

1940 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1940)  
(Superseding Mason's 1931, 1934, 1936 and 1938  
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions,  
and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and  
amendatory, and notes showing repeals, together with annotations from the  
various courts, state and federal, and the opinions of the Attorney  
General, construing the constitution, statutes, charters  
and court rules of Minnesota together with digest  
of all common law decisions.



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recovery of penalties or forfeitures incurred, under any of the acts repealed, the subsequent procedure shall conform, so far as practicable, to the provisions of this act. Whoever, when said repeal takes effect, holds an office under any of the laws repealed, shall continue to hold it according to the tenure thereof, unless it is abolished or unless a different provision relative thereto is made by this act. The provisions of this act, so far as they are the same as those of existing statutes, shall be construed as continuations thereof, and not as new enactments; and references to statutes not repealed to provisions of law which are re-enacted herein shall be construed as applying

to such provisions as so incorporated in this act, if in any statute hereby repealed, a limit of time be prescribed for acquiring a right, barring a remedy, or any other purpose, which period has begun to run, and the same or as similar limitation is herein prescribed, the time of limitation shall continue to run with the same effect as though the whole period had elapsed under the operation of this act. (Act Apr. 21, 1939, c. 345, Pt. 12, §2.)

**601-12b. Effective August 1, 1939.**—This act shall take effect and be in force from and after August 1, 1939. (Act Apr. 21, 1939, c. 345, Pt. 12, §3.)

## CHAPTER 7

### Counties and County Officers

#### CHANGE OF BOUNDARIES

##### 602. Change—New counties.

That portion of Lake of the Woods known as Muskeg Bay is not a part of Roseau County, but a part of Lake of the Woods County. Op. Atty. Gen. (106b), Mar. 21, 1936.

**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.)

**615-2. Change in boundary line in certain counties.**—That all the land situated in Sections 16 and 21, Township 121, Range 46, Lac qui Parle County, be and the same hereby is detached from the County of Lac qui Parle and annexed to the County of Big Stone in this State. (Apr. 24, 1937, c. 423, §1.)

**615-3. Same—Laws applicable.**—That Chapter 7 of Mason's Minnesota Statutes of 1927 [§§602 to 997-11], and laws amendatory thereof, shall be applicable, where not inconsistent therewith, to this act. (Apr. 24, 1937, c. 423, §2.)

**615-4. Same—Effective January 1, 1938.**—This act shall be in full force and effect from and after January 1, 1938. (Apr. 24, 1937, c. 423, §3.)

#### CHANGING COUNTY SEATS

##### 625. Petition for change.

175M486, 221NW870; note under §626.  
Number of signatures on petition is to be determined by last preceding general election. Op. Atty. Gen. (106E), Nov. 27, 1934.

County auditor has no authority to determine whether petition has been signed by required number of legal voters. Op. Atty. Gen. (125a-19), Mar. 24, 1938.

Petition for change of county seat is open to public inspection while on file with county auditor. Op. Atty. Gen. (125a-19), Mar. 24, 1938.

It is not temporary character of employment of persons on public works, but the temporary character of their residence in district which determines right to vote. Op. Atty. Gen. (106e), Apr. 11, 1938.

##### 626. Form of notice.

174M397, 219NW458; note under §627.  
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.

##### 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.

County board is to inquire and determine if signers of petition are legal voters. Op. Atty. Gen. (106e), Apr. 11, 1938.

##### 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 governor, 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 sev-

eral 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 offices. 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 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.

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 may compromise and settle mortgage for less than full amount in good faith in best interests of county. Op. Atty. Gen. (107b-5), May 2, 1935.

A county may not lease an automatic coal stoker with option to purchase at end of term, though entire cost of stoker is to be paid out of moneys paid by the device. Op. Atty. Gen. (707b-3), June 13, 1935.

When county board abolishes poor farm and decides to lease it pending advantageous sale, there must be a compliance with §§638, 641, 663. Op. Atty. Gen. (125a-36), Feb. 13, 1936.

County need not forfeit deposit made with bid by contractor who wished to withdraw after acceptance of a bid because of honest mistake in his estimate, if the bidder pays expenses of readvertisements. Op. Atty. Gen. (707a-3), June 27, 1936.

In absence of statute, county board has no legal authority to provide the county attorney with clerk hire. Op. Atty. Gen. (121a-4), July 20, 1936.

County may hire rock crushing outfit for purpose of furnishing work to needy persons and may sell lime derived from such operation at cost. Op. Atty. Gen. (107b-15), Dec. 4, 1936.

(2).

County which has obtained judgment against surety of county depository may redeem land of such surety sold under mortgage foreclosure. Op. Atty. Gen. (412a-10), July 5, 1934.

County redeeming from mortgage foreclosure as judgment creditor of the mortgagor does not thereby extinguish the debt, except to the extent of the value of the property so redeemed less the amount he pays in redemption. *Id.*

County operating under county system of poor relief may purchase wood lots for purpose of furnishing employment to needy persons in clearing the land and in growing sugar beets thereon if county deems it necessary and for best interest of the county to do so in carrying on its poor relief. Op. Atty. Gen. (107b-15), Feb. 5, 1935.

Where county does not have sufficient room in courthouse, county board may buy land and a building next door without a vote of the people or a call for bids, it having sufficient money on hand to make the purchase. Op. Atty. Gen. (125a-41), May 9, 1935.

Township may sell and convey lands to the United States but there must be a compliance with §§638(2,3), 663, 999(2), 1007, but authority may be obtained from voters at special election. Op. Atty. Gen. (700d-28), July 3, 1935.

County or village may purchase land at sales held pursuant to Laws 1935, c. 386 (§2139-15). Op. Atty. Gen. (425c-10), May 4, 1938.

The legal nature and status of the American county. 14MinnLawRev141.

(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.

Board has implied power to use services of an agent in selling a farm, and may compensate him if sale of farm is effected through him, but may not list farm with real estate agent in such a way that it binds county if a purchaser is secured by agent, if after publication a more favorable offer is filed with county auditor. Op. Atty. Gen. (125a-42), Mar. 23, 1938.

(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. 16, 1933.

Contract for printing and publication between newspaper and county board is not binding upon county auditor with respect to publication of sample ballots. Op. Atty. Gen. (707b-3), Oct. 5, 1934.

County board may furnish relief on a county work project in lieu of direct relief to persons physically able to work. Op. Atty. Gen. (125a-37), Dec. 21, 1936.

**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.

When county board abolishes poor farm and decides to lease it pending advantageous sale, there must be a compliance with §§638, 641, 663. Op. Atty. Gen. (125a-36), Feb. 18, 1936.

**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 building and finishing immediately of quarters therein for which construction sufficient funds were available. *Linster v. L.*, 186M386, 243NW395. See Dun. Dig. 2287a.

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.

Where county does not have sufficient room in courthouse, county board may buy land and a building next door without a vote of the people or a call for bids, it having sufficient money on hand to make the purchase. Op. Atty. Gen. (125a-41), May 9, 1935.

Cost of remodeling and making additions to court house may be paid from general revenue fund in treasury or from taxes already levied and in process of collection. Op. Atty. Gen., (125a-20), Aug. 29, 1938.

**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 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 building, 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 building, 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.

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 Dollars (\$25,000.00), 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.

The county board of any such county 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, to appropriate and expend not more than \$10,000 for the funds provided by the sale of such bonds for the purpose of equipping any municipal auditorium building situated in any city of the first class located within any such county. (Apr. 26, 1929, c. 397, §21; Jan. 27, 1936, Ex. Ses., c. 99.)

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, Philippine 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.

**643-21a. Commission to file report upon completion of building.**—Upon the completion of the erection and equipping of said city hall and court house building the commission herein provided to be appointed shall make and file with the district court of the county and the office of the county auditor of any such county and the city clerk of any city of the first class located in such county a report of its proceedings, setting forth in general terms the acts performed by such Commission pursuant to this chapter as well as the contracts which were let in the erection and equipping of such building, and the balances remaining in the funds provided by the sale of bonds as herein provided. Upon the filing of such report the said commission shall thereupon be discharged. The city council of any such city and the board of county commissioners of any such county may not later than 10 years from the date of filing of such report, expend said balances remaining in the funds provided by the sale of bonds for enlarging the court facilities in such building, to be done, however, only upon the request of the judges of the district court in the county in which such building is located. The remainder of the proceeds of such bonds shall be used for the purpose of retiring bonds issued hereunder and upon the expiration of the said 10 year term in the event the above mentioned improvements to the said building have not been contracted for, the funds provided therefor shall thereupon be used to retire the said bonds. (Apr. 26, 1929, c. 397, §21a, added Apr. 17, 1937, c. 274, §1.)

**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. *Johnson v. W.*, 175M236, 220NW946.

It is not necessary to wait 15 days in issuing warrant in payment of compromise settlement. *Op. Atty. Gen.* (125a-11), Feb. 27, 1937.

#### 647. Proceedings on appeal.

Issues of fact on appeal by school board under §2747 or §2748 should be tried as in civil action. *Op. Atty. Gen.* (166c-1), Mar. 25, 1935.

### 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.

Offices of county commissioner and assistant manager of county of national reemployment service are not incompatible. *Op. Atty. Gen.*, Jan. 15, 1934.

Office of president of village council or mayor of municipality is incompatible with that of county commissioner. *Op. Atty. Gen.*, Jan. 22, 1934.

**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, exclusive of the inmates of any state penal or corrective institution, or state hospital for the insane, maintained wholly or partly within such 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; provided further that where a county has heretofore been redistricted between the time of the general election and the time at which commissioners elected at such general election were required to qualify and no change was made in the boundary of the district to which such commissioner was elected, such com-

missioner-elect, after duly qualifying as a commissioner for said district, 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; Apr. 24, 1931, c. 279; Jan. 24, 1936, Ex. Ses., c. 76.)

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.

Laws 1933, c. 363, adding proviso that no city of second class shall be in more than two commissioner districts, is not unconstitutional as arbitrary and capricious classification. *State v. Cooke*, 195M101, 262NW163. See *Dun. Dig.* 1679, 2267.

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.

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.

In event that a commissioner is placed outside district from which he was elected, he will be entitled to hold office for two years or until his successor is elected at next general election, and would not be entitled to hold office for four years by moving into and residing in district. *Op. Atty. Gen.* (798f), Dec. 3, 1934.

Laws 1933, c. 363, amending this section, did not repeal by implication provisions of Laws 1933, c. 77, also amending this section. *Id.*

Where on December 31, 1934, commissioners made change in boundaries of commissioner's districts 2 and 5 and boundaries of 1, 3, 4 were left unchanged, and commissioner for district 2 was elected at general election in 1934, commissioner of district 4 reelected at general election in 1934 for a four-year term could hold office only until general election in 1936. *Op. Atty. Gen.* (798e), Mar. 18, 1935.

Though ordinarily inmates of training schools are not to be counted as residents of county, county board should accept official returns of federal or state census as basis for determining whether or not a redistricting is required, even though inmates of such schools were counted as residents. *Op. Atty. Gen.* (798d), Oct. 15, 1935.

When a county has once been redistricted after taking of each federal or state census, there may not be another redistricting until after another census. *Op. Atty. Gen.* (798d), Apr. 8, 1936.

#### 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.

County board cannot require county attorney or judge of probate to furnish corporate surety bonds and cannot refuse to accept, arbitrarily, a proper personal bond when tendered, but such officers must pay their own premium. *Op. Atty. Gen.* (121a-3), Mar. 2, 1935.

#### 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**

Act Apr. 14, 1937, c. 230, effective May 1, 1937, amends Laws 1925, c. 91, §8, as amended, and provides that in counties having 41 to 43 townships, and 25,000 to 30,000 inhabitants, the county board members shall receive \$384 salary and \$3 per day while on committee duty and 5 cents mileage for attendance on not to exceed 12 meetings of the board, and same per diem and mileage for tax equalization meetings, and \$9 per month for acting on welfare board and 5 cents mileage for attending welfare board meetings. Chairman to receive \$3 per diem and 5 cents mileage for attendance on board of audit and signing of warrants.

Act July 15, 1937, Sp. Sess., c. 54, §1, amends Laws 1925, c. 91, §8, as amended by Laws 1937, c. 230, §4, by fixing the salary of county board members at \$456 and eliminating the provision for \$9 a month for work on the welfare board, and substituting therefor \$3 per day and 5 cents mileage.

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.

Act Apr. 12, 1937, c. 193, amends Laws 1921, c. 437, as amended, and provides that in counties having 44 to 45 townships assessed value of \$8,000,000 to \$14,000,000 and population of 25,500 to 26,000, the county board members shall receive \$720 per year and \$3 per day while on committee duty, and ten cents mileage in attending not exceeding 12 meetings in any year.

Act Apr. 26, 1937, c. 491, amends Laws 1921, c. 437, as amended, to fix salary of county board members at \$720, \$3 per day for committee duty and 10 cents mileage for committee work and for not over 12 meetings of the board.

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. See §§997-4a to 997-4h.

Act Mar. 19, 1937, c. 69, effective July 1, 1937, amends Laws 1933, c. 16, to make salary of members of county board \$720, salary of county auditor \$2500 and traveling expenses within the state of Minnesota.

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 Apr. 17, 1937, c. 248, effective Apr. 17, 1937, amends Laws 1933, c. 26, §1, by changing limitation of \$250 additional compensation to \$550.

Act Mar. 2, 1933, c. 46, amends Laws 1919, c. 23. Amended, Laws 1939, c. 211. See §§997-4a to 997-4h.

Laws 1933, c. 68, legalizes payments of salaries therefore 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. See §§997-4a to 997-4h.

Act Mar. 19, 1937, c. 70, §10, effective July 1, 1937, amends Laws 1933, c. 76, to make salary of commissioners \$300.

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. Amended, Act Apr. 15, 1939, c. 274. See §§997-4a to 997-4h.

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 instalments, 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 as-

assessed valuation, including moneys and credits, the county board members shall receive \$540 per annum and traveling expenses. See §§997-4a to 997-4h.

Act Mar. 23, 1937, c. 91, repeals Laws 1933, c. 281, and provides that in counties having 100 to 105 townships and 12,000 to 16,000 population the county commissioners shall receive \$720 per annum and traveling expenses within county.

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. See §§997-4a to 997-4h.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224. See §§997-4a to 997-4h.

Act Feb. 15, 1935, c. 13, fixes salary of county commissioner at \$325 in counties with 11,000 to 13,000 population, assessed value of less than \$6,000,000, and having 13 to 15 townships.

Act Apr. 1, 1935, c. 88, amends Laws 1919, c. 210, by fixing mileage allowance at 10 cents.

Act Jan. 21, 1936, Sp. Ses. 1935-36, c. 65, provides that in counties having 18 to 20 townships, 28,000 to 23,500 population, and \$18,000,000 to \$25,000,000 assessed value, county commissioners shall receive \$800 per annum and necessary expenses.

Laws 1919, c. 210, as amended by Laws 1935, c. 88, §1, reads as follows:

"Section 1. In all counties of this state, now or hereafter having an assessed valuation of more than twenty million dollars, and less than one hundred million dollars, and an area of more than two thousand five hundred square miles, each member of the board of county commissioners shall receive a monthly salary of one hundred fifty dollars, payable on the first day of each calendar month, as the salaries of other county officials are paid."

Laws 1935, c. 13. Salaries in counties having between 11,000 and 13,000 population, and a valuation of less than \$6,000,000, with 13 to 15 congressional townships shall be \$350 a year.

Laws 1935, c. 113. Counties having 20 to 23 townships and valuation of less than \$6,000,000, salary of commissioners to be \$420.00 per year and 5 cents mileage.

Laws 1935, c. 122. In counties having valuation of \$6,000,000 to \$6,000,000 and population of 7,000 to 8,000 and 18 to 20 townships commissioners salary shall be \$325 per year.

Laws 1935, c. 126. In counties having valuation of \$5,000,000 to \$6,000,000 and population of 9,500 to 10,500 and 14 to 16 townships commissioners salary shall be \$325 per year.

Laws 1935, c. 349. Salaries of county commissioners, county auditor and county treasurer in certain counties. See §§997-4a to 997-4f.

Laws 1935, c. 361. Counties having more than 100 townships and valuation between \$4,000,000 and \$6,000,000, auditor shall receive \$2,250, treasurer \$1,800, Probate \$1,400, commissioners \$540, register of deeds \$1,800.

Act Apr. 19, 1937, c. 288, provides that in counties having 19 to 21 townships, assessed value, exclusive of moneys and credits, of \$5,000,000 to \$7,000,000, and population of 13,000 to 14,000, the salary of the county board members shall be \$480.

Act Apr. 21, 1937, c. 333, provides that in counties having 34,000 to 40,000 population, assessed valuation of \$15,000,000 to \$19,000,000, and containing a third class city, the salary of the county board members shall be \$900.

Act Apr. 21, 1937, c. 335, provides that in counties having population of 13,000 to 14,000, 19 to 21 townships, and 703 to 705 square miles, the salary of the county board members shall be \$600.

Act Apr. 21, 1937, c. 336, provides that in counties having 12,000 to 13,000 inhabitants, 15 to 17 townships, and 468 to 470 square miles, the salary of the county board members shall be \$600.

Act Apr. 21, 1937, c. 337, provides that in counties having 15 to 20 townships, more than 8,000 population, and over \$3,500,000 assessed valuation, the salary of county board members shall be \$300.

Act Apr. 21, 1937, c. 339, provides that in counties not provided for by special law, containing second class city, 19 to 21 townships, 34,000 to 40,000 population, and assessed value, including moneys and credits of \$25,000,000 to \$30,000,000, the salary of county board members shall be \$800, and traveling expenses not exceeding \$1200 in any year for the entire board.

Act Apr. 23, 1937, c. 372, provides that in counties having assessed valuation, exclusive of moneys and credits, of \$500,000 to \$600,000, population of 2,000 to 3,000, and 60 to 65 townships, the salary of county board members shall be \$35 per month payable monthly.

Act Apr. 26, 1937, c. 433, provides that in counties having assessed valuation, exclusive of moneys and credits, of \$5,000,000 to \$6,000,000, population of 10,000 to 11,000, and 15 to 17 townships the salary of county board members shall be \$450.

Act Apr. 24, 1937, c. 460, provides that in counties having assessed valuation, exclusive of moneys and credits, of \$9,800,000 to 9,900,000, population of 15,000 to 15,425, and 27 to 29 townships, the salary of the county board members shall be \$50 per month.

Act July 14, 1937, Sp. Ses., c. 21, amends Act Apr. 24, 1937, c. 460, by making it apply to counties having assessed valuation, exclusive of moneys and credits of \$9,500,000 to \$12,000,000, population of 15,000 to 16,000, and 27 to 29 townships.

Act July 14, 1937, Sp. Ses., c. 37, provides that in counties having 19 to 21 townships, \$6,000,000 to \$8,000,000 assessed valuation, exclusive of moneys and credits, and 18,000 to 20,000 population, the members of the county board shall receive a salary of \$480.

Act July 14, 1937, Sp. Ses., c. 40, provides that in counties having 15 to 16 townships, 11,000 to 12,000 population, and assessed valuation, exclusive of moneys and credits, of \$5,000,000 to \$7,000,000, the salary of county board members shall be \$420.

Act July 14, 1937, Sp. Ses., c. 41, provides that in counties having 27 to 29 townships, 9,500 to 9,700 inhabitants and assessed valuation, exclusive of moneys and credits, of \$2,400,000 to \$2,700,000, the minimum salary of county board members shall be \$360.

Act July 15, 1937, Sp. Ses., c. 58, provides that in counties having 350 to 900 square miles, 21,000 to 22,000 population, and assessed valuation of not less than \$11,000,000, the salary of county board members shall be \$600, and 5 cents mileage for attending board meetings.

Act July 15, 1937, Sp. Ses., c. 59, provides that in counties having 600 to 700 square miles, 17,000 to 18,500 population, and assessed valuation of not less than \$9,500,000, the county board members shall receive a salary of \$500.

Act July 15, 1937, Sp. Ses., c. 63, provides that in counties having 19 to 21 townships, 34,000 to 45,000 inhabitants, and assessed valuation, including moneys and credits, of \$28,000,000 to \$45,000,000, the salary of county board members shall be \$700 and traveling expenses.

In counties having 6,000 to 8,000 population and 15 to 17 townships and valuation of under \$4,000,000 county commissioners shall receive \$300 per year. Laws 1939, c. 188.

In counties having 14,000 to 16,000 population and \$9,000,000 to \$10,000,000 valuation and area of 638 to 642 square miles the county commissioner shall receive \$600 per year. Laws 1939, c. 208.

