

1934 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1934)
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



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PENAL PROVISIONS

582. Bribery before or at elections.

Evidence held to sustain finding that defendant promised public employment in order to aid and promote his election. 173M512, 217NW935.

Whether an article upon which campaign literature is printed is a thing of value is not determined by the cost of producing the article but its value to the recipient for the purpose intended. Op. Atty. Gen., Mar. 7, 1930.

An offer to serve for less than the legal salary made by a candidate for office in the course of his campaign for election is a violation of this statute, but one already an officer may accept a reduction in salary. Op. Atty. Gen., Jan. 29, 1932.

Voluntary acceptance of reduced salaries by public officials applies to township officers. Op. Atty. Gen., Mar. 4, 1932.

Whether or not a tire cover is a "thing of value" is a question of fact depending upon material of which

constructed and use to which it can be put. Op. Atty. Gen., Mar. 8, 1933.

Agreement by elective official to accept voluntary reduction in salary is not illegal unless made with intent to influence voters at future election. Op. Atty. Gen., Mar. 20, 1933.

While candidates for county elective offices may not accept reduction in pay to influence election, county elective officers may, after election, voluntarily accept a pay reduction, if such reduction is not accepted with intent to influence voters at a subsequent election. Op. Atty. Gen., Mar. 22, 1933.

Acceptance of cut in salary pursuant to resolution of county board would not be violation of corrupt practice act or this section. Op. Atty. Gen., July 27, 1933.

591. Defamatory circulars, etc.

Although defamatory of supporters of a candidate, a campaign document held not defamatory of candidate himself and so no violation of Corrupt Practices Act. Dart v. E., 248NW706. See Dun. Dig. 2993f.

CHAPTER 7

Counties and County Officers

CHANGE OF BOUNDARIES

615-1. Center line of highway to be boundary in certain cases.—Where a city of the fourth class is situated in one county and such city adjoins a city of the first class in another county and where a highway runs along the boundary line between said cities and the boundary line between said counties and where the center line of the said highway deviates from the boundary line between said cities and counties, but the boundary line between said cities and counties is within or on the lateral limits of said highway, then the center line of the highway between such cities and such counties shall be established as the boundary line between said city of the fourth class and said city of the first class and as the boundary line between the counties in which such cities are situated. (Act Apr. 13, 1933, c. 230.)

CHANGING COUNTY SEATS

625. Petition for change.

175M486, 221NW870; note under §626.

626. Form of notice.

Giving of notice of intention to circulate a petition is jurisdictional, but proof of the notice may be filed with the county auditor later and before he gives notice of calling of a special meeting to consider the petition. 175M486, 221NW870.

174M397, 219NW458; note under §627.

627. Duties of county board.

Voters who first give notice of intention to circulate a petition have the exclusive right of way over any other petition. 174M397, 219NW458.

631. Conduct of election.

Laws 1929, c. 198, post, §401-1, did not charge time of opening and closing polls under this section. Op. Atty. Gen.

CONSOLIDATION OF COUNTIES

637-1. Two or more counties may consolidate.—Two or more counties may be consolidated into a single county in the manner hereinafter provided. (Act Apr. 15, 1933, c. 273, §1.)

637-2. Petition.—A petition for each county to be affected thereby, signed by voters thereof equal in number to at least one-fourth of those voting in such county at the last preceding biennial election, giving the residence of each signer, shall be filed with the secretary of state not less than 90 days before any general election, praying for the consolidation of the counties therein named, specifying the name of the proposed new county and the name and location of the proposed county seat. (Act Apr. 15, 1933, c. 273, §2.)

637-3. Governor to issue proclamation.—If it appears that each petition is signed by the requisite number of persons who are voters in each of the counties affected, of which latter fact the affidavits

of persons procuring the signatures thereto shall be prima facie evidence, and if said petition otherwise conforms to the requirements of Section 2, the secretary of state shall notify the governor of the filing thereof, who, not less than 60 days before such general election, shall issue his proclamation reciting that such petitions have been so filed, the substance thereof, and directing that the question of such consolidation shall be submitted to the voters of the respective counties to be affected thereby at such election. (Act Apr. 15, 1933, c. 273, §3.)

637-4. Secretary of State to give notice.—Upon the issuing of such proclamation, the secretary of state shall record the petitions, affidavits and proclamation, and shall cause three weeks' published notice of such proclamation to be given in the county seat of each county affected thereby, and shall transmit a certified copy of such proclamation by mail to the auditor of each county. (Act Apr. 15, 1933, c. 273, §4.)

637-5. Notice of election.—The notice of such general election shall specify that the question of consolidating said counties will be voted upon at such election and shall state substantially the facts set forth in said petition. The ballots upon such proposition shall have printed thereon the words

"Shall the following named counties (inserting names) be consolidated into a single county?

Yes.....

No....."

Act Apr. 15, 1933, c. 273, §5.)

637-6. Judges—canvass of votes.—The judges of election, in addition to the returns required in other cases, shall canvass, count, certify and return, as in such other cases, to the county auditor the votes cast upon the proposition, and the county canvassing board shall canvass and make return of said votes as in the case of votes for state officers, which return shall show the result of such vote for and against the proposition so submitted. (Act Apr. 15, 1933, c. 273, §6.)

637-7. State canvassing board to canvass returns.—The state canvassing board shall canvass such returns at the time of canvassing the votes cast for state officers, and in the same manner. When such canvass is completed such board shall make and file with the secretary of state its certificate declaring the result of such vote, showing the number of votes cast in each county for and against consolidation. If 60 per cent of the votes cast thereon in each county affected by such proposed consolidation be in favor thereof, the secretary of state shall record such certificate and shall deliver a certified copy thereof to the governor, who shall issue a proclamation declaring such result. Upon the issuance of such proclamation by the gov-

ernor, the said consolidation shall become effective and operative on the second first day of January following such general election. (Act Apr. 15, 1933, c. 273, §7.)

637-8. Governor to appoint first county board.—

The governor shall, within 60 days after issuing such proclamation, appoint 5 qualified electors residing within the territory of such consolidated county to constitute the first board of county commissioners for said new county, who shall qualify as provided by law. The several officers of each county so affected shall continue in office until said consolidation proceedings become effective, as hereinbefore provided, with all the powers and duties of their respective offices, except as hereinafter provided. (Act Apr. 15, 1933, c. 273, §8.)

637-9. Meeting of board.—The board of county commissioners for said new county shall meet at the county seat at a time designated in the order of the governor appointing them, and shall elect one of their number as chairman of said board. The county auditor of the county in which the county seat is located shall act for and be the recording officer of said board until the consolidation proceedings become effective. At such meeting or at any adjournment thereof the said board shall divide the new county into commissioner districts by an order defining the boundaries of each district, which order shall be filed with the county auditor of each county affected. (Act Apr. 15, 1933, c. 273, §9.)

637-10. Duties of county board.—Said board of county commissioners shall meet at a time in July to be fixed by it and shall levy a tax for such new county in the manner now provided by law for levying taxes for county purposes, and the chairman thereof shall certify to the respective county auditors of the counties affected thereby the amount so levied, and the county boards of the respective counties so to be consolidated shall not in such year levy any tax for county purposes. (Act Apr. 15, 1933, c. 273, §10.)

637-11. County Auditors to meet.—At the time of levying said tax the said county board shall fix a time for a meeting of the county auditors of the several counties affected and shall certify such date to the several county auditors at the time of certifying the levy. At the time specified the said county auditors shall meet at the county seat and shall at such meeting or any adjournment thereof ascertain and determine the rate of taxation for such new county, based upon the aggregate assessed valuation of said consolidated counties, and each of said auditors shall severally extend such taxes within their respective counties in the manner provided by law and shall, on the first Monday in January following, deliver the appropriate books to the county treasurer of the new county for collection as provided by law. The several officers of the new county shall have all the powers and be subject to all the duties in reference to the collection of delinquent taxes levied by the consolidated counties as would have been possessed and performed by the several officers of the respective counties had no consolidation been affected. (Act Apr. 15, 1933, c. 273, §11.)

637-12. County board to appoint new officers.—

The county board of the new county shall, prior to the date on which the consolidation becomes effective as hereinbefore provided, appoint electors residing within such new county to the several county offices thereof, who shall qualify on the date that such consolidation becomes effective, in the manner now provided by law therefor. All the books, records and files of the several offices of the consolidated counties shall be delivered to the appropriate officers of the new county. (Act Apr. 15, 1933, c. 273, §12.)

637-13. County board to provide for court house.—The county board of such new county shall, on or before the date that such consolidation becomes

effective, make appropriate arrangements for suitable officers for the several county officers. If such county is not going to succeed, as hereinafter provided, to any building or buildings appropriate for such purpose, said board is authorized to lease suitable space or buildings. (Act Apr. 15, 1933, c. 273, §13.)

637-14. Title of properties of all counties to become vested in new county.—Upon the consolidation becoming effective, the new county shall become vested with the title to all real and personal property, other than moneys in cash or on deposit, of the consolidated counties. The territory embraced within the several consolidated counties shall remain liable for all indebtedness of the respective counties outstanding and unpaid at the time such consolidation becomes effective. Any moneys on hand, in cash or on deposit, at said time and the proceeds of any tax levied by the respective counties, when and as collected, shall be applied on said indebtedness. The appropriate officers of the new county shall from time to time levy such tax as may be necessary to provide funds for the payment of such indebtedness as it becomes due, which tax shall be spread against the taxable property liable therefor. Said new county shall have authority to enforce any contract and to collect any claims of the several consolidated counties, by suit or otherwise. (Act Apr. 15, 1933, c. 273, §14.)

637-15. May issue certificates of indebtedness.—At any time after the board has made the original tax levy for such new county and certified the same to the respective auditors as hereinbefore provided, it may issue the certificates of indebtedness of such new county in anticipation of the collection of such levy, which certificate shall be in writing, shall be signed by the chairman and attested by the recording officer of the board, shall mature not later than December 1 following the effective date of such consolidation, and shall not bear interest at a rate greater than 6% per annum. (Act Apr. 15, 1933, c. 273, §15.)

POWERS AND DUTIES

638. Powers.

County is without power to appropriate money to pay expense of an association in prosecuting an action to determine validity of Laws 1929, c. 265, post, §§3036-10 to 3036-16, relating to public schools. Op. Atty. Gen., Jan. 4, 1930.

Where conveyance of mortgaged land was made to trustees for county in settlement of claim of county against insolvent depository bank, the county had power to pay off the mortgage. Op. Atty. Gen., Feb. 10, 1930.

County board had authority, on failure of a bank in which county funds were deposited to accept certificates of deposit to permit the bank to reopen, and to assume a mortgage to the bank in consideration of conveyance of mortgaged land to county. 180M423, 230NW891.

(3). One selling clay to a member of board of county commissioners who used it for improving a highway was entitled to recover in quasi contract an amount equal to the benefit that the county received, though the transaction was invalid but in good faith. *Wakely v. C.*, 184M 613, 240NW103. See Dun. Dig. 4303.

(4). County, employing architects at 2½ per cent commission when proposals were opened, and 2½ per cent from time to time as payments were made on contracts, was only liable to the architects for 2½ per cent where the work was abandoned and years later it was determined to construct a different kind of building on a different site at which time other architects were employed. Op. Atty. Gen., Aug. 4, 1931.

High bidder on county work may not be allowed to reduce his bid below that of another so as to entitle him to contract. Op. Atty. Gen., May 1, 1933.

Counties and other municipalities can legally sell bonds to federal government under National Industrial Recovery Act. Op. Atty. Gen., Aug. 15, 1933.

641. Powers, how exercised.

Where bank assigns mortgages to county for security of deposits, reassignments are to be paid by county board. Op. Atty. Gen., Aug. 11, 1933.

643. County buildings.

Finding that county board intended to enter into contract for construction of new courthouse pursuant to plans and specifications prepared by architect, held to mean to contract for construction of exterior of build-

ing and finishing immediately of quarters therein for which construction sufficient funds were available. *Linster v. L.*, 186M386, 243NW395. See *Dun. Dig.* 2387a.

It was for board, and not court to determine whether destroyed courthouse should be restored, or remains thereof razed and new building be erected in its place. As long as board had funds available for construction intended, it was within law. *Linster v. L.*, 186M386, 243NW395. See *Dun. Dig.* 2242a.

Finding that county board in attempting to wreck and raze old courthouse, destroyed by fire, and to rebuild, acted arbitrarily and without authority of law, held not sustained by evidence. *Linster v. L.*, 186M386, 243NW395.

643-1. Cities of first class and county may build court house.—Any county in this state now or hereafter having within its limits a city of the first class may together with such city jointly acquire land for, erect, equip, furnish, maintain and operate a joint court house and city hall building to be used jointly by such county and city. (Act. Apr. 26, 1929, c. 397, §1.)

643-2. City and county to divide expense.—The cost and expense of acquiring land for, erecting, equipping and furnishing such building shall be borne equally by such county and such city. Such building shall not be erected or contracted to be erected and no land acquired therefor and no bonds shall be issued or sold by the county as hereinafter provided until the city has been authorized to issue bonds to defray its proportion of the cost of such land and building and the ordinances providing for the issuance of such bonds have been ratified by the vote of the electors of such city in the manner provided in the Charter of such city or by the laws of the State of Minnesota. (Act Apr. 26, 1929, c. 397, §2.)

643-3. County board to issue bonds.—At any time after such city shall have been so authorized to issue bonds to defray its part of the cost of acquiring a site and of erecting said city hall and court house building, the Board of County Commissioners of any such county may issue and sell certificates of indebtedness or bonds of such county to defray the county's portion of the cost of acquiring land for, erecting, equipping and furnishing such building in an amount equal to the amount of bonds authorized to be issued by such city, without submission to the vote of the electors of such county, and the full faith and credit of the county shall be pledged to the payment of the principal and interest of such certificates of indebtedness or bonds; provided, however, that in no event shall any such county issue its certificates of indebtedness or bonds for such purpose in an amount exceeding \$2,000,000. Such certificates of indebtedness or bonds may be issued in one or more installments, but the certificates of indebtedness, or bonds of each installment shall be serial bonds or certificates of indebtedness, a portion of which shall be payable each year after issue, but none of said certificates of indebtedness or bonds shall run for a longer term than 3 years from their date, and the Board of County Commissioners shall fix the denominations thereof and shall fix the dates of maturity of each installment so that the amounts necessary each year to pay the principal and interest maturing in such year, shall be approximately the same in each of the years during which the certificates of indebtedness or bonds of said installment shall run. Such certificates of indebtedness or bonds shall be sold in accordance with the provisions of Section 1943, General Statutes 1923, provided, however, that the rate of interest shall in no case exceed six per centum per annum. (Act Apr. 26, 1929, c. 397, §3.)

643-4. Execution—Delivery.—Such bonds or certificates of indebtedness shall be executed in such manner as the Board of County Commissioners shall by resolution determine. The delivery of the bonds or certificates of indebtedness so executed at any time thereafter, shall be valid notwithstanding any change in such officers or in the seal of the county occurring after such execution. (Act Apr. 26, 1929, c. 397, §4.)

643-5. Form of bonds and certificates of indebtedness.—Such bonds or certificates of indebtedness may be issued in coupon or registered form, and the Board of County Commissioners shall have authority in its discretion, to provide that bonds or certificates of indebtedness issued in coupon form, shall be exchangeable at the option of the holder for bonds or certificates of indebtedness in registered form, and vice versa, and the Board of County Commissioners shall have authority to cause to be prepared, to effectuate such exchange, new bonds or certificates of indebtedness in coupon or registered form, as the case may be, in such denomination or denominations as it may deem expedient, which shall be executed in such manner as said Board of County Commissioners shall determine. Any bond or certificate of indebtedness issued in exchange for a bond or certificate of indebtedness previously issued under the authority of this section, shall be in such form as the Board of County Commissioners shall determine, but shall bear upon its face a clause or recital indicating that it is issued in substitution for one or more bonds or certificates of indebtedness of the original issue, describing them by number or numbers so as to render possible the identification of such substituted bond or bonds, or certificate or certificates of indebtedness with the bonds or certificates of indebtedness originally issued. The Board of County Commissioners shall have authority to pass such resolutions as may be necessary to carry out the powers hereby conferred, and prescribe such rules and regulations as it may deem expedient for the conversion of the bonds or certificates of indebtedness issued under the provisions of this act. (Act Apr. 26, 1929, c. 397, §5.)

643-6. Tax levy.—The Board of County Commissioners shall levy a tax at the time and in the manner prescribed by Section 5, Chapter 131, General Laws of Minnesota 1927 [§1938-7], and amendments thereof, to pay the principal and interest of such bonds or certificates of indebtedness. This section shall not be construed as limiting the power of a municipality to levy taxes to pay its obligations issued hereunder, but the governing body of every municipality shall have the authority and it shall be its duty to levy any taxes necessary to provide revenue to pay such obligations. (Act Apr. 26, 1929, c. 397, §6.)

643-7. Limitations.—The amount of indebtedness herein authorized to be incurred by any such county shall be in addition to and over and above any limits now fixed by law. (Act Apr. 26, 1929, c. 397, §7.)

643-8. Judges to appoint building commission.—As soon as practicable after the Council of any such city and the Board of County Commissioners of any such county shall determine to proceed with the erection of a joint court house and city hall building, there shall be appointed by, and serve at the pleasure of, those persons who shall be judges of the district court of the judicial district of which such county may be a part (not acting in their judicial capacities), an Advisory Court House and City Hall Building Commission of nine members to be selected as follows: two members from the membership of the City Council of such city; two members from the membership of the Board of County Commissioners of such county; and five members at large who shall be freeholders and residents of such county, one of whom shall reside outside the limits of such city. (Act Apr. 26, 1929, c. 397, §8.)

643-9. Procedure if judges fail to appoint.—If the said persons who shall be judges of the district court for any reason shall fail to make appointments to said Advisory Court House and City Hall Building Commission within 30 days after the City Council of any city and the Board of County Commissioners of any such county have determined to proceed with the erection of any such court house and city hall build-

ing, then such Advisory Court House and City Hall Building Commission consisting of nine members shall in such case be appointed as follows: four members to be appointed by the City Council of such city, two of which members shall be members of such City Council; four members to be appointed by the Board of County Commissioners of such county, two of which members shall be members of said Board of County Commissioners; the ninth member of said Commission shall be appointed by a majority vote of the members of said City Council and said Board of County Commissioners sitting in joint session. (Act Apr. 26, 1929, c. 397, §9.)

643-10. Who may be members of commission.—No more than two members of said Advisory Court House and City Hall Building Commission shall be at any one time members of the Board of County Commissioners, and no more than two of such members shall be at any one time members of the Council, and in the event that any person appointed a member of said Commission who was not at the time of his appointment a member of either the City Council or Board of County Commissioners and shall subsequently become a member of either of said bodies, he shall thereupon cease to be a member of said Advisory Court House and City Hall Building Commission.

Immediately after the appointment of said Commission, the persons appointed as members thereof shall indicate their acceptance of their appointment in writing filed with the county auditor of said county.

In case any person appointed as a member of said Commission shall fail so to file his written acceptance of such appointment within 20 days after such appointment, or in case any member shall die, resign, or be removed from office, or in case any of the members of said Commission who were appointed from the membership of the City Council or Board of County Commissioners, shall cease to be members of said Council or Board, their successors shall be appointed in the manner and by the same persons as originally appointed such member.

Immediately upon the expiration of the 20 days following the appointment of the members of such Commission, or prior thereto upon the filing of such acceptance by all those appointed as members thereof, the chairman of the Board of County Commissioners shall call a meeting of such Commission and shall preside at the said first meeting. At such meeting the Commission shall select from its own members a chairman and such other officers as the Commission may deem necessary. (Act Apr. 26, 1929, c. 397, §10.)

643-11. Duty of commission.—As soon as practicable after the appointment of the members of such Commission, the Commission shall proceed to select a site or sites for such building and may contract with the owners thereof for the acquisition of such site or sites by gift or purchase, which contract or contracts shall, however, be subject to ratification by the City Council and Board of County Commissioners; provided that if the site selected be not the site of any then existing court house and city hall building, then the site selected shall be a site located within one city block of the site of any existing court house and city hall building, providing, however, that the Commission shall not recommend erection of the Court house and City Hall on a new site, unless two-thirds of the personnel of the Commission are in favor thereof and are of the opinion and shall so state in the report of the Commission that the site of the existing Court house and City Hall can not be used of such Court house and City Hall in a manner as advantageous to the city and county as the proposed new site and shall embody in its report a statement of the facts upon which it bases its conclusions in this regard and such new site shall not be finally selected until said report shall have been

published in the daily newspapers of the city and an opportunity given for the public to present its objections thereto, at a hearing on a date not earlier than thirty days after such publication. As soon as practicable after the selection of a site or sites, as aforesaid, the Commission shall report to said City Council and said Board of County Commissioners, describing the property selected as a site for said building, and the price at which said properties can be acquired. Upon the filing of said report the said Board of County Commissioners and the said City Council shall consider said report and may either reject the same or ratify the action taken by the Commissioners and in the event that either or both of said bodies shall reject the report of the Commission, the matter shall be re-submitted to the Commission for further action. In event that the said City Council and Board of County Commissioners shall approve the site selected by said Commission but shall not approve the price at which said site or sites can be acquired, then the said City Council and the said Board of County Commissioners shall thereupon proceed to acquire said property by eminent domain. The proceedings in eminent domain for the acquisition of said property may be instituted and carried to completion in the name of either said City or said County as may be determined by said City Council and Board of County Commissioners, and may be instituted and completed either under the laws governing the condemnation of land by counties or under the provisions of the charter of such city relating to the acquisition of land by eminent domain, or under the laws of the state relating to the acquisition by cities of land by eminent domain.

The cost of acquiring said land, whether acquired by purchase or eminent domain, shall be paid one-half by such county and one-half by such city; and in case the property is acquired by eminent domain in proceedings instituted and completed by such city, the county shall reimburse it for one-half of the cost of acquiring such land and one-half of the expense incident thereto; and if the proceedings are instituted and completed by such county, the city shall likewise reimburse the county. All land acquired as a site for such courthouse and city hall building shall be owned jointly by such county and such city, and in case the entire tract is acquired by either such city or such county, it shall convey an undivided one-half interest thereof to the other upon reimbursement for one-half of the cost of acquiring the same. (Act Apr. 26, 1929, c. 397, §11.)

643-12. To have plans and specifications drawn.—Either before or after the selection of the site of such building, the Commission shall cause to be prepared plans and specifications for such building and may employ architects, engineers, draftsmen and such clerical help as may be deemed necessary for the purpose of preparing such plans and specifications. The compensation of such employees shall be fixed by the Commission and shall be paid in equal parts by the city and county upon presentation of statements therefor, certified to be correct by a majority of such Commission, but all such contracts and employments shall be subject to approval by the City Council and Board of County Commissioners. Upon the completion of the plans and specifications for such building, the Commission shall submit the same to the City Council and the Board of County Commissioners for approval. Said Council and Board shall thereupon approve the proposed plans and specifications, or reject them and re-submit them to the Commission for further consideration; and when the plans and specifications are satisfactory to both the City Council and the Board of County Commissioners each of said bodies shall thereupon pass a resolution authorizing and instructing the said Commission to proceed with the work. (Act Apr. 26, 1929, c. 397, §12.)

