fire department is controlled by an individual such authorization shall be by written notice posted at the headquarters of the fire department. (Act Apr. 18, 1929, c. 232, §1.)

**§1919-2. Municipalities to arrange for compensation at outside fires.**—The body or person having control of a municipal fire department shall have authority to contract with other municipalities or private groups for compensation for services rendered in fighting fires as herein provided. The compensation agreed shall be a legal charge and collectible by the municipality rendering such service in any court of competent jurisdiction. (Act Apr. 18, 1929, c. 232, §2.)

**§1919-3. Firemen serving on outside fires in line of regular duties.**—All municipal firemen attending and serving at fires outside of the limits of the municipality as authorized in this act shall be considered as serving in their regular line of duties as fully as if they were serving within the limits of their own municipality. (Act Apr. 18, 1929, c. 232, §3.)

**§1919-4. Cities and villages to pay expenses to conventions in certain cases.**—The governing body of any village or city of this state, however organized, may appropriate such reasonable sums of money as it deems proper to defray the expenses of members of its regularly organized fire department in attending the state conventions of the Minnesota State Fire Department Association and/or the Northwest Fire School. (Act Apr. 13, 1931, c. 150.)

**§1920. Board of Trustees and fireman's relief association.—Control of funds, etc.**—The board of trustees of every firemen's relief association of this state shall be composed of the following persons, to-wit: six trustees elected annually by such firemen's relief from its own members and also the following ex officio members taken from the officers of the municipality in which the relief association is located, viz.: The mayor or president, the recorder or clerk, the treasurer and chief of the fire department thereof, and any such board of trustees of a duly incorporated relief association shall have exclusive control and management of all funds received by its treasurer under the provisions of this act, and all moneys or property donated, given, granted or devised for the benefit of said funds, and the funds received under the provisions of this act shall be kept in a special fund on the books of the secretary and treasurer of said association and shall never be disbursed for any purpose whatever except the following, viz.: (1st) For the relief of sick, injured and disabled members of any fire department in such village or city; (2nd) for the payment of pensions to disabled firemen and the widows and orphans of firemen; (3rd) for the payment of pensions to retired firemen pursuant to the laws of the state; (4th) for the payment of the fees, dues and assessments in the Minnesota State Volunteer Firemen's Benefit Association so as to entitle the members of any fire department to membership in and benefits of such state association. Provided, that the funds received by any relief association from dues, fines, initiation fees and entertainments shall be kept in a fund called the general fund, and may be disbursed for any purposes authorized by the articles of incorporation and by-laws of said association. Provided, further, that said relief association is hereby authorized and empowered to invest its funds in such income paying properties and securities as the council of the village or city in which such organization is located shall from time to time authorize. Provided, further, that none of the money raised by taxation as provided herein shall be paid to any firemen's relief association, or other trustee or officer, except the treasurer of the municipality wherein the same is levied, unless such firemen's relief association, or the treasurer thereof, or trustee authorized to receive the same, shall file a bond with the city clerk or village recorder, as the case may be, with sufficient sureties approved by the common council, or other governing body of such municipality, in double the amount received by virtue hereof, and shall from time to time, whenever required by such council or other governing body of such municipality, file a new or additional bond conditioned to safely keep all of said money and to disburse the same only for the purpose authorized by this act. (As amended by Laws 1929, c. 166, which in turn is amended by Act Mar. 18, 1931, c. 71.)

City is without power to pay expenses of delegates from its fire department to state firemen's association convention. Op. Atty. Gen., June, 2, 1930.

The funds created by this section and section 3726 should be kept separate so that investment thereof could be approved by the proper authority. Op. Atty. Gen., Mar. 12, 1931.



A village president, recorder and treasurer automatically become members of the Firemen's Relief Association. Op. Atty. Gen., Apr. 2, 1931.

The special tax of one-tenth of a mill levied under this section creates a fund which may be invested only as approved by the village or city council. Op. Atty. Gen., Apr. 2, 1931.

**§1920-1. Certain police and fire department employes may be insured.**—That all cities, villages and boroughs in this state are hereby authorized to indemnify employees of the police and fire departments thereof against loss or expense arising or resulting from claims for bodily injuries, death or property damage made upon any such employee by reason of his operation of a motor vehicle while in the performance of his duties, and to defend in the name and on behalf of such employee any suit brought against him to enforce a claim, whether groundless or not, arising out of the operation of a motor vehicle by him while in the performance of his duties, and to compromise and settle any such claim or suit and to pay the amount of such settlement or compromise, or the amount of any judgment rendered against him on any such claim, without first requiring such employee to pay same. (Act Mar. 22, 1929, c. 81, §1.)

**§1920-2. Governing bodies may pay premium.**—Such governing body may in its discretion pay the premiums on insurance policies insuring individuals or groups of the employes referred to in Section 1 hereof against liability for injury to person or property, within the limitations of Section 1 [§1920-1] hereof, and such payment of insurance premiums shall in no way impose upon any municipality any liability whatever. (Act Mar. 22, 1929, c. 81, §2.)