In counties having population of 26,000 to 27,000 and 27 to 29 townships the county commissioners shall receive \$600 per year, \$3 per diem and five cents per mile. Laws 1939, c. 337.

Act March 31, 1939, c. 99, fixes the salary and expenses of county board members in counties having 41 to 43 congressional townships, assessed valuation, exclusive of money and credits, of \$6,000,000.00 to \$12,000,000.00, and population of 25,000 to 30,000, and repeals Laws 1921, c. 437; Laws 1925, c. 91; Laws 1929, cc. 20, 161; Laws 1933, c. 432; Laws 1937, c. 230; Laws 1937, Sp. Ses., c. 54.

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.

County is not authorized to pay mileage and expenses of members of county board incurred in connection with emergency relief administration work under federal law. Op. Atty. Gen., Dec. 19, 1933.

When assessed valuation of Aitkin County was reduced below \$5,000,000, county was automatically taken from provisions of Laws 1923, c. 60, and was placed under general statutes applying to compensation of county commissioners. Op. Atty. Gen., Feb. 10, 1934.

County commissioners are not entitled to compensation for service in hearing and disposing of claims for old age pensions, and payment of traveling expenses is determined in accordance with law under which particular county is operating. Op. Atty. Gen., Feb. 21, 1934.

Salaries of county commissioners may be decreased during term for which they were elected. Op. Atty. Gen. (124i), Dec. 11, 1934.

Salaries of county commissioners change on Jan. 1, following an increase or decrease in assessed valuation of their counties without any action on part of board to effect change, but a resolution is necessary under §997-2 to increase compensation to amount received previous to reduction in salary. Op. Atty. Gen. (104a-9), Dec. 18, 1934.

Neither county commissioners nor county attorney are entitled to mileage in connection with investigation of poor relief and mother pension cases. Op. Atty. Gen. (359a-14), Mar. 12, 1935.

Salaries of county commissioners of Yellow Medicine County as affected by Laws 1919, c. 487, Laws 1925, c. 143, Laws 1933, c. 359, and Laws 1935, c. 349, computed and determined. Op. Atty. Gen. (124i), July 18, 1935.

The effects of Laws 1935, ch. 349, is to place the actual salaries to be paid after sum actually received by commissioners during year 1931, and where pursuant to Laws 1921, c. 275, and Laws 1931, ch. 185, and Laws 1919, chs. 242 and 487, salary was reduced on April 17, 1931, because of change in population, salary received before April 17 should be added to that received after April 17, 1931, and the total fixes the compensation. Op. Atty. Gen. (124i), Aug. 7, 1935.

Lac Qui Parle county now comes within provisions of Laws 1929, ch. 8. Op. Atty. Gen. (107b-14), Sept. 13, 1935.

Laws 1935, ch. 113, does not apply to Pope County, as exemptions under §1975 should not be deducted in computing assessed valuation. Op. Atty. Gen. (124i), Feb. 4, 1936.

Under Laws 1935, ch. 113, county board may not receive a salary or per diem for special meeting, nor can board appoint its entire membership to a committee and obtain compensation as such, though proper members of a committee are entitled to compensation. Op. Atty. Gen. (124a), Feb. 26, 1936.

Traveling expenses of county commissioners incurred in administering old age assistance act must be paid under law fixing compensation of members of board. Op. Atty. Gen. (104b-4), May 4, 1936.

Reimbursement for traveling expenses should be made upon basis of mileage actually and necessarily traveled by each commissioner within limitation provided in said section. Op. Atty. Gen. (104b-4), Sept. 11, 1936.

Big Stone County is classified as having 20 full and fractional congressional townships. Op. Atty. Gen. (104a-9), Oct. 14, 1936.

Under Laws 1929, c. 80; Laws 1933, c. 183; Laws 1935, c. 349; and Laws 1935, Ex. Sess. c. 39, annual salary payable to Todd County Commissioners is the same as that paid in 1931, which was \$600, but mileage is 5 cents per mile. Op. Atty. Gen. (124i), March 10, 1939.

Salary of commissioner in class described by Laws 1939, c. 188, changed as of date of passage of act, April 10, 1939. Op. Atty. Gen. (124h), June 16, 1939.

Under Laws 1937, ex. sess., c. 58, commissioner is entitled to mileage of 5 cents regardless of how he makes trip, and a member appointed a committee of one for purpose of examining a bridge or conferring with owner of gravel pit would be entitled to mileage. Op. Atty. Gen. (124a), Sept. 11, 1939.

#### 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.

Mileage under this section is not affected by §254-47. Op. Atty. Gen. (104a-8), Mar. 8, 1935.

Under Laws 1935, ch. 113, county board may not receive a salary or per diem for special meeting, nor can board appoint its entire membership to a committee and obtain compensation as such, though proper members of a committee are entitled to compensation. Op. Atty. Gen. (124a), Feb. 26, 1936.

Members of county board are only entitled to mileage for attending meetings not exceeding 12 in number. Op. Atty. Gen. (359a-14), Dec. 4, 1936.

County commissioner in carrying out duties under §2130-23 is entitled to mileage under §657 and not under §254-47. Op. Atty. Gen. (124j), Jan. 19, 1937.

Members of county board are limited to compensation and mileage provided by this section, though Laws 1937, ch. 65 (Seed Loan Act), increases their service beyond twelve meetings. Op. Atty. Gen. (833k), Apr. 19, 1937.

Per diem and mileage payable to individual members of board acting as a committee under direction of county board is not limited to any particular number of committee meetings, but when board acts as a whole services may not be classified as committee work. Op. Atty. Gen. (124a), Apr. 20, 1938.

#### 658. Meetings—Quorum.

County board may amend resolution levying road and bridge tax at any adjourned meeting prior to certification of taxes to auditor. Op. Atty. Gen. (125a-14), Sept. 6, 1935.

Chairman has legal right to vote on all questions coming properly before board. Op. Atty. Gen. (126b), Feb. 21, 1936.

Majority vote of whole board is necessary to do business. Op. Atty. Gen. (125a-14), July 29, 1937.

Individual member of town board cannot bind town to pay cost of making improvements on roads within town. Op. Atty. Gen. (434a-7), Sept. 2, 1938.

#### 659. Vacancies filled by board—Powers of deputy.

—Whenever a vacancy occurs in the office of county auditor, county treasurer, register of deeds, sheriff, county attorney, county surveyor, coroner, or county superintendent, the county board shall fill the same by appointment. For that purpose it shall meet at the usual place of meeting, upon one day's notice from the chairman or clerk, which shall be served personally upon each member in the same manner as a district court summons is authorized to be served. The person so appointed shall give the bond and take the oath required by law, and shall hold for the remainder of the unexpired term, and until his successor qualifies; provided, that whenever such vacancy occurs in any of the offices hereinbefore mentioned in which office there is a chief deputy or first assistant, then the said chief deputy or first assistant is empowered and authorized to perform all of the duties and functions of the said office until such time as the same is filled by appointment by the said county board. (As amended Apr. 8, 1939, c. 153.)

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, 189M216, 245 NW744.

Legislature may fix term and provide for filling of vacancy in office of sheriff. State v. Borgen, 189M216, 249NW183. See Dun. Dig. 2263a.

Election of court commissioner must be at time of election of other county officers and for a similar period. Op. Atty. Gen. (128e), Dec. 18, 1934.

Where register of deeds who was also register of deeds elect died before beginning of new term, office became vacant on his death, and a second vacancy took place on first day of new term, and county commissioners had power to appoint a register of deeds for balance of first term to first Monday of January and also to appoint a register of deeds to fill four year term commencing on first Monday of January. Op. Atty. Gen. (373a-4), April 11, 1939.

#### 660. Vacancies in the office of County Commissioner.

—Any vacancy in the office of the county commissioner occurring more than 30 days before election shall be filled by a board of appointment, consisting of the chairman of the town board of each town, and the mayor or president of each city and village, in the commissioner district in which such vacancy occurs, which shall meet at the auditor's office for that purpose, upon three days' written notice given by such auditor and served personally; provided that,

if such commissioner district is wholly within the limits of an incorporated city or village, such vacancy shall be filled by the council of such municipality; provided further that if such board of appointment as so constituted consists of an even number of members and shall fail to fill such vacancy within ten days after the date of the first meeting thereof, upon notice given to him by the county auditor the county attorney shall also become and be a member. If such vacancy in the office of the county commissioner shall occur in a county in which the township system has been completely abolished, such vacancy shall be filled by the board of county commissioners, and the county auditor. Absence from the county for six consecutive months shall be deemed to create a vacancy. (R. L. '05, §426; G. S. '13, §688; '23, c. 315; Apr. 1, 1935, c. 84, §1.)

Where a member of a board of appointment purposely absents himself from locality to avoid personal service with intention of frustrating action by board, personal service is excused, and act of filling a vacancy by such board without presence of absent member is valid. *State v. Holmes*, 195M423, 263NW293. See *Dun. Dig.* 7990.

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.

Person appointed to fill vacancy in office of county commissioner holds until beginning of official year next following the next ensuing general election. *Op. Atty. Gen.* (126h), May 2, 1934.

Vacancy in office of county commissioner is to be filled by full membership of city council where district lies wholly within city, though only part of council are elected from district, and term of appointee expires at beginning of official year next following next general election. *Op. Atty. Gen.* (124k), Aug. 25, 1934.

Appointing board may not appoint one of its own members to fill vacancy. *Op. Atty. Gen.* (124k), Mar. 27, 1935.

A vote of majority of members of board of appointment is necessary to fill vacancy. *Op. Atty. Gen.* (124k), Oct. 8, 1935.

County was not brought within class permitting vacancy to be filled by board of county commissioners and county auditor by abolishment of town system of poor relief, it being necessary that town system of government be abolished. *Op. Atty. Gen.* (126h), Nov. 18, 1935. Compensation of members of appointing board. *Op. Atty. Gen.* (124k), Dec. 19, 1935.

Vacancy is to be filled at general election for unexpired term, and not for full term of four years. *Op. Atty. Gen.* (126h), June 5, 1936.

Member of appointing board cannot be appointed to fill vacancy. *Op. Atty. Gen.*, (126h), April 8, 1937.

County attorney cannot serve on appointing board where vacancy is filled by city or village council. *Id.*

Vacancy is to be filled at next ensuing general election, for unexpired term of commissioner whose office was vacated. *Op. Atty. Gen.* (124k), Jan. 25, 1938.

#### 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 (178M484, 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.

Contract for printing and publication between newspaper and county board is not binding upon county auditor with respect to publication of sample ballots. *Op. Atty. Gen.* (707b-3), Oct. 5, 1934.

County board proceedings cannot be published in a newspaper that is not legally qualified, such as one which has not been in circulation for a year. *Op. Atty. Gen.* (314b), Dec. 31, 1934.

Necessity for bids and awarding of contracts for publication and printing to lowest bidder are not abrogated by NRA code. *Op. Atty. Gen.* (707a-9), Dec. 31, 1934.

Granting of seed loans constitutes official proceedings which must be published. *Op. Atty. Gen.* (8331), May 8, 1935.

Granting of seed loans constitutes "official proceedings" and should be published. *Op. Atty. Gen.* (8331), May 25, 1935.

Board of county commissioners proceedings relative to old age assistance should be recorded in record of commissioner's proceedings and published in same manner as other business of county board. *Op. Atty. Gen.* (521b-1), May 14, 1936.

County welfare board is not required to publish minutes of meeting, but listed disbursements are required to be published in county financial statement. *Op. Atty. Gen.* (125a-64), May 22, 1937.

Notices referred to in §2139-16 should be published in official newspaper of county referred to in this section. *Op. Atty. Gen.* (277a-10), Jan. 5, 1938.

Acceptance of bid by county board for publishing of official proceedings of county and official financial statement of county "and all other notices and publications required by law to be published by said county during year 1938" did not bind county with respect to publishing delinquent personal property tax lists under §2108 and §2109, or notices under §2160 and §2161, or any other notices or publications not within contemplation of board. *Op. Atty. Gen.* (700a-9), Apr. 11, 1938.

**663. Chairman.**—Such board, at its first session in each year, shall elect from its members a chairman and a vice-chairman. The chairman shall preside at its meetings and sign all documents requiring signature on its behalf, and his signature as chairman, attested by the auditor, shall be binding as the signature of such board. In case of the absence or incapacity of the chairman, the vice-chairman shall perform his duties. In counties having more than five commissioners, and in which counties the mayor of a city of the first class located in such county is by law ex-officio chairman of such board, a second vice-chairman shall also be elected, who shall perform the duties of the chairman and vice-chairman in their absence. If the chairman and vice-chairman or vice-chairmen as the case may be, are absent from any meeting, all documents requiring the signature of the board shall be signed by a majority thereof and likewise attested. (As amended Apr. 6, 1937, c. 165, §1.)

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

Township may sell and convey lands to the United States but there must be a compliance with §§638(2,3), 663, 999(2), 1007, but authority may be obtained from voters at special election. *Op. Atty. Gen.* (700d-28), July 3, 1935.

When county board abolishes poor farm and decides to lease it pending advantageous sale, there must be a compliance with §§638, 641, 663. *Op. Atty. Gen.* (125a-36), Feb. 18, 1936.

Board may adopt its own rules and regulations as to procedure and chairman has right to make or second a motion while occupying chair. *Op. Atty. Gen.* (124), Mar. 25, 1938.

**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.

Supplies must be purchased by county board or under its supervision and direction. *Op. Atty. Gen.*, Jan. 23, 1934.

County board may furnish county attorney office space, heat, telephone, electric light service and janitor service within the courthouse itself if it is of the opinion that expense incurred is necessary to discharge of duties of office, but it is not required to furnish an office outside the court house, and has authority to require county attorney to pay part of such expense attributable to private practice. Op. Atty. Gen. (121a-4), Dec. 18, 1934.

Board is to furnish superintendent of schools with office at county seat and nowhere else. Op. Atty. Gen. (104b-11), Apr. 29, 1935.

"Statements," and "satisfactions of chattel mortgages, etc.," required by register of deeds in performance of his duties may be paid for by county. Op. Atty. Gen. (373b-21), Apr. 11, 1938.

County should furnish supplies to register of deeds making abstract, though he retains all abstract fees. Op. Atty. Gen. (125a-52), July 15, 1938.

County attorney paying for items out of his own pocket in emergencies should file an itemized claim with county board for reimbursement to him. Op. Atty. Gen. (121a-4), July 28, 1939.

**665. Appropriation for expenses.**

It is proper for county to furnish postage for various departments established locally by the federal government which are relieving the distress resulting from the depression. Op. Atty. Gen. (107b-1), Aug. 23, 1934.

**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 certificate 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.

Newspaper designated as official paper for publication of financial statement may also be designated as official paper of other official printing. Op. Atty. Gen., Nov. 29, 1933.

In view of amendment by Laws 1933, c. 410, it is mandatory that county board designate two papers for publication of financial statement. Id.

If county board had authority prior to enactment of Laws 1933, c. 410, to designate an official newspaper and to let a contract for the printing of its financial statement, it is not required to now advertise for bids prior to designation and letting of contract. Op. Atty. Gen., Jan. 3, 1934.

Financial statement must be published in one legal newspaper other than official newspaper. Op. Atty. Gen., Jan. 11, 1934.

County board may reject any offer or bid for publication of financial statement and may thereupon designate a newspaper without regard to any rejected offer. Op. Atty. Gen., Jan. 12, 1934.

By amendment of Laws 1933, c. 410, counties of over 75,000 population are included. Id.

Laws 1933, c. 410, amending this section is constitutional. Id.

Necessity for bids and awarding of contracts for publication and printing to lowest bidder are not abrogated by NRA code. Op. Atty. Gen. (707a-9), Dec. 31, 1934.

County welfare board is not required to publish minutes of meeting, but listed disbursements are required to be published in county financial statement. Op. Atty. Gen. (125a-64), May 22, 1937.

Disbursements made by County Welfare Board to old age pensions and aid to dependent children must be itemized and recipients named. Op. Atty. Gen. (125a-64), Jan. 7, 1938.

Requirement of publication in two separate newspapers is complied with under a bid for county printing requiring that all contracts let would be done by certain newspaper, which would furnish supplements or copies of all matters printed pursuant to that bid in mat form to all newspapers published in the county, and other newspapers would circulate such matter in their own papers. Op. Atty. Gen. (277e-1), Jan. 18, 1939.

Provision "that county board shall call for separate bids for each publication" requires that more than one paper be given an opportunity to bid on each issue. Id.

**668. General powers of board.**

Act Apr. 15, 1935, c. 180, authorizes county board of counties having over 5000 square miles and over 200,000 inhabitants to pay premiums on surety bonds of county officers.

Clerk hire in all counties may be raised by petition to commissioners and their unanimous action thereon. Laws 1939, c. 319.

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. Tousley 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.

County may not pay expenses incident to searching for bodies of persons accidentally drowned. Op. Atty. Gen. (107b-1), Nov. 14, 1934.

County board may not authorize collection of delinquent personal property taxes on commission basis. Op. Atty. Gen. (421a-5), Mar. 7, 1935.

Management of county business invested in county board acting as a board and individual members of that body acting independently have no authority to bind the county. Op. Atty. Gen. (148b-5), Mar. 26, 1935.

Whether county board may employ help to administer seed loan act is a question of fact based on necessity. Op. Atty. Gen. (833d), Apr. 6, 1935.

County board may compromise and settle mortgage for less than full amount in good faith in best interests of county. Op. Atty. Gen. (107b-5), May 2, 1935.

A county may not lease an automatic coal stoker with option to purchase at end of term, though entire cost of stoker is to be paid out of moneys paid by the device. Op. Atty. Gen. (707b-3), June 13, 1935.

Under Laws 1933, c. 212, county board of Cook county cannot employ an accountant for purpose of supervision of its budget and classify him as a deputy county auditor without consent of the auditor, power of selecting and hiring deputies and clerks being vested in the county auditor. Op. Atty. Gen. (12c-1), Sept. 4, 1935.

County has no authority to expend money in maintaining local gun range where law enforcement officers may practice with pistols. Op. Atty. Gen. (107b-1), Nov. 19, 1935.

County may employ persons to supervise work done for county by WPA. Op. Atty. Gen. (307c), Jan. 23, 1936.

In counties not having a board of poor commissioners or board of public welfare, county commissioners are "county agencies" responsible for administration of old age assistance. Op. Atty. Gen. (521b-1), Mar. 24, 1936.

County board may not appropriate county funds to American Legion Auxiliary Drum Corps to pay traveling expenses to attend convention. Op. Atty. Gen. (107a-4), Sept. 15, 1936.

County board may appropriate funds to county agricultural society under both §§668 and 739. Op. Atty. Gen. (125b-1), Mar. 10, 1937.

Loss of tax funds in depositaries is to be prorated and deducted from current settlement for past losses, including special school aid, the county not being liable. Op. Atty. Gen. (163c), May 4, 1937.

Neither sheriff nor board of county commissioners have legal authority to purchase uniforms for deputy sheriffs. Op. Atty. Gen. (125b), July 2, 1937.

Board may rescind resolution adopted and pass new resolution so long as no vested rights are interfered with. Op. Atty. Gen. (125a-14), Sept. 13, 1937.

County board has no authority to license or regulate dealers in second hand automobiles. Op. Atty. Gen. (290), Mar. 17, 1938.

County may buy land forfeited to state for a gravel pit. Op. Atty. Gen. (425c-10), Mar. 24, 1938.

County is not authorized to purchase land forfeited to state for taxes for purposes of renting it to private persons. Id.

County board cannot aid an unorganized township in construction and maintenance of a telephone line within its limits. Op. Atty. Gen. (125a-55), April 3, 1939.

County funds may not be used to purchase a garage building in which to house highway trucks. Op. Atty. Gen. (125a-40), June 5, 1939.

County funds may only be expended for such purposes as are authorized by law, and there is no legal authorization for reimbursing farmer for loss of his chickens and livestock caused by eating of poisoned grasshopper bait. Op. Atty. Gen. (125B-13), June 15, 1939.

County may not appropriate money to a city for benefit of a city port commission. Op. Atty. Gen. (273A-17), Sept. 15, 1939.

(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.

Mileage, postage, etc., cannot be paid out of county funds for auditor or paymaster appointed by federal Public Works Administration engaged in checking payrolls of CWA. Op. Atty. Gen., Jan. 5, 1934.

County board may not authorize payment of legal fees of private attorney employed by treasurer, especially where occasion for such services was created by such treasurer. Op. Atty. Gen., Feb. 20, 1934.

County board may pay salaries for clerk hire, etc., in handling applications for Federal Seed Loans. Op. Atty. Gen. (125a-13), Apr. 20, 1934.