643-13. To advertise for bids.—Upon the completion of such plans and specifications and their approval or adoption by the City Council and the Board of County Commissioners, the said Commission shall proceed to advertise for bids or proposals, for all or any portion of the work or materials, or both, to be done, performed, or furnished in the construction of such building. Such advertisement for bids or proposals shall be published in the official paper of such city if there be one, and if not, in any paper published in such county to be selected by said Commission, and may be published in such other papers or publications either within or without the State of Minnesota as the Commission may deem advisable and shall be published for such length of time as the Commission may determine. All bids or proposals shall be sealed by the bidders or proposers and shall be filed with the Commission at or before the time specified in such advertising for the opening of bids or proposals. At the time and place specified in the advertisement for the opening of bids or proposals, the Commission shall meet, open the bids or proposals, and tabulate the same, and shall thereupon award the contract or contracts to the responsible bidder whose bid or proposal is the most favorable to the City and County, or reject all bids and proposals. And in the event that all bids or proposals are rejected the Commission may re-advertise for bids or proposals or may modify or change the plans and specifications and submit such modified plans and specifications to the City Council and Board of County Commissioners for approval and when such modified or changed plans and specifications are satisfactory to both the City Council and Board of County Commissioners, the plans and specifications shall be returned to the Commission and the Commission shall proceed to again advertise for bids or proposals in the manner hereinbefore provided. Any such contract awarded by the Commission shall be subject to approval by the City Council and Board of County Commissioners. (Act Apr. 26, 1929, c. 379, §13.)

643-14. Certified checks with all bids.—Each person submitting bids or proposals under the terms of the preceding section shall file, with his bid or proposal a certified check in an amount prescribed in the specifications of said Commission for said building, to be retained as liquidated damages and divided equally between the City and County in case of failure to enter into a contract if he is awarded the same.

All contracts shall be in writing and shall be made in the name of the County and City proposing to erect such building, and shall be executed in behalf of such county and city by the officers empowered by law or charter to execute contracts in behalf of such county and such city. All persons who may be awarded contracts in connection with the erection of such building shall be required to furnish bonds in the amount and in the form prescribed by the laws of the State of Minnesota relating to contracts for public improvements, and such bonds shall run to the County and City erecting such building. (Act Apr. 26, 1929, c. 397, §14.)

Commission for building a court house in St. Paul could accept lowest bid, though certified check lacked a hundred dollars of being 5 per cent of the amount of the bid due to error in computation. Op. Atty. Gen., June 8, 1931.

643-15. Wage of employees.—Specifications for all such work shall contain a provision that skilled and unskilled laborers employed in such work shall be paid a wage equal to the wage required to be paid by contractors doing work for such city, if such city has in force an ordinance providing such a scale of wages. (Act Apr. 26, 1929, c. 397, §15.)

643-16. Cost of removing and remodeling.—In the event the selected site be then occupied by an existing City Hall and Court House, such that temporary quarters must be provided for officers and officials located therein pending completion of the new build-

ing, the cost of any remodeling of such temporary quarters, and moving expenses incident to their occupancy shall be considered a part of the cost of the new building. (Act Apr. 26, 1929, c. 397, §16.)

643-17. Commissions may appoint architects, etc.—The work of erecting, equipping and furnishing said building shall be conducted and completed under the direction and supervision of said Commission and the members thereof are charged with the duty of requiring the work to be done in accordance with the plans and specifications. The said Commission is hereby authorized to employ such architects, engineers, supervisors, inspectors, clerks, and other employees as the Commission may deem necessary or advisable to supervise and inspect the work and assist in the performance of the duties of the Commission, and said County and City shall pay the fees and salaries of such employees in the amounts fixed by the Commission, one-half by said County and one-half by said City, upon the presentation of statements therefor certified to be correct by a majority of said Commission. Such employments shall be subject to the approval of the City Council and Board of County Commissioners in the manner hereinabove provided. (Act Apr. 26, 1929, c. 397, §17.)

643-18. Management of building.—If at the time of the erection of such building the County and City so erecting a court house and city hall shall then be jointly owning and operating a city hall and court house building under authority and power granted by law, the management of the new building shall be vested in the same persons or committees as managed the old building then jointly owned and operated by such City and County. In all other cases the management of said building shall be vested in a joint committee consisting of two members of the Board of County Commissioners selected by said Board, and two members of the City Council selected by such Council. The said committee shall have full charge and management of said building and shall have the power to appoint such employees as the said committee shall deem necessary for the proper care, management and operation of said building, the salary and compensation to be fixed by the said committee, and the Board of County Commissioners and said City shall each provide an amount sufficient to pay one-half of the expense of operating said building. (Act Apr. 26, 1929, c. 397, §18.)

643-19. To serve without compensation.—The members of the Advisory Court House and City Hall Building Commission and the members of the aforesaid joint committee of the City Council and County Board to manage said building, shall not receive any compensation for their services upon said Committee or Commission, and none of the members of said Advisory Court house and City Hall Building Commission shall have any financial interest in any of the contracts awarded by said Commission. (Act. Apr. 26, 1929, c. 397, §19.)

643-20. Lands not used to be sold.—In case any land or buildings owned and used by either said County or said City, or jointly owned and used by them shall not be required for the use of said County or City or both of them after the completion of the new building, said land and buildings shall be sold as soon as practicable and the proceeds placed in separate funds of the said County and City to be used for the payment of bonds or certificates of indebtedness authorized hereunder and court house and city hall bonds issued by any such City. The proceeds of such sales shall be paid into the County and City treasuries in the proportion of ownership of each in the real property so sold. So far as practicable the proceeds of such sales shall be used to pay a portion of the bonds or certificates of indebtedness maturing in each year after sales in such manner as to make the annual payments from the proceeds of such sales as nearly equal as may be in each of the

years in which bonds or certificates of indebtedness mature. No part of the proceeds of such sale shall be used to pay interest charges on any bonds so issued, and no part thereof shall be used for any purpose other than the payment of maturing bonds or certificates of indebtedness, in which case such surplus after the payment of all bonds or certificates of indebtedness, in which case such surplus shall be paid into the general sinking fund of such City and County. (Act. Apr. 26, 1929, c. 397, § 20.)

643-21. May include auditorium in new building—City councils and county board may provide meeting places for military organizations.—If any such city desires to construct an auditorium, such building may be included in the court house and city hall building if the Board of County Commissioners shall agree thereto and an agreement is reached between such Board of County Commissioners and the City Council of such city as to the cost of such addition to the court house and city hall building, and the entire amount of such additional cost arising from the inclusion of such auditorium building in the court house and city hall building, shall be borne by such city. Nothing herein contained shall require that in the event such auditorium is made a part of the city hall and court house building the city shall sell any existing auditorium building. In the event that such auditorium is included in the city hall and court house building, the management and control of such auditorium shall not be vested in the joint committee hereinbefore provided for to manage the city hall and court house building but the management and control of such auditorium shall be vested in such City. Any additional expense in the care, upkeep and maintenance of said court house and city building arising from the inclusion of such an auditorium shall be borne by such City. (Act Apr. 26, 1929, c. 397, § 21.)

If in the opinion of the City Council and County Board, it is inadvisable to provide meeting halls or quarters in the city hall and Court house, for organizations the membership whereof is composed of persons who served the United States in the Army, Navy or Marine Corps in the Civil War, Spanish-American War, Phillipine Insurrection, Boxer Uprising, Chinese Relief Expedition, or the recent World War, and for the auxiliaries to or of said organizations, and the opinion of said bodies such halls or quarters should be provided, the County Board and City Council may provide not to exceed Fifteen Thousand (\$15,000) Dollars, for the improving, out of funds issued for the erection of a new court house and city hall, of such halls or quarters in a municipally owned auditorium building for such organizations and their auxiliaries. In the event that halls or quarters in a municipal auditorium are improved for the use of such organizations and their auxiliaries such halls and quarters shall be under the sole control and management of the same persons or committees as manage the city hall and court house building; and all costs of heating, lighting and operation of such halls or quarters shall be the expense of such persons or committees; provided that said last named persons or committees may, if they so elect, direct said organizations and their auxiliaries to form a joint Housing or other proper committee to represent and act for all of said organizations and their auxiliaries in all matters relating to said halls and quarters and to prepare and adopt rules and regulations prescribing the time when, manner in which and conditions under which, said halls or quarters or portions thereof shall be used by the several organizations and auxiliaries, and provided further, that in the event such Joint Housing or other committee be formed, any rules or regulations by it adopted shall, before becoming effective, be approved by said persons or committees having control and management of said halls

or quarters. (Added to Act. Apr. 26, 1929, c. 397, § 21, by Act Mar. 29, 1933, c. 127, § 1.)

May reconstruct auditorium.—The City Council of any such city issuing and selling bonds as herein authorized for the purpose of defraying the expense of acquiring land for erecting, equipping, and furnishing any such joint court house and city hall building is hereby authorized and empowered without reference to any such advisory court house and city hall building commission or other public body or bodies, to reconstruct, remodel, and improve the theater section of any municipal auditorium building located in any such city and to defray the expense, not in excess of the sum of Twenty-five Thousand (\$25,000.00) Dollars of reconstructing, remodeling, and improving the theater section of any such building from the balance of the proceeds of the issuance and sale by any such city of any such bonds, remaining after the expense of acquiring land for erecting, equipping, and furnishing any such joint court house and city hall building has been defrayed as herein provided. (Added to Act Apr. 26, 1929, c. 397, § 21; by Act Apr. 21, 1933, c. 400, § 1.)

Sec. 2 of Act Mar. 29, 1933, cited, provides that the Act shall take effect from its passage.

Sec. 2 of Act Apr. 21, 1933, cited, provides that the Act shall take effect from its passage.

643-22. Provisions severable.—This statute shall be liberally construed to effectuate its purpose, and in the event any section or clause hereof shall be invalid, the validity of the balance of the act shall not be affected. (Act Apr. 26, 1929, c. 397, § 22.)

Sec. 23 repeals inconsistent acts. Sec. 24 provides that the act shall take effect from and after its passage.

Laws 1933, c. 301, provides that counties having assessed valuation of \$300,000,000, exclusive of moneys and credits and population of not less than 300,000, may establish a public market.

646. Claims against county—appeal.—When any claim against a county is disallowed by the board in whole or in part, a claimant may appeal from its decisions to the district court by causing a written notice of such appeal to be filed in the office of the auditor within fifteen days after written notice mailed to said claimant by the county auditor showing the disallowance of said claim and giving security for costs, to be approved by the auditor, who shall forthwith notify the county attorney thereof. When any claim against a county shall be allowed in whole or in part by such board, no order shall be issued in payment of the same or any part thereof until after fifteen days from date of the decision; and the county attorney may, on behalf and in the name of such county, appeal from such decision to the district court, by causing a written notice of such appeal to be filed in the office of the auditor within fifteen days after date of the decision appealed from; or any seven taxpayers of the county may in their own names appeal from such decision, to the district court by causing a written notice of appeal stating the grounds thereof to be filed in the office of the auditor within fifteen days after the date of the decision appealed from, and giving to the claimant security for his costs and disbursements to be approved by a judge of the district court; and thereafter no order shall be issued in payment of any such claim until a certified copy of the judgment of the court shall be filed in the office of the auditor. Upon the filing of such notice of appeal, the court shall acquire jurisdiction of the parties and of the subject matter, and may compel a return to be made as in the case of an appeal from a judgment of a justice of the peace. (R. L. '05, § 415; G. S. '13, § 674; '25, c. 317, § 1; Apr. 10, 1933, c. 191.)

Act Apr. 4, 1933, c. 152, authorizes county board in counties having population of over 200,000 and area of over 5,000 square miles to pay claim for personal and property damage from settlement of highway occurring within 6 months prior to Jan. 1, 1933. Effective May 1, 1933.

A transaction between a former sheriff and the county board held to be a settlement and not an allowance of a claim and the order of the county board was not appealable. 175M236, 290NW946.

COUNTY BOARD

650. Composition.

One appointed to fill vacancy on county board caused by death of one whose term expired January 1, 1933, and thereafter elected to office would hold office only to January 1, 1933. Op. Atty. Gen., Mar. 30, 1932.

Offices of county commissioner and town clerk are incompatible. Op. Atty. Gen., Jan. 6, 1933.

Compensation for two days intervening between expiration of terms of retiring county commissioners and taking of office by newly elected officials should be paid to retiring officials. Op. Atty. Gen., Feb. 6, 1933.

651. County commissioner's districts.—Each county shall be divided into as many districts, numbered consecutively, as it has members of the board. In all counties such districts shall be bounded by town, village, ward, or precinct lines, shall be composed of contiguous territory and contain as nearly as practicable an equal population. Counties may be redistricted by the county board after each state or federal census; and when it appears that after a state or federal census 30 per cent or more of the population of any county is contained in one district, such county shall be redistricted by its county board. Provided however, that no city of the second class shall be in more than two commissioners' districts.

Provided that the county board shall not have authority or jurisdiction to re-district a county unless said board shall cause at least three weeks' published notice of its purpose to do so, stating the time and place of the meeting where the matter will be considered, to be published in the newspaper having the contract for publishing the commissioners' proceedings for said county for the current year. One commissioner shall be elected in each such district who at the time of the election shall be a resident thereof, and the person so elected shall be entitled to hold said office only while he remains a resident of said commissioner district. When a county is redistricted there shall be a new election of commissioners in all the districts of the county at the next general election. The board shall determine that not less than two nor more than three members of the board shall be elected for a term of two years and the remainder for a term of four years at the next general election. Thereafter all commissioners shall be elected for four years; provided, that where no change is made in the boundaries of a district, the commissioner in office at the time of the redistricting shall serve for the full period for which he was elected. (R. L. '05, §420; G. S. '13, §679; '13, c. 537, §1; '17, c. 370; '23, c. 366, §1; Mar. 28, 1931, c. 105; Mar. 10, 1933, c. 77; Apr. 21, 1933, c. 363.)

Act of board at regular meeting in dividing county into commissioner districts cannot be reconsidered or rescinded at a subsequent meeting. Op. Atty. Gen., Nov. 30, 1931.

County board having duly divided county into county commissioner districts may not at any time prior to a new census redistrict. Op. Atty. Gen., Nov. 31, 1931.

A county commissioner whose district is changed by some territory being removed therefrom, but without any new territory being added to his district, must run for office at the next election. Op. Atty. Gen., Dec. 29, 1931.

For counties with not less than 500 nor more than 700 square miles and population of over 400,000 and containing a city of the first class, see Laws 1929, c. 381.

Such act repeals Sp. Laws 1881, c. 396; Sp. Laws 1889, c. 136; Sp. Laws 1891, c. 371.

Where more than 30% of the county's population is contained in any one commissioner district, the duty of redistricting is mandatory. Op. Atty. Gen., May 27, 1931.

Where county is redistricted, county commissioners whose districts are affected will have to run for office at the next general election. Op. Atty. Gen., May 27, 1931.

Redistricting takes effect at once, but commissioners whose districts have been changed serve as commissioners at large until new commissioners are selected at the next general election. Op. Atty. Gen., July 10, 1931.

All that is required is that districts contain as nearly as possible an equal population. Op. Atty. Gen., Mar. 18, 1933.

County board may, in its discretion, redistrict commissioner districts after state or federal census, even though no one district contains 30% or more of population. Op. Atty. Gen., Mar. 18, 1933.

651-1. Redistricting commissioners' districts in certain counties.

Counties having population of more than 400,000, and area of not less than 500 and not more than 700 square miles, shall be divided into commissioner districts which may be changed in manner prescribed. Laws 1929, c. 381.

652. Term of office.

Offices of county commissioner and sergeant-at-arms of state legislature are not incompatible. Op. Atty. Gen., Mar. 3, 1933.

656. Salaries of county commissioners in certain counties.

A county commissioner governed by this section is not entitled to charge mileage or traveling expenses except where he actually incurs and pays out money therefor. Op. Atty. Gen., Nov. 20, 1931.

County board has no power to change salaries fixed by statute. Op. Atty. Gen., Dec. 18, 1931.

Proviso that act should not reduce salary of county commissioners, applied only to salaries of commissioners in office at time of passage of act. Op. Atty. Gen., Aug. 2, 1932.

Increase of population of Stearns County to 62,000 made this section govern salaries of county commissioners, and they are entitled to \$600 per annum instead of \$1,200.00. Op. Atty. Gen., Aug. 2, 1932.

Where valuation in county is reduced, salaries of county commissioners are also reduced, becoming effective at beginning of new year. Op. Atty. Gen., Feb. 7, 1933.

Salaries of county commissioners automatically change first of year following change in assessed valuation. Op. Atty. Gen., Feb. 10, 1933.

Decrease of assessed valuation in Lake County below \$3,000,000 automatically decreased salaries of county commissioners. Op. Atty. Gen., Feb. 15, 1933.

Legislature possesses right to change salaries of county officers at any time. Op. Atty. Gen., Feb. 21, 1933.

Action of Minnesota Tax Commission in fixing valuation in Polk County automatically decreased salary of members of board of commissioners from \$800 to \$400 per annum. Op. Atty. Gen., Feb. 25, 1933.

Determination by Minnesota Tax Commission that assessed valuation has dropped below twenty million dollars automatically takes the county out of the operation of Laws 1925, c. 81, for salary purposes and makes this section applicable. Op. Atty. Gen., Feb. 25, 1933.

Members of county board whose salaries are determined by this section are entitled to 10c per mile and Laws 1933, c. 13, is inapplicable. Op. Atty. Gen., Mar. 4, 1933.

County commissioners of Redwood County with assessed valuation of \$16,600,780 may not bill county for expenses incurred in investigation of poor cases. Op. Atty. Gen., Apr. 27, 1933.

County commissioners elected in 1929 are subject to reduction in salary caused by reduction in assessed valuation before expiration of their term.—Id.

Salary of county commissioner is reduced first of new year following action of tax commission in lowering valuation of county, and applies to all members of board. Op. Atty. Gen., May 11, 1933.

Salaries of county commissioners of Yellow Medicine County are subject to change during their term of office when assessed valuation drops. Op. Atty. Gen., May 16, 1933.

There are no special laws changing rate of pay of county commissioners in Yellow Medicine County.—Id.

County commissioners are not entitled to mileage while on welfare work.—Id.

Commissioners may not by unanimous vote give old salary to commissioners holding over after reduction in assessed valuation.—Id.

Neither county commissioner nor county attorney is entitled to reimbursement for mileage for investigations with reference to mother's pensions. Op. Atty. Gen., June 14, 1933.

PARTICULAR ACTS RELATING TO COMPENSATION OF COMMISSIONERS

Counties with 41 to 43 congressional townships and 25,000 to 30,000 population. Laws 1929, c. 20, §1, as amended by Laws 1929, c. 161, §2, and amending Laws 1925, c. 91, §8, fixes salaries of commissioners at \$400 per year, and \$3 per day while engaged in official duties, and 9 cents mileage. But see §§254-47, 254-48 as to mileage. The act authorizes allowance of additional clerk with salary not to exceed \$80 per month.

Counties with 28 to 29 congressional townships and assessed valuation of \$11,000,000 to \$13,000,000. Act Mar. 22, 1929, c. 80, fixes salary at \$600 and mileage at 10 cents. But see §§254-47, 254-48, as to mileage.

Counties with 15 to 16 congressional townships, assessed valuation of \$12,000,000 to \$20,000,000, and population of 22,000 to 40,000. Laws 1929, c. 167, fixes salary of commissioners at \$600, and per diem of \$3 while in discharge of official duties, and 10 cents per mile for travel. But see §§254-47, 254-48, as to mileage.

Counties having more than 415,000 inhabitants. Act Apr. 25, 1929, c. 376, §1, fixes salary of commissioners at \$3,600 and traveling expenses as allowed by law, and amends Laws 1921, c. 202.

Counties with assessed valuation between \$3,500,000 and \$6,000,000, and population between 10,000 and 12,500. Laws 1931, c. 14, fixes salary of county board members at \$325 per year.

Counties containing 36 congressional or 30 organized townships, and from 665,000 to 670,000 acres, and having assessed valuation of \$14,000,000 to \$20,000,000, and population between 22,000 and 30,000. Laws 1931, c. 27, fixes salary of county commissioners at \$60 per year, and mileage allowance at 10 cents per mile. But see §§254-47, 254-48.

Counties containing 17 or 18 congressional townships, having assessed valuation of \$5,000,000 to \$6,000,000, and population from 8,000 to 12,500. Laws 1931, c. 45, fixes salary of commissioners at \$325 per year, and legalizes prior payments.

Counties with area of 1,000,000 to 1,250,000 acres, and assessed valuation of \$10,000,000 to \$12,000,000. Laws 1931, c. 135, legalizes payments of \$400 per year previously made to commissioners.

Counties having 14 to 25 congressional townships, population of 29,000 to 33,000, and assessed valuation of \$24,000,000 to \$40,000,000. Laws 1931, c. 185, amends Laws 1921, c. 275, §1, and fixes the salary of commissioners at \$800 and traveling expenses not exceeding \$1,200 for all the commissioners in any one year.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to apply to counties as above.

Counties having 24,000 to 27,000 inhabitants, assessed valuation \$18,000,000 to \$23,000,000, and area of 22 to 24 congressional townships. Laws 1931, c. 274, allows commissioners traveling expenses not exceeding total of \$1,600 per year.

Laws 1931, c. 26, validates excessive payments to county commissioners in 1928, 1929 and 1930, in counties having assessed valuation of \$10,000,000 to \$15,000,000, and population, 12,500 to 14,000.

Act Feb. 9, 1933, c. 16, provides that in counties having 81 to 85 congressional townships and population of 18,000 to 30,000, the county board members shall receive \$540 per year and traveling expenses. Laws 1925, c. 7, repealed.

Act Feb. 14, 1933, c. 21, repeals Laws 1919, c. 101.

Act Feb. 14, 1933, c. 26, provides that in counties having a population of 50,000 to 70,000 and 35 to 45 congressional townships, county commissioners shall receive \$900 per year, and \$3 per day for committee work and traveling expenses, members using own vehicle to receive 5 cents per mile. Additional compensation over salary not to exceed \$250 per year.

Act Mar. 2, 1933, c. 46, amends Laws 1919, c. 23.

Laws 1933, c. 68, legalizes payments of salaries theretofore made to county commissioners in counties having assessed valuation between \$6,000,000 and \$8,500,000 and population between 10,500 and 12,000.

Act Mar. 9, 1933, c. 76, §10, effective Jan. 1, 1934, provides that in counties with area of 35 to 55 congressional townships and assessed valuation of not more than \$2,000,000, exclusive of moneys and credits, county commissioners shall receive \$240 per annum and pay for committee work and traveling expenses and 5 cents per mile for use of own automobile. Salary paid monthly.

Act Apr. 10, 1933, c. 166, §13, provides that in counties having 76 to 80 congressional townships and assessed valuation of \$3,000,000 to \$5,000,000, the county board members shall receive \$420 per annum.

Act Apr. 10, 1933, c. 183, provides that in counties having 26,000 to 27,000 population and 27 to 29 congressional townships, the members of the county board shall receive \$500 per annum in monthly installments, and mileage of 5 cents.

Act Apr. 11, 1933, c. 212, provides that in counties having 50 to 70 congressional townships and assessed valuation, exclusive of moneys and credits, of less than \$1,500,000, the county board members shall receive \$210 per annum, and 5 cents per mile for travel incident to not more than 20 meetings per year. Effective May 1, 1933.

Act Apr. 15, 1933, c. 281, provides that in counties having 100 or more congressional townships and assessed valuation, including moneys and credits, the county board members shall receive \$540 per annum and traveling expenses.

Act Apr. 15, 1933, c. 284, §12, amending Laws 1921, c. 437, Laws 1927, c. 225, and Laws 1931, c. 192, provides that in counties having 44 or 45 congressional townships and assessed valuation, exclusive of moneys and credits, of \$9,000,000 to \$12,000,000, the county board members shall receive \$562 per year and \$3 per day for time occupied in official duties on committees, and 10 cents mileage for not exceeding 12 board meetings per year.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224.