**§1929-1. Itinerant carnivals, street shows, street fairs, side shows, circuses, etc., within mile of corporate limits of city of fourth class—Towns licenses or permits for—Consent of city.**—No town board or other public authority shall hereafter issue any license or permit or make any other grant of authority permitting the operation or carrying on of any itinerant carnival, street show, street fair, side show, circus, or any similar enterprise, within one mile of the corporate limits of any city of the fourth class in this state, without having first obtained in writing the consent thereto of the council or other governing body of such city. ('25, c. 366, §1.)

**Explanatory Note**—Inserted to correct typographical error in Vol. I, Mason's Minnesota Statutes of 1927.

**§1933. Municipal forests.**

Subsequent curative acts. Act Mar. 9, 1929, c. 53.

**§1933-5. Public rest rooms.**

Expense of establishment of rest room may be paid from general fund, and if building is owned by city the expense of alterations may be paid from permanent improvement fund, under charter of International Falls. Op. Atty., Gen., Feb. 28, 1930.

A village would have power to provide a public rest room in a building to be erected jointly by the American Legion and the band of the village, such rest room to be provided on the first floor and to be kept and maintained by the village at public expense. Op. Atty. Gen., Mar. 25, 1931.

**§1933-10. Memorial buildings, etc.**

A village may combine in one building a memorial hall, a fire hall and council room. Op. Atty. Gen., Nov. 27, 1929.

**§1933-17. Transfer of funds for maintenance of band.**—Cities of the second, third and fourth class, villages or boroughs, however organized, may when authorized as herein-after provided, levy each year a tax not to exceed two mills for the purpose of providing a fund for the maintenance or employment of a band for municipal purposes; provided, however, that no such levy by any such municipality shall exceed in any one year the sum of \$10,000.00. Any and all sums so levied shall be separately levied, and when collected shall be paid into a separate, special fund and used for the purposes aforesaid; provided, however, that in the event taxes have been levied and collected for the maintenance or employment of a band for municipal purposes and the band shall have been discontinued or the city or village "by a vote of the people as now provided by law" shall have decided not to employ a band, said city or village council may transfer the said sum so levied and collected as aforesaid to the general fund of said municipality; no such levy shall be made for any such fund when, at the proper time for the making thereof, according to the municipal records of the receipts thereof and disbursements therefrom, there shall be in such fund an unexpended balance amounting to as much as the maximum levy permitted by law therefor, reckoning in such receipts all uncollected but not delinquent taxes, and reckoning in such disbursements all outstanding obligations against such fund. (As amended Apr. 16, 1931, c. 171.)

Tax may be levied in excess of the 2% limit fixed by Mason's St. 1927, §1225. Op. Atty. Gen., July 5, 1929.

Laws 1927, c. 79 [§§1933-17 to 1933-22] repealed G. S. 1923, §§1192, 1367 and 1737, and levy cannot be made without consent of taxpayers. Op. Atty. Gen., Oct. 28, 1929.

Village may contract with existing band association for the giving of public concerts, the form of the contract being in the discretion of the council. Op. Atty. Gen., May 3, 1930.

**§1933-20. Same—Election—Vote required to carry.**

Unmarked ballots must be considered in opposition to band tax. Op. Atty. Gen., Mar. 18, 1929.

**§1933-22. Same—Use of funds.**

Under Sp. Laws, 1891, c. 2, subc. 9, chief of police of Chaska must be a resident of the city. Op. Atty. Gen., Apr. 8, 1929.

Op. Atty. Gen., May 3, 1930.  
Laws 1895, c. 8, §285 [Mason's Minn. St. 1927, §1933-32, note].

This section is controlling over Mason's Minn. St., §§2211-2215, as to a city organized and operating under this act. Op. Atty. Gen., Dec. 26, 1929.

**§1933-23. Civil Service Commission for Firemen created in certain cities.**—There may be created in every city except cities of the first class, and in villages having a population of 2000 inhabitants or more, and having a regularly employed and paid fire department, a firemen's civil service commission with powers and duties as hereinafter provided. (Act Mar. 11, 1929, c. 57, §1.)



Laws 1929, c. 57, held not violative of Const. Art. 4, §§33, 34, 36. 189M352, 230NW830(2).

**§1933-24. Last Federal census to control.**

—In determining the population of any such municipality, the last federal census or the last census taken therein by authority of the State of Minnesota, shall be conclusive as to the population thereof, for the purpose of this act. (Act Mar. 11, 1929, c. 57, §2.)

**§1933-25. City or Village Council to adopt resolution.**—Any city or village in the class mentioned in Section 1 [§1933-24] of this act which may wish to avail itself of the provisions of this act, shall do so by a resolution of its common council, expressly accepting the provisions hereof, which resolution shall be adopted by a vote of a majority of all the members of said council, and be approved by the mayor of such city or the president of such village council, and this act shall not apply to any such city or village until the adoption as aforesaid of such resolution. (Act Mar. 11, 1929, c. 57, §3.)