County board has no authority to pay rent for federal CCC camps not established in connection with some county project. Op. Atty. Gen. (107a), Apr. 26, 1934.

County board may pay clerk hire in carrying out federal seed loan program. Op. Atty. Gen. (125a-13), June 13, 1934.

County funds may not be appropriated in aid of public safety committees. Op. Atty. Gen. (107b-1), July 6, 1934.

Though there is no statutory provision authorizing it, a county board may pay mileage of federal reemployment officer. Op. Atty. Gen. (107b-13), July 6, 1934.

County board has no authority to appropriate funds to reimburse town board for moneys expended to extinguish a peat fire. Op. Atty. Gen. (107b-1), Jan. 16, 1935.

County is not liable for publication expense of petition presented by school board without statutory authority. Op. Atty. Gen. (107b-4), Jan. 23, 1935.

County board may pay incidental expenses in cooperation with state and federal government in carrying on direct relief, work relief and drought relief. Op. Atty. Gen. (107b-1), Jan. 24, 1935.

County was not liable for indebtedness incurred by agricultural society in improving fair grounds leased by county, though members of board of county commissioner were also directors of society. Op. Atty. Gen. (772a-2), Feb. 5, 1935.

County board may not enter into an agreement with owner of real estate to accept settlement in full of delinquent taxes a sum less than amount of such taxes, but Minnesota Tax Commission have authority to grant such reduction or statement of taxes upon recommendation by county commissioners and county auditor. Op. Atty. Gen. (407o), Feb. 16, 1935.

County may compromise a suit started against it by newspaper growing out of publication of delinquent tax list if contract with newspaper was proper, but there should be no compromise if the contract was based on a collusive bid. Op. Atty. Gen. (125a-11), Feb. 25, 1935.

County may purchase gas and oil from co-operative even though it involves accepting membership. Op. Atty. Gen. (125a-40), Jan. 27, 1936.

(2).

Where an insurer issued a liability policy to a county containing an omnibus clause by terms of which insurance covered an employee while driving county's automobile with its consent, insurer, for lack of interest in that question, will not be heard to question right of county to permit its employee to use automobile. Schultz v. K., 204M585, 284NW782. See Dun. Dig. 4480, 7582.

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.

County board has no right to compromise a judgment in its favor unless there exists a reasonable ground to doubt legality of claim or judgment or judgment debtors are of questionable and doubtful financial responsibility. Op. Atty. Gen., Dec. 26, 1933.

County board may increase clerk hire in case of emergency, but a deputy with fixed salary is not entitled to extra compensation for overtime work. Op. Atty. Gen., Jan. 16, 1934.

County may not make appropriations for payment of salary and expense of federal conciliator. Op. Atty. Gen. (107b-1), Jan. 19, 1935.

Expenses of county highway engineer outside of county on trip necessary to cooperate with state and federal governments in carrying out relief programs may be paid by the county, if such trip were first authorized by the county board, and the engineer was designated its agent in the matter. Op. Atty. Gen. (125a-31), Jan. 24, 1935.

County board may prohibit use of court and jury rooms by private organizations, or may charge them rental. Op. Atty. Gen. (125a-20), Jan. 6, 1936.

Upon discontinuation of county extension office supplies and equipment should be turned over to county auditor or county board for safe keeping pending reestablishment of extension work. Op. Atty. Gen. (107b-1), June 1, 1936.

(3).

County court house contractor was not entitled to benefit of exception to rule as to promise of additional compensation which applies in cases where a party has refused to complete his contract because of unforeseen and substantial difficulties encountered in the performance thereof, it appearing that difficulty which arose after performance of contract was undertaken by plaintiff was anticipated by him before he made the contract. Zimmerman v. C., 202M54, 277NW360. See Dun. Dig. 1766.

A contract for construction by plaintiff of exterior superstructure of a new courthouse cannot be construed as requiring county to secure a bond for plaintiff's protection from a third party who was to furnish stone, especially where evidence supports a finding that plaintiff waived giving of such bond. Id.

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.

Cost of remodeling and making additions to court house may be paid from general revenue fund in treasury or from taxes already levied and in process of collection. Op. Atty. Gen., (125a-20), Aug. 29, 1938.

County may purchase an existing garage building to be used as an annex to court house for welfare and relief offices, sewing room, office of rural rehabilitation and surplus commodities, house road equipment, etc., without a vote of electors, if court house is overcrowded and a real emergency exists and suitable space cannot be rented, if there is sufficient money to pay therefor out

of general revenue fund, and no bonds are to be issued. Op. Atty. Gen. (125a-20), July 25, 1939.

(7).  
Moneys in road and bridge fund raised pursuant to §2565, subd. 5, may be transferred or borrowed from such fund to pay for an addition to the court house pursuant to §663, subd. 7, provided that the county board determines there is a surplus in such fund beyond needs of current year by unanimous action. Op. Atty. Gen. (107b-16), Sept. 29, 1934.

Duty of public to care for the poor is absolute and any fund may be transferred to poor fund, except where they are held for a specific purpose imposed by law, and money in road and bridge fund raised pursuant to §2565(5) may be transferred, but a different rule applies with reference to gas tax money received pursuant to Laws 1929, c. 283. Op. Atty. Gen. (107a-12), July 3, 1935.

Moneys in road and bridge fund may not be transferred to gas tax fund where such fund cannot be repaid within six months. Op. Atty. Gen. (383b), Dec. 13, 1937.

Moneys levied for a sinking fund to retire bonds cannot be diverted to other uses until bonds have been retired and paid, though they may be temporarily loaned. Op. Atty. Gen., (37a-12), Nov. 30, 1938.

(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.

There is no statute authorizing payment of mileage to federal officer traveling for crop production administration, emergency crop loan section, or in connection with farm loan mortgages. Op. Atty. Gen. (359a-14), July 14, 1934.

County in which there has been a crop failure may not purchase seed grain out of county funds and then dispose of the same to the farmers. Op. Atty. Gen. (107b-1), Aug. 6, 1934.

(9).  
County may use insurance proceeds of fire destroying grandstand on fair grounds to improve grounds. Op. Atty. Gen., May 10, 1933.

County may issue warrants for purchase of land for county fair purposes, but only when there is money in treasury sufficient to pay the same, or a tax is in process of collection pursuant to a tax levy, proceeds of which will be available for payment of warrants. Op. Atty. Gen. (107a-13), Oct. 17, 1935.

Condemnation of land for improving and enlarging fair grounds should proceed under §6537, et seq. Op. Atty. Gen. (817d), Mar. 4, 1938.

County may expend moneys from general fund for erection of grandstand on fair grounds in connection with PWA if sufficient money in general fund is available therefor, but may not expend county funds for 4-H Club purposes. Op. Atty. Gen., (772c-5), Oct. 13, 1938.

(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.

Board cannot pay expenses of adjuster of farm debts. Op. Atty. Gen., Mar. 8, 1934.

Tax commission might have power to compromise personal property tax judgment but board of county commissioners has no such authority. Op. Atty. Gen., Mar. 16, 1934.

County board has authority to pay for stationery, postage, telephone service and other necessary supplies for relief agencies saving offices in court house. Id.

County board has no power to purchase tractor under installment lease-contract. Op. Atty. Gen. (125a-40), May 3, 1934.

Laws 1935, c. 85. Constables and Justices may be appointed for unorganized towns separated by water from nearest organized town and more than 20 miles distant.

Neither counties nor towns can license games of skill. Op. Atty. Gen. (733j), Mar. 3, 1937.

#### 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.

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; '35-'36, Ex. Sess., c. 90; Apr. 8, 1939, c. 178.

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 population of not less than 43 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. Amended, Laws 1939, c. 290.

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

Counties having area of 43 to 45 townships and population of 20,000 to 30,000 and valuation of less than \$13,000,000, may levy taxes in excess of existing limitations. Laws 1935, c. 35.

Laws 1935, c. 177. Counties having area of 5,000 square miles and valuation of over \$200,000,000, with over 35% of land vacant and unimproved, board may buy and sell dynamite to land owners, etc.

Laws 1935, c. 234. Counties having population of more than 200,000 and valuation of more than \$250,000,000 may pay rewards for recovery of bodies of murderers.

Laws 1935, c. 264. County boards in counties having 5,000 square miles and valuation in excess of \$200,000,000 may distribute free seed. Amended. Apr. 12, 1937, c. 189.

Laws 1935, c. 299. Counties having valuation of less than \$16,000,000 and population of less than 36,000 may pay 10% of counties annual share of gasoline tax to retire bridge bonds of any city or village.

Act Jan. 18, 1936, Sp. Sess. 1935-'36, c. 62, §1, amends Laws 1929, c. 371, §3.

Act Mar. 31, 1937, c. 123, provides that in counties having 43 to 45 townships, 20,000 to 30,000 population, and assessed value of less than \$13,000,000, the county board may establish a contingent fund not to exceed \$300 to pay expenses of county nurses.

Act Apr. 12, 1937, c. 189, amends Laws 1935, c. 264, §1, to make the act applicable to 1937 and 1938, and to authorize expenditure of \$20,000, recipients of seed loans to perform labor for county in payment.

Counties having area of 350 to 400 sq. miles and population of 13,500 to 15,000 and valuation of \$5,000,000 to \$10,000,000, and 225,000 to 230,000 acres, may pay \$1,200 for clerk hire. Laws 1939, c. 24.

Act Mar. 4, 1939, c. 45, amends the title and sections 1 to 4, inclusive, of Laws 1921, c. 16, relating to the printing of the printing and binding of the proceedings of the county board in counties having a population of over 150,000, and an area of over 5,000 square miles.

Counties having 240,000 to 350,000 population may regulate the construction of buildings. Laws 1939, c. 79.

Act Apr. 1, 1939, c. 129, authorizes counties having population of 240,000 to 350,000 to pay salaries of officers and employes semi-monthly on direction of county board.

Act Apr. 1, 1939, c. 130, authorizes county board in counties having not less than 200 congressional townships, population not less than 200,000, assessed valuation, including moneys and credits, of not less than

\$270,000,000, and 35% of land vacant and unimproved, to establish a revolving fund for clearing of such unimproved land.

Laws 1939, c. 361, relating to authority of boards of counties having a population of 400,000 or more to provide transportation facilities for county officers amends Laws 1919, c. 158, or amended Laws 1927, c. 220.

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.*, 8920.

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.

County board of audit may waive statutory requirement that a depository furnish collateral to extent of \$5,000 guaranteed by federal deposit insurance corporation. *Op. Atty. Gen.* (140f-3), Mar. 22, 1933.

Laws 1929, c. 131, does not authorize a county coming within provisions of §5670-11, et seq, to make appropriation to historical society to be used for purpose of erecting a building. *Op. Atty. Gen.*, (107b-1), Aug. 2, 1933.

#### 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.

County board may send poor tubercular patient to any private or public sanitarium within or out of state, and make his assignment of interest in an estate to indemnify it for expenses which might be incurred under laws relating to poor relief. *Op. Atty. Gen.* (556a-8), June 2, 1936.

It is not against public policy for a poor person voluntarily to indemnify county against expenses entered into on his account by assignment of an insurance policy. *Op. Atty. Gen.* (339h), Aug. 18, 1933.

#### Laws 1021, c. 410.

Otter Tail county may discontinue sanatorium and join Wadena and Todd counties in creating a new district. *Op. Atty. Gen.* (556a), Mar. 23, 1937.

#### 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. 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 \$1200.00 in any one year. ('25, c. 13, §1; Mar. 7, 1933, c. 59; Feb. 24, 1939, c. 30.)

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 1925, 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.

#### 669-15½. Counties may pay award in certain cases.

—That whenever any county in this state having a population of more than 200,000, and an assessed valuation of more than \$250,000,000.00, shall have

by resolution of its county board authorized the payment of a reward for the recovery of the body of a murderer, such county board shall be authorized to pay such reward and claim therefor, provided that no such payment shall exceed the sum of \$200.00, and no such payment shall be made except by resolution of the county board. Provided, further, that such county board before allowing any such reward, shall require proper and sufficient legal proof of the fact, evidencing the recovery of the body of any such murderer. That any seven taxpayers may appeal to the district court of such county from the action of such county board, as provided by law for appeal from the allowance or disallowance of any claim by such county board. (Act Apr. 22, 1935, c. 234.)

**669-19. Certain counties may establish sewer systems in platted areas.**—Whenever a petition signed by fifty-one per cent of the freeholders in any platted area located in any county in this state, having an assessed valuation of more than \$200,000,000 and an area of more than 5,000 square miles, and not contained within the limits of any organized village or city, shall be filed with the county auditor of such county, the Board of County Commissioners of such county may establish, construct and maintain a sewer system or system of sewers in such platted area within such county. The petition praying for the construction of such improvement may be in informal language and shall be filed with the county auditor of such county, and he shall compare the signatures thereon with the records in the office of the Register of Deeds and shall present such petition to the County Board of such county and report to it his findings as to the percentage of necessary freeholders who have signed the same. The Board shall thereupon determine by resolution whether or not the petition has been signed by the required percentage of freeholders and its determination so made to the effect that the necessary percentage has signed such petition shall be final and conclusive unless reversed on appeal as hereinafter provided. (Apr. 14, 1937, c. 214, §1.)

**669-20. Same—County board to establish system.**—On the presentation of such petition the County Board, if it shall find that the required percentage of freeholders has signed the same, shall thereupon determine by resolution to establish, construct and maintain any such sewer or sewer system, and the cost thereof shall be estimated by the county engineer or some other competent engineer to be selected by such Board, who shall draw plans and specifications and tabulate the results of his estimate of the cost and report the same to the County Board; and such plans and specifications shall be filed with the county auditor of such county before any proposal for bids for work thereunder shall be advertised and shall remain on file, open to the inspection of all persons until after the contract for such work shall be let and copies of such plans and specifications shall be furnished by the engineer who shall prepare the originals to any person applying therefor. (Apr. 14, 1937, c. 214, §2.)

**669-21. Same—County board to let work.**—The County Board shall then cause proposals for bids for such work to be advertised in the official paper of such county at least once in each week for two consecutive weeks, which advertisement shall specify the work to be done and shall call for bids upon a basis of cash payment for the work, and shall state the time within which bids will be received and the exact time within which the same shall be open for consideration by such County Board. In letting contracts for any such work, it shall be the duty of the County Board to require the execution of a written contract and a bond in such sum as such Board may require, conditioned for the faithful performance of the contract and for saving the county harmless from any and all liability in the prosecution and complet-

ing of the work. The County Board, if a contract is awarded, shall award the same to the lowest responsible bidder. If any bidder to whom such contract is awarded shall fail to enter promptly into such written contract and furnish such bond, then such defaulting bidder shall forfeit to the county the amount of his cash deposit or certified check, if any, and the Board may thereupon award the contract to the next lowest responsible bidder; provided the Board shall have the right to reject all bids, and provided further, that whenever the estimates made for the County Board for the entire work project shall be less than \$1,000, then the Board may directly purchase the materials therefor and cause the work to be done by day labor. Every contract awarded under this act shall be made between the county as one party, in the name of the county, and the successful bidder as the other party, and such contract shall be executed on the part of the county by the chairman of the County Board and countersigned by the county auditor of said county, and an attested copy thereof shall be filed and remain in the office of the county auditor of such county. (Apr. 24, 1937, c. 214, §3.)

**669-22. Same—County engineer to calculate assessments.**—Whenever any work or improvement provided for by this act shall have been determined upon and a contract let therefor, or outlet secured, the county engineer or other competent engineer selected by the County Board, shall forthwith calculate the proper amount to be specially assessed for such sewer or sewer system or outlet against every assessable lot, piece or parcel of land within the sewer district or platted area affected, without regard to cash valuation. (Apr. 24, 1937, c. 214, §4.)

**669-23. Same—Engineer to file reports with county auditor.**—When such engineer shall have finished his calculations of the amount to be specially assessed, as aforesaid against such lot, piece or parcel of land in the sewer district or platted area affected, he shall at once prepare and file with the county auditor of such county tabulated statements in duplicate, showing the proper description of each and every lot, piece or parcel of land to be specially assessed and the amount he shall calculate against the same and such statement shall be the basis of the assessment and be known as the proposed assessment to be made by the County Board, as hereinafter prescribed, and shall be laid before the Board for its approval at its next regular meeting or at a special meeting to be held not less than 20 days thereafter. The county auditor shall thereupon cause notice of the time and place when and where the County Board will meet in regular or special session to pass upon such proposed assessment, to be published in the official paper of the county at least 10 days prior to such meeting of the County Board. During all the time between the filing of such proposed assessment with the county auditor and such meeting of the County Board such proposed assessment shall be open to inspection and copying by all persons interested.

At such meeting of the County Board, all persons aggrieved by such proposed assessment may appear before said Board and present their reasons why such proposed assessment or any particular item thereof shall not be adopted, and the Board shall hear and pass upon all objections thereto, if any, and may alter or affirm and adopt such proposed assessment as may be deemed just in the premises, and upon the adoption by a resolution of such proposed assessment the same shall be certified by the county auditor and filed in his office and shall thereupon be and constitute the special assessment. The amount assessed against each lot, piece or parcel of land by such special assessment shall bear interest from the date of the adoption of such special assessment until the same shall have been paid, the rate of interest to be designated by a resolution of the County Board at

the time of the adoption of such special assessment but not to exceed six per cent (6%) per annum, and such special assessment, with the accruing interest thereon, shall be paramount lien upon the property included therein from the time of the adoption of such assessment by the Board and shall remain such lien until fully paid, and shall have precedence over all other liens except general taxes and as to such shall be concurrent and shall not be divested or impaired by any judicial sale and no mistake in the description of the property or in the name of the owner shall invalidate the lien.

The County Board may at any time by resolution direct the county auditor to make up and file in his office a certified statement of all such unpaid assessments the amount of interest which will be due thereon on the first day of January of the following year, which statement shall also contain a description of the lands affected by the assessment. Such resolution shall also direct that such special assessment shall be payable in equal annual installments not exceeding ten, payable on the first day of January of each year, each of said installments to bear interest at the rate hereinbefore provided until fully paid; and such statement of the county auditor shall show the amount of each of such installments, the date when each installment becomes due and the amount of interest to be paid on each installment in each year. After said statement is made and filed in the office of the county auditor it shall be the duty of such auditor to extend upon the tax roll of each year the amount of such assessment or installment thereof, as the case may be, and the amount of interest which will become due on the first day of January of the following year as shown by said statement against the different lots or parcels of land therein described, and such amounts when so extended each year shall be carried into the tax becoming due or payable in January of the following year, and enforced and collected in the manner provided for the enforcement and collection of the state and county taxes, paid to the county treasurer and shall be set aside by him in a special fund to be used for the purpose of paying the cost of such sewer or sewer system or any bonds or other obligations issued for the purpose of paying such cost. Provided, however, that any person may pay any such assessment with accrued interest thereon after the same has been so extended upon the tax rolls by the county auditor, provided the tax roll containing such assessment has not in due course been delivered to the county treasurer for collection, and upon such payment the county auditor shall mark such assessment "paid" upon his roll, but after the roll has been delivered to the county treasurer for collection, the said assessment must be paid to him, with the penalties allowed by law.

The same penalties and interest shall attach and be collected by the county treasurer on assessment as upon general taxes, which penalties and interest shall belong to the county. (Apr. 24, 1937, c. 214, §5.)

**669-24. Same—May make supplemental assessments.**—In case of omission, errors or mistakes in making such assessments in respect to the total cost of such improvement, or otherwise, it shall be competent for such County Board to provide for and make supplemental assessments to correct such omission, errors or mistakes; and such supplemental assessments shall be a lien as in case of the original assessment, drawing interest at the same rate to be payable and enforceable in the same manner as is herein provided with respect to the original assessment. (Apr. 24, 1937, c. 214, §6.)

**669-25. Same—Collections to go into sewer funds.**—All moneys collected or any such special assessments shall constitute a fund for the payment of the cost of the improvement in the district or platted area for which such assessment was made, and the same shall be credited to a sewer district fund under

the designation: "Fund of Sewer District No. . . . ." and in anticipation of the collection of such special assessment the county may issue warrants on such fund to be known as "sewer warrants", payable at such times and in such amounts as, in the judgment of the County Board, the collection of such special assessments will provide for, which warrants shall bear interest at a rate not to exceed six per cent (6%) per annum, payable annually, and may have coupons attached representing each year's interest. Each warrant shall upon its face state for what purpose it is issued and specify the particular fund against which it is drawn, and shall be signed by the chairman of the County Board and countersigned by the county auditor and be in denominations of not less than \$50 nor more than \$500. Such warrants may be used in making payments on contracts for the improvements or may be sold by the county for not less than par, or such sale may be made by popular subscriptions pursuant to the provisions of Chapter 121, Laws 1935 [§1944-1], and the proceeds thereof used in paying for such improvement. It shall be the duty of the county treasurer on presentation to pay such warrants and interest coupons as they mature, out of the proper sewer district fund, and to cancel the same when paid. If any such warrants shall become due, or any interest shall become due on any such warrant when there are no funds to pay the same, the County Board is hereby authorized to effect a temporary loan for the payment thereof. (Apr. 24, 1937, c. 214, §7.)