Act Apr. 21, 1933, c. 432, §6, effective May 1, 1933, amends §8 of Laws 1925, c. 91, making the salary of the commissioners \$384 per year and \$3 per day for committee and equalization work, and 5 cents mileage. 180 M246, 230NW637.

Under Laws 1923, c. 68, commissioner is not entitled to mileage, but only his actual expenses paid to third persons. Op. Atty. Gen., Oct. 10, 1929.

County commissioner investigating financial condition and status of children is not entitled to a per diem and mileage. Op. Atty. Gen., Sept. 18, 1930.

Under Laws 1931, c. 331, ante, §§254-47, 254-48, county commissioners are only entitled to be reimbursed at the rate of seven cents per mile for the use of their own automobiles in the performance of their official duties. Op. Atty. Gen., May 18, 1931.

If county is governed by this section, allowance to county commissioner for reimbursement for use of his car is limited by Laws 1931, c. 331, ante, §§254-47, 254-48. Op. Atty. Gen., June 4, 1931.

Laws 1921, c. 275, is complete in itself, and limitations contained in §657 do not apply to counties included. Op. Atty. Gen., Dec. 1, 1930.

Under Laws 1925, c. 143, salaries of county commissioners of Polk County are to be determined by this act and they are also entitled to reimbursement of actual and traveling expenses which shall include transportation, hotel bills, meals and other incidental necessary expenses. Op. Atty. Gen., Mar. 4, 1933.

Under Laws 1925, c. 143, §2, mileage of 10c per mile is modified by Laws 1931, c. 331, as amended by Laws 1933, c. 13, so as to entitle them only to 5c per mile if they use their own automobile. Op. Atty. Gen., Mar. 4, 1933.

Under Laws 1929, c. 80, on reduction of valuation of Todd County below \$9,000,000 salary of county commissioner was reduced from \$600 to \$325 per year. Op. Atty. Gen., Mar. 4, 1933.

657. Compensation and mileage, etc.

County commissioner cannot under the guise of committee work actively supervise road work, but may do committee work in making a report on proposed work. Op. Atty. Gen., Oct. 15, 1929.

Limitations in this section do not apply to county commissioners coming within Laws 1921, c. 275. Op. Atty. Gen., Dec. 1, 1930.

This section is not affected by Laws 1931, ante, §§254-47, 254-48. Op. Atty. Gen., May 23, 1931.

Allowance of county commissioner governed by this section is not affected by Laws 1931, c. 331, ante, §§254-47, 254-48, as respects reimbursement for use of officer's own car. Op. Atty. Gen., June 4, 1931.

A county commissioner working under this section or a similar statute is entitled to his mileage whether or not he pays out any money as expenses. Op. Atty. Gen., Jan. 20, 1932.

The mileage allowance in this section is not in the form of a reimbursement for expenses, and this section is not affected by Laws 1931, c. 331. Op. Atty. Gen., Jan. 22, 1932.

Laws 1931, c. 331, as amended by Laws 1933, c. 13, does not affect this section. Op. Atty. Gen., Feb. 25, 1933.

Board is entitled to charge mileage for only twelve return trips even though some of the monthly meetings last more than one day and require two or more round trips. Op. Atty. Gen., Feb. 25, 1933.

County commissioners may not legally charge for transportation, meals or other items paid out in making investigations regarding poor. Op. Atty. Gen., Feb. 25, 1933.

Due to reduction in valuation of Polk County, commissioners may receive mileage at rate of 10c, and sum of \$3 per day under certain circumstances. Op. Atty. Gen., Feb. 25, 1933.

Mileage of county commissioners of Beltrami County, discussed. Op. Atty. Gen., Mar. 27, 1933.

Members of county board of Yellow Medicine County are entitled to \$3 per day and mileage while acting on committee, and also \$3 per day and mileage for meeting when board is acting as board of equalization. Op. Atty. Gen., May 16, 1933.

Mileage provisions are not affected by Laws 1933, c. 331, as amended by Laws 1933, c. 13. Id.

659. Vacancies filled by board.

No lawful ballots can be cast for office of sheriff at a general election unless term of incumbent, whether elected or appointed, expires on first Monday of January following such election. State v. Borgen, 248NW744.

Legislature may fix term and provide for filling of vacancy in office of sheriff. State v. Borgen, 249NW183. See Dun. Dig. 2263a.

660. Vacancy in board.

Auditor cannot call a meeting to fill vacancy in office of county commissioner, who proposes to tender his resignation, until the vacancy actually exists. Op. Atty. Gen., Dec. 1, 1930.

Where county commissioner died within thirty days before biennium election, board of appointment was without authority, but vacancy should be filled at the approaching election. Op. Atty. Gen., Oct. 21, 1930.

Where office of county commissioner is rendered vacant by officer's acceptance of an incompatible office,

such office may not be reappointed even after he has resigned the incompatible office. Op. Atty. Gen., Feb. 8, 1932.

Where a county commissioner accepts an incompatible office and enters upon the performance of the duties of such office, a vacancy as county commissioner exists, and he may not re-assume the duties of the office of county commissioner after having resigned the incompatible office before the board of appointment had acted. Op. Atty. Gen., Feb. 8, 1932.

Majority vote on board necessary to fill vacancy. Op. Atty. Gen., June 23, 1933.

662. Publication.

Resolution and agreement by county board is valid, though not entered on the minutes and not published. 180M423, 230NW891.

Whether the financial statement must be published in the official newspaper is not clear, though the Supreme Court has intimated (227NW499) that it should be. Op. Atty. Gen., Feb. 13, 1930.

Contractor may bid for printing under this section without including in his bid the general county printing. Op. Atty. Gen., June 3, 1930.

Proposal of newspaper publishing county financial statement "and sufficient circulation to cover the city of W, K and rfd tributaries" held to require paper to mail the publication of the commissioners proceedings at the time in which it is printed in the newspapers. Op. Atty. Gen., Apr. 9, 1931.

Advertising for bids for publication of official proceedings of county board is not required. Op. Atty. Gen., Jan. 6, 1933.

663. Chairman.

Op. Atty. Gen., Aug. 9, 1932; note under §990.

664. Office, supplies, etc., furnished for county officers.

County may pay part of telephone expense of commissioner at his private office, where no office or telephone is provided at the courthouse. Op. Atty. Gen., Mar. 12, 1929.

A county is not authorized to pay rent to a surveyor for his use of instruments belonging to him personally. Op. Atty. Gen., Jan. 9, 1932.

County board has authority to purchase for county officials, having opinions of attorney general, a copy of cumulative index of attorney general's opinion. Op. Atty. Gen., Feb. 4, 1933.

County board may appoint a committee of three to make all purchases for county, except those amounting to more than \$500 and for which bids must be advertised, all charges to be presented to board for allowance. Op. Atty. Gen., Feb. 14, 1933.

In event there is not room in courthouse for office of county attorney, county board is prohibited from paying any office rent for him elsewhere. Op. Atty. Gen., May 1, 1933.

666. Damaged records transcribed.

There is no legislation providing for the restoration of destroyed records. Op. Atty. Gen., May 20, 1931.

667. Publication of annual financial statement.—

Annually not later than the first Tuesday after the first Monday in February such board shall make a full and accurate statement of the receipts and expenditures of the preceding year, which shall contain a statement of the assets and liabilities, a summary of receipts, disbursements and balances of all county funds together with a detailed statement of each fund account together with an itemized account of amounts paid out, to whom and for what purpose, under the form and style prepared by the State Comptroller, and approved by the Attorney General, and state expert printer in December 1932, and within thirty days thereafter shall cause the same to be published for one issue in some newspaper within the county which newspaper must be a duly qualified legal newspaper, as provided by law which in counties having a population of seventy-five thousand or more shall be a daily of general circulation publishing local and world news of varied and general public interest. In addition to the publication thereof in the newspaper designated by the board as the official newspaper for publication of the financial statement, the same shall be published in one other newspaper of the county, located in a different section of the county than the official paper. Provided, however, that the county board shall call for separate bids for each publication. At its meeting in July and January of each year it shall examine and count all the funds in the Treasury, examine the accounts and vouchers of the auditor and treasurer, and make a written cer-

tificate of the condition of the treasury, showing the amount, kind and character of the funds therein, and all other matters in connection therewith, and file the same with the auditor. (R. L. '05, §433; '07, c. 205, §1; G. S. '13, §695; Apr. 22, 1933, c. 410.)

Requirement for the publication of a county financial statement is mandatory but the period of thirty days mentioned therefor is directory only. 173M350, 217NW 371.

Three weeks publication is mandatory. 178M484, 227 NW499.

Mandamus will not be granted to compel publication in only newspaper bidding under unlawful agreement between newspapers. 178M484, 227NW499.

Whether the financial statement must be published in the official newspaper is not clear, though the Supreme Court has intimated (178M484, 227NW499) that it should be. Op. Atty. Gen., Feb. 13, 1930.

County auditor's annual statement for county board should contain the name of the claimant as well as that of the assignee. Op. Atty. Gen., Mar. 22, 1933.

668. General powers of board.

Linster v. L., 243NW395; note under §643.

County board had authority on failure of a bank, to accept certificates of deposit for the amount of a county deposit, to enable the bank to reopen, and as part of same agreement to assume payment of a mortgage to the bank in consideration of conveyance of mortgaged land to county. 180M423, 230NW891.

Authorizes a county to expend its funds for construction and improvement of roads within a city of fourth class lying outside county where such roads connect with street in city of first class within county. Touseley v. H., 182M447, 234NW673. See Dun. Dig. 8476.

A county board cannot appropriate money to pay for a membership in the National Child Welfare Conference. Op. Atty. Gen., June 8, 1931.

Board of county commissioners cannot employ a full time deputy sheriff at a stated salary per year. Op. Atty. Gen., June 6, 1931.

County board may transfer money from other funds when the poor fund is exhausted. Op. Atty. Gen., July 30, 1930.

County board can legally charge the levy made for county purposes at its July meeting. Op. Atty. Gen., Sept. 30, 1931.

A county can legally pay a commission to a bank for handling maturing bonds though the funds to take care of such bonds are advanced thirty days prior to the maturity of the bonds. Op. Atty. Gen., Nov. 20, 1931.

County board has no authority to employ an attorney to take steps against newspapers making false statements as to the financial condition and standing of the county. Op. Atty. Gen., Nov. 21, 1931.

On decree against county commissioners restraining the tearing down of old courthouse walls, costs taxed against the defendants are a proper charge against the county. Op. Atty. Gen., Dec. 31, 1931.

Surplus of levy made to pay judgment and surplus in fund raised to pay money borrowed from state may be transferred to other funds in which there is a deficiency or to the general fund. Op. Atty. Gen., Jan. 29, 1932.

County board has no authority to make appropriation for extermination of grasshoppers. Op. Atty. Gen., May 21, 1932.

(1).

County board, auditing and paying for telephone in home of county commissioner, could not hold up commissioner's pay checks to reimburse county on theory that payments for telephone were illegal, but mere fact of auditing and allowing telephone bill would not preclude county from recovering amount from commissioner. Op. Atty. Gen., June 21, 1932.

County board has no authority to compromise a contract based on collusive bid. Op. Atty. Gen., July 5, 1933.

(2).

A county may temporarily rent road building equipment to a private person for private work. Op. Atty. Gen., Oct. 5, 1932.

County board has no authority to employ engineer to draw plats of cemeteries, nor to purchase such plats. Op. Atty. Gen., July 12, 1933.

Counties and other municipalities can legally sell bonds to federal government under National Industrial Recovery Act. Op. Atty. Gen., Aug. 15, 1933.

(3).

Where old courthouse has burned, county board has authority to reconstruct the old courthouse or build a new one without a vote of the people. Op. Atty. Gen., July 13, 1931.

Whether or not county board may commence the construction of a courthouse which it knows cannot be completed without subsequent levies by its successors or without the subsequent issue of a bond issue, discussed. Op. Atty. Gen., July 13, 1931.

Neither city nor county can enter into contract for heating buildings at definite monthly rate where the transaction is, in fact, a conditional contract for purchase of heating equipment. Op. Atty. Gen., June 23, 1933.

(8).

County board's powers are purely statutory, and no authority is given it to appropriate money to farmers' holiday association to defray expenses in settling controversies between landlord and tenant and mortgagor and mortgagee. Op. Atty. Gen., Apr. 7, 1933.

County board may not appropriate money to farm holiday association to be used by them for relief, though it may furnish relief directly to persons in need. Op. Atty. Gen., Apr. 7, 1933.

(9).

County may use insurance proceeds of fire destroying grandstand on fair grounds to improve grounds. Op. Atty. Gen., May 10, 1933.

(12).

County board may not condemn land for park purposes. Op. Atty. Gen., May 13, 1932.

(14).

Neither county board nor other county officers may act for villages or cities in making joint application for public works in connection with federal public works' administration, but federal authorities may designate any group of persons to act unofficially. Op. Atty. Gen., Oct. 3, 1933.

POWERS OF COUNTY BOARDS OF PARTICULAR COUNTIES

Counties with 25,000 to 29,000 inhabitants and assessed valuation of \$20,000,000 to \$25,000,000. Laws 1923, c. 245, relating to war records, is amended by Laws 1929, c. 279.

Laws 1929, c. 131, authorizes counties having 28 to 29 congressional townships, assessed valuation of \$12,000,000 to \$14,000,000, and population of 25,000 to 28,000, to appropriate not more than \$500 to aid agricultural society fair.

Laws 1929, c. 298, authorizes counties having area of more than 5,000 square miles to expend not exceeding \$5,000 for each bi-annual period, clearing and improving rivers or creeks to prevent floods.

County board in counties having population of 400,000 or over, with assessed valuation of \$350,000,000, exclusive of money and credits, and having bonded debt of not exceeding \$9,000,000, authorized to construct or repair dams for improvement of navigable lakes. Laws 1929, c. 362.

County board in counties having tax assessed valuation of not less than \$350,000,000, exclusive of money and credits, and bonded debt not to exceed \$7,000,000, authorized to acquire easements for, and to improve roads leading from state trunk highways into congested portions of city of first class within county. Laws 1929, c. 364. Such counties also authorized to improve or aid in improvement of roads outside the county. Laws 1929, c. 365.

The classification of counties by chapter 365, Laws 1929, is sufficiently germane to the object of the act to sustain its constitutionality. *Tousley v. H.*, 182M447, 234NW673. See Dun. Dig. 8320.

Under Laws 1923, c. 419, §21, authorizing county board to employ additional help for the various county offices, an "assistant to the county board" should be attached to the auditor's office, in view of §832. Op. Atty. Gen., July 3, 1930.

Under the last named section the county board cannot raise salaries fixed by law, but where it is authorized to fix a salary, such salary may be in excess of that of other persons in similar situations whose salaries are limited by law. Op. Atty. Gen., July 3, 1930.

Counties containing city of first class in which is located more than 95% of taxable property by valuation, authorized to create a board of public welfare. Laws 1929, c. 371.

Laws 1931, c. 62, authorizes counties having not less than 41 and not more than 43 congressional townships, and populations of not less than 25,000, and not more than 30,000, to levy tax for establishing jail.

Counties having assessed valuation of more than \$25,000,000 and area of more than 5,000 square miles. Laws 1931, c. 169, authorizes tax levy to aid agricultural society.

Counties having more than 150,000 inhabitants and area of more than 5,000 square miles. Laws 1931, c. 193, authorizes acquisition of auxiliary county hospitals.

Counties having area of over 5,000 square miles and having drainage ditches costing more than \$600,000. Laws 1931, c. 314, authorizes purchase of drainage equipment.

Act Feb. 21, 1933, c. 34, authorizes levy of tax not exceeding 8 mills for general revenues fund in counties having not less than 48 townships, between 1,000,000 to 1,250,000 acres, population of 15,000 to 20,000, and assessed valuation of \$6,000,000 to \$8,000,000.

Act Apr. 13, 1933, c. 229, provides that in counties having population of 26,000 to 27,000 and area of 27 to 29 congressional townships, the county board may reimburse officers suffering loss from operation of automobile, authority to terminate in one year from passage of act.

Act Apr. 21, 1933, c. 371, provides that, in counties having an area of over 5,000 square miles and population of 150,000 to 225,000, claims based on contracts made by a single commissioner without authorization of the county board shall be legal claims against the county to be paid as set forth in the act. The act provides a penalty for making illegal expenditures.

Act Ex. Ses., Dec. 27, 1933, c. 25, legalizes appropriation of money for Lac Qui Parle Reservoir Project in certain described county. Omitted as local and temporary.

669. Powers of county boards.

County may accept conveyance from pauper and sell equity in land, but may not assume any existing encumbrances. Op. Atty. Gen., July 6, 1932.

County has authority to accept sheep offered to it by applicant for poor relief, but may not enter into agreement with pauper to care for him during remainder of his life. Op. Atty. Gen., Sept. 13, 1932.

County may accept conveyances by way of mortgage on real estate from indigent persons to identify or secure county for support to be rendered. Op. Atty. Gen., July 25, 1933.

669-8. Parks, bathing beaches, etc.

Public Bathing regulated in Hennepin County. Laws 1933, c. 364.

669-12. Gifts, etc., of real property to County for certain purposes.—Any county in this state may receive by grant, gift, devise or bequest, and take charge of, own, hold, control, invest, and administer free from taxation, in accordance with the terms of the trust or the conditions of the gift, any real property not to exceed 40 acres in any one county for the use and benefit of the inhabitants of said county or as park or recreation grounds, and in the encouragement, aid, and maintenance of county co-operative work and education in agriculture and home economics, and in aid and furtherance of the object and purpose of the Farm Bureau Association in said county. And such county may, from time to time, by resolution of the County Board, appropriate, from the County Revenue Fund, such sum or sums as may by the Board be deemed necessary to suitably maintain, improve and care for said property for such use and purpose, not exceeding, however, the sum of \$500.00 in any one year. ('25, c. 13, §1; Mar. 7, 1933, c. 59.)

Funds provided for the maintenance of county co-operative extension service in agriculture and home economics cannot be used to pay the compensation of a caretaker for land donated under Laws 1926, c. 13. Op. Atty. Gen., Jan. 15, 1930.

669-15. Rewards, etc.

No particular person need be accused of the crime, but there can be no general offer of a reward as to crimes not yet committed. Op. Atty. Gen., Nov. 19, 1929.

672-1. Counties may indemnify officers and employees.—The county boards of all counties in this state are hereby authorized to indemnify their officers and employes for loss or expense arising or resulting from claims for bodily injuries, death or property damage made upon such officers or employes by reason of their operation of motor vehicles while in the performance of their official duties, and to defend, in the names of and on behalf of such officers and employes, any suits brought against them to enforce claims, whether groundless or not, arising out of their operation of motor vehicles under such circumstances, and to compromise and settle any such claims or suits and to pay the amount of such settlements or compromises or the amount of any judgments rendered against such officers or employes on any such claims without first requiring such officers or employes to pay the same. (Act Apr. 24, 1931, c. 330, §1.)

County board may in its discretion give premiums on insurance policies insuring individual employes or groups of employes against liability, but the payment of such premiums does not impose any liability upon the county. Op. Atty. Gen., May 20, 1931.

County is not liable to third persons for damages sustained by reason of operation of sheriff's car while on official business, but sheriff is personally liable if negligent. Op. Atty. Gen., Sept. 23, 1932.

672-2. County board may pay premiums.—The county board at its discretion may pay the premiums on insurance policies insuring the individuals or groups of individuals referred to in Section 1 hereof against liability for injuries to person or property within the limitations of Section 1 hereof, and such payment of insurance premiums shall in no way impose upon any county any liability whatsoever. Such insurance may be written in any mutual company au-

thorized to do business in this state. (Act Apr. 24, 1931, c. 330, §2.)

672-3. Payments legalized.—When any county shall have heretofore paid insurance premiums for the purposes indicated in Section 2 hereof such payments are hereby legalized. (Act Apr. 24, 1931, c. 330, §3.)

673. Free county libraries.

Moneys and credits are not to be included in arriving at all the taxable property against which the one mill tax may be levied for county library purposes. Op. Atty. Gen., Mar. 14, 1931.

682-1. Hospitals—Additional expenditures—Etc.

Act authorizing counties having population of over 150,000, and area of over 5,000 square miles to erect or purchase auxiliary county hospital. Laws 1931, c. 193.

682-8. Bond issue in counties and cities maintaining board of control, etc.

See Laws 1929, c. 304, authorizing payment of attorney fees.

683. Aid to hospitals.

Money cannot be borrowed from sinking funds to pay hospital aid, except temporarily under §869-1, and warrant for aid cannot be legally issued unless there is money available on hand or sufficient moneys to be received under a tax levy already made after paying warrants already issued and other obligations already incurred against the fund. Op. Atty. Gen., Dec. 6, 1929.

692. Patients, how admitted.

An alien is eligible for admission to tuberculosis sanatorium. Op. Atty. Gen., Apr. 24, 1933.

705. Tuberculosis Sanatoriums—Establishment.

District entitled to state aid though one county has a Sanatorium, if such county sells its Sanatorium. Op. Atty. Gen., Apr. 9, 1929.

Unless county of proposed district is able, its share of cost by a tax levy in one year, the question of establishment and bond issue must be submitted to voters. Op. Atty. Gen., Apr. 9, 1929.

707. Membership of commission for sanatorium controlled by two or more counties.—Two or more counties may unite in acquiring, establishing, equipping or maintaining such sanatorium and in such case said commission shall be composed in the first instance of two members chosen from each county in such group of the county commissioners of each such county, and after the site for the sanatorium has been selected and has received the approval of the advisory commission of the Minnesota Sanatorium for Consumptives such commission shall be increased by the addition of a third member chosen from the county in which said sanatorium is to be located, by the county commissioners thereof;

Such site may include lands upon which there are already erected a building or buildings, if the same are suitable and can be utilized in whole or in part for sanatorium purposes.

Under the first appointment one member from each county shall be chosen to hold office for two years and one for three years from the first Monday of the next July following such appointment, and the additional member thereafter chosen from the county in which said sanatorium is to be located shall be chosen to hold office for one year from the said first Monday of the next July, and thereafter the members chosen to succeed said first appointees at the expiration of their terms shall each hold office for the term of three years, and each appointee provided for in this section shall hold office until his successor is appointed and qualified.

In any case where a group of two or more counties have jointly acquired, established, equipped or maintained a sanatorium, and one or more counties in such group desires to separate from such group for the purpose of alone, or with another county or group of counties, establish or maintain separate sanatorium under this act, such county or counties desiring to withdraw from said group shall in writing, request permission of the remaining counties in such group to do so and to fix and determine the financial obligation of the petitioner and of the other remaining counties of the group. In the event that the majority of such

remaining counties shall fail to consent to such withdrawal within 90 days of such request, or consenting fail to agree on said financial obligation, the county or counties desiring such separation shall through the county attorney make a petition setting forth facts showing that it would better serve the interests of all concerned that such county, either alone or with another group, carry on its work, which petition shall be presented to the district court of any county affected by said proceeding. Upon the presentation of such petition the court shall fix a time and place of hearing, and by order direct the other interested counties to appear not less than twenty days after the service of notice thereof on the several county auditors of the interested counties. At the time so fixed, or at any other time designated, the court, without a jury, shall hear said petition and such evidence as may be adduced by the parties, and, if the petition be granted, by its order detach the petitioner from the group to which it belonged, and may annex the same to another group, and may fix and determine the financial obligation of the petitioner with respect to the group of counties to which it was formerly joined, and also to the group of counties to which it may be annexed. (G. S. '13, §719; '13, c. 500, §3; '15, c. 270, §3; Apr. 11, 1929, c. 160.)

710. Charges—Free patients.

Op. Atty. Gen., Apr. 12, 1932; note under §711.