**§1933-26. Membership—Duties—terms of office.**—Said commission shall consist of three members who shall be citizens of the state and resident of such city or village, and shall be appointed by the council of said city or village, as the case may be, and when first created one commissioner shall be appointed for the term of one year, who shall be president of said commission, one for the term of two years, and one for the term of three years, and all said commissioners shall hold their office until their successors are appointed and qualified. No commissioner shall at the time of his appointment or while serving, hold any other office or employment under the city or village, the United States, the State of Minnesota, or any public corporation or political division thereof, other than the office of notary public. Each commissioner, before entering upon his duties, shall subscribe and file with the city clerk or village recorder, an oath for the faithful discharge of his duties. There shall be appointed each year thereafter by the said council one member of the said commission whose term of office shall be for three years, and each member of said commission shall be president of said commission during the last year of the term for which he is appointed. (Act Mar. 11, 1929, c. 57, §4.)

**§1933-27. Meetings.**—The commission shall first meet immediately after its appointment and thereafter on the first Monday in February of each year at which said meetings it shall select from its members a secretary who shall serve until his successor is elected. The commission shall from time to time fix the times of its meetings, and adopt, amend, and alter rules for its procedure. (Act Mar. 11, 1929, c. 57, §5.)

**§1933-28. Members to serve without pay.**—Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding one hundred dollars per year, as it shall deem commensurate with the additional services rendered by said secretary. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the

performance of its duties and shall furnish said commission with all supplies, stationery and equipment it may require, but all bills and accounts shall be audited and approved by the president and secretary of said commission before being paid by the council. (Act Mar. 11, 1929, c. 57, §6.)

**§1933-29. Powers and duties of Commission.**—The commission shall have absolute control and supervision over the employment, promotion, discharge and suspension of all officers and employees of the fire department of such city or village and these powers shall extend to and include the chief and assistant chief of such, and all inspectors, fire wardens, electricians, engineers, auto mechanics, clerks and other persons exclusively engaged in the fire prevention and protection service in said city or village.

The commission shall immediately after its appointment and organization grade and classify all of said employees of the fire department of said city or village and a service register shall be prepared for the purpose, in which shall be entered, in their classes, the names, ages, compensation, period of past employment and such other facts and data with reference to each employee as the commission may deem useful.

The commission shall keep a second register to be known as the application register in which shall be entered the names and addresses in the order of the date of application of all applicants for examination and the offices, or employments they seek. All applications shall be upon forms prescribed by the commission and shall contain such data and information as the commission shall deem necessary and useful. (Act Mar. 11, 1929, c. 57, §7.)

**§1933-30. Same.**—The commission shall, immediately after its appointment and from time to time thereafter, make, amend, alter and change rules to promote efficiency in the fire department service and to carry out the purposes of this chapter. The rules shall provide among other things, for:

(a) The classification of all offices and employments in the fire department.

(b) Public competitive examinations to test the relative fitness of applicants.

(c) Public advertisement of all examinations at least ten days in advance in a newspaper of general circulation in said city or village and posting said advertisement for ten days in the city or village hall and at each station house.

(d) The creation and maintenance of lists of eligible candidates after successful examination in order of their standing in the examination and without reference to the time of examination. Such lists shall be embraced in an eligible register. The commission may by rule provide for striking any name from the eligible register after it has been two years thereon.

(e) The rejection of candidates or eligibles who, after the entry of their names shall fail to comply with the reasonable rules and requirements of the commission in respect to age, residence, physical condition or other-

wise, or who have been guilty of criminal, infamous, or disgraceful conduct, or of any wilful misrepresentation, deception or fraud in connection with the examination or in connection with their applications for employment.

(f) The certification of the name standing highest on the appropriate list to fill any vacancy.

(g) Temporary employment without examination, with the consent in each case of the commission, in cases of emergency, but no such temporary employment shall continue more than 30 days nor shall successive temporary employments be permitted for the same position.

(h) Promotion based on competitive examination and upon records of efficiency, character, conduct, and seniority.

(i) Suspension with or without pay, for not longer than 60 days and for leave of absence, with or without pay.

(j) Such other rules not inconsistent with the provisions of this act as may from time to time be found necessary to secure the purposes of this act.

Copies of such rules shall be kept posted in a conspicuous place at each fire station house and no rules of general application with reference to employment, promotion, discharge or suspension shall be effective until so posted. (Act Mar. 11, 1929, c. 57, § 8.)

**§1933-31. Removal or discharge—Hearings.**—No officer or employee after six months' continuous employment shall be removed or discharged except for cause, upon written charges and after an opportunity to be heard in his own defense as in this chapter hereinafter provided. Such charges shall be investigated by or before such civil service commission. The findings and decision of such commission shall be forthwith certified to the chief or other appointing or superior officer, and will be forthwith enforced by such officer. Nothing in this act shall limit the power of any officer to suspend a subordinate for a reasonable period not exceeding 60 days for the purpose of discipline, or pending investigation of charges when he deems such suspension advisable. (Act Mar. 11, 1929, c. 57, § 9.)