**669-26. Same—Warrants may be used to pay assessments.**—Any matured sewer warrant or interest coupon may be used in payment of any such special assessment on any particular property situated within the district or platted area for which such warrant or coupon shall have been issued; and the warrants and coupons so used shall be cancelled and retired by the county treasurer. (Apr. 24, 1937, c. 214, §8.)

**669-27. Same—Assessments to be paid before property is conveyed.**—No conveyance of any land upon which such special assessment, or portion thereof, is due and unpaid, shall be recorded until such delinquent assessment, or portion thereof, shall have been paid. (Apr. 24, 1937, c. 214, §9.)

**669-28. Same—Errors not to invalidate assessments.**—No error or omission which may be made in any of the proceedings of the County Board or any officer of such county, in refusing to, reporting upon, ordering or otherwise acting, concerning any local improvement provided for in this act or in making any special assessment or in levying or collecting the same, shall invalidate such assessment; unless it shall appear that by reason of such error or omission substantial injury has been done to the party claiming to be aggrieved. (Apr. 24, 1937, c. 214, §10.)

**669-29. Same—Reassessment in certain cases.**—In all cases where any assessment, or any part thereof, as to any lot, lots or parcels of land assessed under any of the provisions of this act, or of any law prior to this act, for any cause whatever, whether jurisdictional or otherwise, shall be set aside, or declared void by any court, the County Board shall, without unnecessary delay, cause a reassessment or new assessment to defray the expenses of such improvement to be made, whether such improvement was made under this act or any laws prior to this act, and such reassessment or new assessment shall be made as nearly as may be, as herein provided for making the assessment therefor in the first instance; and when the same shall have been made and confirmed by the County Board it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act and in all cases where judgments shall hereafter be refused or denied by any court for the collection and enforce-

ment of any special assessment, or where any court shall hereafter set aside or declare void any assessment upon any lot or parcel of land for any cause, the said lot or parcel may be reassessed or newly assessed from time to time, until each separate piece or parcel of land has paid its proportionate part of the costs and expenses of said improvement as near as may be. (Apr. 24, 1937, c. 214, §11.)

**669-30. Same—Notice to specify district.**—The notice of the time and place when and where the County Board will meet in regular session to adopt any proposed assessment under Section 5 of this act [§669-23], and to be prepared by the county auditor of such county and published, shall specify the particular sewer district or platted area in which the improvement is to be made and shall describe with all reasonable certainty the location, extent and termini of the sewer or sewers to be laid, relaid or extended; provided that no omission or inaccuracy in such notice shall invalidate the notice or the assessment unless substantial injury shall be shown by the person claiming to be aggrieved thereby.

When the County Board shall meet for the purpose of adopting any proposed assessment under the provisions of Section 5 of this act [§669-23], no grievance or objection thereto, or to any item therein shall be heard by the Board unless the party objecting or his duly authorized agent or attorney shall on or before the date of such session of the Board file with the county auditor for presentation to the Board a complete written statement of the objection with specific reference to the matter or items called in question and to which objection is made. (Apr. 24, 1937, c. 214, §12.)

**669-31. Same—Appeals from assessments.**—Any person feeling himself aggrieved by such special assessment may, by notice in writing, served upon the chairman of the County Board and also upon the county auditor of such county, a copy whereof, with proof of service shall be filed in the office of the clerk of the District Court of the proper county, within twenty days after the adoption of such special assessment, appeal from such special assessment to the District Court aforesaid and such appeal shall be disposed of in a summary manner by the Court. And at the trial of such appeal no pleadings shall be required, but the party appealing shall in his notice of the appeal specify and enumerate the particular grounds of his objection to such special assessment and shall not be entitled to have considered on such appeal any grounds of objections other than those specified in such notice, and no question shall be tried on such appeal as to any fact which may have arisen or existed prior to the letting of the contract or contracts for the improvement; and a copy of the assessment roll in question and of the resolution of the County Board confirming or adopting the same, certified by the auditor of the county, or the originals thereof, shall be prima facie evidence of the facts therein state or denoted, and that such assessment was regular, just and made in conformity to law, and the judgment of the court on the determination of such appeal shall be final. Such appeal shall be entered and brought on for hearing and be governed by the same rules so far as applicable as in appeals from justices of the peace in civil actions, and like bonds shall be given to the county by the person appealing as are required in the appeals from justice of the peace in civil actions, but such bond shall, to render such appeal effective, be approved by the judge of such district court. Provided, that no appeal to the district court shall be made, heard or determined as to such special assessment, or any item therein, unless such objection shall have been, as in this act specified, previously presented to and passed upon by the County Board. (Apr. 24, 1937, c. 214, §13.)

**669-32. Same—Connections with sewers.**—All private connections shall be made with lateral sewers, unless some insurmountable obstacle of a practical or scientific nature shall prevent, and no private connection with any sewer whatever shall in any event be made without formal permission therefor granted by the County Board, and the making of all private connections with any sewer shall be subject to supervision and control by the County Board; provided that such supervision and control may be delegated by such County Board to the county engineer or other person to be selected by the County Board at its discretion. (Apr. 24, 1937, c. 214, §14.)

**669-33. Same—County to have right of eminent domain.**—Whenever it shall become necessary for the county to exercise the right of eminent domain for the purposes included within this act all proceedings therein shall conform as near as may be to the provisions of Sections 6537 to 6578-2, both inclusive, of Mason's Minnesota Statutes of 1927, and amendments thereto. (Apr. 24, 1937, c. 214, §15.)

**669-34. Same—May purchase or condemn land.**—Whenever it shall be necessary in the judgment of the County Board to lay and maintain any general, district or lateral sewer in or through other than public lands, the county may acquire the right thereto by purchase, or by condemnation, under the right of eminent domain. (Apr. 24, 1937, c. 214, §16.)

**669-35. Same—County board may contract for operation of system.**—Any such county, through its County Board, may contract with any municipality adjacent to such platted area for the maintenance of such sewers and the conveying, treatment and disposal of the sewage or for connecting with the sewage system of such adjacent municipality. All expense in connection with the maintenance, operation and repair of such sewers or of relaying the same and all monies paid for the treatment or disposal of sewage in connection therewith shall be assessed against the real property within the sewer district or platted area affected and benefited thereby. Such assessment shall be made in the same manner as provided for the original assessment for the construction of such sewers hereunder and shall draw interest at the same rate and be payable and enforceable in the same way as herein provided with respect to such assessment. (Apr. 24, 1937, c. 214, §17.)

**669-36. Same—County board may accept federal grants or loans.**—The County Board of any such county shall have power and is hereby authorized to accept from the federal government or any federal agency grants or loans in aid of the construction of any such sewer system; to make contracts and execute instruments containing such terms, provisions and conditions as in the discretion of the County Board may be necessary, proper or advisable for the purpose of obtaining grants or loans or both from any federal agency pursuant to or by virtue of the Recovery Act or any other federal act supplemental or amendatory thereto; to make all other contracts and execute all instruments necessary, proper and advisable in and for the furtherance of any such sewer system and to carry out and perform the terms and conditions of all such contracts or instruments; and to subscribe to and comply with such federal acts and any rules and regulations made by any federal agency with regard to any grants or loans or both from any federal agency. (Apr. 14, 1937, c. 214, §18.)

**669-37. Buildings restrictions in certain counties.**—For the purpose of promoting health, safety, morals, public convenience, general prosperity and public welfare, the county board of any county in which there is now or may hereafter be located a state forest or a federal forest, or a state conservation area, is hereby empowered to regulate and restrict within the county the location and the use of buildings and structures and the use, condition of use or occupancy

of lands for residence, recreation, agriculture, water conservation, forestry, and other purposes. (Act Apr. 20, 1939, c. 340, §1.)

**669-38. County board to designate districts.**—For any or all of said purposes, the county board may by ordinance divide all or any part of the unincorporated portions of the county into districts of such number, shape, and area as may be deemed necessary, and may likewise enact suitable regulations to carry out the purposes of this act. Such regulations shall be uniform in each district, but the regulations in one district may differ from those in other districts. (Act Apr. 20, 1939, c. 340, §2.)

**669-39. Object of regulations.**—Such regulations shall be made in accordance with a comprehensive plan and designed for any or all of the following purposes:

- (1) To protect and guide the development of non-urban areas;
- (2) To secure safety from fire, flood, and other dangers;
- (3) To encourage a distribution of population and a mode of land utilization that will facilitate the economical and adequate provision of transportation, roads, water supply, drainage, sanitation, education, recreation, or other public requirements;
- (4) To lessen governmental expenditures;
- (5) To conserve and develop natural resources;
- (6) To prevent soil erosion;
- (7) To foster the state's agricultural or other industries;
- (8) To protect the food supply;
- (9) To prevent waste.

Such regulations shall be made with a reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses. (Act Apr. 20, 1939, c. 340, §3.)

**669-40. County and Town Boards to investigate.**—The county board in conjunction with the town boards of the affected areas shall investigate and determine the necessity of establishing districts and prescribing regulations therefor as herein provided, and for that purpose shall consult with residents of affected areas, and with federal, state and other agencies concerned. State, county, town, city, and village officials, departments, or agencies are hereby authorized to make available upon request of the county board such pertinent information as they may possess, and to render technical assistance, and to cooperate in assembling and compiling pertinent information. (Act Apr. 20, 1939, c. 340, §4.)

**669-41. County Board to prepare plan.**—After investigation as herein provided, the county board shall prepare a proposed ordinance establishing districts and prescribing regulations therefor as herein provided, which shall be approved by the town boards of the areas affected, and shall be filed in the office of the county auditor. (Act Apr. 20, 1939, c. 340, §5.)

**669-42. Public hearings.**—After the filing of the proposed ordinance, the county board shall hold a public hearing thereon, at which the proposed ordinance shall be submitted for discussion, and parties in interest and citizens shall have an opportunity to be heard. Notice of the time, place, and purpose of such hearing shall be published once each week for three consecutive weeks in the official newspaper of the county, and in such other legal newspapers published in the county as the county board may deem necessary. (Act Apr. 20, 1939, c. 340, §6.)

**669-43. Publication of ordinances.**—Following the public hearing, the county board may adopt the proposed ordinance, with such changes as they may deem advisable. Forthwith after the adoption of any such ordinance, the county auditor shall cause the same to be published for three successive weeks in the official newspaper of the county, and in such other legal news-

papers published in the county as the county board may deem necessary. Proof of such publication shall be filed in the office of the county auditor, and thereupon the ordinance shall take effect. (Act Apr. 20, 1939, c. 340, §7.)

**669-44. May be amended or repealed.**—Any such ordinance may from time to time be amended or repealed by the county board, upon like proceedings as in case of the adoption of an ordinance. (Act Apr. 20, 1939, c. 340, §8.)

**669-45. May compel attendance of witnesses.**—The chairman or acting chairman of the county board may compel attendance of witnesses and administer oaths to witnesses at all hearings hereunder. The county auditor as clerk of said board shall keep separate minutes of all proceedings, including appearances, and other official actions hereunder, which shall be public records. (Act Apr. 20, 1939, c. 340, §9.)

**669-46. Separate hearings.**—Any person aggrieved by any provision of an ordinance adopted hereunder, or any amendment thereto may, within sixty days after the taking effect of such provision, demand a separate hearing thereon before the county board. Such demand shall be in writing and shall specify in detail the ground of the objections. The demand shall be filed with the county auditor. A hearing thereon shall be held by the board no sooner than ten days nor longer than forty days after the filing of the demand with the county auditor, who shall notify the applicant of the time and place of hearing. At such hearing the board shall consider the matter complained of, and shall notify the applicant by registered mail, what action, if any, it proposes to take thereon. The provisions of this section shall not operate to curtail or exclude the exercise of any other rights or powers of the county board or any citizen hereunder. (Act Apr. 20, 1939, c. 340, §10.)

**669-47. May adjust enforcement.**—The county board is authorized to adjust the application or enforcement of any provision of an ordinance hereunder in any specific case where a literal enforcement of such provision would result in great practical difficulties, unnecessary hardship or injustice, so as to avoid such consequences, provided such action shall not be contrary to the public interest or the general purposes hereof. (Act Apr. 20, 1939, c. 340, §11.)

**669-48. Appeals to District Court.**—Any person or persons, jointly or severally, aggrieved by a decision of the county board, may, within thirty days from the date the applicant received the notice of the proposed action of the county board, appeal to the district court in the same manner as an appeal is taken from an order of a county board disallowing a claim. Within ten days after an appeal has been taken the auditor shall, without charge, file in the office of the clerk of said court a certified copy of the demand for hearing, the order of the county board appealed from, together with the minutes and records of the county board with reference thereto, including the date of the filing of the appeal. The proceedings shall be put upon the calendar for trial at the next general or special term of the district court. The court shall summarily hear and determine the issues and may take such testimony as is necessary to determine the matter. (Act Apr. 20, 1939, c. 340, §12.)

**669-49. Not to affect use at time of passage of the act.**—The lawful use or occupation of land or premises existing at the time of the adoption of an ordinance hereunder may be continued, although such use or occupation does not conform to the provisions thereof, but if such nonconforming use or occupancy is discontinued for a period of more than two years, any subsequent use or occupancy of said land or premises shall be a conforming use or occupancy; provided, however, that if the state acquires title to any land or premises all further use or occupancy thereof shall

be a conforming use or occupancy. (Act Apr. 20, 1939, c. 340, §13.)

**669-50. County Board may regulate non-conforming uses.**—The county board may, by ordinances as herein provided, prescribe such regulations, not contrary to law, as it deems desirable or necessary to regulate and control nonconforming uses and occupancies. (Act Apr. 20, 1939, c. 340, §14.)

**669-51. County Board to make complete list.**—Immediately after the adoption of any zoning ordinance, the county board shall prepare a complete list of all nonconforming uses and occupancies existing at the time of the adoption of such ordinance. Such list shall contain the names of the owner or owners, and any occupant other than the owner, the legal description or descriptions of the land, and the nature and extent of the nonconforming use. Copies of such lists shall be filed for record in the office of the register of deeds and of the county auditor, and shall be corrected from time to time as the county board may prescribe. Immediately after the filing of such list, the county auditor shall furnish each town assessor, or county assessor, as the case may be, a record of nonconforming uses or occupancies existing within his assessment district. At the time of each assessment thereafter each assessor shall prepare a list of all nonconforming uses or occupancies, which list shall be given to the county board. The county board shall thereupon amend the previous list and file a certified copy of the same in the office of the register of deeds of the county. (Act Apr. 20, 1939, c. 340, §15.)

**669-52. County Board to enforce act.**—The county board shall provide for the enforcement of this act and of ordinances and regulations made thereunder, and may impose enforcement duties on any officer, department, agency or employee of the county. (Act Apr. 20, 1939, c. 340, §16.)

**669-53. To have force and effect of law.**—The provisions of all ordinances and regulations adopted hereunder shall have the force and effect of law. No person shall use or occupy any lands or premises in violation of any such ordinance or regulations except as hereinafter provided. A violation of this act or of any ordinance or regulation hereunder shall be a misdemeanor. (Act Apr. 20, 1939, c. 340, §17.)

**669-54. Taxpayers may compel action.**—Any taxpayer or taxpayers of the county may institute mandamus proceedings in district court to compel specific performance, by the proper official or officials, of any duty required by this act or by any ordinance adopted hereunder. (Act Apr. 20, 1939, c. 340, §18.)

**669-55. May restrain violations.**—In the event of a violation or a threatened violation of this act or of any ordinance or regulation adopted hereunder, the county board or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations. It shall be the duty of the county attorney to institute such actions, and the county board may allow him reasonable compensation therefor, in addition to his other compensation. (Act Apr. 20, 1939, c. 340, §19.)

**669-56. County Auditor to file certified copy with register of deeds.**—Upon the adoption of any ordinance hereunder, the county auditor shall file a certified copy thereof with the register of deeds for record. (Act Apr. 20, 1939, c. 340, §20.)

**669-57. County Board to appropriate money.**—The county board is empowered to appropriate out of the general revenue fund of the county such moneys, not otherwise appropriated, as may be necessary for the purposes of this act. (Act Apr. 20, 1939, c. 340, §21.)

**669-58. Provisions severable.**—The provisions of this act shall be separable, and if any provision, or the application thereof, shall be held unconstitutional

or invalid, it shall not affect any other provision or application. (Act Apr. 20, 1939, c. 340, §22.)

**669-59. Exceptions.**—The following uses are excepted from the provisions of this act: (1) Hunting and fishing cabins on privately owned lands; (2) Mines, quarries and gravel pits; (3) Hydro dams, private dams, flowage areas, transmission lines and substations; (4) The harvest of any wild crop. (Act Apr. 20, 1939, c. 340, §23.)

**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.

County is not liable for negligence of its agent in operating county highway equipment, but county may in its discretion pay premiums on insurance policy for protection of individual driver. Op. Atty. Gen. (125a-61), Mar. 17, 1937.

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

County may carry liability insurance to protect truck drivers. Op. Atty. Gen. (107a-7), Dec. 9, 1935.

**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.

County may levy a tax for the purpose of assisting in maintenance of public library of a city. Op. Atty. Gen. (285B), March 25, 1939.

All voters of county are permitted to vote, including those in communities already having a public library. Op. Atty. Gen. (285B), June 30, 1939.

Library board members should not be employed and paid by same board of which he is a member. Id.

County board has no right to appropriate money from general revenue for library purposes. Op. Atty. Gen. (125B-18), August 21, 1939.

**677. Hospital—Acquisition of land.**

Act Apr. 17, 1937, c. 280, provides that in counties with area of 425,000 to 427,000 acres and 13 to 20 townships, the county board may submit to popular vote the question of establishing a county hospital.

Legislature intended that adoption of a resolution by board of poor and hospital commission should constitute a levy on taxable property in county operating under poor commission system, without submission of question to voters. Op. Atty. Gen., Feb. 14, 1934.

**682. Operation of hospital.**

Erection of county hospital must be authorized by voters. Op. Atty. Gen. (125a-27), Mar. 11, 1937.

**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.

Appropriation by county board in aid of charitable hospital cannot be made by way of warrants unless there is money available or sufficient moneys to be received under a tax levy already made and in process of collection. Op. Atty. Gen., Nov. 9, 1933.

**686. Tuberculosis sanatorium.**

Expenses of tubercular patient at sanatorium are to be paid by county only when patient or next of kin are unable to pay same. Op. Atty. Gen. (556a-2), Mar. 21, 1935.

**687. County sanatorium commission.**

Op. Atty. Gen., Oct. 27, 1933; note under §701. One member of commission from county in which sanatorium is located must be a licensed physician. Op. Atty. Gen. (556a-3), Aug. 4, 1936.

Management and control of county sanatorium is in sanatorium commission and not in county welfare board. Op. Atty. Gen. (556a), July 19, 1937.

**688. Counties may unite.**

Op. Atty. Gen., Oct. 27, 1933; note under §701.

**689. Appropriation—Tax levy—Fund.**

Counties having 150,000 population and area of 5,000 sq. miles may levy tax for tuberculosis sanatorium. Laws 1939, c. 54, app. Mar. 7.

**692. Patients, how admitted.**

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

Op. Atty. Gen., Oct. 27, 1933; note under §701.

**692-1. Residence of tuberculosis patients.**—Whenever a question shall arise between two or more counties as to the place of residence for the purpose of treatment in a county sanatorium of any person afflicted with tuberculosis, any such county may serve upon the other or others a notice that it will on a day certain not less than five days after the service of such notice apply to a Judge of the District Court of the District of such County for a determination of the residence of such persons. Such judge shall, at the time fixed, hear the evidence adduced by the parties to such proceeding and shall forthwith make and file an order determining the place of residence of such person. (Act Mar. 25, 1935, c. 64, §1.)

**692-2. Counties to be charged with care.**—The county in which such person shall by such order be found to be a resident, shall be charged with the entire cost of his care and treatment. (Act Mar. 25, 1935, c. 64, §2.)

**699. Surety bond to be furnished by depository and by secretary and treasurer.**

Laws 1923, c. 101. Amended. Laws 1939, c. 167. Set out as §§719-1 to 719-4, post.