711. Tuberculosis sanatoriums—residents—How admitted.—Any person who has been a resident of a county or counties, maintaining a tuberculosis sanatorium, throughout the year immediately preceding application, who is afflicted with tuberculosis, whether in the incipient or advanced stage, is eligible for care in such sanatorium and may apply for admission thereto, or anyone may apply on behalf of any such individual, and the superintendent shall when conditions so warrant admit said person to such sanatorium for care and treatment. Preference shall be given to patients in the most advanced stages of the disease except that applications of residents of a county or counties where a sanatorium is located shall always have precedence over applications of non-residents, regardless of the stage of the disease of such non-resident applicants. The superintendent of each county sanatorium shall keep lists of applications (resident and non-resident) numbered respectively in the order in which they are received. When the conditions warrant the admission of another patient, the superintendent shall give to the applicant who is first upon the resident list, or if there be no resident list then to the applicant who is first upon the non-resident list, an order for examination directed to one of the county examiners of the state sanatorium or to any licensed physician of the State of Minnesota residing in the county in which the applicant resides to determine that said applicant is afflicted with tuberculosis. The fee for each examination by examining physician shall be three dollars (\$3.00) payable out of the funds of the sanatorium for which the examination is made. The provisions of this section shall in no manner operate to abridge or repeal the provisions of Section 5383, General Statutes of 1923, relating to the commitment of persons afflicted with tuberculosis. (G. S. '13, §723; '13, c. 500, §7; '23, c. 19; Apr. 19, 1929, c. 255, §1.)

A wife who has been in a sanatorium in one county intending to follow her husband to another county when able to do so is entitled to admission to the sanatorium in the county to which the husband has moved and has resided for more than one year. Op. Atty. Gen., Aug. 11, 1931.

Applicant to be entitled to admission to sanatorium, must be resident of county at time of application and must have been resident there throughout year immediately preceding application. Op. Atty. Gen., Apr. 12, 1932.

717. Definitions.—Wherever in this Act the words "sanatorium," "county sanatorium" or "county sana-

torium commission" are used, the same shall apply to a sanatorium or commission whether the sanatorium in question is one for a county or a group of counties. Each member of a county sanatorium commission shall before entering upon his duties take the oath provided by law. (G. S. '13, §729; '13, c. 500, §13; Apr. 13, 1933, c. 237.)

722. Counties may be admitted to sanatorium groups.—If the board of a majority of the counties forming the group decide to admit such county, the auditors of such counties shall notify in writing the advisory commission of the Minnesota sanatorium for consumptives of the action taken. If the enlargement of the group by the admission of the applying county meets with the approval of such commission, it shall notify in writing the county auditor of each county affected, and the boards of those counties shall then proceed to perfect the enlargement of the group. ('21, c. 116, §3; Feb. 4, 1931, c. 6, §1.)

723. County boards to meet.—Upon being notified of the approval by the State commission, the boards of the counties involved, or representatives designated by them, such representatives to be either members of the boards or the county auditors, shall meet and consider the conditions upon which the applying county shall be admitted with reference to the amount of money such applying county shall pay to the other counties, if any, on account of the funds expended by them in erecting and equipping the sanatorium being maintained and operated by them. The conditions agreed upon shall be set forth in writing and submitted to the county board of each county involved and if approved by the majority of the county boards, resolutions to that effect shall be adopted and upon the adoption of such resolution by the new county to be admitted and by a majority of the counties already within such group, the conditions agreed upon shall be binding on all such counties and the applying county shall become attached to such group. After such resolutions are adopted certified copies thereof shall be filed in the office of the advisory commission of the Minnesota Sanatorium for Consumptives. ('21, c. 116, §4; Feb. 4, 1931, c. 6, §2.)

726. Same—Appropriation.

County which has made an appropriation under §726-2 may make an appropriation under §726. Op. Atty. Gen., Mar. 7, 1930.

726-1 to 726-3.

Superseded by §§726-3½ to 726-3½c.

County which has made an appropriation under §726-2 may make an appropriation under §726. Op. Atty. Gen., Mar. 7, 1930.

726-3½. County Board may aid societies in certain cases.—The County Board of any county in this state now or hereafter having a population of not less than 220,000 nor more than 330,000 inhabitants may appropriate and expend not to exceed \$50,000 for the purpose of aiding any society, association or corporation organized and existing for the purpose of giving medical attention to children afflicted with tuberculosis or whom such society, association or corporation has reason to believe may become afflicted with tuberculosis, in constructing and equipping additional buildings to any sanatorium now operated by any such society, association or corporation, for the purpose of caring and giving medical attention to such children. (Act Apr. 18, 1929, c. 228, §1.)

726-3½a. May appropriate money.—Such County Board may for the purpose of carrying out the provisions of this act appropriate or expend any unexpended funds now in the county treasury of such county. (Act Apr. 18, 1929, c. 228, §2.)

726-3½b. Limitations not to apply.—Such expenditure shall be over and above the limits now fixed by law. (Act Apr. 18, 1929, c. 228, §3.)

726-3½c. Inconsistent acts repealed.—All acts or parts of acts inconsistent herewith are hereby repealed. (Act Apr. 18, 1929, c. 228, §4.)

738-1. Lands owned and used by counties for agricultural fair purposes exempt from zoning ordinances in certain cases.—Whenever lands lying within the corporate limits of townships or cities of the first and second classes of the State are owned by a County and used for agricultural fair purposes, such lands and the buildings now, or hereafter erected thereon shall be exempt from the zoning, building, and other ordinances of such township or city. Provided further that no license or permit need be obtained from nor fee paid to such township or city in connection with the use of such lands. ('27, c. 212; Apr. 15, 1931, c. 166, §1.)

738-10. Same—tax levy.

Laws 1929, c. 178, authorizes counties with 24 congressional townships, population of 22,000 to 28,000, and assessed valuation of \$16,500,000 to \$22,000,000, to levy tax of not more than \$25,000 for purchase of fair grounds. Laws 1933, c. 292, amends Laws 1929, c. 178.

738-15. County tax levies for aid of County Agricultural Societies.

Explanatory note.—Laws 1927, c. 111, is entitled: "An act authorizing counties having 20 townships, full or fractional, and an area of more than 454,000 acres of land and less than 500,000 acres of land to levy an annual tax for the aid of county agricultural societies."

Act authorizing certain county boards in counties with assessed value of \$250,000,000, and area of over 5,000 square miles to levy tax for relief of county agricultural societies. Laws 1931, c. 169.

738-16. County Board may levy tax for agricultural societies.—That in addition to all other powers now or hereafter by law conferred upon county boards, authority hereby is given annually to levy by a four-fifths vote of the board a tax of not to exceed one-quarter of a mill upon all property subject to taxation, and from time to time to appropriate and pay over the proceeds of said tax, when collected, to any county agricultural society of its county which is a member of the state agricultural society, to assist such society in paying its financial obligations heretofore incurred. Provided, however, this act shall not apply to counties having authority to levy a greater tax under existing laws. ('27, c. 128, §1; Mar. 9, 1929, c. 48, §1.)

Under this section as amended by Laws 1929, c. 48, the county board has no power to make a conditional levy of taxes, and it has no power to take a mortgage from the agricultural society. The county has no authority to issue bonds for such purpose. Op. Atty. Gen., Dec. 18, 1929.

County may make levy for agricultural society to repay individuals who constructed grandstand on fair grounds, but on burning of grandstand, they have no right to dictate improvements to be made out of insurance moneys in county treasury. Op. Atty. Gen., May 10, 1933.

738-17. Same—application.—This act shall not apply to counties in which there is a city of the first class. ('27, c. 128, §2; Mar. 9, 1929, c. 48, §2.)

Laws 1929, c. 240, authorizes county boards of counties with assessed valuation of over \$300,000,000, and area of over 5,000 square miles to levy tax to aid county agricultural society.

738-17½. Counties may aid poultry associations.—That the county board of any county is hereby authorized to appropriate annually moneys from the county treasury, not otherwise appropriated, in a sum not exceeding \$100 to aid any poultry association organized and existing in the county, provided such poultry association holds at least one annual poultry exhibit and pays premiums thereat in at least the amount of such appropriation. (Act Apr. 19, 1929, c. 256, §1.)

738-18. Appropriation by certain counties, etc.

Amended. Laws 1931, c. 164. The only change introduced is to permit appropriation to "not more than ten" fair associations.

738-20. Certain counties may appropriate money to aid county agricultural societies.—That the county board of any county now or hereafter having a population of not less than 220,000 inhabitants nor more than 330,000 inhabitants which now owns or shall

hereafter own the grounds, together with the buildings thereon, on which a county agricultural society, which is a member of the State Agricultural Society, holds an annual fair or exhibition may appropriate not to exceed \$7,000.00 for the purpose of remodeling and making additions to present buildings on said grounds and for paying off any indebtedness which shall now exist. (Act Apr. 25, 1929, c. 373, §1.)

738-21. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed. (Act Apr. 25, 1929, c. 373, §2.)

739. Appropriations for certain agricultural developments.—The board of county commissioners of any county in this state having less than 225,000 inhabitants, may appropriate annually out of the general revenue fund of such county, a sum of money not exceeding a sum equal to five cents per capita of the population of such county according to the last census, either federal or state, of such county. Such sum so appropriated shall be paid to any incorporated development society or organization of this state which in the opinion of the board of county commissioners will use such money for the best interests of such county in advertising, improving or developing the agricultural resources of such county, and such other matter as may tend to a development of the county; provided that in any such county having an assessed valuation of over two hundred million (\$200,000,000) dollars, the county board of said county may appropriate a sum not exceeding a sum equal to ten cents per capita of the population of such county for the carrying on of said work in said county. (G. S. '13, §745; '13, c. 77, §1; '19, c. 205; '21, c. 128; Apr. 23, 1929, c. 295; Apr. 8, 1933, c. 174.)

This section does not permit appropriation for extermination of grasshoppers. Op. Atty. Gen., May 21, 1932.

Op. Atty. Gen., Apr. 7, 1933; note under §688.

County board could appropriate 5c per capita to fair board to be used by it for improvements to fair grounds. Op. Atty. Gen., May 10, 1933.

County board cannot make a donation to 4H Club work but may make appropriations to county agricultural society. Op. Atty. Gen., June 6, 1933.

750-1. Appropriation for purchase of explosives.—The County Board in any county in this state now or hereafter having an area of over 5,000 square miles and an assessed valuation of over \$200,000,000, exclusive of money and credits, and having not less than thirty-five per cent of its area consisting of vacant and uncultivated lands, may appropriate from the revenue fund of said county the sum of not more than twenty-five thousand (25,000.00) dollars and advance said sum to any County Club and Farm Bureau Association of said county for the purpose of enabling said County Club and Farm Bureau Association to purchase excess war explosives from the United States government, at the best prices obtainable, for re-sale for cash to land owners in said county for use in clearing and improving cutover, uncleared lands therein, upon such terms and condition as shall be prescribed by said county board, said funds so advanced to be repaid to said county on the completion of the purposes and objects for which said funds shall be so advanced. ('27, c. 153, §1; Apr. 4, 1933, c. 153.)

751. Maintaining water in certain lakes.

Improving navigable lakes.

Ramsey county may expend for maintenance of golf course constructed under Laws 1927, c. 209, the green fees and other revenues collected on the course, in addition to the expenditures under Laws 1917, c. 193, for the improvement of navigable lakes in the county. Op. Atty. Gen., Apr. 25, 1930.

751-1. Acquisition of land, etc.

County establishing bathing beach is impliedly authorized to expend money for the operation thereof. Op. Atty. Gen., Apr. 24, 1930.

County board may not condemn land to be used as entrance to lake. Op. Atty. Gen., Mar. 21, 1933.

756-5. Bathing beach in certain counties—etc.

County establishing bathing beach is impliedly authorized to expend money for the operation thereof. Op. Atty. Gen., Apr. 24, 1930.

760. Commissioner to examine sites, etc.

Payment of flat rate per month for use by officer or employee of his own automobile in county business, irrespective of mileage traveled, is illegal. Op. Atty. Gen., Mar. 31, 1930.

762. Observance of Memorial Day.

An appropriation to a village pursuant to which it expended money, did not lapse by reason of the failure of the village to submit a verified account during the same year. Op. Atty. Gen., Dec. 27, 1929.

763. County board to establish a "Soldiers' Rest."

Act authorizing county board to assist in operation of veterans' rest camp. Laws 1931, c. 324, post, §4397-2.

764. "Soldier's Rest" created.—Any plot of ground secured as herein provided and designated as a "Soldiers Rest" shall be used exclusively for the interment of deceased, indigent, active or discharged soldiers, sailors, marines and war nurses of the United States of America, without charge for space therein. ('17, c. 60, §2; Apr. 20, 1933, c. 336.)

766. Claims to be itemized and verified.

School districts are not included in the word "municipality." 175M201, 220NW606.

Compliance with this section held shown. 178M411, 227NW358.

Section 1222, relating to audit by city council, does not apply to regularly employed persons whose compensation has been fixed by law or order of common council. Naeseth v. V., 185M526, 242NW6. See Dun, Dig. 6741.

Claims against school districts need not be verified. Op. Atty. Gen., Jan. 18, 1930.

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

Claim against county may be assigned to bank, and warrant may issue to bank. Op. Atty. Gen., May 11, 1932.

Sworn monthly statements by county commissioners presenting bills for mileage on a monthly basis are sufficient. Op. Atty. Gen., May 20, 1933.

Statement containing total number of miles traveled during month by county commissioner is not sufficient, but mileage claim must be itemized. Op. Atty. Gen., May 22, 1933.

767. Verification.

School districts are not included in the word "municipality." 175M201, 220NW606.

Claims against school districts need not be verified. Op. Atty. Gen., Jan. 18, 1930.

768. Auditing of claims.

School districts are not included in the word "municipality." 175M201, 220NW606.

770. Assessors and overseers of roads.

Discharged soldier employed as road overseer by town board at first meeting in April, 1932, may not be discharged when new board meets in April, 1933, without giving veteran a hearing. Op. Atty. Gen., Mar. 21, 1933.

774. Election districts.

Electors cannot vote without a polling place and election officials, and in the absence of such place and officers they are not entitled to vote in an adjoining district; but voters cannot be deprived of their right to vote by failure to provide a place and officers, and the county board may at any time prior to the election designate a place and appoint election officers upon such reasonable notice as the circumstances will permit. Op. Atty. Gen., May 22, 1930.

Upon dissolution of townships duty devolves upon county board to arrange voting districts and voting places. Op. Atty. Gen., July 31, 1933.

775. Judges of election.

The requirements of this section are directory and not mandatory. So held with respect to a polling place in unorganized territory which became unavailable. Op. Atty. Gen., May 22, 1930.

778. Members of board—offices—contracts.

Member of county board cannot sell materials to a contractor who is constructing a building under contract with the county. Op. Atty. Gen., June 12, 1931.

County commissioner may also hold office of district boiler inspector. Op. Atty. Gen., May 27, 1932.

784. Section corners.

Adverse possession up to boundary line. Patmode v. M., 182M348, 234NW459.

786. Questions submitted to votes—ballot.—Whenever the county board is authorized to do any act,

incur any debt, appropriate money for any purpose, or exercise any other power or authority, only when authorized to do so by a vote of the people, the question to be voted upon may be submitted at a special or any general election, by a resolution specifying the matter or question to be voted upon, and, if it is to authorize the appropriation of money, creation of a debt, or levy of a tax, shall state the amount thereof. Notice of such election shall be given as in the case of special elections, and if the question submitted be adopted, the board shall pass an appropriate resolution to carry the same into effect. In all such elections the form of the ballot shall be: "In favor of (here state the substance of the resolution to be submitted), Yes No"—with a square opposite each of the words "Yes" and "No," in one of which the voter shall make a cross to indicate his choice; provided, that the county board may call a special county election upon any such question to be held within 60 days after a resolution to that effect shall be adopted by the county board. Upon the adoption of such a resolution the county auditor shall post and publish notices of such election as required by Laws 1929, chapter 297, section 6 [§270-6]. The election shall be conducted and the returns canvassed in the manner prescribed by said Laws 1929, chapter 297 [§§270-1 to 270-13], so far as practicable. (R. L. '05, §450; G. S. '13, §775; Apr. 25, 1931, c. 384.)

ORGANIZATION OF TOWNS

788. Organization of towns—Number of petitioners.—Whenever a majority of the resident freeholders of any one, two, three, four or five congressional townships containing in the aggregate not less than twenty-five freeholders who are legal voters, petition the county board to be organized as a town, such board shall forthwith proceed to fix and determine the boundaries of such new town and name the same, and shall make and file with the auditor a full report of its proceedings in relation to the establishment thereof. For the purposes of the act the word "freeholders" shall be construed to include any person who is a legal voter in any such town occupying real estate therein under the homestead or preemption laws of the United States or under contract of purchase from any person or corporation or from the State of Minnesota. (G. S. '94, §914; '05, c. 143, §1; G. S. '13, §777; Feb. 18, 1931, c. 19.)

789. Formation and alteration of towns.

Boundaries of town may be altered so as to add strip in which only one person resides where such person signed the petition along with the sufficient number of legal voters residing within the present limits of the town. Op. Atty. Gen., Mar. 20, 1931.

790. Notice of hearing.

Hearing provided for relates only to proceedings had under §789. Op. Atty. Gen., Mar. 7, 1929.

ESTABLISHMENT OF SECTION LINES

802. Report of expenses—Assessment.

Premium on a bond given by a surveyor may not be regarded as an expense of a survey. Op. Atty. Gen., Oct. 12, 1931.

COUNTIES EXCEEDING 150,000

808. Estimates of expense and revenue.

County board of Hennepin County may not deduct percentage from salaries of employees on ground that receipts from current tax levy is not sufficient to produce amount of budget for current year. Op. Atty. Gen., Feb. 23, 1933.

County board and county auditor act in violation of law in deducting eight and one-third per cent from salaries of county employees fixed by law, on ground that receipts from current tax levy would not be sufficient to produce the amount of the budget for the current year. Op. Atty. Gen., Feb. 23, 1933.

813. Certificates of indebtedness to retire outstanding warrants authorized in certain counties.—The county treasurer shall pay warrants only from the fund from which they are legally payable. Payments

under any special contract shall be kept separate under the name of such contract, and under the general title of the fund from which such payment may be legally made. The treasurer need not keep a specific appropriations account separately, but shall keep a general appropriations account.

Provided, however, that in any county having a population of more than 415,000 inhabitants and an assessed valuation of not less than \$310,000,000, exclusive of moneys and credits, or any county having a population of not less than 200,000 or more than 240,000 inhabitants and an assessed valuation of not less than \$200,000,000, exclusive of moneys and credits, and an area of more than 5,000 square miles, the county board 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 such fund, but the certificates outstanding for any such separate funds shall not at any time exceed fifty 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 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. No such certificates shall be issued prior to the beginning of the fiscal year for which the taxes so anticipated were intended, except that when taxes shall have been levied for the purpose of paying a deficit in any such fund carried over from any previous year or years certificates of indebtedness in anticipation of collection of the taxes levied for such deficit may be issued at any time after such levy shall have been finally made and certified to the county auditor. 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 levy for that particular purpose. They shall be numbered consecutively, and be in denominations of \$100 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 on account of said fund and the full faith and credit of the county shall be irrevocably pledged for the redemption and payment of the certificates so issued. Such certificates shall be payable primarily from the moneys derived from the levy for the years against which such certificates were issued, but shall constitute unlimited general obligations of the county. Moneys derived from the sale of such certificates shall be credited to the fund or funds the taxes for which are so anticipated. (R. L. '05, §474; R. S. '13, §802; Apr. 21, 1933, c. 380.)

816. Maximum tax rate.

Op. Atty. Gen., Feb. 23, 1933; note under §808.

818. Money expended only as specified.

Counties cannot make contract for purchases unless sufficient funds are available or unless a tax has actually been levied and is in process of collection. Op. Atty. Gen., Aug. 28, 1933.

TERMS OF CERTAIN COUNTY OFFICERS.

820. Auditor, treasurer, sheriff, register of deeds, etc.

No lawful ballots can be cast for office of sheriff at a general election unless term of incumbent, whether elected or appointed, expires on first Monday of January following such election. State v. Borgen, 248NW744. Legislature may fix term and provide for filling of vacancy in office of sheriff. State v. Borgen, 249NW183. See Dun. Dig. 2263a.

822. County board to fill vacancies.

See note under §250.

TRANSPORTATION FACILITIES FOR COUNTY OFFICERS

822-1. Certain counties authorized, etc.

Laws 1931, c. 42, authorizes county board in counties having over 200,000 inhabitants, and area of over 5,000 square miles, to furnish indemnity insurance to county officers operating motor vehicles and equipment in county business.

Act relating to traveling expenses for county commissioners in counties having population of 24,000 to 27,000, assessed valuation of \$18,000,000 to \$23,000,000 and 22 to 24 congressional townships. Laws 1931, c. 274.

Payment of flat rate per month for use by officer or employee of his own automobile in county business, irrespective of mileage traveled, is illegal. Op. Atty. Gen., Mar. 31, 1930.

This section is superseded by Laws 1931, c. 331 [Supp. 1931, §254-47], to the extent that members of the county board are only entitled to 7 cents per mile mileage when they use their own cars, and this section has been amended by Laws 1933, c. 13, reducing the allowance to 5 cents per mile. Op. Atty. Gen., Feb. 23, 1933.

This act applies to Hennepin County and to no other county. Op. Atty. Gen., May 20, 1933.

This act did not place Hennepin County in different class than any other counties as far as mileage is concerned with exception as to limitation of \$2,000, and county commissioner must present itemized statements of mileage claimed. Op. Atty. Gen., May 22, 1933.

822-2. Sheriff's expense in certain counties.—That in all counties in this state that now have or may hereafter have, according to the last completed state or national census, a population of not less than 220,000 inhabitants, and less than 330,000 inhabitants, the sheriff of said county shall be allowed a sum of not more than \$7,000.00 for the year 1932 and not more than \$2,500.00 per annum thereafter, to be used for the purchase, care, maintenance, operation, upkeep of automobiles, and insurance, including liability and property damage covering the operator of the automobiles, firearms and other necessary equipment and paraphernalia to be used in the performance of the duties pertaining to his office. (Laws 1929, c. 136; Apr. 24, 1931, c. 313.)

See §§254-47, 254-48.

COUNTY AUDITOR

826. Bond.

A county auditor is not liable on his bond for a false certificate as to tax liens on lands where no damage resulted to a person relying on such certificate. 181M334, 232NW339. See Dun. Dig. 2309.

832. Clerk of county board.

Resolution and agreement by county board is valid, though not entered on the minutes and not published. 180M423, 230NW891.

An "assistant to the county board" employed under Laws 1923, c. 419, §21, should be attached to the auditor's office, in view of this section. Op. Atty. Gen., July 3, 1930.

Op. Atty. Gen., Aug. 9, 1932; note under §990. County board of St. Louis County had authority to employ expert technical assistance in analyzing and classifying the duties of county employees, with a view to standardization of duties and compensation. Op. Atty. Gen., Sept. 12, 1931.

836. Disbursements—Warrant.

County held estopped to assert set-off against warrants. 180M423, 230NW891.

Where number of claims against county are assigned to bank, county auditor may not join all claims assigned to bank and issue one warrant for total amount due, but must issue separate warrants. Op. Atty. Gen., May 11, 1932.

County warrants may not be paid out of order of registration, even those covering board of county prisoners. Op. Atty. Gen., May 19, 1933.