**§1933-32. Commission to grade employees.**—The commission shall ascertain the duties of each office, position and employment in the fire protection service of such city or village, and designate by rule as well as may be practicable the grade of each office, employment or position. The commission shall prescribe standards of fitness and efficiency for each office, position and employment and for each grade, and adapt its examinations thereto. (Act Mar. 11, 1929, c. 57, § 10.)

**§1933-33. Examinations—Examiners.**—All examinations shall be impartial, fair and practical and designed only to test the relative qualifications and fitness of applicants to discharge the duties of the particular employment which they seek to fill. No question in any examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for positions of

trust and responsibility shall be specially examined as to moral character, sobriety and integrity, and all applicants for positions requiring special experience, skill or faithfulness shall be specially examined in respect to those qualities. It shall be the duty of the chief of the fire department and of every employee to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. The members of the commission collectively or individually may act as examiners or assistant examiners. (Act Mar. 11, 1929, c. 57, § 11.)

**§1933-34. Notice of examinations.**—Notice of the time, place and scope of each examination shall be given by publication and posting as specified in Section 8, and by mailing such notice to each applicant upon the appropriate list of the application register ten days in advance. The names of those found eligible upon examinations after giving credit for character and previous successful experience, shall be entered with their addresses and percentages on the eligible register. No name shall remain upon the eligible register more than two years without a new application and, if the rules of the commission so require, a new examination. When a vacancy has been filled or new appointment made the names selected shall be stricken from the eligible register and transferred to the service register. (Act Mar. 11, 1929, c. 57, § 12.)

**§1933-35. Charges to be filed—Trial.**—Charges of inefficiency or misconduct may be filed with the secretary of the commission by a superior officer or by any member of the commission of his own motion, and thereupon the commission shall try the charges after not less than ten days written notice to the accused. Such notice shall set forth the charges as filed. In the event that the charges are filed by a member of the commission the complaining commissioner shall not sit. The trial of said charges shall be open to the public and each commissioner shall have the power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. The commission shall require by subpoena the attendance of any witness requested by the accused who can be found in the county in which such city or village is located. The commission may make a complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the person accused and require him to obey the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the district court, except that any officer, agent, or employee of said city or village who receives compensation for his services, shall not be entitled to fees or mileage. (Act Mar. 11, 1929, c. 57, § 13.)

**§1933-36. Suspension or removal.**—If after investigation and trial by the civil service commission as herein provided an employee is found guilty of inefficiency, breach of duty, or misconduct, he may be removed, reduced

or suspended and his name may be stricken from the service register. If the board shall determine that the charges are not sustained, the accused, if he has been suspended pending investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension.

Findings and determinations hereunder and orders of suspension, reduction, or removal, shall be in writing and shall be filed within three days after the completion of such hearing with the secretary of the commission and it shall be the duty of the secretary to notify such employee of said decision in writing. Any person suspended, reduced, or removed by the commission after investigation may appeal from the order to the district court by serving written notice thereof upon the secretary within ten days after the filing of said order or the receipt by said employee of written notice of said order as above provided.

Within five days thereafter, the secretary shall certify to the clerk of the district court, the record of the proceedings, including all documents, testimony and minutes. The case shall then be at issue and shall be placed on the calendar by the clerk to be tried before the court without jury at the next general term thereof to be held in the county where said city or village is located at the place nearest said city or village. The question to be determined by the court shall be:

"Upon the evidence was the order of the commission reasonable?" After trial in the district court an appeal may be taken from the decision thereof to the supreme court by the employee or the commission in the same manner as provided for other court cases. (Act Mar. 11, 1929, c. 57, §14.)

**§1933-37. Certain acts to be misdemeanors.**—An applicant for examination, appointment or promotion in the fire prevention service of said city or village who shall, either directly or indirectly, give, render or pay or promote to give, render or pay any money, service or other thing to any person, for or on account of or in connection with his examination, appointment or proposed appointment or promotion shall be guilty of a misdemeanor and shall also be subject to suspension or removal. (Act Mar. 11, 1929, c. 57, §15.)

**§1933-38. Same.**—Any officer or employee of the fire department, when operated under civil service in accordance with the provisions of this chapter, who shall in any manner directly or indirectly solicit, receive or pay, or be in any manner concerned in soliciting, receiving or paying any assessment, subscription or contribution for any party or political purpose shall be guilty of a misdemeanor and shall be subject to suspension or removal. (Act Mar. 11, 1929, c. 57, §16.)

**§1933-39. Same.**—Any person who shall solicit or receive directly, or indirectly, or be in any manner concerned in soliciting or receiving any assessment, contribution, or payment for any political purpose whatever from any officer or employee in a fire department operated under civil service as in this chapter

provided for, shall be guilty of a misdemeanor. (Act Mar. 11, 1929, c. 57, §17.)

**§1933-40. Commission may be abolished.**—Any Firemen's Civil Service Commission hereafter created, pursuant to the provisions of this act, may be discontinued and abolished as follows: A petition signed by twenty-five per cent of the number of legal voters voting at the last general municipal election shall be filed with the governing body of such city or village, and shall request that the following question be submitted to the voters, to-wit: 'Shall the Firemen's Civil Service Commission be abolished?' (Laws 1929, c. 57, §18 which was amended Apr. 13, 1931, c. 152, §1.)