**699-1. Tax limitation for sanatorium purposes in certain cases.**—In all cases where not less than four nor more than six counties have joined in the establishment and maintenance of a tuberculosis sanatorium, which counties have a total assessed valuation of not less than \$10,000,000 nor more than \$20,000,000 and a total population of not less than 35,000 nor more than 60,000, and a total number of full and fractional townships of not less than 140 nor more than 250, the total annual levy of county taxes for all tuberculosis sanatorium purposes authorized by law shall not be in excess of four mills on the dollar of assessed valuation in the county, of which not more

than three mills shall be for maintenance, and all such taxes shall be levied and collected in the manner now provided by law. (Act Feb. 14, 1939, c. 15.)

Sec. 2 of Act Feb. 14, 1939, repeals inconsistent laws and Sec. 3 provides that the act shall take effect from its passage.

Act Mar. 7, 1939, c. 54, provides that in counties having over 150,000 population and an area of over 5,000 square miles, the county board a tuberculosis sanatorium tax not in excess of two mills on each dollar of assessed valuation, exclusive of money and credits.

#### 701. County attorneys legal advisors of sanatorium commissions.

County attorney is legal advisor of county tuberculosis sanatorium board and it is duty of board and superintendent, upon advice of county attorney, to determine residence of applicants for admission. Op. Atty. Gen., Oct. 27, 1933.

County attorney is not required to undertake administrative duty of attempting to collect bills but may be called upon to render services when it becomes necessary to institute a suit. Op. Atty. Gen. (412a-23), Jan. 26, 1938.

#### 705. Tuberculosis Sanatoriums—Establishment.

Maximum annual levy for joint county tuberculosis sanatoria where 4 to 6 counties with valuation of \$10,000,000 to \$20,000,000 and population of 35,000 to 60,000 and 140 to 250 townships, set at 4 mills. Laws 1939, c. 15, app. Feb. 14.

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.)

Majority of members of a commission constitutes a quorum and a majority of the quorum may transact business of entire commission. Op. Atty. Gen. (556a-3), Dec. 20, 1935.

One member of commission from county in which sanatorium is located must be a licensed physician. Op. Atty. Gen. (556a-3), Aug. 4, 1936.

#### 708. Appropriation of funds—Bonds—Etc.

Term "free patients" for which state aid may be given is limited to residents of sanatorium district. Op. Atty. Gen. (556a-7), Feb. 18, 1937.

Where a nonresident of the state has been hospitalized at Glen Lake Sanatorium at request of health commissioner of Minneapolis as a tubercular person and a public health menace, patient is not a "free patient" for whom aid will be paid under §708, but board of control may pay for maintenance and care as provided in §710. Op. Atty. Gen. (88a-31), Mar. 22, 1937.

State aid may be paid to commission covering patients temporarily transferred to city hospital pending alterations and additions to sanatorium building, patients still being cared for by medical staff of sanatorium. Op. Atty. Gen. (556a-7), July 7, 1939.

#### 708-1 to 708-3.

This act, appearing in the 1927 Statutes, is temporary and should be omitted. Through inadvertence this act was inserted by a classification which separates §708 from the dependent provision classified as §709.

**710. Sanatorium commission to fix charges—Free patients—Admission of Indians.—**The county sanatorium commission shall fix the amount to be charged for the care, treatment and maintenance of each patient.

When a patient is unable to pay said charges and has no kindred legally liable therefor from whom payment can be secured, said patient may be admitted without charge or a patient by whom or for whom continued payments cannot be made may become a free patient. Any individual, resident of the state, residing outside of a county or counties maintaining a tuberculosis sanatorium, may apply for treatment in any sanatorium established under this act, or any city, village, town or county may so apply on behalf of any of its charges, and such patient may be cared for therein upon payment of a weekly sum to be fixed by the county sanatorium commission, provided that the state board of control shall approve of the admission of such patient and the sum so fixed.

Whenever in such case there are no vacancies at the state sanatorium exclusive of the beds in the United States Indian sanatorium building and the state board of control shall approve, such patients may be admitted to county sanatoriums and continue therein under care until discharged by the superintendent upon payment by the county of a weekly sum per patient to be fixed by the county sanatorium commission, in which case the state shall pay out of moneys available for the maintenance of county sanatoriums the sum of \$5.00 per week per patient provided the total received by such county sanatorium from county and state funds shall not exceed \$15.00 per week per patient. (As amended Apr. 12, 1939, c. 197.)

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

Part of section providing for free patients applies exclusively to persons residing in district, nonresidents must pay amount determined by commission, and if such patient is unable to meet charges fixed, either county, town or municipality where he resides must pay it under poor laws, but county is not liable if operating under town system. Op. Atty. Gen., Dec. 2, 1933.

Term "free patients" for which state aid may be given is limited to residents of sanatorium district. Op. Atty. Gen. (556a-7), Feb. 18, 1937.

Where a nonresident of the state has been hospitalized at Glen Lake Sanatorium at request of health commissioner of Minneapolis, as a tubercular person and a public health menace, patient is not a "free patient" for whom aid will be paid under §708, but board of control may pay for maintenance and care as provided in §710. Op. Atty. Gen. (88a-31), Mar. 22, 1937.

It is not legal for county sanatoriums to admit non-residents of state, regardless of compensation required. Op. Atty. Gen. (556a-1), May 7, 1937.

Laws 1939, c. 197, amending this section operates only prospectively. Op. Atty. Gen. (556a), May 18, 1939.

**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.)

Op. Atty. Gen., Oct. 27, 1933; note under §701.  
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.

Any person who has been a resident of a county maintaining a tuberculosis sanatorium throughout year immediately preceding application and who is afflicted with tuberculosis is eligible to admission, regardless of whether he has legal settlement in such county for poor relief purposes. Op. Atty. Gen. (556a-1), Dec. 13, 1934.

Admission to tuberculosis sanatorium is not governed by rules applicable to settlement for poor relief purposes. Op. Atty. Gen. (556a-1), Dec. 29, 1936.

It is not legal for county sanatoriums to admit non-residents of state, regardless of compensation\* required. Op. Atty. Gen. (556a-1), May 7, 1937.

Admission to county sanatorium is not governed by rules applicable to settlement for poor relief purposes, and as to state sanatorium, admission and liability for cost of maintenance is charged against county of resident, or county making request for admission. Op. Atty. Gen. (556a-1), June 7, 1937.

Rules relating to residence rather than settlement govern eligibility to admission to county sanatorium. Op. Atty. Gen. (556a-1), Jan. 26, 1938.

**717. Definitions.**—Wherever in this Act the words "sanatorium," "county sanatorium" or "county sanatorium 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.)

**719-1. Construction and improvement of county tuberculosis sanatorium.**—The county board of any county in this state which has heretofore established, or shall hereafter, either by itself or in conjunction with another county or counties, establish a tuberculosis sanatorium, may annually levy a tax on all taxable property in the county of not to exceed one mill on the dollar, for the construction, improvement, equipment and enlargement of such sanatorium, and the improving and enlarging of the site thereof, but in no case shall an annual levy in excess of such one mill be made therefor without authority conferred by a vote of the voters of said county. (1923, c. 101, §1; Apr. 8, 1939, c. 167, §1.)

**719-2. Commission to fix amount of expenditure.**—The county sanatorium commission shall determine by resolution each year prior to July first, the amount of money necessary for the maintenance of such sanatorium during the following year, and a certified copy of such resolution shall be forthwith forwarded to the board or boards of county commissioners, and such board or boards shall, at the regular meeting in July, include the properly approved and apportioned amount in the annual levy of county taxes. In no case shall the amount of such levy in any one year exceed two and one-quarter mills on the dollar of assessed valuation. (1923, c. 101, §2; Apr. 8, 1939, c. 167, §1.)

**719-3. Limitation on tax levy.**—In no case shall the total levy made for all purposes as expressed in sections 1 and 2 in any one year exceed two and one-quarter mills on the assessed valuation, without authority conferred by a vote of the voters of said county or group of counties. (1923, c. 101, §3; Apr. 8, 1939, c. 167, §1.)

**719-4. Limitation of act.**—This act shall apply only to such counties as now or which may hereafter have a population of 400,000 or more inhabitants. (1923, c. 101, §4; Apr. 8, 1939, c. 167, §1.)

**720. Counties may join with others in maintaining tuberculosis sanatorium.**

Otter Tail county may discontinue sanatorium and join Wadena and Todd counties in creating a new district. Op. Atty. Gen. (556a), Mar. 23, 1937.

**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.

Appropriation of money to care for persons afflicted with tuberculosis is discretionary with county board. Op. Atty. Gen., Dec. 2, 1933.

County with its own hospital for consumptives could nevertheless expend money for one in state sanitarium. Op. Atty. Gen., Feb. 15, 1934.

County board may appropriate money for taking of x-ray pictures for purpose of controlling spread of tuberculosis. Op. Atty. Gen. (125a-15), Nov. 23, 1934.

County sanatorium commission may enter into agreements with public welfare board of city of the first class under home rule charter for handling and diagnosing of tuberculosis. Op. Atty. Gen. (556a-3), Mar. 29, 1935.

County board may send poor tubercular patient to any private or public sanitarium within or out of state, and make his assignment of interest in an estate to indemnify it for expenses which might be incurred under laws relating to poor relief. Op. Atty. Gen. (556a-8), June 2, 1936.

County may pay expenses incurred in treatment of tubercular poor person outside of state sanitarium. Op. Atty. Gen. (556a-7), May 18, 1937.

#### 726-1 to 726-3.

Superseded by §§726-3½ to 726-3¾ c.

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 sanitarium 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.)

**726-3½ a. 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.)

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

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

#### 738. Sites and buildings.

County was not liable for indebtedness incurred by agricultural society in improving fair grounds leased by county, though members of board of county commissioner were also directors of society. Op. Atty. Gen. (772a-2), Feb. 5, 1935.

County fair association is not obligated to limit topics of political speakers at fairs. Op. Atty. Gen. (772c-3), Aug. 12, 1936.

**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, 1935.

**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.

County boards in counties not having county agency system may appropriate money to defray part of expense of corn-hog program of federal government. Op. Atty. Gen., Dec. 4, 1933.

County board may appropriate a reasonable sum to aid needy drouth stricken farmer. Op. Atty. Gen., Feb. 27, 1934.

Board of county commissioners may make appropriation to Minnesota Rivers and Waters Association. Op. Atty. Gen. (107b-1), June 11, 1934.

County commissioners may appropriate \$500 for agricultural improvement to be paid to a city chamber of commerce to be used for best interest of county in advertising, improving or developing agricultural resources. Op. Atty. Gen. (107b-1), Jan. 19, 1935.

County board may appropriate funds to county agricultural society under both §§668 and 739. Op. Atty. Gen. (125b-1), Mar. 10, 1937.

#### **740 to 750.**

Emergency seed grain loans, Laws 1935, chapters 50, 70, 379.

**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.)

#### **750-2. Revolving fund for purchase of explosives.**

—That the board of County Commissioners of any county in this state now or hereafter having a land area of over 5,000 square miles, and an assessed valuation of all taxable real and personal property of over \$200,000,000, exclusive of money and credits, and having not less than 35 per cent of its land area consisting of vacant and unimproved land, to appropriate and expend from the road and bridge fund of said county not more than \$25,000, and establish with said funds a revolving fund, for the purpose of enabling said county board to purchase dynamite or other explosives for resale for cash or on time, to land owners, farmers or organized townships in said county, for use by them in clearing and improving lands in said townships, said sales of and payment for such explosives to be made under such rules and regulations as shall be prescribed by said county board. (Apr. 15, 1935, c. 177, §1; Apr. 7, 1937, c. 170, §1.)

**750-3. Board to make regulations.**—That said county board before purchasing or selling any such explosives shall adopt such rules and regulations for the handling, selling and collecting the purchase price for such explosives as they shall deem advisable and adequate to protect the best interests of said county and avoid financial loss. That such county board shall not have legal authority to sell more than 100 pounds of any such explosive to any single land owner or over 2,000 pounds to any single township, until any and all explosives previously bought by such land owner or township shall have been paid for in full, with interest on such purchase price at 5 per cent per annum. (Apr. 15, 1935, c. 177, §2.)

**750-4. Rules for handling.**—That said county board and the board of supervisors of any such county or township, respectively, shall have authority to employ the services of the county agricultural agent or agents of any such county or township in co-operating with any such municipality in the preparation of such rules and regulations for the handling, selling and use of such explosives and the collection of the purchase price thereof as they shall deem necessary, in order to facilitate the carrying out of the objects and purposes of this act. That any county board or township board shall have authority to enter into contracts with any such land owners or farmers for the repayment of the purchase price of such explosives by labor by man and team and/or motor equipment on county or township road work, respectively, or to otherwise secure the repayment of said purchase price of such explosives where not paid for in cash. (Apr. 15, 1935, c. 177, §3.)

**750-5. Rules for payment.**—That neither said county board nor such township board shall have authority to sell or otherwise dispose of any such explosives to any township, land owner, or farmer, after making said sales of 2000 pounds and 100 pounds, respectively, until the purchase price of all of such prior sales shall have been paid for in cash or labor. On the collection of such purchase price in money or labor on county or township roads, the same shall be credited to said revolving fund for use in continuing such purchase and sale of such explosives to land owners, farmers, or townships, respectively. (Apr. 15, 1935, c. 177, §4.)

#### **751. Maintaining water in certain lakes.**

##### **Improving navigable lakes.**

Laws 1909, c. 356. Amended. Laws 1935, c. 378.

Laws 1935, c. 378, §2. Amended. Apr. 26, 1937, c. 455.

Act Apr. 26, 1937, c. 455, amends Laws 1909, c. 356, § 1, to limit annual expenditure to \$100,000 during any year.

Counties having 150,000 to 240,000 population and area of more than 5,000 square miles may spend \$10,000 for improvement of navigation. Laws 1939, c. 42.

In counties having 25,000 to 35,000 population and valuation of \$17,000,000 to \$18,000,000, a one mill tax may be levied for improving a lake. Laws 1939, c. 335.

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 ad-

dition to the expenditures under Laws 1917, c. 198, for the improvement of navigable lakes in the county. Op. Atty. Gen., Apr. 25, 1930.

Under Laws 1917, c. 198, as amended by Laws 1927, c. 209, lake improvement fund may not be used for purpose of filling up a lake which has become permanently dry. Op. Atty. Gen. (273a-14), Oct. 11, 1937.

Authority of county to participate in Works Progress Administration project and to purchase materials to restore water levels of lake is not limited to \$300. Op. Atty. Gen. (273a-23), Nov. 22, 1937.

Statute does not authorize county board to make an appropriation for a "dredging project" in connection with improvement of a lake, unless purpose of dredging is to establish or maintain the water level thereof. Op. Atty. Gen., (273a-6), Aug. 11, 1938.

County board may appropriate money for purpose of maintaining and operating pumping plant and may maintain water level in a lake without payment of any damages to riparian owners of lake or stream as long as water level is not raised above natural high water mark. Op. Atty. Gen. (273a-14), Sept. 13, 1938.

#### 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.

**751-2. Naming or changing names of lakes, rivers, etc.—Petition to county board.**—That whenever it is desired to change the name of, or give a name to any unnamed lake, river, stream or body of water located within the boundaries of this state, the State Geographic Board or any 15 or more legal voters, residing within the county where all or any part of such body of water is located, may petition the County Board of the County wherein said petitioners reside, or in which said body of water is located, to change the name of, or to give a name to any previously unnamed lake, river, stream or other body of water, however designated. Said petitioners shall describe in their petition with reasonable correctness, the location of any such lake, river, stream or other body of water; the name, if any, by which it may then be known, or if without any name, such fact shall be stated; also the name or names which said petitioners desire given to said body of water; and the reason for such change of name or for giving the designated name to any previously unnamed body of water. Said petitioners shall also set out after each of their names, as signed to said petition, their place of residence. Provided no name of any lake, river, stream or other body of water, which name has existed for forty (40) years shall be changed under the provision of this act. (As amended Feb. 24, 1937, c. 35, §1.)

**751-3. Same—Hearings by County Board.**—That on the filing of such petition with the County Auditor of the County wherein said petitioners reside, or in which said body of water is located, and presenting therewith the necessary copies thereof hereafter required, such auditor shall present said petition to the County Board of his county, which board shall by order fix the day and place of hearing on said petition to be held more than 30 days thereafter, of which hearing on said petition at least three weeks published notice shall be given in the newspaper designated by the County Board of said county as the official newspaper for said county, provided that said hearing may be held at any convenient place within the county, as shall be determined by the Board. On the day fixed for said hearing any legal voters in said county, or any municipality may appear by attorney or in person, and file an answer to said petition, setting out in plain concise language why the prayer of said petitioners should not be granted in whole or in part, and, may in said answer pray the County Board to give another or different name to said lake, river, stream or other body of water than the one prayed for in said original petition. Said petitioners may include in said petition any number of lakes, rivers, streams or other bodies of water, the names of which they may petition to have changed, or any number of previously unnamed lakes, rivers, streams, or other bodies of water which they

may desire to have given a name by said Board in said proceedings, and the same procedure shall be had on said petition in such event as though only one lake, river, stream or other body of water be described in said petition. (As amended Feb. 24, 1937, c. 35, §1.)

**751-4. Same—Notices of hearings.**—That notice of the time and place of hearing on any such petition shall also be served on the State Geographic Board and personally on the Chairman of the Town Board of any township, on the President of any Village Board of Trustees, and on the Mayor of any city within or adjoining limits of which political sub-division any such lake, river, stream, or other body of water involved in said hearing may be located and it shall be the duty of such official on whom said notice of hearing shall be served, to present such notice to said Board or Council who shall take such action thereon as they shall deem to be for the public interest. (As amended Feb. 24, 1937, c. 35, §1.)

**751-7. Same—Bonds of petitioners.**—Before any petition filed under this act shall be acted upon or the notice of hearing given, the petitioners shall give a bond to be approved by the County Attorney of such county wherein said petition has been filed, conditioned upon the full payment of all reasonable expenses which the county or counties shall incur in such proceeding; provided that the State Geographic Board shall not be required to give bond hereunder. (As amended Feb. 24, 1937, c. 35, §1.)

#### 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".

—The board of county commissioners of any county in this state may purchase a plot of ground in any duly organized cemetery, lying in whole or in part in their respective counties, or in a county contiguous thereto, to be designated, set aside and used exclusively as a "Soldiers' Rest," and appropriate for the payment, embellishment and upkeep thereof not to exceed the sum of \$1,000 in any one year. Provided, however, that any county in this state now having or which may hereafter have a population of not less than 150,000 inhabitants may appropriate for said purposes not to exceed the sum of \$3,500 in any one year.

The county board is authorized to use such portion of such appropriation as it may deem necessary for compensation and expenses of an agent, who shall be a veteran, to care for said burial ground and to issue permits for burial therein, and to reimburse any such agent heretofore appointed for his time and expenses in such work in such sum as the board may deem adequate for the services performed not to exceed \$600 per year. (As amended Apr. 8, 1937, c. 178, §1.)

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

**764. To be used exclusively for soldiers, sailors and marines.**—Any plot of ground secured as herein provided and designated as a "Soldiers' Rest" shall be used exclusively for the interment of deceased soldiers, sailors, marines and war nurses of the United States of America, without charge for space therein, except as herein provided.

The county board by resolution entered in its minutes shall fix and establish the cost price of all burial lots within the cemetery so purchased and maintained

and, when a deceased person entitled to be buried therein or his representatives are financially able to pay the cost price of the lot in which he is to be interred, the board may authorize the burial of such person therein upon the condition that such cost price be paid therefor. If in any case it should be made to appear that any person was buried in such "Soldiers' Rest" without payment of such cost price and that he left an estate from which such payment should have been made, and in all cases in which the cost of burial shall have been sustained by the state, and the estate of the decedent was able to meet the cost thereof, the county auditor shall file a claim in the probate court having jurisdiction over the estate of the decedent, for the amount of the cost of such burial, including the amount expended by the state therefor and also the cost price of the grave, and upon the allowance and payment of such claim the county auditor shall apportion the amount allowed to the state and the county according to the amount each is entitled to receive therefrom and shall draw his warrant in favor of the state treasurer for such part of the allowed claim as may have been expended by the state for the purposes of such burial. ('17, c. 60, §2; Apr. 20, 1933, c. 336; Apr. 8, 1937, c. 178, §2.)

**765. Violation a misdemeanor.**—Any person interring or causing to be interred a body, or make a charge for a burial lot in such "Soldiers' Rest", except as provided by Section 764 shall be guilty of a misdemeanor. (As amended Apr. 8, 1937, c. 178, §3.)