836-1. Certain records may be destroyed.—That the auditors of the several counties be and they hereby are authorized, with the consent and approval of their county boards and judge of the district court, to destroy the following vouchers, files; records and papers of their offices at the time and under the conditions herein specified:

1. Claims and vouchers paid by the county more than 20 years prior to such destruction;
2. Receipts for taxes paid more than 20 years prior thereto;
3. Treasurers' checks paid more than 10 years prior thereto;

4. Receipts for mortgage registration taxes paid more than 20 years prior thereto;

5. Miscellaneous receipts, delinquent tax statements and miscellaneous papers and correspondence bearing dates more than 20 years prior thereto;

6. With the written approval of the treasurer county warrants paid more than 20 years prior thereto; and

7. All ballots and election returns, except the abstract of the county canvassing board, four years after the date of the election.

Provided, however, that the said auditor, instead of personally destroying any miscellaneous papers and correspondence, or any other documents, instruments, or papers which may be of historical value, shall forward the same to the historical society, St. Paul, Minnesota, and such society is authorized to permanently preserve any matter found therein deemed by it to be of historical value and to destroy all other documents, papers and matters so received by it. ('27, c. 275; Mar. 9, 1929, c. 66, §1.)

This statute may be taken as an indication as to the length of time ballots cast at a municipal election in a city of the first class must be held before they may be lawfully destroyed. Op. Atty. Gen., Jan. 27, 1931.

837. Salaries and clerk hire in office of, etc.

Laws 1931, c. 103, legalizes payments of salaries under this section.

Laws 1931, c. 103, legalizes salaries paid under Laws 1927, c. 383. Op. Atty. Gen., July 11, 1931.

Laws 1927, c. 383, must be construed so as to be limited to cases where the reduction in assessed valuation occurs during the term of office of an incumbent, and the authorization to pay the old salary expires at the expiration of that term. Op. Atty. Gen., July 11, 1931.

Where assessed valuation of Cass County for the year 1930 fell to \$5,129,382, taking it out of the class of counties covered by this act, a county auditor taking office in 1931 was not entitled to a salary of \$3,000, and a resolution of county board to pay him such an amount was of no effect. Op. Atty. Gen., July 29, 1931.

The salary of the auditor of Cass County with an assessed valuation of \$5,129,382 is \$2,000 per annum, in view of Laws 1925, c. 78, fixing a minimum salary in certain counties. Op. Atty. Gen., July 29, 1931.

County auditor must turn into county all fees received, including fees for making of certified copies of official records. Op. Atty. Gen., Nov. 28, 1931.

Moneys and credits are to be included in determining classification of county. Op. Atty. Gen., May 14, 1932.

Exempt real estate taxes, which are, in fact, included in assessed valuation fixed and determined by Minnesota Tax Commission, are to be considered in determining classification. Op. Atty. Gen., May 14, 1932.

Salary of county auditor for year 1933 should be based upon assessed valuation of real and personal property as fixed by state board of equalization for year 1932. Op. Atty. Gen., Jan. 17, 1933.

In counties operating under this section auditor's salary will not be changed by reason of decreased valuation during term, but in counties operating under special law salary will be automatically reduced in accordance with valuation. Op. Atty. Gen., Feb. 4, 1933.

This section is inapplicable to county auditor of Koochiching County. Op. Atty. Gen., Feb. 24, 1933.

County auditor is not authorized to charge fee for working services rendered in proceedings under Laws 1923, c. 345, or acts amendatory thereof. Op. Atty. Gen., July 8, 1933.

837-1. Clerk hire in office of county auditor, etc.

PARTICULAR COUNTIES

Counties having 38 to 42 congressional townships, and assessed valuation of \$3,000,000 to \$12,000,000. Laws 1929, c. 37, §2, as amended by Laws 1931, c. 254, fixes salary of auditor at \$2,500 and \$2,400 for clerk hire.

Counties with 60 to 80 congressional townships and 45,000 to 75,000 inhabitants. Act. Mar. 9, 1929, c. 69, fixes salary of auditor at \$3,000.

Counties with 41 to 43 congressional townships and 25,000 to 30,000 population. Laws 1929, c. 161, §1 amends Laws 1925, c. 91, §2, and fixes the salary of the auditor at \$2,700 and authorizes allowance of clerk hire not to exceed \$2,400 per year, and also additional clerk at not more than \$80 per month.

Counties having 220,000 to 330,000 inhabitants. Laws 1927, c. 420, §1, amending, etc., is amended by Laws 1929, c. 305, by fixing salary of stenographer at \$1,380.

Laws 1929, c. 341, §2, post, §997-4, fixes salary at \$6,000, with additional \$500 allowed if acting as member of a municipal building commission, in counties of 415,000 population or over.

Counties with area of not more than 23 and not less than 20 congressional townships, and assessed valuation of not more than \$6,000,000. Laws 1931, c. 15, §1, fixes salary of auditor at \$2,000 in addition to fees, and \$1,500 for clerk hire. Effective Jan. 1, 1931.

Counties having assessed valuation of \$18,000,000 to \$30,000,000, containing 12 to 16 congressional townships, and population of 29,500 to 30,000. Laws 1931, c. 191, amends Laws 1923, c. 150, §1, and fixes salary of auditor at \$3,000 commencing Nov. 19, 1930.

Counties containing 55 to 57 congressional townships and assessed valuation of \$5,000,000 to \$12,000,000. Laws 1931, c. 191, allows county auditor clerk hire sum representing not more than one-third of one mill on assessed valuation.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to apply to counties as above.

Counties having population of 380,000 or over. Laws 1931, c. 271, amends Laws 1921, c. 133, §8, as amended by Laws 1923, c. 419, §8, as amended by Laws 1925, c. 398, §8, as amended by Laws 1927, c. 426, §8, and fixes salaries of deputies and assistants in auditor's office as follows: chief deputy \$3,600; chief accountant \$3,600; deputy to act as clerk of county board \$3,000; deputy \$2,500; draftsman \$2,400; two assistant draftsmen \$2,300 each; two bookkeepers \$2,000 each; two settlement clerks \$2,200 each; six deputies \$2,200 each; three clerks \$2,100 each; four clerks \$1,900 each; seven clerks \$1,800 each; eight clerks \$1,500 each.

Counties having 70 to 80 congressional townships and assessed valuation of \$2,000,000 to \$5,000,000. Laws 1931, c. 284, amends Laws 1921, c. 351, §1, by making the act apply to counties described above.

Act Feb. 9, 1933, c. 16, provides that in counties having 81 to 85 congressional townships and 18,000 to 30,000 population the county auditor shall receive \$2,400 per year and clerk hire to be fixed by the county board. Laws 1925, c. 7, repealed.

Act Mar. 9, 1933, c. 76, §1, effective Jan. 1, 1934, provides that in counties with area of 35 to 55, inclusive, full or fractional congressional townships, and assessed valuation of not more than \$2,000,000, exclusive of moneys and credits, the county auditor shall receive a salary of \$1,500 per annum, in addition to fees allowed by law, such salary payable monthly. Clerk hire to be fixed by county board.

Act Mar. 20, 1933, c. 96, provides that in counties having 55,000 to 70,000 population, and 35 to 45 congressional townships, the county board may fix the salary of the county auditor at not to exceed \$3,500, and require that fees be paid into general fund.

Act Apr. 1, 1933, c. 143, amends Laws 1929, c. 69, §1, to provide the auditor shall receive \$2,500 per annum.

Act Apr. 10, 1933, c. 166, §2, provides that in counties having 76 to 80 congressional townships, and assessed valuation of \$3,000,000 to \$5,000,000, exclusive of moneys and credits, the county auditor shall receive \$1,800 per annum and clerk hire not exceeding \$2,400 per annum, fees to be paid into county treasury.

Act Apr. 11, 1933, c. 212, effective May 1, 1933, authorizes county board in counties having 50 to 70 congressional townships and assessed valuation, exclusive of moneys and credits, of less than \$1,500,000, to fix salaries of county officers and require their fees to be paid into the county treasury.

Act Apr. 13, 1933, c. 219, §1, provides that in counties having assessed valuation of not more than \$6,000,000 and population of not more than 12,500 the county board shall fix the salaries of subordinate county employees. This section seems to be invalid as not expressed in the title of the act. Section 2 authorizes the county board, in counties having assessed valuation, excluding moneys and credits of \$2,500,000 to \$3,000,000, population of 9,000 to 10,000, and area of 29 to 31 congressional townships, to fix the salaries of all subordinate county employees.

Act Apr. 15, 1933, c. 281, provides that in counties having 100 or more congressional townships and assessed valuation, including moneys and credits, of \$4,000,000 to \$6,000,000, the county auditor shall receive \$2,250, and clerk hire to be fixed by the county board.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224.

Act Apr. 15, 1933, c. 284, §2, amending Laws 1921, c. 437, Laws 1927, c. 225, Laws 1931, c. 192, provides that in counties having 44 or 45 congressional townships and assessed valuation, exclusive of moneys and credits, of \$9,000,000 to \$12,000,000, the county auditor shall receive \$2,230 and fees, with maximum of \$2,880, and clerk hire \$3,060.

Act Apr. 21, 1933, c. 432, §1, effective May 1, 1933, amends §2 of Laws 1925, c. 91, by making the salary of the county auditor \$2,196 per year, with not exceeding \$1,956 for clerk hire.

Legislature possesses right to change salaries of county officers at any time. Op. Atty. Gen., Feb. 21, 1933.

COUNTY TREASURER

839. Persons eligible.

This section is unconstitutional if construed to require a county commissioner to resign before a primary election to determine his candidacy for the office of county treasurer. Op. Atty. Gen., Mar. 22, 1930.

840. Bonds of county treasurers, etc.

Liability under official bonds extended to faithful performance of duties under §6296. See Laws 1929, c. 200. 173M283, 217NW354.

Payment of part of premium by county treasurer which the law requires the county to pay was not a voluntary payment of the obligation of another. 174M281, 219NW 96.

842. Books, accounts, etc.

U. S. F. & G. Co. v. M., (DC-Minn.), 1FSupp514; note under §846.

843. Receipt and payment of money.

U. S. F. & G. Co. v. M., (DC-Minn.), 1FSupp514; note under §846.

Where administrator deposits unclaimed money of heir with county treasurer, it may be impounded by garnishment by creditor of heir. 171M280, 214NW26.

844. Board of Auditors.

U. S. F. & G. Co. v. M., (DC-Minn.), 1FSupp514; note under §846.

Op. Atty. Gen., Jan. 22, 1932; note under §854.

A county treasurer has no duty in designating depository banks for county funds, nor in approving the depository bonds, and the fact that such treasurer owned a few shares of stock in a bank does not prevent that bank from becoming a de jure depository of county funds. Co. of Marshall v. B., 182M10, 234NW1. See Dun. Dig. 2263b, 2323(77), 2699.

846. Funds, where deposited.

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

Where county treasurer, without authority of law, maintained in a county depository an "over-remittance account" in which he deposited irregular payments made by taxpayers and others not sanctioned by law, the funds so deposited did not become the property of the county, and the depository was not liable on its bond for misappropriation of funds in such account, giving surety on treasurer's bond a right of action by subrogation on the depository's bond, the depository having no notice of any conversion of the funds of the account by the treasurer. U. S. F. & G. Co. v. M., (DC-Minn.), 1FSupp514. See Dun. Dig. 2701, 2702.

County had preference as to tax money deposited in bank by taxpayer to credit of county. 176M594, 224NW 159.

Agreement of county board to accept certificates of deposit for county funds to enable failed bank to reopen held not to amount to designation of bank as county depository. 180M423, 230NW891.

A county treasurer has no duty in designating depository banks for county funds, nor in approving the depository bonds, and the fact that such treasurer owned a few shares of stock in a bank does not prevent that bank from becoming a de jure depository of county funds. Co. of Marshall v. B., 182M10, 234NW1. See Dun. Dig. 2263b, 2323(77), 2699.

Deposits cannot exceed capital and surplus even though secured by both bond and collateral. Op. Atty. Gen., Oct. 31, 1929.

Where county treasurer has made deposits in excess of amount of capital stock and surplus, pledged securities deposited with the treasurer may be held only until the amount legally deposited is paid and the balance must be returned for the benefit of general creditors of the bank. Op. Atty. Gen., Dec. 12, 1929.

This section applies to national banks as well as to state banks, and is mandatory. Op. Atty. Gen., Aug. 26, 1930.

County treasurer who permits money to remain in a bank after its term as depository has expired is liable for any loss that might result by reason of the funds being permitted to remain in such bank. Op. Atty. Gen., June 19, 1931.

County treasurer may not advance out of funds of the county to various school districts an amount equal to what the district would ordinarily receive in the November distribution of tax money, though such treasurer has on hand a sum in excess of the amount which he is authorized to deposit in the remaining county depositories. Op. Atty. Gen., Sept. 11, 1931.

A bank which amended its articles by increasing its capital stock, changing the name of the bank, and changing the location of the bank to another county did not change its corporate identity, and county would have been justified in continuing to regard the bank under its changed name as a depository of county funds. Op. Atty. Gen., Oct. 12, 1931.

Board of audit of county need take no steps to eliminate closed bank as depository, it ceasing to be county depository on closing. Op. Atty. Gen., Apr. 9, 1932.

Where county depository amends its articles and changes its name, it remains the same corporation and there is no necessity for re-advertising, but board of audit might adopt resolution reciting facts and requiring bank to execute new resolution and new assignment of collateral under its new name. Op. Atty. Gen., Apr. 9, 1932.

A county is not liable to state for tax moneys lost through closing of depository in absence of negligence. Op. Atty. Gen., Feb. 17, 1933.

Receiver of county depository may offset county warrants drawn on overdrawn county poor fund against general fund deposit. Op. Atty. Gen., Feb. 21, 1933.

There is no legal authority for charging closed county depository a greater rate of interest than it contracted to pay. Op. Atty. Gen., Feb. 21, 1933.

County depository has right to offset against deposit interest due on county bonds. Op. Atty. Gen., Feb. 23, 1933.

Where state moneys in hands of county treasurer are lost through closing of county depository, state is not entitled to preference in moneys collected from collateral or sureties upon depository's bond. Op. Atty. Gen., Mar. 18, 1933.

County is a preferred creditor as to funds remaining in designated depository after expiration of term. Op. Atty. Gen., July 27, 1933.

It is permissible for school treasurer to leave money in hands of county treasurer with his consent and thus obtain advantage of collateral posted with county. Op. Atty. Gen., Aug. 23, 1933.

848. Bonds of depositories.

224NW159; note under §846.

The debtor of an insolvent bank when sued by its receiver, cannot set off his liability as a surety upon a depository bond. 172M80, 214NW792.

Surety cannot be relieved from liability until the term of the bond expires. Op. Atty. Gen., Oct. 3, 1930.

A bank designated as a depository of county funds must furnish the bond, or in lieu thereof the collateral security required by statute, and no exceptions are made. Op. Atty. Gen., Mar. 2, 1931.

Surety on bond of depository for county funds is liable for money remaining on deposit with the bank at the expiration of its two-year term, but for safety the county should demand the deposit even though the immediate withdrawal thereof would result in closing of the bank. Op. Atty. Gen., June 19, 1931.

Where county depository fails, the county should look first to sureties on the bond and resort to collateral pledged only when necessary. Op. Atty. Gen., Aug. 4, 1931.

All collateral delivered to county as security for county deposit, must first be approved by county board. Op. Atty. Gen., May 21, 1932.

County board has no right to refuse to accept individual sureties on depository bond, if solvent and financially responsible. Op. Atty. Gen., Feb. 14, 1933.

849. Proposals by banks.

A new advertisement and a new assignment and approval of collateral must be made every two years, a mere renewal of the former arrangement being insufficient. Op. Atty. Gen., Dec. 18, 1929.

851. Deposit in official capacity only.

U. S. F. & G. Co. v. M., (DC-Minn.), 1FSupp514; note under §846

852. Public funds kept separate.

U. S. F. & G. Co. v. M., (DC-Minn.), 1FSupp514; note under §846.

853. Payment.

U. S. F. & G. Co. v. M., (DC-Minn.), 1FSupp514; note under §846.

854. Compensation and mileage of board of auditors.

Chairman of county board while in the county seat as a member of the board of auditors was entitled to \$3 per day and ten cents per mile necessarily traveled in attending the meetings, but was not entitled to further allowances for meals or room rent while at the county seat. Op. Atty. Gen., Jan. 22, 1932.

Mileage allowance in this section is not in the form of reimbursement for expenses and is not affected by Laws 1931, c. 331. Op. Atty. Gen., Jan. 22, 1932.

Chairman of county board is not entitled to mileage for every day travelled from his home to and from county seat when county board is in session for three days. Op. Atty. Gen., May 19, 1933.

856. Exemption from liability.

County treasurer held not liable on his bond by reason of failure of depository bank. Co of Marshall v. B., 182 M10, 234NW1. See Dun. Dig. 2323(77), 2699.

864. New bond—insolvency of surety.—The county board may require the county treasurer to give a new bond, with sureties to be approved by them, whenever, in the opinion of a majority of said board, the sureties, or any of them, on the original bond, are insufficient, and may also require a new bond, with sureties to be approved by them, whenever the penalty of such original bond is deemed insufficient; but the taking of any new bond shall not affect or impair the original bond, or the rights and liabilities of the parties thereto, incurred or existing at or prior to the time of the approval and acceptance of such new

bond. Where the original bond was a corporate surety bond, and such bond, since the first day of January, 1933, has become inoperative due to the insolvency of the surety company, the treasurer shall furnish a new bond with sureties to be approved by the county board, and the liability of the sureties on such new bond shall only include and extend from the date of the execution of the new bond. (R. L. '05, §518; G. S. '13, §865; Dec. 20, 1933, Ex. Sess., c. 4.)

869. Payment of orders or warrants.

County cannot pay interest on registered warrant until the principal is paid, except ditch warrants (Mason's Stat. 1927, §6840-108). Op. Atty. Gen., Aug. 10, 1929.

County treasurer when accepting county warrants in payment of taxes should allow interest from the date the warrant was presented and marked, "Not paid for want of funds." Op. Atty. Gen., Oct. 2, 1931.

County auditor may draw warrants to pay interest on warrants stamped "not paid for want of funds." Op. Atty. Gen., July 11, 1933.

Notice that county warrants No. 1000 to No. 1500 are payable is sufficient to cover all intermediate numbered warrants. Op. Atty. Gen., July 13, 1933.

869-1. Transfer of funds to avoid interest on warrants drawn on insufficient fund.

Laws 1927, c. 147 [2620-5 to 2620-13] is valid. 171M312, 213NW914.

Fund to which transfer of other fund has been made cannot be required to pay interest on it. Op. Atty. Gen. Feb. 9, 1933.

871-1. County Treasurer may receive fees and mileage in certain cases.—That in counties now having a population of less than 75,000 the county treasurer shall in attending the opening of safety deposit boxes pursuant to Section 2303, General Statutes 1923, receive from the county his actual expenses for his services in attending the opening of such safety deposit boxes, for which actual services he shall file a claim with the board of county commissioners of his county and have the same audited and allowed as are other claims against the county. (Act Apr. 12, 1929, c. 172.)

872. Salary and clerk hire in office of county treasurers.

County treasurer is not entitled to keep fees collected for issuance of certificates for search of tax records, but must turn them into the county treasury. Op. Atty. Gen., Apr. 22, 1931.

Limit of indebtedness which may be contracted by county in anticipation of uncollected taxes pursuant to §1938-21, includes county charges under this section. Op. Atty. Gen., Apr. 28, 1932.

Exempt real estate taxes, which are, in fact, included in assessed valuation, fixed and determined by Minnesota Tax Commission are to be considered in determining classification. Op. Atty. Gen., May 14, 1932.

Moneys and credits are to be included in determining classification of county. Op. Atty. Gen., May 14, 1932.

Legislature possesses right to change salaries of county officers at any time. Op. Atty. Gen., Feb. 21, 1933.

Salary and clerk hire in Koochiching County is governed by this section. Op. Atty. Gen., Feb. 24, 1933.

County treasurer is not entitled to a fee for preparing tax lists for banks desiring to remit taxes for their customers. Op. Atty. Gen., May 19, 1933.

PARTICULAR COUNTIES

Counties of 38 to 42 congressional townships and assessed valuation of \$8,000,000 to \$12,000,000. Laws 1929, c. 37, §3, fixes salary of treasurer at \$2,500, and \$1,800 for clerk hire.

Counties with 60 to 80 congressional townships and 45,000 to 75,000 inhabitants. Act. Mar. 9, 1929, c. 69, fixes salary of treasurer at \$3,000. Sp. Laws 1891, c. 423, repealed.

In counties containing 30 townships, having total area of 665,000 acres, and assessed valuation of not less than \$16,000,000, and not more than \$20,000,000. Laws 1929, c. 107, 307; Laws 1931, c. 28. Salary is fixed at \$3,000, and payments made under 1929 acts are validated.

Counties with 20 to 25 organized townships outside cities and villages, assessed valuation of \$29,000,000 to \$35,000,000, and population of 29,000 to 36,000. Act. Mar. 23, 1929, c. 108, fixes salary of treasurer at \$3,000.

Counties with not less than 48 townships, area of 1,000,000 to 1,500,000 acres, population of 15,000 to 30,000, and assessed valuation of \$10,000,000 to \$25,000,000. Act. Mar. 3, 1929, c. 119, authorizes allowance for clerk hire not exceeding \$1,800 per year.

Counties with 41 to 43 congressional townships and population of 25,000 to 30,000. Laws 1929, c. 161, §4, amends §15, c. 91, Laws 1925, and authorizes additional clerk with salary not to exceed \$80 per month.

Counties with assessed valuation of \$8,000,000 to \$9,500,000, and having 16 to 18 townships. Laws 1929, c. 238, authorizes increase of salary of treasury by 25 per cent, including years 1927 and 1928.

Counties with population of over 150,000, and area of 5,000 square miles or more. Laws 1921, c. 492, §18, is amended by Laws 1929, c. 243.

Counties of over 400,000 population. Laws 1923, c. 419, §16, as amended by Laws 1925, c. 398, §3, is further amended by Laws 1929, c. 301.

Counties with 220,000 to 330,000 population. Laws 1929, c. 338, amends G. S. 1913, §§874, 875, as amended by Laws 1927, c. 420, §2.

Counties with not less than 43 and not more than 45 congressional townships, with assessed valuation of not less than \$14,000,000 and not more than \$18,000,000. Act Apr. 25, 1929, c. 384, repeals §3, c. 437, Laws 1921, and fixes salary of treasurer at \$2,820 and allows \$2,800 for clerk hire.

Counties having area of not more than 23 and not less than 20 congressional townships, and assessed valuation of not more than \$6,000,000. Laws 1931, c. 15, §2, fixes salary of treasurer at \$2,000, in addition to fees, and \$600 for clerk hire. Effective Jan. 1, 1931.

Counties containing 55 to 57 congressional townships and assessed valuation of \$5,000,000 to \$21,000,000. Laws 1931, c. 191, allows treasurer clerk hire at sum representing one-fourth of one mill on assessed valuation.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to make amended act apply to counties as above.

Counties having 70 to 80 congressional townships and assessed valuation of \$2,000,000 to \$5,000,000. Laws 1931, c. 234, amends Laws 1921, c. 351, §1, by making the act apply to counties described above.

Act Feb. 2, 1933, c. 12, amends Laws 1929, c. 107, as amended by Laws 1929, c. 307, and Laws 1931, c. 28.

Act Feb. 9, 1933, c. 16, provides that in counties having 81 to 85 congressional townships and 18,000 to 30,000 population, the county treasurer shall receive \$2,100, and clerk hire to be fixed by the county board. Laws 1925, c. 7, repealed.