**§1933-41. Elections.**—When such petition is filed, the governing body of such city or village shall cause said question to be submitted to the voters at the first following general municipal election.

Such commission shall be deemed to be abolished if two-thirds of the votes cast in said election be in favor of such abolishment; and the status of the fire department and all of the employees thereof shall thereafter be deemed to be the same as if said commission had not been created. (Laws 1929, c. 57, §19 which was amended Apr. 13, 1931, c. 152, §2.)

**§1933-42. Municipalities may pass zoning ordinance.**—That for the purpose of promoting health, safety, order, convenience, prosperity, and general welfare, any city of the second, third or fourth class or any village in this state, acting by or through its governing body, may by ordinance regulate the location, size, use and height of buildings, the arrangement of buildings on lots, and the density of population within such city or village; may make different regulations for different districts thereof; and may acquire or prepare and adopt a comprehensive plan for the future physical development and improvement of such city or village, in accordance with the regulations made as aforesaid, and may thereafter alter said regulations or plan, such alterations, however, to be made only by a two-thirds vote of all the members of the governing body of such city or village. Provided, that the provisions of this Act shall not be made effective by the governing body of any such municipality until the proposition of the enactment of such regulation shall be first submitted to a vote of the legal voters of such municipality at a general election in such municipality or at a special election called for the purpose of passing upon the proposition when if a majority of the electors voting at such election shall vote in favor thereof the governing body may proceed to carry out the regulations authorized by this Act, but not otherwise. (Act Apr. 12, 1929, c. 176, §1.)

City of Mankato may regulate so-called "automobile graveyards" by passing of zoning ordinance. Op. Atty. Gen., Jan. 30, 1930.

A proposal under this act may be submitted at a special election called for that purpose to be held on the same date as the state-wide primary election. Op. Atty. Gen., May 23, 1930.

Where city charter gave city council power to adopt a zoning ordinance, it was not neces-

sary to again submit the matter to the voters under this section. Op. Atty. Gen., Feb. 18, 1931.

**§1933-43. May enforce regulations.**—The governing body of any such city or village is hereby authorized to pass ordinances for the enforcement of the provisions of this act and of the regulations of the governing body under this act, and to provide, in and by such ordinances, penalties for the violation thereof. Such governing body is also hereby authorized to enforce its regulations under this act by mandamus, injunction, or any other appropriate remedy in any court having jurisdiction thereof. (Act Apr. 12, 1929, c. 176, §2.)

**§1933-44. To be construed as additional to existing laws.**—In any such city or village having a planning commission, the provisions of this act shall be construed as an addition to existing powers and not as an amendment to or a repeal thereof, and the governing body may adopt a plan or plans prepared by such planning commission. (Act Apr. 12, 1929, c. 176, §3.)

**§1933-45. Application.**—This act shall also apply to cities operating under home rule charters adopted pursuant to Section 36, Article 4, of the State Constitution, but shall not modify, limit or affect in any way the power to enact planning and zoning regulations contained in any such charter in the manner prescribed therein. (Laws 1929, c. 176, §4, as amended Apr. 15, 1931, c. 163.)

**§1933-46. Cities and villages may levy taxes for advertising purposes.**—That the governing body of any village, borough, or city of the fourth class may, when authorized by the electors thereof as hereinafter provided, annually levy a tax of not to exceed one-half mill on all the taxable property within such village, borough or city, but in no event shall more than \$1,000.00 be raised in any one year for the purpose of advertising the said village, borough or city and its resources and advantages. Such tax shall be levied in the same manner and at the same time as taxes for other municipal purposes are levied, and shall be collected in the same manner. The proceeds of such tax shall be used only for the purpose of advertising such village, borough or city and its resources and advantages; provided, however, that the annual expenditure for such purposes by any such village, borough or city is hereby limited to the sum of \$1,000.00, provided, however, nothing in this act shall permit the levy of any tax in excess of the amount authorized by Chapter 417, General Laws, 1921 [§§2061 to 2066]. (Act Apr. 20, 1929, c. 276, §1.)

**§1933-47. To be voted on by city or village.**—Such governing body may by resolution adopted at least 20 days before any general village, borough or city election provide for submitting to the voters at such election, to be voted upon by ballot, the question of levying a tax as provided in Section 1 [§1933-46] hereof. If a majority of the votes cast on the question be in favor of the proposition, the same shall be deemed carried, and the governing body may levy such tax annually for two successive years. No such tax shall be levied thereafter unless again authorized

by the electors as herein provided. (Act Apr. 20, 1929, c. 276, §2.)

**§1933-48. Cities and villages may create police civil service commission.**—There may be created in every village or city, except a city of the first class, of this state, by a four-fifths vote of the governing body thereof a police civil service commission with powers and duties as hereinafter provided. (Act Apr. 23, 1929, c. 299, §1.)

This act did not affect the general power of supervision of the Mayor of Eveleth over the police department. Op. Atty. Gen., Nov. 25, 1930.