**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.

Expenses of county superintendent must be itemized, verified and allowed. Van Loh v. W., 196M452, 265NW 298. See Dun. Dig. 2294.

State emergency relief administration is an instrumentality of the state for special and limited purposes, and one falsely writing the name of payee in a relief order upon back thereof was guilty of forgery, though relief order was neither acknowledged nor verified. State v. Stuart, 203M301, 281NW299. See Dun. Dig. 3794.

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.

Regularly and continuously employed village employees or officers whose compensation has already been fixed by law or order of common council need not file verified itemized claim. Op. Atty. Gen. (59a-12), Dec. 31, 1934.

Village labor payroll sheet may not be in form of a multisignature claim, but each claim must be separately itemized, verified and filed. Op. Atty. Gen. (469a-8), Jan. 10, 1935.

After city council of Hastings appropriated money to be used for construction of a bridge by a two-third's vote, it could thereafter audit and allow claim against sum so appropriated upon the majority vote. Op. Atty. Gen. (63b-2), Sept. 2, 1936.

Relief office expenditures for salaries and expenses must be audited like other claims. Op. Atty. Gen. (125a-12), Mar. 2, 1937.

Bills for commodities furnished by grocer to relief clients may be itemized without giving exact date of purchase of individual items. Op. Atty. Gen. (125a-64), Dec. 13, 1937.

Justice of the peace may not deduct costs in dismissed cases from fines collected in other cases, but should remit full amount and make a separate claim for any sum due him. Op. Atty. Gen. (199b-5), Jan. 13, 1938.

Fees which probate judge is entitled to receive under §8664 are payable upon certificate of judge and need not be presented to and audited by county board. Op. Atty. Gen. (346c), Feb. 11, 1938.

County auditor cannot verify his own claim against county. Op. Atty. Gen. (412a), Jan. 30, 1939.

**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.

**769. Accounts not itemized.**

Millers selling flour to public charitable organizations and filing claims against counties therefor should set out amount of processing tax separate from price of product sold. Op. Atty. Gen., Dec. 9, 1933.

**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.

On dissolution of township, county board should divide or arrange unorganized territory in voting district. Op. Atty. Gen. (434a-4), Mar. 23, 1936.

Where town board during year 1936-37 employed a veteran as road overseer, and also employed him for the year 1937-38, town board at expiration of term of overseer could not employ a discharged soldier for ensuing year without preferring charges against veteran. Op. Atty. Gen. (85h), May 11, 1939.

**774. Election districts. [Repealed.]**

Repealed by Act Apr. 21, 1939, c. 345, Pt. 12, §1, ante, §601-12, effective Aug. 1, 1939. Reenacted as §601-6(4)a.

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.

Polling places for unorganized territory after dissolution of townships are to be designated within such territory. Op. Atty. Gen., Jan. 16, 1934.

Where county commissioners have dissolved certain townships and in a particular township there are not enough residents to even set up a voting precinct, county board, and not county auditor, may designate voting precinct in adjoining township. Op. Atty. Gen. (185a-5), May 1, 1934.

Statutory provision requiring that polling place in an unorganized territory may not be located less than ten miles from another polling place should not be construed in such manner as to interfere with constitutional right to vote. Op. Atty. Gen. (185a-5), June 17, 1938.

**775. Judges of election. [Repealed.]**

Repealed by Act Apr. 21, 1939, c. 345, Pt. 12, §1, ante §601-12, effective Aug. 1, 1939. Reenacted as §601-6(6)d.

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.

County board cannot enter into contract with oil company in which one of commissioners is a stockholder. Op. Atty. Gen. (707b-6), Jan. 11, 1935.

County treasurer may act as director of a national bank in his county wherein county deposits funds, but members of county board of audit, consisting of chairman of the board, clerk of court, and county auditor, may not be interested in depository. Op. Atty. Gen. (90B-2), July 21, 1939.

**784. Section corners.**

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

Location of lost section corners and quarter corners of government surveys may be proven by reputation. Lenzmeier v. E., 199M10, 270NW677. See Dun. Dig. 1080.

**786. Questions submitted to vote—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.)

An outline of municipal bond procedure in Minnesota. 20MinnLawRev583.

### ORGANIZATION OF TOWNS

#### 787. Towns, how organized.

Township dissolved under §1002-1, may not be reorganized under this section so long as conditions requiring dissolution exist. Op. Atty. Gen. (441b), July 10, 1934.

So long as conditions exist for which a township was dissolved under §1002-1 no new organization of such township would be possible under §787. Op. Atty. Gen. (441b), July 12, 1934.

After a township has been dissolved by county board by resolution under §1002-1, it has same status as a town or territory which has never been organized into a township, and may under proper conditions be organized into a township pursuant to §787. Op. Atty. Gen. (442a-18), Sept. 6, 1934.

#### 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.

Rehearing, see §1120½d, post.

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.

#### 793. Apportionment of funds—Taxes.

There is no method by which towns can apportion outstanding bonded indebtedness between them. Op. Atty. Gen. (442a-26), July 19, 1934.

### 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.

It is mandatory upon county to levy taxes for mothers' pensions. Op. Atty. Gen. (335b), Aug. 7, 1936.

**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 an assessed valuation of not less than \$200,000,000, exclusive of moneys and credits, 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; Apr. 20, 1935, c. 220, §1.)

Act Jan. 17, 1935, c. 2, validates anticipation certificates issued in certain counties under this section.

#### 816. Maximum tax rate.

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

#### 817. Itemized statement.

Under Laws 1923, c. 441, county board was not authorized to allow claim for salary of deputy surveyor not provided for in budget or in appropriation. Op. Atty. Gen. (475b), Jan. 12, 1933.

#### 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, 189M216, 248NW744.

Legislature may fix term and provide for filling of vacancy in office of sheriff. State v. Borgen, 189M216, 249NW183. See Dun. Dig. 2263a.

**821. Terms four years.**

Election of court commissioner must be at time of election of other county officers and for a similar period. Op. Atty. Gen. (128e), Dec. 18, 1934.

Where court commissioner was elected in 1926 and office became vacant in 1929, and vacancy was not filled by appointment and in 1932 election there was an election to that office and in 1934 blank space was left following words "for court commissioner" and incumbent was again voted for, and same thing occurred in 1936, and same blank space was left in 1938 but a different person was voted for, person receiving most votes in 1938 was entitled to certificate of election. Op. Atty. Gen. (128e), April 17, 1939.

**822. County board to fill vacancies.**

See note under §250.

Auditor cannot hire surveyor to make plat, but may only request county surveyor to make plat, and if there is no county surveyor, vacancy may be filled by appointment by the board. Op. Atty. Gen., Feb. 3, 1934.

Vacancy in office of clerk of district court is to be filled by district judge, under §200, not by county board under §822. Op. Atty. Gen., (144a-5), Nov. 25, 1938.

Where register of deeds who was also register of deeds elect died before beginning of new term, office became vacant on his death, and a second vacancy took place on first day of new term, and county commissioners had power to appoint a register of deeds for balance of first term to first Monday of January and also to appoint a register of deeds to fill four year term commencing on first Monday of January. Op. Atty. Gen. (373a-4), April 11, 1939.

## 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 \$13,000,000 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 in certain counties may purchase automobiles.**—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, and less than 330,000 inhabitants, the sheriff of said county shall be allowed a sum of not more than \$3,500 for the year 1940 to be used for the purchase of automobiles of the ambulance and stretcher type, radio receiving and sending sets, insurance, including liability and property damage, covering the operator of the automobiles, fire-arms and other necessary equipment and paraphernalia and not more than \$5,000 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, fire-arms and other necessary equipment and paraphernalia to be used in the performance of the duties pertaining to

his office. (1929, c. 316; 1931, c. 313, §1; Apr. 21, 1939, c. 358.)

See §§254-47, 254-48.

**822-3. Certain counties may furnish transportation for county officers.**—In any county of this state now or hereafter having a population of 400,000 or over, the county board may provide and maintain at the expense of the county, transportation facilities for the use of the county surveyor and his deputies, the sheriff and his deputies, and the members of the county board in and about the performance of the duties of their respective offices; provided that the total amount which may be expended in any one year for transportation of the members of the county board shall not exceed \$3,000; provided, further, that the providing of transportation facilities to members of county boards within the provisions of this act shall include and permit reasonable allowances on a monthly basis to members for the use of their own automobiles in the performance of their official duties notwithstanding the provisions of any law fixing allowances for use of their own automobiles by public officers in the performance of their duties on a mileage basis. (1919, c. 158, §1; 1927, c. 220, §1; Apr. 21, 1939, c. 361, §2.)

## COUNTY AUDITOR

**826. Bond.****Stearns County.**

Act Apr. 12, 1939, c. 205, provides that the cost of bonds of auditor and deputies shall be paid by the county. The act requires such deputies to give bond in sum of \$1,000. Probably unconstitutional.

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.

**827. Malfeasance—Suspension.**

Where county auditor issued a fraudulent warrant during one term and sold it to a good faith purchaser, recovery could be had on bond covering subsequent term during which warrant was cashed. Op. Atty. Gen. (125a-6), Dec. 9, 1935.

**831. Deputies.**

A deputy county auditor, while a county official, is not elected or appointed for a regular term so as to be denied benefit of workmen's compensation law. Whaling v. I., 194M302, 260NW299. See Dun. Dig. 10394(54).

Under Laws 1933, ch. 212, county board of Cook county cannot employ an accountant for purpose of supervision of its budget and classify him as deputy county auditor without consent of the auditor, power of selecting and hiring deputies and clerks being vested in the county auditor. Op. Atty. Gen. (12c-1), Sept. 4, 1935.

County officer may not appoint person under 21 years of age as a deputy, but may appoint him as a clerk, though position requires a bond. Op. Atty. Gen. (126a-33), Dec. 19, 1938.

Where county auditor issued 12 salary warrants in advance and they were cashed and registered with county treasurer, and county board compelled auditor to resign July 1, warrants were only valid to extent that auditor earned salary, and the remainder were not enforceable against county. Op. Atty. Gen. (107b-14), Jan. 18, 1939.

**832. Clerk of county board.**

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

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.

Granting of seed loans constitutes official proceedings which must be published. Op. Atty. Gen. (8331), May 8, 1935.

**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.

County auditor and his deputy in a county issuing thousands of warrants and checks may use mechanical check and warrant signer. Op. Atty. Gen. (104b-2), Sept. 17, 1934.

**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 10 years prior to such destruction;
2. Receipts for taxes paid more than 10 years prior thereto;
3. Treasurers' checks paid more than 10 years prior thereto;
4. Receipts for mortgage registration taxes paid more than 10 years prior thereto;
5. Miscellaneous receipts, delinquent tax statements and miscellaneous papers and correspondence bearing dates more than 10 years prior thereto;
6. With the written approval of the treasurer county warrants paid more than 10 years prior thereto; and
7. All ballots and election returns, except the abstract of the county canvassing board, two 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; Apr. 12, 1939, c. 201.)

See §601-6(7)u.

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.

Act does not authorize destruction of obsolete real and personal property assessment and tax books in possession of county auditor. Op. Atty. Gen. (851f), Sept. 19, 1939.

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

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

A deputy county auditor, while a county official, is not elected or appointed for a regular term so as to be denied benefit of workmen's compensation law. Whaling v. L. 194M302, 260NW299. See Dun. Dig. 10394(54).

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.

It is not necessary in arriving at assessed valuation of property in a county for salary purposes to go behind assessed valuation as determined by tax commission, and lands to which state has acquired title through operations of rural credit department should not be included, while so-called \$100 exemption of personal property should be included. Op. Atty. Gen. (104a-9), Dec. 27, 1934.

Sections 837(6) and 997-2 must be construed so as to be limited to salaries of county officers where reduction of assessed valuation occurs during term of office of a particular county officer or officers. Op. Atty. Gen. (104a-9), Dec. 27, 1934.

Under this section and under Laws 1927, c. 383, and Laws 1929, c. 313, where assessed valuation of Kittson County was between \$6,000,000 and \$7,000,000 in 1930, county board could agree to pay county officer \$2,500 per year where he was reelected in the fall of 1930 and took office in January 1931. Op. Atty. Gen. (18e), Mar. 4, 1935.

Salary of county auditor may not be reduced during term by board, after same has been fixed. Op. Atty. Gen. (22), June 21, 1935.

Unless affected by special act, salary of auditor of Nobles county is \$2,500 per annum. Op. Atty. Gen. (22), Apr. 16, 1937.

County Auditor's salary in Nobles county was fixed at \$3,000 per annum. Op. Atty. Gen. (22), Nov. 2, 1937.

Clerk hire on Jan. 1 and Jan. 2 at end of term of county officer should be charged to clerk hire account for the current year, and not to account of retiring officer. Op. Atty. Gen. (104a-9), Feb. 2, 1939.

Clerk hire in office of county auditor may not be used for succeeding year's clerk hire when all of amount set aside therefor is not used in that year. Op. Atty. Gen. (18e), Feb. 28, 1939.

Value of tax exempt real estate cannot be included in total assessed value for purpose of determining salaries of county officials. Op. Atty. Gen. (104a-9), July 27, 1939. (6).

Salary of county auditor fixed by county board under this subdivision was salary "received pursuant to law" within meaning of Laws 1935, ch. 349, §1. Op. Atty. Gen. (22), Oct. 31, 1935.

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

#### PARTICULAR COUNTIES

Laws 1925, c. 181, repealed in part. Apr. 14, 1937, c. 217.

Act Apr. 26, 1937, c. 491, amends Laws 1921, c. 437, as amended, to provide that the act shall apply to counties with assessed valuation of \$3,000,000 to \$14,000,000, and county auditor shall receive salary of \$2,820 and \$3,600 for clerk hire.

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 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 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.

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. See §997-4a to 997-4h.

Act Apr. 14, 1937, c. 230, effective May 1, 1937, amends Laws 1925, c. 91, §2, as amended, and provides that in counties having 41 to 43 townships and 25,000 to 30,000 population, the auditor shall receive a salary of \$2,496, and not more than \$3,060 for clerk hire, first deputy to receive not more than \$125 per month, second deputy not more than \$70 per month, all fees to be paid into the county treasury.

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.

Act Apr. 14, 1937, c. 210, amends §224 of 1913 G. S., as last amended by Laws 1929, c. 305, to authorize employment of one assistant settlement clerk and warrant deputy at \$1,800 per annum, and one supervisor of tax records at \$1,800 per annum, chief counter deputy at \$1,900, five counter deputies and assistant warrant deputy.

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 \$3,600 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.

Act Apr. 12, 1937, c. 193, amends Laws 1921, c. 437, as amended, and provides that in counties having 44 to 45 townships, assessed valuation of \$8,000,000 to \$14,000,000, and population of 25,500 to 26,000, the salary of county auditor shall be \$2,820 and fees; and clerk hire \$3,600 if actually paid or due unless authorized by county board. Salary and fees not to exceed \$3,200; excess over that amount to be paid into general revenue fund.

Laws 1933, c. 284. Amended. Apr. 12, 1937, c. 193.

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.

Act Apr. 17, 1937, c. 257, amends Laws 1921, c. 133, §8, as amended, to provide for warrant deputy at \$2,300; counter deputy \$2,400; 7 counter deputies at \$2,200 each; settlement clerk at \$2,300; 3 settlement clerks at \$2,200 each; 3 special assessment clerks at \$2,200 each; 2 bookkeepers at \$2,200; 5 special clerks at \$2,000 each; 4 senior clerks at \$1,900; 12 general clerks at \$1,800; 4 junior clerks at \$1,500.

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. 3, 1937, c. 11, amends '21, c. 351, §1, to apply to counties with 70 to 75 townships, assessed valuation of \$1,000,000 to \$5,000,000, and population of 7,000 to 7,500, but makes no change in amounts of salaries.

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. See §§997-4a to 997-4h.

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. Amended. Laws 1935, c. 81. See §§997-4a to 997-4h.

Act Mar. 19, 1937, c. 70, effective July 1, 1937, amends Laws 1933, c. 76, as amended by Laws 1935, c. 81, to make auditor's salary \$1,800, county treasurer \$1,500, register of deeds \$1,500, county attorney \$1,200, county commissioners \$300. Act effective July 1, 1937.

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. Amended, Laws 1935, c. 23. See §§997-4a to 997-4h.

Act Jan. 15, 1936, Sp. Ses. 1935-36, c. 27, amends Laws 1933, c. 96.

Act Apr. 1, 1933, c. 143, amends Laws 1929, c. 69, §1, to provide the auditor shall receive \$2,500 per annum. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

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.

Laws 1933, c. 219, does not apply to Clearwater County and §1 thereof is not within title of act. Op. Atty. Gen. (104a-3), Feb. 5, 1935.

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. See §§997-4a to 997-4h.

Act Mar. 23, 1937, c. 91, repeals Laws 1933, c. 281, and provides that in counties having 100 to 105 townships, population of 12,000 to 16,000, the salary of the auditor shall be the same as provided by law for the year 1931, regardless of decrease in valuation or change in population or other factor. General law to apply except as to minimum fixed. County board to fix clerk hire.

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

Act Mar. 19, 1937, c. 69, effective July 1, 1937, amends Laws 1933, c. 16, to make salary of members of county board \$720, salary of county auditor \$2,500 and traveling expenses within the state of Minnesota.

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. See §§997-4a to 997-4h.

Laws 1933, c. 284. Amended Apr. 26, 1937, c. 491.

Act Apr. 1, 1935, c. 94, §1, limits clerk hire in counties containing 22 to 25 towns and having 29,000 to 33,000 inhabitants to \$3,600 per year.

Laws 1935, c. 81, §1, amends title of Laws 1933, c. 76, and section 1 thereof to make act apply to counties with population of 3500 to 5000.

Laws 1935, c. 349. Salaries of county commissioners, county auditor and county treasurer in certain counties.

Laws 1935, c. 351. Salaries and clerk hire in offices of auditor and treasurer.

Act Mar. 23, 1937, provides that in all counties having 100 to 105 townships and population of 12,000 to 16,000, the county officers shall receive certain salaries.

Act March 31, 1939, c. 99, fixes the salary and expenses of county auditors, and their deputies and clerks, in counties having 41 to 43 congressional townships, assessed valuation, exclusive of money and credits, of \$6,000,000.00 to \$12,000,000.00, and population of 25,000 to 30,000, and repeals Laws 1921, c. 437; Laws 1925, c. 91; Laws 1929, cc. 20, 161; Laws 1933, c. 432; Laws 1937, c. 230; Laws 1937, Sp. Ses., c. 54.

Salaries and clerk hire in counties having 50 to 70 townships and a valuation of \$500,000 to \$1,500,000 and population of 2,000 to 3,000. Laws 1939, c. 168.

In counties having 19 to 21 townships and population of 34,000 to 45,000 and valuation of \$28,000,000 to \$45,000,000 clerk hire in auditor's office shall be the same as in 1938. Laws 1939, c. 193.

In counties having 37 to 40 townships and \$2,000,000 to \$8,000,000 valuation and 7,000 to 12,000 population the clerk hire in auditor's office may be \$1,800. Laws 1939, c. 210.

In counties having 12 or 13 townships and a valuation of \$7,000,000 to \$8,000,000 and population of 14,000 to 15,000, clerk hire for county auditor shall be \$2,700. Laws 1939, c. 267.

Counties having area of 380 to 400 square miles and population of over 20,000 the auditor shall receive \$3,800 per year. Laws 1939, c. 293.

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

County officers whose terms expire on first Monday of January are entitled to compensation for days of service rendered in month of January up to time that their successors qualify and take office. Op. Atty. Gen. (104a-9), Dec. 1, 1934.

Under Laws 1933, c. 212, county board of Cook county cannot employ an accountant for purpose of supervision of its budget and classify him as a deputy county auditor without consent of the auditor, power of selecting and hiring deputies and clerks being vested in the county auditor. Op. Atty. Gen. (12c-1), Sept. 4, 1935.

Big Stone County is classified as having 20 full and fractional congressional townships. Op. Atty. Gen. (104a-9), Oct. 14, 1936.

Fees of county auditor under §2144 and §2232 are controlled by Laws 9137, c. 491, §14, in counties covered by that act, and auditor must turn in 22% thereof, as well as any fees collected from such source over and above the limit of \$3600 per year, such statute placing an absolute limit of compensation, except mileage and expenses. Op. Atty. Gen. (23d), July 20, 1939.