Act Mar. 9, 1933, c. 76, §2, effective Jan. 1, 1934, provides that in counties having area of 35 to 55, inclusive, congressional townships, and assessed valuation of not more than \$2,000,000, exclusive of moneys and credits, the county treasurer shall receive a salary of \$1,200 per annum, in addition to fees allowed by law, such salary payable monthly. Clerk hire to be fixed by county board.

Act Mar. 20, 1933, c. 96, provides that in counties having 55,000 to 70,000 population, and 35 to 45 congressional townships, the county board may fix the salary of the county treasurer at not to exceed \$3,500, and require fees to be paid into general fund.

Act Apr. 1, 1933, c. 143, amends Laws 1929, c. 69, §1, to provide that county treasurer shall receive \$2,500 per annum.

Act Apr. 10, 1933, c. 166, §3, provides that in counties having 76 to 80 congressional townships and assessed valuation of \$3,000,000 to \$5,000,000, exclusive of moneys and credits, the county treasurer shall receive \$1,800 per annum and not over \$900 per annum for clerk hire, fees to be paid into county treasury.

Act Apr. 11, 1933, c. 212, effective May 1, 1933, authorizes county board in counties having 50 to 70 congressional townships and assessed valuation, exclusive of moneys and credits, of less than \$1,500,000, to fix salaries of county officers and require their fees to be paid into the county treasury.

Act Apr. 13, 1933, c. 219, §1, provides that in counties having assessed valuation of not more than \$6,000,000 and population of not more than 12,500 the county board shall fix the salaries of subordinate county employees. This section seems to be invalid as not expressed in the title of the act. Section 2 authorizes the county board, in counties having assessed valuation, excluding moneys and credits, of \$2,500,000 to \$3,000,000, population of 9,000 to 10,000, and area of 29 to 31 congressional townships, to fix the salaries of all subordinate county employees.

Act Apr. 15, 1933, c. 281, provides that in counties having 100 or more congressional townships and assessed valuation, including moneys and credits, of \$4,000,000 to \$6,000,000, the county treasurer shall receive \$1,800 per annum, and clerk hire to be fixed by the county board.

Act Apr. 15, 1933, c. 284, §3, amending Laws 1921, c. 437, Laws 1927, c. 225, and Laws 1931, c. 192, provides that in counties having 44 or 45 congressional townships and assessed valuation, exclusive of moneys and credits, of \$9,000,000 to \$12,000,000, the county treasurer shall receive \$2,230 per year and fees, with maximum of \$2,880, and clerk hire of \$2,125 per year.

Laws 1933, c. 284, §§16, 19, repeal Laws 1919, c. 224, and Laws 1929, c. 384.

Act Apr. 21, 1933, c. 432, §2, effective May 1, 1933, amends §3 of Laws 1925, c. 91, by making the salary of the county treasurer \$2,196 per year, with not exceeding \$816 for clerk hire.

Laws 1919, c. 52, applies only to counties which in addition to containing 75 or more congressional townships have also an assessed valuation of not less than \$6,000,000 nor more than \$10,000,000. Op. Atty. Gen., Feb. 24, 1933.

REGISTER OF DEEDS

877. Tract Index books.

If tract index in register of deeds' office is so incomplete and unreliable as to be unfit for use, county may purchase a new one. Op. Atty. Gen., Feb. 29, 1929.

County board has no authority to employ engineer to draw plats of cemeteries, nor to purchase such plats. Op. Atty. Gen., July 12, 1933.

877-5. County Board may issue bonds to pay for tract index in certain counties.—The Board of County Commissioners of any county in this state now or hereafter having property of an assessed valuation of not less than Three Hundred Fifty Million Dollars exclusive of money and credits, and having a bonded indebtedness of not to exceed Nine Million Dollars inclusive of bonds issued to defray the cost of permanently improving State Trunk Highways, which bonds the State of Minnesota has heretofore agreed to pay under the provisions of Chapter 522, Laws of 1921 [§§2640, 2641], is hereby authorized by resolutions duly passed by a majority vote of such Board to issue and sell negotiable bonds of such county in such amount as it shall deem necessary not to exceed, however, One Hundred Thousand Dollars par value, for the purpose of providing funds with which to pay the cost of compiling, acquiring or purchasing for such county a tract index of lands therein situated, such tract index to be compiled, acquired or purchased and maintained pursuant to the provisions of Section 534; Revised Laws of 1905, as amended and Chapter 19, General Laws of 1927 [Mason's Minn. Stat. 1927, §877.] (Act Apr. 18, 1929, c. 227, §1.)

877-6. Bonds—Rate of interest—Date of maturity.—The Board of County Commissioners of any such county may issue and sell the bonds of the county for the purposes hereinbefore specified not exceeding one hundred thousand dollars par value of such bonds, the principal of which bonds shall mature and be payable in not more than 15 annual installments as nearly equal as practical, the first annual installment whereof shall mature in not more than 3 years from the date of the issuance of such bonds. Such bonds shall be sold in the manner provided for in Section 1943, General Statutes of 1923 and acts amendatory thereof; but the rate of interest shall in no case exceed 5 per cent per annum, payable annually or semi-annually. Such bonds shall be signed by the chairman of the board of county Commissioners and attested by the auditor of such county and sealed with his official seal and shall have proper interest coupons attached.

The auditor shall keep a record of all bonds issued under the provisions of this act which record shall show the date, number and amount of each bond, rate of interest, time when due and the name of the person to whom issued. (Act Apr. 18, 1929, c. 227, §2.)

877-7. Funds to be held by county treasurer.—The proceeds of the sale of such bonds shall be placed with the county treasurer of such county to the credit of the tract index fund and shall be used in accordance with and for the purposes described in this act and for no other purpose whatsoever. (Act Apr. 18, 1929, c. 227, §3.)

877-8. Tax levy.—The County Board shall levy a tax at the time and in the manner prescribed by Section 5, Chapter 131, General Laws of 1927 [1938-7], and acts amendatory thereof to pay the principal and interest of such bonds; the full faith and credit of the county shall be pledged to the payment of the principal and interest of such bonds. (Act Apr. 18, 1929, c. 227, §4.)

877-9. Inconsistent acts repealed.—Any acts or parts of acts inconsistent herewith are hereby repealed. (Act Apr. 18, 1929, c. 227, §5.)

884. Record books, indexes, etc.

Register of deeds may use loose leaf record books. Op. Atty. Gen., July 14, 1933.

895. Consecutive numbering.

Where two mortgages were filed for record at the same moment and register of deeds gave one bearing an earlier date of filing number just ahead of the other that was prima facie evidence and nothing more that such mortgage took priority over the other. 176M559, 223NW925.

Presumption of priority of lien in favor of mortgage numbered first held overcome by evidence showing contrary intention of parties, both mortgages being executed and recorded same day between same parties. Fender v. A., 187M281, 245NW148. See Dun. Dig. 6210.

897-1. Salary of deputy register of deeds in certain counties.—The county board of every county having a population of less than 75,000 inhabitants, may by written order to be filed in the office of the county auditor allow one deputy register of deeds in such county, compensation for his or her services as such deputy, not exceeding \$900.00 per year. Provided, that in all counties in this state now or hereafter containing not less than 22 and not more than 25 organized towns (not intending cities and villages), and which counties now have or hereafter may have a population of not less than 29,000 and not more than 33,000 inhabitants, according to the last preceding federal or state census, the county board may, by written order to be filed in the office of the county auditor, allow one deputy register of deeds in such county, the compensation for his or her services as such deputy not exceeding \$1200.00 per year. (Laws 1911, c. 382, §1; Laws 1917, c. 83; Laws 1927, c. 207; Apr. 9, 1931, c. 39, §1.)

897-2. Effective January 1, 1931.—This act shall be effective from and after January 1, 1931, and in each county of the state having a population of not less than 29,000 inhabitants and not more than 33,000 inhabitants, according to the last federal census, in which a deputy register of deeds has actually been paid a salary in excess of the amount allowed by law but not in excess of the amount fixed by said Laws 1927, Chapter 207, such payments of salary are legalized and made valid. (Act Apr. 9, 1931, c. 139, §2.)

900. Abstracts of title.

Register of deeds is not required to certify as to priority of chattel mortgage. Op. Atty. Gen., Aug. 10, 1932.

902. Instruments not properly executed.

Register of deeds is not required to record contract for deed which is not properly witnessed nor acknowledged, though attached by attorney to notice of cancellation of contract and other documents in connection therewith. Op. Atty. Gen., July 17, 1933.

904-2. Same—Contents—Supplemental abstracts.

Only two deputies could be employed in the office of the registrar of titles in Hennepin County. Op. Atty. Gen., Jan. 29, 1932.

COMPENSATION OF REGISTER OF DEEDS IN PARTICULAR COUNTIES

Counties with 60 to 80 congressional townships and population of 45,000 to 75,000. Act Mar. 9, 1929, c. 69, fixes salary of register of deeds at \$3,000.

Counties with 60 to 80 congressional townships and 45,000 to 75,000 inhabitants. Act Mar. 26, 1929, c. 87, allows register of deeds to collect fees as provided by law, including 20 cents an entry for abstracts of title, and not to exceed \$3,500 per year for clerk hire.

Counties with 41 to 43 congressional townships and population of 25,000 to 30,000. Laws 1929, c. 161, §4 amends Laws 1925, c. 91, §15, and authorizes allowance of additional clerk with salary not to exceed \$80 per month.

Laws 1931, c. 139, amends Laws 1911, c. 382, §1, as amended by Laws 1917, c. 83, and Laws 1927, c. 207. See §897-1, 897-2.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to make amended act apply to counties as above.

Act Mar. 9, 1933, c. 76, §3, effective Jan. 1, 1934, provides that in counties with area of 35 to 55, inclusive, congressional townships, and with assessed valuation of not more than \$2,000,000, exclusive of moneys and credits, the register of deeds shall receive \$1,200 per annum, out of fees, exclusive of fees for preparing abstracts of title, and a salary of 300 per annum, which shall be considered a portion of his fees. Salary payable monthly. County board to fix clerk hire.

Act Mar. 20, 1933, c. 96, provides that in counties having 55,000 to 70,000 population and 35 to 45 congressional townships, the county board may fix the salary of the register of deed at not more than \$3,500, and require that fees be paid into the general fund.

Act Apr. 1, 1933, c. 143, amends Laws 1929, c. 69, §1, to provide that register of deeds shall receive \$2,500 per annum.

Act Apr. 10, 1933, c. 166, §7, provides that in counties having 76 to 80 congressional townships and assessed valuation of \$3,000,000 to \$5,000,000, register of deeds shall receive his fees and clerk hire as prescribed by law for non-salary office.

Act Apr. 11, 1933, c. 212, effective May 1, 1933, authorizes county board in counties having 50 to 70 congressional townships and assessed valuation, exclusive of moneys and credits, of less than \$1,500,000, to fix salaries of county officer and required their fees to be paid into the county treasury.

Act Apr. 13, 1933, c. 219, §1, provides that in counties having assessed valuation of not more than \$6,000,000 and population of not more than 12,500 the county board shall fix the salaries of subordinate county employees. This section seems to be invalid as not expressed in the title of the act. Section 2 authorizes the county board, in counties having assessed valuation, excluding moneys and credits, of \$2,500,000 to \$3,000,000, population of 9,000 to 10,000, and area of 29 to 31 congressional townships, to fix the salaries of all subordinate county employees.

Act Apr. 15, 1933, c. 281, provides that in counties having 100 or more congressional townships and assessed valuation, including moneys and credits, of \$4,000,000 to \$6,000,000, the register of deeds shall receive \$1,800 and clerk hire to be fixed by statutes and account for fees.

Act Apr. 15, 1933, c. 284, §4, amending Laws 1921, c. 437, Laws 1927, c. 225, and Laws 1931, c. 192, provides that in counties having 44 or 45 townships and assessed valuation, exclusive of moneys and credits, of \$9,000,000 to \$12,000,000, the register of deeds shall receive the salary and fees and clerk hire now prescribed by law, with maximum of salary and fees of \$2,880, and \$1,275 clerk hire.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224.

Act Apr. 17, 1933, c. 321, amends Laws 1929, c. 87, by fixing salary of register of deeds \$2,500 in counties having 60 to 80 congressional townships and population of 45,000 to 75,000, and requiring collection of fees now provided by law, and 20 cents for each necessary entry in making abstracts of title.

Act Apr. 21, 1933, c. 432, §11, effective May 1, 1933, amends §14 of Laws 1925, c. 91, by providing that the fees of the register of deeds shall not belong to the county.

Counties having 100 or more townships and valuation of \$4,000,000 to \$6,000,000 the register of deeds shall receive \$1,800. Laws 1933, c. 281.

Legislature possesses right to change salaries of county officers at any time. Op. Atty. Gen., Feb. 21, 1933.

Laws 1923, c. 419, §12.
County board is not authorized to employ "deputies" and fix their compensation otherwise than as fixed by this section, but the board may employ assistants under §21, and fix their compensation at an amount in excess of that paid to deputies and chief clerk appointed under this section. Op. Atty. Gen., Apr. 26, 1930.

SHERIFF**907. Powers and duties.**

Although sheriff is not required to keep his office open for routine business except during ordinary office hours, he is subject to call at any hour of the night or day in case of emergency. Op. Atty. Gen., Feb. 25, 1931.

A county board may legally pay for services of special deputies hired by a sheriff to assist in handling unusual crowds during county fair. Op. Atty. Gen., Nov. 10, 1931.

Where sheriff calls upon city police to aid him in conducting raids and searching premises, and they are injured, the county would be liable under the Workmen's Compensation Act. Op. Atty. Gen., Nov. 10, 1931.

907-1. Duties of sheriff in counties having 300,000 inhabitants or over.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to make amended act apply to counties as above. Again amended by Laws 1933, c. 284.

907-2. Acts of sheriff legalized.—In any case arising prior to the passage of this act where any person has claimed the right to hold the office of sheriff in any county in this state, though not lawfully entitled thereto, and under such claim has performed any official act of said office, every such official act performed by such person is hereby legalized and made valid as against any claim that it was not performed by a lawful incumbent of said office, and every such act shall be deemed to have full force and effect for all purposes as if performed by such lawful incumbent; provided, that this act shall not affect any legal action or proceeding now pending in any court of this state involving any such case. (Act Apr. 20, 1931, c. 260.)

914. County jail.

In absence of negligence sheriff is not liable for loss of money held for federal prisoner in jail safe. Op. Atty. Gen., July 27, 1933.

916. Disabilities.

A deputy sheriff may not serve at the same time as a salaried game warden. Op. Atty. Gen., Apr. 9, 1931.

A deputy sheriff cannot serve as a clerk of a school board and receive pay for both positions. Op. Atty. Gen., July 30, 1931.

917. Deputies.

Private individuals cannot, because of presence of suspicious strangers in town, employ an armed guard to prevent a possible bank robbery and charge the county therewith. Op. Atty. Gen., Oct. 24, 1930.

A county board may legally pay for services of special deputies hired by a sheriff to assist in handling unusual crowds during county fair. Op. Atty. Gen., Nov. 10, 1931. Sheriff may not appoint special deputy to attend jury in criminal case before justice of peace so as to require county to pay deputy \$3.00 per day, when defendant was found not guilty. Op. Atty. Gen., July 11, 1932.

920-1. County boards to fix salaries of sheriffs in lieu of fees in certain counties.—Counties having less than seventy-five thousand inhabitants according to the then next preceding census, state or federal, shall pay to their sheriffs an annual salary and their expenses for official services rendered by them for their respective counties in lieu of fees as heretofore provided, excepting in counties having an area of more than twenty-five hundred square miles and a population of more than fifteen thousand and less than nineteen thousand. (Act Apr. 17, 1917, c. 312, §1; Feb. 11, 1933, c. 24, §1.)

920-2. Division of counties in classes.—Counties having an area of less than twenty-three hundred square miles shall be divided into classes according to their population as follows: Those having less than ten thousand inhabitants shall constitute class A. Those having ten thousand or more but less than fifteen thousand shall be class B. Those having fifteen thousand or more but less than twenty thousand shall be class C. Those having twenty thousand or more but less than twenty-five thousand shall be class D. Those having twenty-five thousand or more but less than thirty thousand shall be class E. Those having thirty thousand or more but less than thirty-five thousand shall be class F. Counties having an area of more than twenty-three hundred square miles and a population less than forty thousand and those having thirty-five thousand or more but less than forty thousand inhabitants, shall be class G of this classification of counties as to sheriffs. All counties having a population of forty thousand or more but less than forty-five thousand shall be class H. All counties having a population of forty-five thousand or more but less than fifty thousand shall be class I. All counties having a population of fifty thousand or more but less than seventy-five thousand shall be class K of this classification of counties as to sheriff. (Act Apr. 17, 1917, c. 312, §2; Feb. 11, 1933, c. 24, §2.)

920-3. Salaries for sheriffs for certain counties prescribed.—The several sheriffs of all the above classified counties shall receive a yearly salary and their expenses in lieu of fees for all services rendered by them for their respective counties, excepting those required of them by the tax laws of this state and the salary shall be payable in twelve equal installments each on the last secular day of each month out of the county revenue fund on warrants drawn by the county auditor upon the county treasurer and the minimum amount of those salaries shall be graded according to the classes hereinbefore described, to-wit:

The minimum salaries of sheriffs of the counties included in class A shall be one thousand dollars (\$1,000); class B eleven hundred dollars (\$1,100); class C twelve hundred dollars (\$1,200); class D thirteen hundred dollars (\$1,300); class E fourteen hundred dollars (\$1,400); class F fifteen hundred

dollars (\$1,500); class G two thousand dollars (\$2,000); class H twenty-two hundred dollars (\$2,200); class I twenty-four hundred dollars (\$2,400); class K twenty-five hundred dollars (\$2,500). In addition to such salary each sheriff shall be reimbursed for all expenses incurred by him in the performance of his official duties for his county and his claim for such expenses shall be prepared, allowed and paid in the same manner as other claims against counties are prepared, allowed and paid, except that the expenses incurred by such sheriffs in the performance of service required of them in connection with insane persons either by a probate court or by law and a per diem for deputies and assistants necessarily required under such performance of such services shall be allowed and paid as provided by the law regulating the apprehension, examination and commitment of insane persons.

All claims for livery hire shall state the purpose for which such livery was used and have attached thereto a receipt for the amount paid for such livery signed by the person of whom it was hired and if the sheriff uses his own team or automobile he shall be allowed therefor the same amount which would be charged reasonably by any other person for the use of such team or automobile under the same circumstances. (Act Apr. 17, 1917, c. 312, §3.)

Deputy sheriff living in village away from county seat, and acting as an officer of a justice court, is not entitled to compensation to which the sheriff would not have been entitled in absence of special statutory provision. Op. Atty. Gen., May 17, 1930.

Sheriff is not entitled to a fee from the county for selling property on execution under a judgment in favor of county against sureties on a depository bond. Op. Atty. Gen., Dec. 23, 1930.

920-4. Showing to be made to county board in case sheriff deserves more salary than minimum declared by law.—If any sheriff desires a higher than minimum salary, he shall make a showing to the county board of his county that such salary is inadequate as compensation for the services likely to be performed by such sheriff during the coming year, at any regular or special meeting of such county board, the county board may fix the amount of such salary in any just and reasonable sum. Such sum shall remain as the salary of such sheriff throughout his term, unless raised by further order of the board at a subsequent general or special meeting or on appeal.

Such sheriff or citizens may appeal from the fixing of said salary in the same way in which appeals may be taken from the allowance or disallowance by the county board, of claims presented to it for allowances as against the county. Said appeal may be heard by the district court either in term or during vacation or at chambers upon eight days' notice of such hearing given to the county auditor and the court upon hearing such appeal shall summarily determine the amount of salary to be paid any such sheriff during the remainder of his term of office unless the same be thereafter increased by the county board as hereinbefore provided and the order of the court fixing the salary shall be served by copy upon the county auditor forthwith. (Act Apr. 17, 1917, c. 312, §4; Feb. 11, 1933, c. 24, §3.)

Sec. 4 of act Feb. 11, 1933, cited, provides that the act shall take effect from its passage.

920-5. Provisions not to include salaries of jailers, etc., and compensation of deputies in certain cases to be fixed by district court.—The foregoing provisions for the salaries of sheriffs shall not include the salaries or fees of jailers, matrons, deputies whose attendance is required at terms of court, the board of prisoners, nor the payment of any of the expenses hereinafter specifically provided for.

Whenever there is any riot or impending violation of law, and the sheriff shall be of opinion that other than the regular deputies are required, he shall apply to the judge of the district court to determine upon

and fix the compensation of such special deputies as the sheriff may name and appoint, and such special deputies so named and appointed and the compensation of whom is fixed by the judge, shall have all the powers assigned to him by said sheriff in such appointment. The appointment by said sheriffs and the fixing of their compensation shall be immediately certified by the sheriff to the clerk of the district court of his county and such certificate filed by such clerk and such special deputies shall be paid in the same manner as deputies in attendance upon terms of court. (Act. Apr. 17, 1917, c. 312, §5.)

Where sheriff has no salaried deputy except jailer, and after a home is robbed, takes with him special deputy to watch premises for several nights because he suspects that robbers will return, but makes no arrest, deputy cannot put in bill to county for per diem salary of \$3.00 per day. Op. Atty. Gen., July 11, 1932.

Sheriff may not appoint special deputy to attend jury in criminal case before Justice of Peace so as to require county to pay deputy \$3.00 per day, when defendant is not found guilty. Op. Atty. Gen., July 11, 1932.

920-6. To be paid out of county revenue fund.—For all services rendered by such sheriff or his deputies for which payment is not to be made out of the county revenue fund, he shall be allowed the fees and compensation fixed by law. (Act Apr. 17, 1917, c. 312, §6.)

920-7. Payment of deputy sheriff.—Every sheriff of a county included in the above classified counties shall appoint a sufficient number of persons, as deputy sheriffs in the manner provided by law, he may also appoint a deputy or deputies who shall have a salary, if upon the application to the judge of the district court, such judge deems such appointment necessary.

If he so determines, he shall fix the salary of such deputy or deputies and such salary or salaries shall be payable as are other salaries hereinbefore provided for. (Act Apr. 17, 1917, c. 312, §7.)

922. Deputies attending court.

Bailiff's fee is payable only to deputy not on a salary basis. Op. Atty. Gen., Nov. 30, 1929.

923. Compensation of jailers.

COMPENSATION OF SHERIFFS, DEPUTIES, ETC., IN PARTICULAR COUNTIES

Counties having 380,000 population or over. Act Apr. 11, 1929, c. 152, amends §6 of Laws 1923, c. 419, as amended by Laws 1927, c. 125, §1, by inserting a provision for 6 general deputies for night duty at salary of \$1,650, and one female deputy or bailiff to attend mixed juries at salary of \$1,320.

Counties with 41 to 43 congressional townships and 25,000 to 30,000 population. Laws 1929, c. 161, §3, amends Laws 1925, c. 91, §13, as amended by Laws 1929, c. 20, and fixes the salary of the sheriff at \$1,800, authorizes allowance of not more than \$1,800 per year for deputy hire, and authorizes allowance of 9 cents per mile for use of automobile as to mileage, see §§254-47, 254-48. The act also authorizes allowance of additional clerk at not to exceed \$80 per month.

Counties with population of 220,000 to 330,000. Laws 1909, c. 361, §§2, 4, amended by Laws 1929, c. 317.

Laws 1925, c. 370, repealed by Laws 1929, c. 317, §5 and Laws 1931, c. 258, §5.

Laws 1929, c. 341, §2, fixes salary at \$5,000 in counties of 415,000 population or over.

Counties with population of 220,000 to 330,000. Laws 1929, c. 317, §§2, 4, as amended by Laws 1931, c. 258, fixes the number and salaries of the deputies, clerks, and assistants of the sheriff, and repeals Laws 1925, c. 370.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to apply the act to counties as above.