A commission created by resolution cannot be abolished by vote of the electors. Op. Atty. Gen., Jan. 21, 1931.

A city council wishing to create a police civil service commission may proceed either by ordinance or by resolution. Op. Atty. Gen., Jan. 21, 1931.

An ordinance creating a police civil service commission cannot provide that it may be repealed and the commission abolished by a repealing ordinance or by a vote of the electors. Op. Atty. Gen., Jan. 21, 1931.

**§1933-49. Membership — Appointment — Oath.**—Said commission shall consist of three members who shall be citizens of the state and residents of such city or village, and shall be appointed by the mayor or president of said city or village, as the case may be, and the appointment of each of said commissioners, to be confirmed by a majority vote of the governing body thereof, and when first created one commissioner shall be appointed for the term of one year, who shall be president of said commission, one for the term of two years, and one for the term of three years, and all said commissioners shall hold their office until their successors are appointed and qualified. No commissioner shall at the time of his appointment or while serving hold any other office or employment under the city or village, the United States, the State of Minnesota, or any public corporation or political division thereof, other than the office of Notary Public. Each commissioner, before entering upon his duties, shall subscribe and file with the city clerk or village recorder an oath for the faithful discharge of his duties. There shall be appointed each year thereafter by the said mayor or president one member of the said commission whose term of office shall be for three years, and each member of said commission shall be president of said commission during the last year of the term for which he is appointed. (Act Apr. 23, 1929, c. 299, §2.)

**§1933-50. Meeting.**—The commission shall first meet immediately after its appointment and thereafter on the first Monday in February of each year at which said meetings it shall select from its members a secretary who shall serve until his successor is elected. The commission shall from time to time fix the times of its meetings, and adopt, amend, and alter rules for its procedure. (Act Apr. 23, 1929, c. 299, §3.)

**§1933-51. Commissioners to serve without pay.**—Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding \$100.00 per year, as it shall deem commensurate with the additional service rendered by said sec-

retary. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the performance of its duties and shall furnish said commission with all supplies, stationery and equipment it may require, but all bills and accounts shall be audited and approved by the president and secretary of said commission before being paid by the council. (Act Apr. 23, 1929, c. 299, §4.)

**§1933-52. Duties of commission.**—The commission shall have absolute control and supervision over the employment, promotion, discharge and suspension of all officers and employees of the police department of such city or village and these powers shall extend to and include all members of the police department.

The commission shall immediately after its appointment and organization grade and classify all of said employees of the police department of said city or village and a service register shall be prepared for the purpose, in which shall be entered, in their classes, the names, ages, compensation, period of past employment and such other facts and data with reference to each employee as the commission may deem useful.

The commission shall keep a second register to be known as the application register in which shall be entered the names and addresses in the order of the date of application of all applicants for examination and the offices or employments they seek. All applications shall be upon forms prescribed by the commission and shall contain such data and information as the commission shall deem necessary and useful. (Act Apr. 23, 1929, c. 299, §5.)

**§1933-53. May make rules for police department.**—The commission shall, immediately after its appointment and from time to time thereafter, make, amend, alter and change rules to promote efficiency in the police department service and to carry out the purposes of this chapter. The rules shall provide among other things for:

(a) The classification of all offices and employments in the police department.

(b) Public competitive examinations to test the relative fitness of applicants.

(c) Public advertisements of all examinations at least ten days in advance in a newspaper of general circulation in said city or village and posting said advertisement for ten days in the village or city hall and at each station house.

(d) The creation and maintenance of lists of eligible candidates after successful examination in order of their standing in the examination and without reference to the time of examination. Such lists shall be embraced in an eligible register. The commission may by rule provide for striking any name from the eligible register after it has been two years thereon.

(e) The rejection of candidates or eligibles who, after the entry of their names, shall fail to comply with the reasonable rules and requirements of the commission in respect to age, residence, physical condition or otherwise, or who have been guilty of criminal,

infamous, or disgraceful conduct, or of any wilful misrepresentation, deception or fraud in connection with their applications for employment.

(f) The certification of the name standing highest on the appropriate list to fill any vacancy.

(g) Temporary employment without examination, with the consent in each case of the commission, in cases of emergency but no such temporary employment shall continue more than 30 days nor shall successive temporary employments be permitted for the same position.

(h) Promotion based on competitive examination and upon records of efficiency, character, conduct, and seniority.

(i) Suspension with or without pay for not longer than 60 days and for leave of absence, with or without pay.

(j) Such other rules not inconsistent with the provisions of this act as may from time to time be found necessary to secure the purposes of this act.

Copies of such rules shall be kept posted in conspicuous place at each police station house and no rules of general application with reference to employment, promotion, discharge or suspension shall be effective until so posted. (Act Apr. 23, 1929, c. 299, §6.)

**§1933-54. Officers discharged only after hearing.**—No officer or employee after six months' continuous employment shall be removed or discharged except for cause upon written charges and after an opportunity to be heard in his own defense as in this chapter hereinafter provided. Such charges shall be investigated by or before such civil service commission. The finding and decision of such commission shall be forthwith certified to the chief or other appointed or superior officer, and will be forthwith enforced by such officer. Nothing in this act shall limit the power of any officer to suspend a subordinate for a reasonable period not exceeding 60 days for the purpose of discipline, or pending investigation of charges when he deems such suspension advisable. (Act Apr. 23, 1929, c. 299, §7.)