**837-2. Salaries of deputies and clerks in the office of County Auditor in certain counties having 380,000 population or over.**—The county auditor shall appoint and employ one chief deputy, who shall be paid the sum of \$3,600, per annum; one chief accountant who shall be paid the sum of \$3,000 per annum; one-half of which salary shall be paid from the road and bridge fund; one deputy, who shall act as clerk to the County Board who shall be paid the sum of \$3,000 per annum; one warrant deputy who shall be paid the sum of \$2,500 per annum; one draftsman who shall be paid the sum of \$2,400 per annum; two assistant draftsmen who shall each be paid the sum of

\$2,300 per annum; one warrant deputy who shall be paid the sum of \$2,300 per annum; one head counter deputy who shall be paid the sum of \$2,400 per annum; eight counter deputies who shall each be paid the sum of \$2,200 per annum; two settlement clerks who shall each be paid the sum of \$2,300 per annum; four special clerks who shall each be paid the sum of \$2,200 per annum; three special clerks who shall each be paid the sum of \$2,100 per annum; two book-keepers who shall each be paid the sum of \$2,200 per annum; four special clerks who shall each be paid the sum of \$2,000 per annum; four senior clerks who shall each be paid the sum of \$1,900 per annum; 12 general clerks who shall each be paid the sum of \$1,800 per annum; six junior clerks who shall each be paid the sum of \$1,500 per annum; one division clerk who shall be paid the sum of \$2,200 per annum; two accounting clerks who shall each be paid the sum of \$1,700 per annum; three clerks who shall each be paid the sum of \$1,200 per annum. (1921, c. 133, §8; 1923, c. 419; 1925, c. 398; 1927, c. 426; 1931, c. 271; 1937, c. 257; Apr. 13, 1939, c. 221.)

**Editorial note.**—This section, though intended to apply to Hennepin County, is based on a reasonable and valid classification, and is not open to constitutional objection.

### 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.

#### 839-1. County Treasurers may appoint deputies.—

County treasurers may, by certificate in writing, appoint one or more deputies, who, before entering upon their duties, shall file with the register of deeds such certificates, with their oaths of office endorsed thereon. Such deputies may sign all papers and do all other things which county treasurers may themselves do. (Act Apr. 8, 1939, c. 164.)

**840. Bonds of county treasurer and deputies.**—Before he enters upon the duties of his office the County Treasurer, every Deputy County Treasurer and every employe in the office of the County Treasurer shall give bond, to be approved by the County Board, and in such sum as said board directs: Provided, that in counties of over one hundred and fifty thousand inhabitants the bond of the County Treasurer shall not be less than Five Hundred Thousand Dollars, unless the surety is a corporation duly authorized by law to be surety, in which case it shall be not less than Two Hundred and Fifty Thousand Dollars. Such bond shall be payable to the state, conditioned that he shall faithfully execute the duties of his office, and for the safekeeping and paying over according to law of all moneys which come into his hands for state, county, town, school, road, bridge, poor, and all other purposes.

In lieu of the individual bonds required for deputies and employes in the office of the County Treasurer a schedule or position bond or undertaking may be given in the respective amounts so required conditioned as above and upon a form to be prescribed by the State Comptroller.

The County Board shall pay the premiums upon such bonds or undertakings out of the treasury of the county in cases where the surety is a corporation duly authorized by law to be surety. (R. L. '05, §495; G. S. '13, §842; '23, c. 293; '27, c. 406; Apr. 24, 1935, c. 273.)

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.

Proper procedure to reduce treasurer's bond is to issue new bond rather than reduce penalty of existing bond. Op. Atty. Gen. (450b-2), Jan. 15, 1936.

County board may reduce amount of bond, but should do so by seeing that a new bond is executed. Op. Atty. Gen. (450b-2), Mar. 4, 1936.

#### 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.

County cannot issue warrants on road and bridge fund and sell same to bank. Op. Atty. Gen. (383b), Dec. 13, 1937.

A county treasurer not authorized to appoint a deputy may authorize clerk to sign county warrants for him. Op. Atty. Gen. (104b-13), Feb. 7, 1939.

#### 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. Appeal dism. 64F(2d)1022. See Dun. Dig. 2701, 2702.

County had preference as to tax money deposited in bank by taxpayer to credit of county. 176M534, 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.

Bank has no right to charge a 10c fee on all checks issued by county, calling it a "float" charge rather than exchange. Op. Atty. Gen. (29a-17), Apr. 11, 1934.

Section does not prohibit county from designating a depository without requirement of interest. Op. Atty. Gen. (32f), May 25, 1934.

A bank which was closed at time proposals were made may be permitted to submit its proposal after reopening under the old advertisement and it is not necessary to readvertise. Op. Atty. Gen. (140a), July 20, 1934.

Reconstruction Finance Corporation capital debentures are not "capital stock and permanent surplus" so as to entitle a bank to additional deposits of a municipality. Op. Atty. Gen. (707a-11), Jan. 25, 1935.

New bank existing for less than a year may be designated. Op. Atty. Gen. (29a-12), Mar. 2, 1935.

Where a national bank ceased to do business and a new state bank was organized to take place thereof, fact that national bank was not designated as a depository for reason that it was delinquent in payment of taxes on stock shares did not affect right to designate new bank as depository. Id.

County board may designate depository outside of corporate limits of county. Op. Atty. Gen. (140a-7), Mar. 6, 1935.

County is not liable for loss of tax moneys collected by county treasurer on account of failure of bank, and may charge back to various governmental subdivisions having interest in such money their respective shares. Op. Atty. Gen. (455l), Feb. 28, 1938.

#### 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 on bond of county depository, not having paid anything, was not entitled to any subrogation though commissioner of banks paid county certain sum as preferred claim. Anderson v. P., 191M404, 254NW459. See Dun. Dig. 9038, 9045.

Where county depository with bond of \$5,000 failed, payment of \$5,000 by commissioner of banks to county as a preferred claim did not discharge liability of sureties for remainder of claim. Id. See Dun. Dig. 2702.

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.

Board of auditors may designate a bank, whose deposits are insured by Federal Deposit Insurance Corporation, and not require it to furnish bonds or collateral security. Op. Atty. Gen. (401b-2), Feb. 4, 1935.

Publication required by this section is mandatory. Op. Atty. Gen. (29a-12), Mar. 2, 1935.

#### 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.

A county treasurer not authorized to appoint a deputy may authorize clerk to sign county warrants for him. Op. Atty. Gen. (104b-13), Feb. 7, 1939.

#### 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.

A deposit by a county treasurer of county funds for safe-keeping in a bank not designated as a county depository, or deposit in a depository bank of more county funds than covered by depository bond, is not unlawful, but treasurer remains liable therefor same as for money in his hands. Anderson v. P., 191M404, 254NW459. See Dun. Dig. 2701.

Loss of tax funds in depositories is to be prorated and deducted from current settlement for past losses, including special school aid, the county not being liable. Op. Atty. Gen. (168c), May 4, 1937.

**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.)

County board having first required treasurer to give his official bond and surety company having issued the same, it may not thereafter require treasurer to give a new bond in a lesser sum, authority to require a new bond arising only when sureties on original bond are insufficient or the penalty of the bond deemed insufficient. Op. Atty. Gen. (104b-13), Mar. 5, 1935.

**869. Payment of county orders or warrants; insufficient funds; interest; borrowing money; transfer of funds; counties on cash basis.**—When any order or warrant drawn on him as treasurer is presented for payment, if there is money in the treasury for that purpose, the county treasurer shall redeem the same, and write across the entire face thereof the word "Redeemed," the date of the redemption, and his official signature. If there is not sufficient funds in the proper accounts to pay such orders they shall be numbered and registered in their order of presentation, and proper endorsement thereof shall be made on such orders and they shall be entitled to payment in like order. Such orders shall bear interest at the legal rate from such date of presentment. The treasurer, as soon as there is sufficient money in the treasury, shall appropriate and set apart a sum sufficient for the payment of the orders so presented and registered, and, if entitled to interest, he shall issue to the original holder a notice that interest will cease in thirty days from the date of such notice; and, if orders thus entitled to priority of payment are not then presented, the next in order of registry may be

paid until such orders are presented. No interest shall be paid on any order, except upon a warrant drawn by the county auditor for that purpose, giving the number and the date of the order on account of which the interest warrant is drawn, provided, that in any county in this state now or hereafter having an assessed valuation of all taxable property, exclusive of money and credits, of not less than two hundred fifty million (\$250,000,000) dollars, the county treasurer, in order to save payment of interest on county warrants drawn upon a fund in which there shall be temporarily insufficient money in the treasury to redeem the same, may borrow temporarily from any other fund in the county treasury in which there is a sufficient balance to care for the needs of such fund and allow a temporary loan or transfer to any other fund, and said treasurer may pay such warrants out of such funds. That any such money so transferred and used in redeeming such county warrants, shall be returned to the fund from which drawn as soon as money shall come in to the credit of such fund on which any such warrant was drawn and paid as aforesaid. Provided, that any county operating on a cash basis may use a combined form of warrant or order and check, which, when signed by the chairman of the county board and by the auditor, is an order or warrant for the payment of the claim, and, when countersigned by the county treasurer, is a check for the payment of the amount thereof. (R. L. '05, §524; G. S. '13, §870; '19, c. 31; '25, c. 176; Apr. 24, 1937, c. 400, §1.)

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.

County can pay interest upon registered warrants only at time warrant itself is redeemed or paid. Op. Atty. Gen. (107a-5), May 19, 1934.

County board has no right to reduce rate of interest on county warrants which are marked "not paid for want of funds," in the absence of an arrangement with local banks, or of sale of warrants by popular subscription. Op. Atty. Gen. (107a-5), June 13, 1936.

If warrants issued to take care of old age assistance are ordinary outstanding warrants, county board cannot pay annual interest unless money is available, but if warrants were sold to local banks under §1944-1, interest may be paid in accordance with terms of resolution of county board authorizing same. Op. Atty. Gen. (521b-1), Mar. 23, 1937.

### 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.

Appropriation by county board in aid of charitable hospital cannot be made by way of warrants unless there is money available or sufficient moneys to be received under a tax levy already made and in process of collection. Op. Atty. Gen., Nov. 9, 1933.

County treasurer for purpose saving interest on outstanding warrants drawn on any insufficient fund may with approval of county board and auditor transfer temporarily money from any other county funds. Op. Atty. Gen. (107a-12), Feb. 5, 1935.

Payment of expenses of classification and appraisal of tax delinquent lands forfeited to state may not be paid out of county revenue funds or any funds other than forfeited tax sale fund, but forfeited tax sale fund may borrow temporarily from county revenue fund. Op. Atty. Gen. (186c), Oct. 6, 1936.

Moneys in road and bridge fund may not be transferred to gas tax fund where such fund cannot be repaid within six months. Op. Atty. Gen. (383b), Dec. 13, 1937.

Moneys levied for a sinking fund to retire bonds cannot be diverted to other uses until bonds have been retired and paid, though they may be temporarily loaned. Op. Atty. Gen., (37a-12), Nov. 30, 1938.

This section may be taken advantage of for benefit of sanatorium fund. Op. Atty. Gen. (556a-10), Feb. 6, 1939.

**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.

County treasurer is not entitled to compensation for extra services in connection with bookkeeping work and in issuing checks and taking receipts on federal project. Op. Atty. Gen. (104a-6), Nov. 22, 1934.

County officers whose terms expire on first Monday of January are entitled to compensation for days of service rendered in month of January up to time that their successors qualify and take office. Op. Atty. Gen. (104a-9), Dec. 1, 1934.

It is not necessary in arriving at assessed valuation of property in a county for salary purposes to go behind assessed valuation as determined by tax commission, and lands to which state has acquired title through operations of rural credit department should not be included, while so-called \$100 exemption of personal property should be included. Op. Atty. Gen. (104a-9), Dec. 27, 1934.

Sections 837(6) and 997-2 must be construed so as to be limited to salaries of county officers where reduction of assessed valuation occurs during term of office of a particular county officer or officers. Id.

"Platted subdivisions" in Laws 1927, c. 374, means separately named or designated platted areas, but not subdivisions platted for cemetery purposes. Op. Atty. Gen. (450a-10), Jan. 10, 1935.

Big Stone County is classified as having 20 full and fractional congressional townships. Op. Atty. Gen. (104a-9), Oct. 14, 1936.

County officer may not appoint person under 21 years of age as a deputy, but may appoint him as a clerk, though position requires a bond. Op. Atty. Gen. (126a-33), Dec. 19, 1933.

Where minimum clerk hire of \$85 per month was allowed county treasurer for many years under Laws 1927, c. 374, additional clerk hire may be given incumbent clerk by passage of resolution by the county board with approval of attorney general and public examiner. Op. Atty. Gen. (450c-1), Jan. 31, 1939.

### PARTICULAR COUNTIES

Act Feb. 3, 1937, c. 11, amends '21, c. 351, §1, to apply to counties with 70 to 75 townships, assessed valuation of \$1,000,000 to \$5,000,000, and population of 7,000 to 7,500, but makes no change in amounts of salaries.

Act Apr. 12, 1937, c. 193, amends Laws 1921, c. 437, as amended, and provides that in counties having 44 to 45 townships, assessed valuation of \$8,000,000 to \$14,000,000, and population of 25,500 to 26,000, the salary of county treasurer shall be \$2,820 and fees; and clerk hire \$2,500 if actually paid or due, unless authorized by county board. Salary and fees not to exceed \$3,200; excess over that amount to be paid into general revenue fund.

Act Apr. 17, 1937, c. 275, effective May 1, 1937, amends Laws 1923, c. 419, §16, as amended, and fixes salary of mortgage registry tax deputy at \$2,300; 3 cashiers or tellers \$1,860; chief settlement clerk \$2,400; assistant settlement clerk \$1,860; correspondence clerk \$1,530; chief counter deputy \$2,400; two assistant counter deputies \$1,860; inheritance tax deputy \$2,200; accountant \$2,200; two general clerks \$1,750; three general clerks \$1,640; seven general clerks \$1,530; two general clerks \$1,410; eight general clerks \$1,310.

Act Apr. 22, 1937, c. 362, amends Laws 1907, c. 139, §2, as last amended by Laws 1929, c. 338, to provide for settlement and collection register deputy at \$1,600; clerk and inheritance tax deputy at \$1,700; one clerk at \$1,200; assistant cashier to also attend to inheritance and mortgage collections at \$1,650; all employees to be paid semi-monthly.

Laws 1937, c. 362. Amended July 14, 1937, Sp. Sess., c. 27.

Act Apr. 26, 1937, c. 491, amends Laws 1921, c. 437, as amended, to provide that the act shall apply to counties with assessed valuation of \$8,000,000 to \$14,000,000, and treasurer's salary shall be \$2,820 and \$2,500 for clerk hire.

Act July 14, 1937, Sp. Sess., c. 27, amends Laws 1907, c. 130, §2, by fixing salary of settlement and collection register deputy at \$1,700, and of inheritance tax deputy at \$1,600.

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 1931, 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, §07; 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. 28, 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.

Act Apr. 14, 1937, c. 230, effective May 1, 1937, amends Laws 1925, c. 91, §3, as amended, and provides that in counties having 41 to 43 townships and 25,000 to 30,000 population, the treasurer's salary shall be \$2,196, and \$900 for clerk hire, all fees to be paid into the county treasury.

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.

Laws 1929, c. 301, §16. Amended Apr. 17, 1937, c. 275.

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.

Laws 1929, c. 338. Amended Apr. 22, 1937, c. 362.

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. 284, 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. See §§997-4a to 997-4h.

Act Mar. 19, 1937, c. 69, effective July 1, 1937, amends Laws 1933, c. 16, to make salary of members of county board \$720, of auditor \$2,500, and traveling expenses in the state of Minnesota.

Laws 1925, c. 181. Repealed in part Apr. 14, 1937, c. 217.

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. See §§997-4a to 997-4h.

Act Mar. 19, 1937, c. 70, effective July 1, 1937, amends Laws 1933, c. 76, as amended by Laws 1935, c. 81, to make auditor's salary \$1,800, county treasurer \$1,500, register of deeds \$1,500, county attorney \$1,200, county commissioners \$300. Act effective July 1, 1937.

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. See §§997-4a to 997-4h.

Act Apr. 1, 1933, c. 143, amends Laws 1929, c. 69, §1, to provide that county treasurer shall receive \$2,500 per annum. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

Act Mar. 23, 1937, c. 91, repeals Laws 1933, c. 281, and provides that in counties having 100 to 105 townships, population of 12,000 to 16,000, the county treasurer to receive 1931 salary regardless of decrease in valuation or change in population or other factor. General salary law to apply except as to minimum fixed. County board to fix clerk hire.

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. See §§997-4a to 997-4h.

Laws 1933, c. 284. Amended Apr. 12, 1937, c. 193.

Laws 1933, c. 284. Amended Apr. 26, 1937, c. 491.

Laws 1933, c. 284, §16, 19, repeal Laws 1919, c. 224, and Laws 1929, c. 384. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

Laws 1933, c. 432. Amended Apr. 14, 1937, c. 230.

Act Apr. 24, 1937, c. 449, provides that in counties having 39 to 40 townships, assessed valuation, exclusive of monies and credits, of \$4,500,000 to \$4,600,000, and population of 9,500 to 9,800, the county treasurer's salary shall be \$2,250, and not over \$1,155 for clerk hire.

Act Mar. 23, 1937, provides that in all counties having 100 to 105 townships, and population of 12,000 to 16,000, the county officers shall receive certain salaries.

Act Apr. 1, 1935, c. 94, §1, limits to \$2,400 per annum clerk hire in counties having 22 to 25 towns and 29,000 to 33,000 population.

Laws 1935, c. 349. Salaries of county commissioners, county auditor and county treasurer in certain counties.

Act Jan. 15, 1936, Sp. Ses. 1935-36, c. 27, amends Laws 1933, c. 96.

Laws 1935, c. 81. Amended Mar. 19, 1937, c. 70; Apr. 17, 1937, c. 278.

Act Apr. 24, 1937, c. 449, provides that in counties having 39 or 40 townships and valuation of \$4,500,000 to \$4,600,000 and population of 9,500 to 9,800, the county treasurer shall receive \$2,250 per year and clerk hire of \$1,155.

Act Feb. 18, 1939, c. 24, provides that in counties having 350 to 400 square miles, population of 13,500 to 15,000, assessed valuation, exclusive of moneys and credits of \$5,000,000 to \$10,000,000, and area of 225,000 to 230,000 acres, county treasurer shall receive \$1200 annually for clerk hire.

Act March 31, 1939, c. 99, fixes the salary and expenses of county treasurers, and their deputies and clerks, in counties having 41 to 43 congressional townships, assessed valuation, exclusive of money and credits, of \$6,000,000.00 to \$12,000,000.00, and population of 25,000 to 30,000, and repeals Laws 1921, c. 437; Laws 1925, c. 91; Laws 1929, cc. 20, 161; Laws 1933, c. 432; Laws 1937, c. 230; Laws 1937, Sp. Ses., c. 54.

County treasurers may appoint deputies. Laws 1939, c. 164.

Salaries and clerk hire in counties having 50 to 70 townships and a valuation of \$500,000 to \$1,500,000 and population of 2,000 to 3,000. Laws 1939, c. 168.

Act Apr. 12, 1939, c. 198, concerns allowance for clerk hire in counties having a population of 34,000 to 45,000 and assessed valuation of \$28,000,000 to \$45,000,000.

In counties having 13 or more townships and an area of 400 to 410 square miles the clerk hire of treasurer shall be set by county commissioners. Laws 1939, c. 247.

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.

Laws 1933, c. 219, does not apply to Clearwater County and \$1 thereof is not within title of act. Op. Atty. Gen. (104a-3), Feb. 5, 1935.

Under Laws 1927, c. 374, placing minimum salary of clerk at \$85 per month, clerk employed by county treasurer at \$75 per month was not entitled to the additional \$10. Op. Atty. Gen. (450c), Sept. 6, 1935.

County treasurer accepting salary of less amount than that fixed in statutes covering county "somewhat under protest" was entitled to recover balance, and such right passed to his personal representative on his death. Op. Atty. Gen. (104a-9), June 15, 1938.

Value of tax exempt real estate cannot be included in total assessed value for purpose of determining salaries of county officials. Op. Atty. Gen., (104a-9), July 27, 1939.

### REGISTER OF DEEDS

#### 873. Bond.

##### Stearns County.

Act Apr. 12, 1939, c. 205, requires county to pay cost of bond of auditor and deputies. Deputies required to give bond in sum of \$1,000. Probably unconstitutional.

Recourse cannot be had against surety on a bond of a public officer, conditioned for faithful performance of his official duties, because of negligence in acts done not within scope of his statutory duties, and furnishing of an abstract of chattel mortgages on hogs was not official duty of a register of deeds. Federal Intermediate Credit Bank v. M., 194M150, 259NW793. See Dun. Dig. 8349.