Act Mar. 9, 1933, c. 76, §§6, 7, effective Jan. 1, 1934, provides that in counties with area of 35 to 55, inclusive, congressional townships, and assessed valuation of not more than \$2,000,000 the sheriff shall receive \$1,200 per annum, and expenses to be allowed by the county board. Deputy at not to exceed \$25 per month. Special deputies to be appointed and compensation fixed by district judge. Salaries paid monthly and clerk hire fixed by county board.

Act Mar. 16, 1933, c. 85, provides that in counties having 55,000 to 70,000 population and 35 to 45 congressional townships, the county board shall fix the compensation of deputy sheriffs, jailers, matron and other employees in the office of sheriff, except special deputies and bailiffs attending the district court.

Act Mar. 20, 1933, c. 96, provides that in counties having 55,000 to 70,000 population and 35 to 45 congressional townships, the county board may fix the salary of the sheriff at not to exceed \$3,500, and require that fees be paid into the general fund.

Act Apr. 1, 1933, c. 143, amends Laws 1929, c. 69, §1, to provide that sheriff shall receive \$2,500 per annum and free use of maintained residence.

Act Apr. 10, 1933, c. 166, §6, provides that in counties having 76 to 80 congressional townships and assessed valuation of \$3,000,000 to \$5,000,000, sheriff shall receive expenses as fixed by county board, and salary of \$400 per year and fees and compensation, with minimum of \$150 per month deficiency for any calendar month to be paid out of general revenue fund.

Act Apr. 11, 1933, c. 212, effective May 1, 1933, authorizes county board in counties having 50 to 70 congressional townships and assessed valuation, exclusive of moneys and credits, of less than \$1,500,000, to fix salaries of county officers and require their fees to be paid into the county treasury.

Act Apr. 13, 1933, c. 219, §1, provides that in counties having assessed valuation of not more than \$6,000,000 and population of not more than 12,500, the county board shall fix the salaries of subordinate county employees. This section seems to be invalid as not expressed in the title of the act. Section 2 authorizes the county board, in counties having assessed valuation, excluding moneys and credits, of \$2,500,000 to \$3,000,000, population of 9,000 to 10,000, and area of 29 to 31 congressional townships, to fix the salaries of all subordinate county employees.

Act Apr. 15, 1933, c. 266, provides that counties having assessed valuation, exclusive of moneys and credits, of \$3,000,000 to \$5,000,000, and area of 70 to 80 congressional townships, may set apart contingent fund of \$2,000 to meet expenses of sheriff.

Act Apr. 15, 1933, c. 284, §5, amending Laws 1921, c. 437, Laws 1927, c. 225, and Laws 1931, c. 192, provides that in counties containing 44 or 45 congressional townships and having assessed valuation, exclusive of moneys and credits of \$9,000,000 to \$12,000,000, the sheriff shall receive \$2,016 and expenses, with maximum of salary and fees of \$2,880, and salary of deputy to be fixed by district court.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224.

Act Apr. 21, 1933, c. 432, §10, effective May 1, 1933, amends §13 of Laws 1925, c. 91, by making the salary of the sheriff \$1,389 per year, with expenses and 5 cents mileage, and not exceeding \$1,464 for deputy, not more than \$720 per year as jailer, and 81½% of fees, balance to be paid into county treasury, total compensation not to exceed \$2,800 per year.

Act Jan. 6, 1934, Ex. Ses. c. 54, authorizes counties having 1,830 square miles, assessed valuation, exclusive of moneys and credits, of \$3,000,000 to \$6,000,000, to create contingent fund of not more than \$2,000 out of which to pay expenses of sheriff.

Sheriff of McLeod County is not entitled to fees in addition to his salary for serving a criminal warrant, nor for committing a prisoner to jail, nor for bringing a prisoner before any court, nor for attendance before any court, nor for serving orders or citations of probate court, or apprehending alleged insane persons by order thereof. Op. Atty. Gen., Sept 5, 1931.

The general fee statute with reference to sheriffs is superseded by Laws 1917, c. 312, fixing the salaries of sheriffs in certain counties, and the sheriff of a county under that law is not entitled to fees or mileage for serving a criminal warrant. Op. Atty. Gen., Nov. 27, 1931.

Adoption of motion at regular annual meeting in 1931 fixing salary of sheriff "the same as for the previous term" did not prevent the county board at the next annual meeting from reducing the salary. Op. Atty. Gen., Feb. 15, 1932.

Under Laws 1917, c. 156, as amended, sheriff of Itasca County is not entitled to retain any fees or mileage collected on account of serving papers in civil proceedings but must turn them over to county, but he is entitled to recover from county mileage for serving papers and reasonable amount for use of his automobile. Op. Atty. Gen., Mar. 7, 1933.

COUNTY ATTORNEY

924. Term—Bond.

County attorney to give bond by this section and all inconsistent laws repealed. Laws 1933, c. 87.

Two attorneys associated together in same office, but not partners, may respectively hold offices of county attorney and city attorney. Op. Atty. Gen., May 6, 1933.

924-1. Bond of County Attorney.—Every County Attorney shall give bond in the amount provided by Section 924, Mason's Minnesota Statutes of 1927, and any law or part of law, either general or special, inconsistent herewith, is hereby repealed. (Act Mar. 16, 1933, c. 87.)

925-1. Office of county attorney and member of conservation commission not incompatible.—The office of County Attorney and member of the Conservation Commission may be held by the same person and

shall not be deemed incompatible. (Act Apr. 17, 1933, c. 317.)

926. Duties.

County attorney is not required to appear for and on behalf of the sheriff in habeas corpus proceedings brought to discharge a person held by the sheriff for the purpose of being extradited to another state. Op. Atty. Gen., May 6, 1931.

County attorney must represent county board if anyone, in legal proceedings taken to stop a levy of taxes exceeding the statutory limit, and may not represent a taxpayer in such action. Op. Atty. Gen., Aug. 4, 1931.

In a mandamus proceeding by Clerk of Court to compel county auditor to pay a certain amount claimed as salary, it is the duty of the county attorney to appear for and represent the county auditor. Op. Atty. Gen., Feb. 3, 1932.

It is not the duty of the county attorney to appear for taxpayers testing the right of a county commissioner to hold office. Op. Atty. Gen., Feb. 3, 1932.

On appeal by sheriff to district court from an order of county board fixing his salary, it is the duty of the county attorney to appear as counsel for the county board. Op. Atty. Gen., Feb. 3, 1932.

It is not duty of county attorney to defend sheriff in action brought against him and his bondsmen for damages by heirs of deceased person coming to his death due to negligent acts of sheriff while deceased was in his custody as prisoner. Op. Atty. Gen., Mar. 3, 1933.

It is not duty of county attorney to bring civil actions on behalf of school boards. Op. Atty. Gen., May 18, 1933.

929. Not to receive fees—Prohibitions.

County attorney preparing complaint and warrant charging former bank officer with a bank embezzlement, could not ethically, after the criminal proceedings were dismissed by the Justice of the Peace on motion of the accused, appear as the bank's attorney in a civil law suit between the bank and accused. Op. Atty. Gen., July 18, 1931.

A county attorney is not by virtue of his office prevented from representing the contestant of a school election. Op. Atty. Gen., July 30, 1931.

County attorney may not represent taxpayer in action to stop levy of taxes exceeding statutory limit, but must represent county board. Op. Atty. Gen., Aug. 4, 1931.

930. Other attorney, when—

County cannot employ attorney to collect personal property taxes. Op. Atty. Gen., Aug. 20, 1929.

County board may employ attorney to assist county attorney in collecting personal property taxes. Op. Atty. Gen., Aug. 20, 1929.

County cannot deduct expense of collecting tax before distribution of tax collected. Op. Atty. Gen., Sept. 28, 1929.

930-½. County attorney may appoint assistant—Bond—Compensation.

Assistant county attorney must be appointed by the county attorney subject to approval by the county board. Op. Atty. Gen., Aug. 14, 1931.

See notes under § 935.

934. Contingent fund—Expenses.

A county attorney required to make investigations in connection with applications of mothers for county allowances is entitled to take expenses necessarily incurred out of his contingent fund. Op. Atty. Gen., Mar. 26, 1931.

A county attorney may use his own automobile and receive compensation therefor from the county out of his contingent fund or otherwise. Op. Atty. Gen., Mar. 26, 1931.

If a county attorney finds it necessary in the performance of his official duties to make a trip into a neighboring state he is entitled to be reimbursed for his actual expenses, payable from his contingent fund or allowed as a claim by the county board. Op. Atty. Gen., May 20, 1931.

Expenses of county attorney when acting upon order of juvenile court in proceeding for commitment of dependent, neglected or delinquent children, should be paid by juvenile court and not out of contingent fund. Op. Atty. Gen., Sept. 27, 1932.

County attorney may not legally charge against contingent fund actual expenses in investigating poor cases. Op. Atty. Gen., Feb. 25, 1933.

County attorney in counties where a contingent fund has been set aside by county board is entitled to reimbursement of traveling expenses in connection with investigations of mothers' pension cases. Op. Atty. Gen., Sept. 12, 1933.

935. Compensation in certain counties.

Counties with 60 to 80 congressional townships and population of 45,000 to 75,000. Act Mar. 9, 1929, c. 69, fixes salary of county attorney at \$2,400.

Counties having population of 28,000 to 30,000 and assessed valuation of \$20,000,000 to \$25,000,000. Laws 1929, c. 147, authorizes county board to fix salary at not less than \$2,500 and not more than \$4,500, and authorizes county attorney to appoint an assistant at salary not ex-

ceeding \$1,000. Laws 1931, c. 110, changes population limitation to counties having not less than 34,000 and not more than 35,000, and legalizes payments made in 1929, 1930, and 1931.

Counties with 41 to 43 congressional townships and population of 25,000 to 30,000. Laws 1929, c. 161, § 4, amends Laws 1925, c. 91, § 15, and authorizes allowance of additional clerk with salary not to exceed \$80 per month.

Counties with population of 400,000 or over. Laws 1929, c. 187, amends Laws 1921, c. 133, § 10, as amended by Laws 1923, c. 419, as amended by Laws 1927, c. 184, by fixing salary of attorney inspector at \$3,400, providing for one attorney secretary with salary at \$2,100 providing for two stenographers at \$1,760, and one chief inspector at \$2,820 and three inspectors at \$2,520.

Counties with population of 150,000 to 240,000 and area of more than 5,000 square miles. Laws 1929, c. 194, amends Laws 1925, c. 259, § 3, by fixing salary of one investigator at \$2,700.

Counties having population of 220,000 to 330,000. Laws 1929, c. 339, amends Laws 1927, c. 420, § 4.

Counties with population of 220,000 to 330,000. Laws 1931, c. 310, amending Laws 1929, c. 339, which amended Laws 1927, c. 420, § 4, fixes salary of county attorney at \$5,000; one assistant, \$4,000; one assistant to be attorney for county board, \$4,000; second assistant, \$3,200; third assistant, \$2,400; fourth assistant, \$2,400; one investigator, \$2,200; two stenographers, \$1,500 each; information and advisory clerk, \$1,500.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, § 1, so as to apply the act to counties as above.

Act Mar. 9, 1933, c. 76, § 5, effective Jan. 1, 1934, provides that in counties with area of 35 to 55, inclusive, congressional townships, and assessed valuation of not more than \$2,000,000, the county attorney shall receive \$1,000 per annum, payable monthly. County board to fix clerk hire.

Act Mar. 20, 1933, c. 96, provides that in counties having 55,000 to 70,000 population and 35 to 45 congressional townships, the county board may fix the salary of county attorney at not to exceed \$3,500, and require that fees be paid into general fund.

Act Apr. 1, 1933, c. 143, amends Laws 1929, c. 69, § 1, to provide that salary of county attorney shall be \$1,800 per annum.

Act Apr. 13, 1933, c. 219, § 1, provides that in counties having 76 to 80 congressional townships and assessed valuation of \$3,000,000 to \$5,000,000, county attorney shall be paid \$1,000 per annum and clerk hire not to exceed \$600 per annum, fees to be paid into county treasury.

Act Apr. 11, 1933, c. 212, effective May 1, 1933, authorizes county board in counties having 50 to 70 congressional townships and assessed valuation, exclusive of moneys and credits, of less than \$1,500,000, to fix salaries of county officers and require their fees to be paid into the county treasury.

Act Apr. 13, 1933, c. 219, § 1, provides that in counties having assessed valuation of not more than \$6,000,000 and population of not more than 12,500 the county board shall fix the salaries of subordinate county employees. This section seems to be invalid as not expressed in the title of the act. Section 2 authorizes the county board, in counties having assessed valuation, excluding moneys and credits, of \$2,500,000 to \$3,000,000, population of 9,000 to 10,000, and area of 29 to 31 congressional townships, to fix the salaries of all subordinate county employees.

Act Apr. 15, 1933, c. 284, § 6, amending Laws 1921, c. 437, Laws 1927, c. 225, and Laws 1931, c. 192, provides that in counties having 44 to 45 congressional townships and assessed valuation, exclusive of moneys and credits, of \$9,000,000 to \$12,000,000, the county attorney shall receive \$1,965 per year.

Laws 1933, c. 284, § 16, repeals Laws 1919, c. 224.

Act Apr. 21, 1933, c. 432, § 3, effective May 1, 1933, amends § 4, of Laws 1925, c. 91, by making the salary of the county attorney \$1,620 per year.

Op. Atty. Gen., May 20, 1931; note under § 934.

County board may fix salary of county attorney annually. Op. Atty. Gen., Jan. 17, 1933.

County board may reduce salary of county attorney, sheriff and county superintendent of schools annually during their term of office after having fixed salaries at beginning of term. Op. Atty. Gen., Feb. 14, 1933.

County attorney is not entitled to mileage for investigations as to mothers' pensions. Op. Atty. Gen., June 14, 1933.

COUNTY SURVEYOR

938. Compensation.

Counties with 41 to 43 congressional townships and 25,000 to 30,000 population. Laws 1929, c. 161, § 4, amending Laws 1925, c. 91, § 15, and authorizes allowance of additional clerk with salary not to exceed \$80 per month.

Act Apr. 11, 1933, c. 212, effective May 1, 1933, authorizes county board in counties having 50 to 70 congressional townships and assessed valuation, exclusive of moneys and credits, of less than \$1,500,000, to fix salaries of county officers and require their fees to be paid into the county treasury.

Act Apr. 13, 1933, c. 219, §1, provides that in counties having assessed valuation of not more than \$6,000,000 and population of not more than 12,500 the county board shall fix the salaries of subordinate county employees. This section seems to be invalid as not expressed in the title of the act. Section 2 authorizes the county board, in counties having assessed valuation, excluding moneys and credits, of \$2,500,000 to \$3,000,000, population of 9,000 to 10,000, and area of 29 to 31 congressional townships, to fix the salaries of all subordinate county employees.

Act Apr. 21, 1933, c. 432, §7, effective May 1, 1933, amends §9 of Laws 1925, c. 91, by making the compensation of the county surveyor \$10 per day while performing public work, with expenses.

941. Lost posts.

COMPENSATION OF SURVEYORS AND ASSISTANTS, APPOINTMENTS IN PARTICULAR COUNTIES

Counties having not less than 225,000, and not more than 330,000. Act Apr. 27, 1929, c. 422, amends Laws 1921, c. 207, which amended Laws 1913, c. 193, §1, and fixes salary of surveyor at \$5,000 and actual expenses, fees collected to be turned into county treasury.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to make amended act to apply to counties as above.

Act Apr. 15, 1933, c. 284, §§8, amending Laws 1921, c. 437, Laws 1927, c. 225, and Laws 1931, c. 192, provides that in counties having 44 or 45 congressional townships and assessed valuation, exclusive of moneys and credits of \$9,000,000 to \$12,000,000, the county surveyor shall receive \$5 to \$15 per day as fixed by the county board while engaged in public work, and expenses, and compensation for services to private parties.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224.

CORONER

952. Testimony filed—Certificate—Fees.

Reduction of testimony to writing and filing with clerk of court is mandatory. Op. Atty. Gen., Sept. 13, 1929.

Coroner is entitled to fees provided for in §6995(2) and is not entitled to any fees whatever under §952. Op. Atty. Gen., Jan. 26, 1933.

957-½. Duty of coroners in certain counties.—In addition to such deputies and secretary as are authorized by law, the county coroner of any county now having or which may hereafter have a population of 400,000 inhabitants or over shall appoint and employ one morgue keeper, who shall be paid the sum of \$2,040.00 per annum and who shall also be furnished with the free use of suitable heated and lighted living quarters for himself and his family in the morgue building, and the coroner may also employ such assistance to the said morgue keeper as he may deem necessary at an aggregate expense of not exceeding \$1,200.00 per annum. The said morgue keeper, assistance and upkeep of living quarters shall be paid out of any moneys in the county treasury not otherwise appropriated, except the upkeep of living quarters, semi-monthly in the same manner as county officials are now paid, and the same shall be in full compensation for all services rendered by said officers respectively in their several capacities. The said upkeep of living quarters shall be paid for in such manner as the upkeep of other county buildings is paid for. (Act. Apr. 13, 1933, c. 215, §1.)

957-½a. Inconsistent acts repealed.—All Acts and parts of Acts, so far as the same are inconsistent with the provisions of this Act, are hereby repealed. (Act Apr. 13, 1933, c. 215, §2.)

957-3 Same—Expenses.

CORONERS IN PARTICULAR COUNTIES

Counties with area of over 5,000 square miles and assessed valuation of over \$250,000,000. L. 1919, c. 234, §1, amended by Laws 1929, c. 205, and salary of coroner fixed at \$3,000.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amended Laws 1921, c. 437, §1 so as to apply the amended act to counties as above.

Act Apr. 11, 1933, c. 212, effective May 1, 1933, authorizes county board in counties having 50 to 70 congressional townships and assessed valuation, exclusive of moneys and credits, of less than \$1,500,000, to fix salaries of county officers and require their fees to be paid into the county treasury.

Act Apr. 13, 1933, c. 219, §1, provides that in counties having assessed valuation of not more than \$6,000,000

and population of not more than 12,500 the county board shall fix the salaries of subordinate county employees. This section seems to be invalid as not expressed in the title of the act. Section 2 authorizes the county board, in counties having assessed valuation, excluding moneys and credits, of \$2,500,000 to \$3,000,000, population of 9,000 to 10,000, and area of 29 to 31 congressional townships, to fix the salaries of all subordinate county employees.

Act Apr. 15, 1933, c. 284, §9, amending L. 1921, c. 437, L. 1927, c. 225, and L. 1931, c. 192, provides that in counties having 44 or 45 congressional townships and assessed valuation, exclusive of moneys and credits, of \$9,000,000 to \$12,000,000, the coroner shall receive the salary and fees now prescribed by law, with maximum of \$2,880 per year.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224.

SUPERINTENDENT OF SCHOOLS

958. Salary—Certain counties excepted.

Board of county commissioners can legally reduce salary of county superintendent, provided they fix it as provided by this section. Op. Atty. Gen., Mar. 7, 1933.

County board may not cut salary of superintendent of schools below \$12.50 for each organized school, including schools that have been consolidated. Op. Atty. Gen., Mar. 8, 1933.

959. Same—Certain expenses.

Cash prizes may not be given for perfect school attendance and library certificates, but money may be expended for certificates showing perfect attendance or doing meritorious work. Op. Atty. Gen., May 31, 1933.

960. Assistants and clerks in certain counties—Appointment, etc.

Superintendent of schools of Morrison County was not authorized to appoint an assistant and county board cannot determine a salary for an assistant. Op. Atty. Gen., May 1, 1933.

960-1. Same—Counties excepted.

Op. Atty. Gen., May 1, 1933; note under §960.

962. Traveling expenses.

Payment of a flat sum per month for use by county officers and employees of their own automobiles in county business, irrespective of mileage travelled and without itemized verified claim, held illegal. Op. Atty. Gen., Mar. 31, 1930.

This section is modified by Laws 1931, c. 331, ante, §§254-47, 254-48, so as to limit allowance for use of automobile to seven cents per mile. Op. Atty. Gen., May 23, 1931.

963. Same—Teachers' institutes [Repealed].

COMPENSATION OF SUPERINTENDENT OF SCHOOLS, ETC., IN PARTICULAR COUNTIES

Counties with 60 to 80 congressional townships and 45,000 to 75,000 inhabitants. Act Mar. 9, 1929, c. 69, fixes salary of superintendent at \$2,400.

Counties with 41 to 43 congressional townships and 25,000 to 30,000 population. Laws 1929, c. 161, §4, amending Laws 1925, c. 91, §15, and authorizes allowances of additional clerk with salary not to exceed \$80 per month.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 473, §1, so as to apply the amended act to counties as above.

Act Mar. 9, 1933, c. 76, §8, effective Jan. 1, 1934, provides that in counties having area of 35 to 55 congressional townships and assessed valuation of not more than \$2,000,000, the superintendent shall receive \$1,200, in addition to fees allowed by law. Salary payable monthly. Clerk hire fixed by county board.

Act Mar. 20, 1933, c. 96, provides that in counties having 55,000 to 70,000 population and 35 to 45 congressional townships, the county board may fix the salary of superintendent of schools at not to exceed \$3,500, and require fees to be paid into the general fund.

Act Apr. 1, 1933, c. 143, amends Laws 1929, c. 69, §1, to provide that superintendent shall receive \$2,000 per annum.

Act Apr. 11, 1933, c. 212, effective May 1, 1933, authorizes county board in counties having 50 to 70 congressional townships and assessed valuation, exclusive of moneys and credits, of less than \$1,500,000, to fix salaries of county officers and require their fees to be paid into the county treasury.

Act Apr. 13, 1933, c. 219, §1, provides that in counties having assessed valuation of not more than \$6,000,000 and population of not more than 12,500 the county board shall fix the salaries of subordinate county employees. This section seems to be invalid as not expressed in the title of the act. Section 2 authorizes the county board, in counties having assessed valuation, excluding moneys and credits, of \$2,500,000 to \$3,000,000, population of 9,000 to 10,000, and area of 29 to 31 congressional townships, to fix the salaries of all subordinate county employees.

Act Apr. 15, 1933, c. 284, §11, amending L. 1921, c. 437, L. 1925, c. 225, and L. 1931, c. 192, provides that in counties having 44 or 45 congressional townships and assessed valuation, exclusive of moneys and credits, of

\$9,000,000 to \$12,000,000, the superintendent of schools shall receive \$1,600 per year and fees, with maximum of \$2,880, and clerk hire as now prescribed by law.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224.

Act Apr. 21, 1933, c. 370, amends Laws 1921, c. 492, §14, relating to compensation of deputies and supervisors appointed by the superintendent of schools in counties having population of over 150,000 and area of 5,000 square miles or more.

Act Apr. 21, 1933, c. 432, §8, effective May 1, 1933, amends §11 of Laws 1925, c. 91, by making the salary of the superintendent \$1,704 per year, with not exceeding \$780 for clerk hire, and 5 cent mileage.

ASSESSORS IN COUNTIES HAVING 200,000 AND LESS THAN 275,000 INHABITANTS

967. Expenditures—Experts, etc.

This section authorizes the county to publish a manual giving rules and regulations with respect to making assessments, but such manual is for use of the employees in the assessor's office and not for the general public. Op. Atty. Gen., Apr. 30, 1930.