Police civil service commission could, at any time within six months after it was created, discharge an employe without cause even though such employe may have been employed by the department for more than six months prior to the creation of the commission. Op. Atty. Gen., May 23, 1931.

**§1933-55. Commission to make rules and prescribe standards.**—The commission shall ascertain the duties of each office, position and employment in the police protection service of such city or village, and designate by rule as well as may be practicable the grade of each office, employment or position. The commission shall prescribe standards of fitness and efficiency for each office, position, and employment and for each grade, and adapt its examination thereto. (Act Apr. 23, 1929, c. 299, §8.)

**§1933-56. Examinations.**—All examinations shall be impartial, fair and practical and designed only to test the relative qualifications and fitness of applicants to discharge the

duties of the particular employment which they seek to fill. No question in any examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for positions of trust and responsibility shall be specially examined as to moral character, sobriety and integrity, and all applicants for position requiring special experience, skill or faithfulness shall be specially examined in respect to those qualities. It shall be the duty of the chief of the police department and of every employee to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. The members of the commission collectively or individually may act as examiners or assistant examiners. (Act Apr. 23, 1929, c. 299, §9.)

**§1933-57. Notice of examinations.**—Notice of the time, place and scope of each examination shall be given by publication and posting as specified in Section 6 [§1933-53], and by mailing such notice to each applicant upon the appropriate list of the application register ten days in advance. The names of those found eligible upon examination, after giving credit for character and previous successful experience, shall be entered with their address and percentages on the eligible register. No name shall remain upon the eligible register more than two years without a new application, and, if the rules of the commission so require, a new examination. When a vacancy has been filled or new appointment made, the names selected shall be stricken from the eligible register and transferred to the service register. (Act Apr. 23, 1929, c. 299, §10.)

**§1933-58. Charges to be filed with Secretary of commission.**—Charges of inefficiency or misconduct may be filed with the secretary of the commission by a superior officer or by any member of the commission of his own motion, and thereupon the commission shall try the charges after no less than ten days' written notice to the accused. Such notice shall set forth the charges as filed. In the event that the charges are filed by a member of the commission the complaining commissioner shall not sit. The trial of said charges shall be open to the public and each commissioner shall have the power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. The commission shall require by subpoena the attendance of any witness requested by the accused who can be found in the county in which such city or village is located. The commission may make complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the person accused and require him to obey the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the District Court, except that any officer, agent, or employee of said city or village who receives compensation for his services, shall not be entitled to fees or mileage. (Act Apr. 23, 1929, c. 299, §11.)

**§1933-59. Suspension and removal—Reinstatement.**—If, after investigation and trial by civil service commission as herein provided, an employee is found guilty of inefficiency, breach of duty, or misconduct, he may be removed, reduced, or suspended and his name may be stricken from the service register. If the board shall determine that the charges are not sustained, the accused, if he has been suspended pending investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension.

Findings and determinations hereunder and orders of suspension, reduction, or removal, shall be in writing and shall be filed within three days after the completion of such hearing with the secretary of the commission and it shall be the duty of the secretary to notify such employee of said decision in writing. Any person suspended, reduced, or removed by the commission after investigation may appeal from the order to the district court by serving written notice thereof upon the secretary within ten days after the filing of said order or the receipt by said employee of written notice of said order as above provided.

Within five days thereafter, the secretary shall certify to the clerk of the district court, the record of the proceedings, including all documents, testimony and minutes. The case shall then be at issue and shall be placed on the calendar by the clerk to be tried before the court without jury at the next general term thereof to be held in the county where said city or village is located at the place nearest said city or village. The question to be determined by the court shall be:

"Upon the evidence, was the order of the commission reasonable?" After trial in the district court an appeal may be taken from the decision thereof to the supreme court by the employee or the commission in the same manner as provided for other court cases. (Act Apr. 23, 1929, c. 299, §12.)

**§1933-60. Certain acts a misdemeanor.**—An applicant for examination, appointment or promotion in the police department service of said city or village who shall, either directly or indirectly, give, render or pay or promise to give, render, or pay any money, service or other thing to any person, for or on account of or in connection with his examination, appointment or proposed appointment or promotion shall be guilty of a misdemeanor and shall also be subject to suspension or removal. (Act Apr. 23, 1929, c. 299, §13.)

**§1933-61. Certain acts a misdemeanor.**—Any officer or employee of the police department, when operating under civil service in accordance with the provisions of this chapter, who shall in any manner directly or indirectly solicit, receive or pay, or be in any manner concerned in soliciting, receiving or paying, any assessment, subscription or contribution for any party or political purpose, shall be guilty of a misdemeanor and shall be subject to suspension or removal. (Act Apr. 23, 1929, c. 299, §14.)