969-1. Appointment of county assessor in certain counties.—That in any county of this state which shall now or hereafter contain a city of the first class, which such city shall contain taxable property having an assessed valuation of more than 95% of the assessed valuation for taxation purposes of all property in any such county, which such county shall have a population of not less than 220,000 and not more than 330,000 inhabitants and which such county shall contain property of an assessed valuation of not more than \$250,000,000 exclusive of moneys and credits, a county assessor shall be appointed on the 10th day of March or as soon thereafter as practicable of each odd numbered year by the majority vote of a board composed of the Chairman of the Board of County Commissioners, and the County Auditor of such county and the Comptroller of such city of the first class, which said county assessor shall hold office for a term of two years, and until his successor is appointed and qualified. (Act. Apr. 17, 1933, c. 316, §1.)

969-2. Assessor to be resident.—The said County Assessor shall be a resident freeholder and qualified elector of said county. (Act Apr. 17, 1933, c. 316, §2.)

969-3. May fill vacancies.—The said board, or a majority of them, shall have power to fill all vacancies in said office, occasioned by death, resignation, removal or other cause, for the unexpired term or otherwise and shall have power to remove such assessor from office at any time. (Act Apr. 17, 1933, c. 316, §3.)

969-4. Present laws effective.—All laws now applicable to any such county or counties pertaining to the powers, duties and bond to be furnished by such assessor and to the appointment and removal of assistant assessors and deputies shall remain in full force and effect. (Act Apr. 17, 1933, c. 316, §4.)

Sec. 5 of act Apr. 17, 1933, cited, provides that the act shall take effect from its passage.

PUBLIC BUILDINGS OR WORKS IN MUNICIPALITIES

974-1. Public buildings or works in counties, etc.

The publication of the amount of the estimate as a part of the official proceedings of the county board does not do away with the necessity of publishing the total cost of the work. Op. Atty. Gen., Feb. 27, 1931.

974-3. Same—Total costs published.

The publication of the amount of the estimate as a part of the official proceedings of the county board does not do away with the necessity of publishing the total cost of the work. Op. Atty. Gen., Feb. 27, 1931.

MISCELLANEOUS PROVISIONS

976. To report fees.

Income of register of deeds from abstracts of title, certified by him as such officer, must be reported. Op. Atty. Gen., Aug. 30, 1929.

Fees for receiving applications for drivers' licenses under Laws 1933, c. 352, are not required to be reported under this section. Op. Atty. Gen., July 22, 1933.

979. Recording fees paid by county.

Expense of recording a town treasurer's bond should be paid by county. Op. Atty. Gen., May 1, 1933.

987. Records to be public.

Probate judge must keep record of proceedings in insanity and juvenile matters. Op. Atty. Gen., Mar. 27, 1933.

990. Officials not to be interested in contracts.

A county treasurer has no duty in designating depository banks for county funds, nor in approving the depository bonds, and the fact that such treasurer owned a few shares of stock in a bank does not prevent that bank from becoming a de jure depository of county funds. Co. of Marshall v. B., 182M10, 234NW1. See Dun. Dig. 2263b, 2323(77), 2699.

Evidence held insufficient to sustain defense that consideration for note was illegal. Boeder v. T., 187M337, 245NW428. See Dun. Dig. 869.

County board improving a county aid road cannot purchase a strip of land from a county commissioner for a consideration similar to that being paid to other persons in the vicinity for similar strips of land. Op. Atty. Gen., Aug. 14, 1931.

A county is not authorized to pay rent to a surveyor for his use of instruments belonging to him personally. Op. Atty. Gen., Jan. 9, 1932.

One purchasing land containing gravel pit under contract for deed from county auditor and clerk of court, requiring money received for gravel to be applied on purchase price, could not submit a bid to county for gravel. Op. Atty. Gen., Aug. 9, 1932.

Section does not apply to a county road foreman. Op. Atty. Gen., June 6, 1933.

A county commissioner who is a veterinarian may not test cattle for tuberculosis in the county area plan, though carried out under livestock sanitary board. Op. Atty. Gen., July 12, 1933.

991. Contracts in certain counties.—In counties having a valuation of not less than \$9,875,000.00 nor more than \$9,900,000.00 and having not less than 16 and no more than 17 full and fractional congressional townships, no contract for the purchase of furniture, fixtures, or other property, or for the construction or repair of buildings, the estimated cost or value of which shall exceed five hundred dollars, and no contract for work or labor or for the construction or repair of roads or bridges, the estimated cost or value of which shall exceed one thousand dollars, shall be made by the county board without first advertising for bids or proposals in some newspaper of the county. If for the purchase of property or for work and labor, two weeks' published notice that proposals will be received, stating the time and place, shall be given. If for the construction or repair of roads, bridges, or buildings, three weeks' published notice shall be given, and also fifteen days' posted notice in the town where the construction is to be done. Such notice shall state the time and place of awarding the contract, and contain a brief description of the work. Every such contract shall be awarded to the lowest responsible bidder, shall be duly executed in writing, and the person to whom the same is awarded shall give a sufficient bond to the board for its faithful performance. If no satisfactory bid is received, the board may readvertise. Every contract made without compliance with the provisions of this section shall be void: Provided, that in case of the destruction of roads or bridges by floods or other casualty, or of unforeseen injuries or machinery in or connected with public buildings, where the public interest would suffer by delay, contracts for repairs may be made without advertising for bids. (R. L. '05, §618; G. S. '13, §1091; Jan. 9, 1934, Ex. Ses., c. 69.)

If accepted bidder refuses to sign contract for road work or furnish bond within a reasonable time, his deposit is forfeited, and county must readvertise for bids. Op. Atty. Gen., Apr. 18, 1929.

Where county advertises for bids and enters into contract for road materials for one year, it cannot renew the contract for another year without again advertising for bids. Op. Atty. Gen., Jan. 2, 1930.

Advertisement for bids and contract should specify some definite quantity, more or less. Id.

Contract by county to purchase all the material it may need for a year is unauthorized. Id.

County desiring to equip new court house with furniture cannot treat each room as a unit and dispense with advertisement on the theory that cost of each room will be less than \$500. Op. Atty. Gen., Jan. 7, 1930.

County may advertise for bids for the hauling of all gravel to be used by the county for a year, instead of advertising for each particular item of gravel required. Op. Atty. Gen., Apr. 2, 1930.

Where bids were opened at one meeting and all of them rejected, the board cannot at a subsequent meeting reconsider its former action and let the contract to the lowest bidder. Op. Atty. Gen., May 14, 1930.

Successful bidder for county printing would be required to do all printing except that provided for by particular statutes which contemplate a special advertisement for bids or which confer on particular officers the duty of contracting for publication. Op. Atty. Gen., June 3, 1930.

An agreement that landowner would furnish gravel at ten cents per cubic yard whenever the county needed it, made without advertising for bids, did not violate this section, though the county subsequently removed 8,000 cubic yards from the pit. Op. Atty. Gen., Aug. 5, 1931.

Where county having less than 75,000 inhabitants desires to turn in an old car as part of the purchase price of a new car, and the purchase price exceeds \$500, this section is applicable and county must advertise for bids. Op. Atty. Gen., Feb. 3, 1932.

County may lawfully employ day labor to operate road graveling equipment owned by county on projects exceeding \$500, but it cannot enter into contract covering work exceeding \$500 without letting it to lowest bidder. Op. Atty. Gen., July 29, 1932.

Statute does not prevent county from hiring and leasing machinery, unless lease is disguised purchase. Op. Atty. Gen., July 29, 1932.

While hiring of equipment with operators by day is not employment of day labor, county may lawfully hire drivers on per diem basis to operate equipment leased by county. Op. Atty. Gen., July 29, 1932.

Where successful bidder for road work is unable to undertake work within required time, county must re-advertise for bids, and may not award contract to second lowest bidder or to another contractor who has not bid but will do work for less than lowest bid. Op. Atty. Gen., Oct. 20, 1932.

Requirement of contractor's bond and check accompanying bid may not be waived. Op. Atty. Gen., May 25, 1933.

It is mandatory that contract be awarded to lowest responsible bidder. Id.

Where bids for construction of county aid road were submitted under advertisement but awarding of contract was restrained in suit by taxpayers, it was not necessary to re-advertise for bids after dismissal of action. Op. Atty. Gen., Aug. 2, 1933.

992. Same—Counties of more than 200,000.

County desiring to purchase automobile must advertise for bids, it being improper to decide on particular make of car before bids are submitted. Op. Atty. Gen., Mar. 8, 1930.

994. Actions against counties.

One who has not appealed from the disallowance of his claim cannot thereafter, in the absence of fraud or mistake, bring suit thereon against the county. Suhr v. Co. of Dodge, 183M299, 236NW463. See Dun. Dig. 2296(10).

Section is not indefinite because of the expression therein making the right of action contingent upon the failure of the county board to act upon a claim "within the time fixed by law." Suhr v. Co. of Dodge, 183M299, 236NW463. See Dun. Dig. 2295.

The section is not invalid because of there being no provision in the statutes for notice to claimant of the disallowance of his claim. Suhr v. Co. of Dodge, 183M299, 236NW463. See Dun. Dig. 2295.

"Within time fixed by law." Op. Atty. Gen., Sept. 17, 1930.

County is not liable for negligent acts of its employees resulting in injury to others on highways of the county when the county is engaged in carrying on its governmental activities, such as constructing or maintaining a highway. Op. Atty. Gen., May 20, 1931.

Where county board disallowed bill presented by township asking for reimbursement under §3195, including items covering five years and part of another, and no appeal was taken, such board could not, after time for appeal had expired, consider separate bills for each year except for fraction of year not covered by first bill. Op. Atty. Gen., Apr. 4, 1932.

997-1. Salaries not reduced.

See §8707-5.

This law is not effective in the absence of a determination by the district court determining the value of motor vehicle in the county in question. Op. Atty. Gen., Dec. 28, 1931.

997-2. Salaries of county officers in certain counties.

—Whenever the salary or clerk hire of any county officer shall be decreased during the term for which he is or was elected because of a reduction in the assessed valuation of the county, the board of county commissioners are hereby authorized to fix said salary and clerk hire in an amount equal to that received prior to such reduction in the assessed valuation of the county. (Act Apr. 24, 1929, c. 313.)

County commissioners may not fix salaries at any other amount than received prior to reduction in assessed valuation. Op. Atty. Gen., Jan. 31, 1933.

Salaries of county auditor and county treasurer are regulated by assessed valuations as fixed by tax commission for preceding year and they may be raised or lowered during term. Op. Atty. Gen., Jan. 31, 1933.

"Any county officer" includes county commissioners. Op. Atty. Gen., Sept. 16, 1933.

997-3. All fees in certain counties to be paid in county treasury.—In all counties of this state having, or which may hereafter have, a population of 415,000 inhabitants or over, no elective county official who receives a stated salary shall have or retain any fees or revenue of any kind whatsoever whether such fees are received by reason of services rendered pursuant to the laws of this state or of the United States or whether such official acts as an agency of the county, state or of the United States in performing the services for which such fees are paid and all such fees collected by or paid to any such county official shall on the first Monday of each month be turned into the county treasury (and by him put into the general revenue fund of the county) and a correct statement thereof shall on said day be filed with the county auditor. The turning in and relinquishment of all such fees by any such county official to the county shall be a condition to be performed before he shall be entitled to or shall receive any compensation, salary or installment thereof whatsoever.

Such county official, as a part of the duties of his office, shall perform all the duties and collect all fees or licenses which like officials of other counties perform or collect upon a fee basis and the fees so collected shall be turned into the treasury of such county as a condition to the payment to such county official of any salary, compensation or installment thereof whatsoever.

In cases in which the laws of this state allow any such county official to delegate the collection of fees or the issue of licenses to some person or deputy outside the office of such county official, such county official shall not be liable for any malfeasance or failure to account for such fees or licenses if he shall have used reasonable and ordinary care and diligence in the selection or appointment of such agent or deputy. If he shall require surety bonds of such agent or deputy, the premiums thereof may be paid by such county official out of the fees or licenses collected. Such county official shall be allowed to pay to such agents or deputies the sums or commissions now or hereafter provided by law. (Act. Apr. 24, 1929, c. 341, §1).

County auditor cannot pay other than agents' commissions out of license moneys. Op. Atty. Gen., May 21, 1929.

997-4. Salary of county officers.—The county officials hereinafter named of any such counties shall receive as full compensation for all services of every kind and nature performed as such officials whether pursuant to the laws of this state or of the United States or of any home rule charter adopted pursuant to Article 4, Section 36, of the constitution of this state, stated annual salaries as follows; to-wit: county attorney, \$7,000.00; auditor, \$6,000.00, (provided that he may also receive, in addition, any sum not more than \$500.00 which may be otherwise provided for services as a member of a municipal building commission); coroner, \$4,500.00; clerk of the district court, \$6,500.00; sheriff, \$5,000.00; surveyor, \$3,000.00; register of deeds and register of titles where the two offices are held by one person, \$6,500.00; treasurer, \$6,500.00; court commissioner, \$3,500.00. Provided that in case this act cannot be held to apply to fees received by the clerk of the district court from the federal government, the salary of such district clerk shall be \$4,000.00. Provided further that the court commissioner may retain fees which he may receive for performing marriage ceremonies without accounting for the same or turn-

ing them into the county treasury. (Act Apr. 24, 1929, c. 341, §2.)

Laws 1929, c. 374, relates to payment for road labor in counties having assessed valuation and area of over 5,000 square miles. It is omitted as local.

Act Apr. 15, 1933, c. 282, provides that in counties having assessed valuation, including moneys and credits, of \$1,000,000 to \$1,300,000, and population of 2,300 to 2,600, county warrants shall be validated, and that county board may transfer funds from one fund to another.

997-5. Counties may fund indebtedness in certain cases.—Any county in this state having an assessed valuation of taxable property, inclusive of moneys and credits, of not more than \$8,000,000, and having a net debt, as defined by Laws 1927, Chapter 131 [§1938-3], not exceeding \$500,000, as of December 31, 1932, and having outstanding floating indebtedness incurred prior to January 1, 1933, represented by warrants issued against its revenue and/or poor fund and/or Road and Bridge Fund, aggregating in principal and accrued interest a sum greater than can be paid out of cash in said respective funds plus the amount of current taxes which have been levied for such purposes payable during the year 1933, and which floating debt exceeds \$150,000 in principal and accrued interest, may fund or otherwise pay and discharge such indebtedness in the manner in this act provided; and in the event of the funding provisions of this act being resorted to, each and all of the provisions, conditions and limitations of this act shall apply and shall be controlling over those of any other act inconsistent herewith. (Act Apr. 17, 1933, c. 296, §1.)

997-6. Warrants validated.—Any and all such outstanding warrants which shall be funded in the manner authorized by this act, and which have been issued for any lawful purpose properly chargeable to such respective funds, are hereby declared to be valid and enforceable obligations of such county; provided that the validation hereby effected shall not affect any warrants, the validity of which is questioned in any litigation now pending. The determination by unanimous vote of the county board of such county that any such outstanding warrants have been issued and that bonds shall be issued for the purpose of funding the same in the manner herein provided for shall be final and conclusively binding upon such county. The county board is hereby authorized and empowered to issue the bonds of such county in an amount not to exceed the principal of such warrants and interest thereon accrued up to the date of such bonds, and not exceeding in any event \$150,000, without submitting the question of such issue to the electors of such county and without regard to the amount of any and all other outstanding debts of the county, the proceeds thereof to be used solely for the purpose of taking up, paying, cancelling and retiring a like amount of principal and interest of such warrants. Said bonds shall be payable so that the first payment becomes due and payable not more than nine years from the date of issuance of such bonds and the last installment thereof shall become due and payable not more than twenty years from the date of the issuance of such bonds. They shall be sold in conformity with Mason's Minnesota Statutes of 1927, Section 1943, and shall be direct and general obligations of the county issuing the same. Nothing in this act shall be constructed to require that the full amount of such outstanding indebtedness shall be retired by the issuance and sale of such bonds, but if such bonds be issued and sold all valid outstanding indebtedness not retired thereby shall be paid from the proceeds of the taxes levied and payable during the year 1933 for such purposes. (Act Apr. 17, 1933, c. 296, §2.)

997-7 Tax levy to retire bonds.—The county board of any county issuing bonds pursuant to the authority of this act shall before the issuance thereof levy for each year until the principal and interest are paid in

full a direct annual tax in an amount not less than ten per cent in excess of the sum required to pay the principal and interest thereof when and as such principal and interest become due, provided that in case such bonds are sold directly to the State of Minnesota, the levy shall be made according to law covering such sale. Such tax shall be irrevocable until all such indebtedness is paid, and after the issuance of such bonds no further action of the county board shall be necessary to authorize the extension, assessment and collection of such tax. The county auditor shall keep a register in which shall be entered a record of the aggregate amount of such bonds authorized, the aggregate amount issued, the purpose for which issued, the number, denomination, date and maturity of each, the rate of interest, and time of payment thereof, and place of payment of principal and interest, and the amount of taxes levied for the payment thereof in each year, and shall extend and assess the tax so levied. Nothing herein contained shall be construed as limiting the power of the county to levy taxes to pay the bonds issued hereunder, but the county board shall have the power, and it shall be its duty, to levy any taxes necessary to provide revenue to pay the full principal and interest of such bonds. (Act Apr. 17, 1933, c. 296, §3.)

997-8. Limitation of expenditures.—So long as any bonds issued pursuant hereto remain outstanding, unless a sum equal to the full principal and interest to maturity thereon be held in the sinking fund for the retirement thereof, the maximum amount of obligations incurred and expenditures made in any year shall not exceed \$50,000 for revenue fund purposes nor \$40,000 for poor fund purposes nor \$30,000 for Road and Bridge purposes, and the county board is authorized to levy during such period only such amount of taxes for such purposes as will produce such sum. In the event that taxes levied for such purposes shall exceed such sum for said respective funds, the excess shall be carried over and go to reduce the taxes for the next ensuing year for such purposes. (Act Apr. 17, 1933, c. 296, §4.)

997-9. County board to determine revenues.—The county board shall annually, at its meeting in July, 1933, and at its meetings in January in each succeeding year, determine the amount of funds which will be available during the current year for revenue fund, poor fund and Road and Bridge Fund purposes from the proceeds of the tax levy made therefor in the preceding year and from other sources, if any, known to be due and payable into the county treasury for such purposes during such year, and shall thereupon at such meeting make and spread upon its minutes a definite budget of the expenditures made and to be made and indebtedness incurred and to be incurred for the purpose of such respective funds during such year, which expenditures and indebtedness shall in no case exceed the aggregate amount of revenues so determined to be available for such year. Such budget shall allot the sum authorized for each institution, department, division or purpose chargeable to such fund. As nearly as may be, a specific program of activities shall be determined upon and no change shall thereafter be made which shall cause to be diverted to any other purpose any item so determined upon, except by unanimous vote of the county board at a regular meeting after at least three weeks published notice of a hearing thereon; provided, however, that at least ten per cent of the total sum authorized for each such fund shall be allotted to and carried as a reserve for emergencies, and such reserve for emergencies may be expended by the county board by unanimous action without such hearing for any purpose specified in said budget when the sum previously allotted to such purpose has been expended. (Act Apr. 17, 1933, c. 296, §5.)

997-10. County auditor to keep record of allotments.—The county auditor shall keep a record

showing accurately the amount allotted to each item of the budget for each year and the amounts incurred and expended from time to time on account of each of such items, which records shall be presented and examined at each meeting of the county board and show the true condition of affairs at the date of such meeting. (Act Apr. 17, 1933, c. 296, § 6.)

997-11. 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. 17, 1933, c. 296, § 7.)

Act. Apr. 17, 1933, c. 318, makes appropriation of \$15,000 for each of two years, payable July 1, 1933, and July 1, 1934, to counties in which more than 35% of area is school, swamp, and university land. It is omitted as temporary.

Act. Apr. 17, 1933, c. 322, makes appropriation of \$7,500 for each of two years, payable July 1, 1933, and July 1, 1934, to counties in which less than 25% of 1931 taxes were collected.

CHAPTER 8

Towns and Town Officers

POWERS—DUTIES—LIABILITIES

999. Corporate powers.

A town board may lawfully rent its road equipment to another town in the county. Op. Atty. Gen., Sept. 11, 1931.

Townships have no authority to expend public money to pay expenses of delegates to meetings of taxpayers' associations. Op. Atty. Gen., Mar. 18, 1933.

(3).

A town may not employ an attorney at a monthly salary. Op. Atty. Gen., Apr. 19, 1933.

Town board may contract for lighting of public highway. Op. Atty. Gen., May 24, 1933, June 1, 1933.

(4).

A township cannot expend town money in opposing annexation of territory to village unless it will result in added assessments. Op. Atty. Gen., Aug. 7, 1933.

1002. Powers of town meetings.

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

Subd. 3

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

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

A town may not employ an attorney at a monthly salary. Op. Atty. Gen., Apr. 19, 1933.

Subd. 6

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

Subd. 8

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

Subd. 9

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

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

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

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

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

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

1002-1. Townships may be dissolved, when.—Whenever the voters residing within a duly organized civil township in this state have failed to elect any township officials for more than ten years continuously immediately prior to the taking effect of this Act, or said township has failed and omitted for a period of 10 years to exercise any of the powers and functions of an organized civil township as provided by law, or whenever the assessed valuation of any duly organized civil township drops to less than \$50,000.00, or whenever the tax delinquency of any such township amounts to 50 per cent of its assessed valuation, or where the state has acquired title to 50 per cent of the real estate of such township, which facts or any of them may be found and determined by the resolution of the county

board of the county in which said township is located, according to the official records in the office of the county auditor of said county, the county board by resolution shall declare any such township, naming the same, duly dissolved and no longer entitled to exercise any of the powers or functions of an organized township. ('25, c. 40, §1; Apr. 21, 1933, c. 377.)

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

Dissolution of township is mandatory under amendment of this section by Laws 1933, c. 377. Op. Atty. Gen., July 25, 1933.

Dissolution of township is mandatory. Op. Atty. Gen., June 1, 1933.

On dissolution of township, county board has implied authority to operate and maintain a town telephone and also to discontinue operation and dispose of property if operation appears impracticable. Id.

On dissolution of township, tax should be spread against taxable property of township sufficient to pay debts after applying funds and property of township thereon, procedure to be that prescribed by §1002-12. Id.

Upon dissolution of townships duty devolves upon county board to arrange voting districts and voting places. Op. Atty. Gen., July 31, 1933.

1002-9. Dissolution of townships.—Whenever the electors of any town, at the annual meeting or at a special meeting called for that purpose, shall have voted by ballot to dissolve the town organization hereunder the town board thereof shall adopt a resolution setting forth such facts and asking for the dissolution of the town, and a copy of such resolution, duly certified by the town clerk, shall be presented to the board of county commissioners of the county in which such town is located, such board of county commissioners may, or whenever the tax delinquency in any town exceeds 70 per cent in any one year, the board of county commissioners of the county wherein such town is situated, on its own initiative, may by resolution, dissolve such town and attach the territory formerly embraced therein to the adjoining town or towns, or provide for the government of such territory as unorganized territory of the county. If such dissolved territory is added to an adjoining town the proposal therefor shall first have the approval of a five-eighths majority of the voting electors of such town to which the dissolved territory is added. Upon the adoption of such resolution by the county board such town shall be dissolved and no longer entitled to exercise any of the powers or functions of an organized town. Provided that the county auditor shall give ten days' notice by one publication in the paper in which the proceedings of the county board are published of the meeting of the county board at which such petition will be considered. (Act Mar. 27, 1931, c. 96, § 1; Apr. 13, 1933, c. 235.)

Determination of dissolution of township may be made by electors who may or may not be freeholders. Op. Atty. Gen., July 20, 1932.

Resolution for dissolution of a town must be adopted by majority of voters present and voting upon such question. Op. Atty. Gen., Mar. 7, 1933.

1002-10. Copy of resolution to be filed with the Secretary of State.—A certified copy of the resolution of the county board declaring such town to be dissolved shall forthwith be forwarded by the county auditor to