**§1933-62. Certain acts a misdemeanor.**—Any person who shall solicit or receive directly or indirectly, or be in any manner concerned in soliciting or receiving any assessment, contribution, or payment for any political purpose whatever from any officer or em-

ployee in a police department operated under civil service as in this chapter provided for, shall be guilty of a misdemeanor. (Act Apr. 23, 1929, c. 299, §15.)

**§1933-63. Commission to be vested with powers in certain cases.**—Whenever any city or village has a civil service commission, the council may provide that such commission be vested with the powers and duties of the police civil service commission, as set forth herein. (Act Apr. 23, 1929, c. 299, §16.)

**§1933-64. Villages and townships may cooperate in support of cemeteries.**—Where a village or township owns and maintains an established cemetery or burial ground, either within or without the municipal limits, said village or township may by mutual agreement with contiguous villages and townships each having an assessed valuation of not less than \$1,000,000.00, join together in the maintenance of such public cemetery or burial ground for the use of the inhabitants of each

of such municipalities; and each such municipality is hereby authorized by action of its council or governing body to levy a tax or make an appropriation for the support and maintenance of such cemetery or burial ground, provided, the amount thus levied or appropriated by each municipality shall not exceed a total of \$1,000.00 in any one year. (Act Apr. 20, 1931, c. 262, §1.)

**§1933-65. Limit to appropriations.**—Such appropriation by each municipality shall not exceed the per capita amount paid by any other municipality sharing therein, based on the populations of the respective units; provided, also, that any arrangement hereunder shall not alter the management, control of ownership of any cemetery. (Act Apr. 20, 1931, c. 262, §2.)

#### INCORPORATION ACT FOR CITIES ACT OF 1870 AS AMENDED

There is no statute regarding depositaries which is applicable to the City of Marshall. Op. Atty. Gen., June 18, 1931.

## CHAPTER 10

### Public Indebtedness

#### §1935. Net indebtedness defined.

174M509, 219NW872.

Finding of nonpayment of certain school district warrants sustained and considered decisive of case. 173M94, 216NW789.

Holder of warrants held entitled to recover from district though treasurer was managing officer of bank and cashed the warrants with funds of bank and sold them as property of the bank. 175M166, 220NW428.

Purchaser of school warrants from bank was entitled to collect from district, where bank cashed warrants through its managing officer who was treasurer of school district and charged them to bills receivable and not to treasurer's account. 177M30, 224NW51.

#### §1936. Assessed value defined.

The definition of "assessed valuation" given by this section does not apply to the determination of the limit of tax levy of a city. Op. Atty. Gen., July 3, 1930. Feb. 6, 1930.

#### §1937. Charter powers not modified.

Jackson City Charter, §7, is modified by state statutes to the extent that mayor and clerk may sign warrants on library funds without approval of the city council where claim is allowed by the library board. Op. Atty. Gen., May 6, 1931.

#### §1938. Limit of debt—Excess void.

#### §1938-3. Obligations of cities, etc.

175M201, 220NW606.

This act [§§1938-3 to 1938-13] does not repeal §§1593 to 1600, and does not govern Minneapolis. 174M509, 219NW872.

#### §1938-4. Same—Amount of limitation, etc.

Minneapolis comes within the operation of §§1593 to 1600 and not this section. 174M509, 219NW872.

#### §1938-5. Same—Obligations—Maturity.

Bonds may be made to mature semi-annually. Op. Atty. Gen., July 16, 1929.

#### §1938-6. Same—Obligations—Etc.

This act impliedly amends Laws 1921, c. 117, and bonds issued under the 1921 Law are obligations subject to the provisions of this act and a vote of electors upon the issuance of such bonds is required. Op. Atty. Gen., May 22, 1931.

#### §1938-7. Same—Tax levy for payment of obligations.

A village may only issue orders to the extent that it has cash available to pay the same, adding thereto the amount of taxes for the current year uncollected but in the process of collection. Op. Atty. Gen., April 4, 1931.

#### §1938-11. Same—Bond issue.

Village cannot pay a premium for the privilege of retiring its own bonds, but may invest a sinking fund in its own bonds at the market value. Op. Atty. Gen., Feb. 17, 1930.

Laws 1929, c. 25, amending Mason's Statutes, §1949, did not have the effect of repealing or superseding this section, and a school district may invest its sinking fund in warrants issued by a municipality having a definite maturity date. Op. Atty. Gen., Feb. 23, 1931.

#### §1938-13. Same—Laws repealed—Effective

Laws 1927, c. 131 [§§1938-3 to 1938-13], did not repeal Laws 1923, c. 21 [§§1593 to 1600], and the city of Minneapolis does not come within the operation of said Laws 1927, c. 131. 174M509, 219NW872.

**§1938-16. Expenditures limited.**—The governing body of each village heretofore or hereafter issuing bonds pursuant to the provisions of Chapter 331, General Laws, 1927, [§§1946-3 to 1946-12] shall annually at its first meeting in each fiscal year determine the amount of funds which will be available during the current year for all and each of its public purposes, from the proceeds of the tax levy lawfully made therefor in the preceding year and from state aid and from other sources known or reasonably anticipated to be