#### 875. Reception books.

Certified copies of record of mortgage foreclosure by advertisement in office of register of deeds are admissible in Iowa without complying with Mason's U. S. C. A., Title 28, §688. Bristow v. L., 266NW(Iowa)808.

Register of deeds must register instruments in his office though they lack federal documentary stamps. Op. Atty. Gen. (532a-5), Feb. 14, 1939.

#### 877. Tract Index books.

Act Jan. 13, 1936, c. 19, Sp. Ses. 1935-36, authorizes counties having 11,000 to 13,000 population, 13 to 15 townships, and assessed valuation of less than \$6,000,000, to contract without advertisement for adequate tract index.

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.

Register of deeds who is paid no salary but retains all fees in connection with his office does not lose his rights to fees for making abstract because county buys or has a tract index made. Op. Atty. Gen. (373b-10(a)), June 23, 1937.

It is not mandatory upon county board to install a tract index. Op. Atty. Gen., (373b-23), Dec. 9, 1938.

#### 877-1. Tract index books—Contracts for making.

Bond referred to is for faithful completion of making of tract index. Op. Atty. Gen. (373b-10(a)), June 23, 1937.

#### 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.

Certified copies of record of mortgage foreclosure by advertisement in office of register of deeds are admissible in Iowa without complying with Mason's U. S. C. A., Title 28, §688. Bristow v. L., 266NW(Iowa)808.

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

"Statements," and "satisfactions of chattel mortgages, etc." required by register of deeds in performance of his duties may be paid for by county. Op. Atty. Gen. (373b-21), Apr. 11, 1938.

887-1. Recording papers and decrees in bankruptcy proceedings.—Whenever a petition for bankruptcy, or a decree of adjudication, or an order approving the trustee's bond is made, pursuant to the Federal Bankruptcy Act of 1898, as amended by the Bankruptcy Act of 1938, Chapter 575, 52 Statutes 840, Section 21 g [Mason's U. S. Code, Tit. 11, §44(g)], the bankrupt, trustee, receiver, custodian, referee, or any creditor may record a certified copy of the petition, decree, or order in the office of the register of deeds or in the office of the registrar of titles of any county in this state. (Act Mar. 31, 1939, c. 117.)

#### 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 than 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.

#### 896. Consecutive index.

Where contract for deed upon a crop payment plan, giving chattel mortgage upon crop, is offered with request to file only as chattel mortgage, it is duty of register of deeds to file it only as a chattel mortgage and not to file it as a real estate transfer, or index it as such. Op. Atty. Gen. (373b-17(d)), Mar. 15, 1937.

#### 897. Deputies.

Op. Atty. Gen., Jan. 16, 1934; note under §668(2). County officer may not appoint person under 21 years of age as a deputy, but may appoint him as a clerk, though position requires a bond. Op. Atty. Gen. (126a-33), Dec. 19, 1938.

**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.

Recourse cannot be had against surety on a bond of a public officer, conditioned for faithful performance of his official duties, because of negligence in acts done not within scope of his statutory duties, and furnishing of an abstract of chattel mortgages on hogs was not official duty of a register of deeds. *Federal Intermediate Credit Bank v. M.*, 194M150, 259NW793. See Dun. Dig. 8349.

Register of deeds is not required to certify as to priority of chattel mortgage. Op. Atty. Gen., Aug. 10, 1932. It is not the duty of the register of deeds to furnish abstract concerning designated persons owing unsatisfied mortgages and liens only, or such liens as affecting certain specific kinds of property. Op. Atty. Gen. (383h-1), July 12, 1935.

County is legally responsible for furnishing of abstract supplies, including covers, title pages, fasteners, etc. Op. Atty. Gen. (373b-21), Oct. 31, 1935.

Register of deeds who is paid no salary but retains all fees in connection with his office does not lose his rights to fees for making abstract because county buys or has a tract index made. Op. Atty. Gen. (373b-10(a)), June 23, 1937.

Register of deeds should include in all abstracts ditch liens assessed against township or other roads which run along edge of property being abstracted, if they in any way affect title of property abstracted. Op. Atty. Gen. (373b-1), Aug. 25, 1937.

County should furnish supplies to register of deeds making abstract, though he retains all abstract fees. Op. Atty. Gen. (125a-52), July 15, 1938.

#### 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.

Register of deeds is not warranted in refusing to record a deed because it refers to an unrecorded private plat. Op. Atty. Gen., (373B-15), Sept. 11, 1939.

#### 904. Certificate of record.

Curative acts: Act Apr. 5, 1939, c. 147, §7. See Appendix 5, ¶21, post.

#### 904-1. Abstracts of mortgages and liens on grain Crops, etc.

Recourse cannot be had against surety on a bond of a public officer, conditioned for faithful performance of his official duties, because of negligence in acts done not within scope of his statutory duties, and furnishing of an abstract of chattel mortgages on hogs was not official duty of a register of deeds. *Federal Intermediate Credit Bank v. M.*, 194M150, 259NW793. See Dun. Dig. 8349.

#### 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.

County officers whose terms expire on first Monday of January are entitled to compensation for days of service rendered in month of January up to time that their successors qualify and take office. Op. Atty. Gen. (104a-9), Dec. 1, 1934.

Big Stone County is classified as having 20 full and fractional congressional townships. Op. Atty. Gen. (104a-9), Oct. 14, 1936.

Register of deeds need not include in abstract of chattel mortgage a clause "and also together with sufficient feed and roughage to care for all livestock described above during life of this mortgage", where there is no description of place where such personal property is located. Op. Atty. Gen., (373B-5), June 30, 1935.

**904-3. Salaries of deputies and clerks in Register of Deeds office in counties of 380,000 inhabitants or over.**—The register of deeds shall appoint and employ one chief deputy who shall be paid the sum of \$3,600 per annum; two senior principal deputies who shall each be paid the sum of \$3,600 per annum; one junior principal deputy who shall be paid the sum of \$2,520 per annum; two senior department deputies who shall each be paid the sum of \$2,400 per annum; one junior department deputy who shall be paid the sum of \$2,220 per annum; one general deputy who shall be paid the sum of \$2,100 per annum; three senior principal clerks who shall each be paid the sum of \$1,980 per annum; four junior principal clerks who shall each be paid the sum of \$1,920 per annum; one supervisor who shall be paid the sum of \$1,860 per annum; three senior department clerks who shall each be paid the sum of \$1,800 per annum; three junior department clerks who shall each be paid the sum of \$1,650 per annum; one general clerk who shall be paid the sum of \$1,560 per annum; 12 senior recording clerks who shall each be paid the sum of \$1,320 per annum; 24 junior recording clerks who shall each be paid the sum of \$1,200 per annum;

The register of deeds may, during the year, at his discretion and as often and for as long as he sees fit reduce the number of clerks in his office and that the salary amounts which may be saved, together with whatever has been saved, during such year through necessary vacancies, among other deputies, clerks and assistants of said register of deeds office, may, to any extent needful in any case, be used in the same year by hiring extra help at not to exceed the same rate for any of the regular work of his office when the same is greater or more hurried than is common throughout the year. Provided, however, that no such sums or any part thereof as herein provided, shall at any time be used to increase the salaries of any of the employees provided for in this act. (1921, c. 133, §12; 1923, c. 419; 1927, c. 425; 1937, c. 292; Apr. 13, 1939, c. 226.)

#### COMPENSATION OF REGISTER OF DEEDS IN PARTICULAR COUNTIES

Act Apr. 19, 1937, c. 292, effective Apr. 19, 1937, amends Laws 1921, c. 133, §12, as amended, to provide for 2 chattel mortgage abstract clerks at \$1,980; one general clerk at \$1,800; eight comparers at \$1,320; 15 typists at \$1,210; two typists at \$1,320; one bookkeeper-cashier at \$1,800; one abstract clerk at \$3,600; three tract clerks at \$1,800; one chief deputy registrar at \$3,600; two deputies at \$1,980; one tract clerk at \$1,800; two clerks at \$1,650.

Act Feb. 3, 1937, c. 11, amends '21, c. 351, §1, to apply to counties with 70 to 75 townships, assessed valuation of \$1,000,000 to \$5,000,000, and population of 7,000 to 7,500, but makes no change in amounts of salaries.

Act Apr. 12, 1937, c. 193, amends Laws 1921, c. 437, as amended, and provides that in counties having 44 to 45

townships, assessed valuation of \$8,000,000 to \$14,000,000, and population of 25,500 to 26,000, clerk hire shall be limited to amount actually paid or due, and salary and fees of officers shall not exceed \$3,200, any excess to be paid into general fund; register of deeds to receive salary now authorized and \$1,500 clerk hire.

Act Apr. 26, 1937, c. 491, amends Laws 1921, c. 437, as amended, and fixes clerk hire of register of deeds at \$1,500 per year.

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.

Act July 15, 1937, Sp. Sess., c. 53, §3, amends Laws 1925, c. 91, §14, as amended by Laws 1937, c. 230, §8, by providing that statement of fees to be filed Jan. 15, 1938, shall include only fees collected after July 1, 1937.

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 §§997-1, 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. See §§997-4a to 997-4h.

Act Mar. 19, 1937, c. 70, effective July 1, 1937, amends Laws 1933, c. 76, as amended by Laws 1935, c. 81, to make auditor's salary \$1,800, county treasurer's \$1,500, registers of deeds \$1,500, county attorney \$1,200, county commissioners \$300. Act effective July 1, 1937.

Act Apr. 17, 1937, c. 278, §1, amends Laws 1933, c. 76, §3, to provide that the register of deeds shall receive a salary of \$1,500, all fees, except for preparing abstracts of title, to be paid into the county treasury.

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. Amended. Laws 1935, c. 23. See §§997-4a to 997-4h.

Act Jan. 15, 1936, Sp. Sess. 1935-36, c. 27, amends Laws 1933, c. 96.

Act Apr. 1, 1933, c. 143, amends Laws 1929, c. 69, §1, to provide that register of deeds shall receive \$2,500 per annum. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

Laws 1933, c. 281. Repealed Mar. 23, 1937, c. 91.

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. See §§997-4a to 997-4h.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

Laws 1933, c. 432. Amended Apr. 14, 1937, c. 230.

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. See §§997-4a to 997-4h.

Act Feb. 14, 1935, c. 11, amends Laws 1911, c. 366, §1, as amended by Laws 1915, c. 119, by limiting the act to counties having 220,000 to 330,000 population, and fixing the salary of the register of deeds at \$4,500 and \$500 for duties as registrar of titles.

Act Feb. 27, 1935, c. 23, amends Laws 1933, c. 96, by adding thereto §3-1, empowering county board to fix clerk hire for register of deeds at not more than \$4,500 per year.

Act Apr. 1, 1935, c. 94, §1, limits to \$900 annually clerk hire in counties having 22 to 25 towns and 29,000 to 33,000 population.

Act Mar. 23, 1937, provides that in all counties having 100 to 105 townships and population of 12,000 to 16,000, the county officers shall receive certain salaries.

Act Apr. 12, 1937, c. 204, provides that in counties having 23,000 to 25,000 inhabitants, assessed value of \$11,000,000 to \$14,000,000, exclusive of moneys and credits, and 23 to 25 townships, the register of deeds shall receive not more than \$1,500 per year as clerk hire, as fixed by county board.

Act July 14, 1937, Sp. Sess., c. 34, amends Act Apr. 12, 1937, c. 204, §1, by eliminating the provision as to assessed valuations, and including a requirement that the act shall not apply to counties having a tract index.

Act Mar. 31, 1939, c. 99, fixes the salary and expenses of registers of deeds, and their deputies and clerks, in counties having 41 to 43 congressional townships, assessed valuation, exclusive of money and credits, of \$6,000,000.00 to \$12,000,000.00, and population of 25,000 to 30,000, and repeals Laws 1921, c. 437; Laws 1925, c. 91; Laws 1929, cc. 20, 161; Laws 1933, c. 432; Laws 1937, c. 230; Laws 1937, Sp. Sess., c. 54.

Apr. 8, 1939, c. 168, provides minimum salary for register of deeds of \$1,700 in counties having from 50 to 70 congressional townships and assessed valuation of not less than \$500,000, nor more than \$1,500,000, and a population of from 2,000 to 3,000.

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

Where register of deeds in county of Marshall was operating under Laws 1919, c. 173, and assessed valuation of county dropped below \$10,000,000, county was automatically placed under provisions of general statute applicable to compensation of register of deeds. Op. Atty. Gen. (373b-10), Nov. 30, 1934.

Laws 1933, c. 219, does not apply to Clearwater County and §1 thereof is not within title of act. Op. Atty. Gen. (104a-3), Feb. 5, 1935.

Laws 1911, c. 366, is not a "special law", and §§8364 to 8370 apply to Ramsey County. Op. Atty. Gen. (373a), Mar. 4, 1938.

#### 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

#### 905. Bond and oath.

Sheriff's contingent fund for enforcement of beer and liquor laws established. Laws 1939, c. 111.

Counties having population of 18,500 to 19,000 and 19 to 21 townships and area of 454,500 to 455,000 acres may buy the sheriff a car. Laws 1939, c. 112.

Provision in contract of indemnity given by sheriff to surety on his official bond waiving all statutory exemptions, if void, was separable from remainder of contract and did not affect right of surety to recover amount it was required to pay by reason of failure on sheriff's part properly to discharge his official duty. Hartford Accident & Indemnity Co. v. D., 202M410, 278NW591. See Dun, Dig. 8738.

#### 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.

Certificate of service must be signed by party making service and not by his deputy. Op. Atty. Gen., Jan. 23, 1934.

There is no statute authorizing sheriff to hire persons in investigation of arson cases and bind county for pay-

ment of their services except insofar as he is authorized to appoint special deputies who would receive their compensation as such deputies. Op. Atty. Gen. (197a), Aug. 30, 1937.

Sheriff in county subject to Laws 1917, c. 312, may hire assistants in an emergency, but probably could not hire assistants "to search for evidence." Op. Atty. Gen. (390a-1), Jan. 17, 1939.

#### 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.

Laws 1923, c. 419, §6. Amended July 15, 1937, Sp. Sess., c. 69. Amended Laws 1939, c. 224.

**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.)

#### 908. Shall give certificate, when.

Sheriff's signature to certificate of chattel mortgage foreclosure sale need not be acknowledged, but signature of police officer should be. Op. Atty. Gen. (390a-19), Dec. 23, 1936.

#### 910. Neglect of duty.

Whether sheriff, having knowledge that writ of attachment against same person would issue in action brought by another creditor, used due diligence in levying under execution upon sufficient of available personal property of judgment debtor, held question of fact for jury. *Reaume v. W.*, 192M1, 255NW81. See Dun. Dig. 3742.

#### 913. Powers after expiration of term.

See §2150.

If sheriff prior to expiration of term of office has begun to execute writ of attachment against rent of tax delinquent land, levy or collection of money thereon, he may execute and return the same after expiration of his term of office. Op. Atty. Gen. (412a-25), Dec. 28, 1934.

#### 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.

Member of legislature is ineligible to hold office of deputy sheriff. Op. Atty. Gen. (280b), Oct. 7, 1937.

Offices of constable and deputy sheriff are incompatible. Op. Atty. Gen. (358e-1), Mar. 29, 1938.

Offices of deputy sheriff and member of school board are not incompatible. Op. Atty. Gen. (358f), May 15, 1939.

Offices of paid volunteer fireman and member of school board are not incompatible. Id.

#### 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.

County cannot pay deputy of salaried sheriff a per diem or salary unless there is an order of district court approving appointment. Op. Atty. Gen. (390b-2), Aug. 9, 1935.

If regular deputies who are appointed by sheriff of Ramsey County under Laws 1931, c. 258, are insufficient in number to serve notices of expiration of redemption and to make investigation and returns required by law, sheriff has power to appoint a sufficient number of deputies, and there is no statute that prohibits payment of

such deputies through a federal project. Op. Atty. Gen. (390b-1), Sept. 5, 1935.

Deputy sheriff cannot collect per diem fees for acting as guard to sheriff in transporting persons to state institutions. Op. Atty. Gen. (390b-2), July 6, 1936.

Certificate and return should be issued in name of sheriff and not in name of deputy. Op. Atty. Gen. (390a-19), Dec. 23, 1936.

Neither sheriff nor board of county commissioners have legal authority to purchase uniforms for deputy sheriffs. Op. Atty. Gen. (125b), July 2, 1937.

County officer may not appoint person under 21 years of age as a deputy, but may appoint him as a clerk, though position requires a bond. Op. Atty. Gen. (126a-33), Dec. 19, 1938.

**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.)

A custom of the sheriff's office of serving papers without collecting the fees in advance and then, without more, merely holding the originals for payment of the fees comes so far from having any legal justification that, however much acquiesced in by other public officials, it cannot create an estoppel against the county. *St. Louis County v. M.*, 198M127, 269NW105. See Dun. Dig. 8753.

**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.

Laws 1933, c. 96, §4, should not be construed as repealing Laws 1917, c. 312, as amended by Laws 1933, c. 24, and sheriff is entitled to compensation for use of his automobile in addition to his salary, limited to \$.05 per mile by Laws 1933, c. 13. Op. Atty. Gen. (390a-12), Dec. 28, 1934.

Section 254-47 provides maximum which may be allowed the sheriff for use of his automobile, and county board may determine an amount less than such maximum. Op. Atty. Gen. (390a-11), May 29, 1935.

Sheriff receiving salary is not entitled to fee for serving a criminal warrant, and same rule applies to an item "committing to jail 50 cents". Op. Atty. Gen. (390c-2), March 10, 1939.

**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.

County cannot pay deputy of salaried sheriff a per diem or salary unless there is an order of district court approving appointment. Op. Atty. Gen. (390b-2), Aug. 9, 1935.

**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.)

Deputy sheriff cannot collect per diem fees for acting as guard to sheriff in transporting persons to state institutions. Op. Atty. Gen. (390b-2), July 6, 1936.

#### 922. Deputies attending court.

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

Deputy sheriffs are entitled to compensation only for days actually in court. Op. Atty. Gen. (390b-2), Dec. 7, 1936.

**923-1. Salary of Sheriff in certain counties.**—The salary of the sheriff of each county now having, or which may hereafter have a population of 415,000 inhabitants or over shall be \$6,500 per annum. (Act Apr. 12, 1939, c. 204, §1.)

**923-2. Inconsistent acts repealed.**—All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed. (Act Apr. 12, 1939, c. 204, §2.)

**923-3. Effective May 1, 1939.**—This act shall take effect May 1, 1939. (Act Apr. 12, 1939, c. 204, §3.)

**923-4. Salaries of deputies and other employees in Sheriff's office in counties of 380,000 or more.**—The Sheriff shall appoint and employ one chief deputy who shall be paid the sum of \$3,270 per annum; one assistant chief deputy and auditor who shall be paid the sum of \$2,350 per annum; one assistant bookkeeper who shall be paid the sum of \$1,987 per annum; one special deputy who shall be paid the sum

of \$1,762 per annum; one deputy for tax collection, who shall be paid the sum of \$1,987 per annum; four outside deputies who shall each be paid the sum of \$2,350 per annum; one deputy for the care of the insane, who shall be paid the sum of \$2,015 per annum; two outside deputies to attend to the service of criminal and other processes, who shall each be paid the sum of \$2,015 per annum; one deputy to attend to mortgage notices, who shall be paid the sum of \$2,400 per annum; one jailer who shall be paid the sum of \$1,911 per annum; four outside criminal deputies who shall each be paid the sum of \$2,400 per annum; one uniformed deputy in charge of motor patrol deputies, who shall be paid the sum of \$2,490 per annum; two uniformed assistants who shall each be paid the sum of \$2,400 per annum; 21 uniformed motor patrol deputies each deputy to receive a salary of not less than \$150.00 per month; and shall receive an annual raise of \$5.00 per month for each succeeding year of employment, to be computed from the time of commencement of the employment of such individual deputy, except that the salary of such uniformed motor patrol deputy shall not exceed \$180.00 per month at any time, each such deputy to furnish his uniform, the county to furnish equipment and maintain radio cars; two assistant jailers who shall each be paid the sum of \$1,762 per annum; one matron who shall be paid the sum of \$1,147 per annum; four night watchmen who shall each be paid the sum of \$1,622 per annum; one cook who shall be paid the sum of \$1,590 per annum; two deputies in charge of juries who shall each be paid the sum of \$1,790 per annum; seven general deputies who shall each be paid the sum of \$1,852 per annum; two outside patrol deputies who shall each be paid the sum of \$1,852 per annum; three general deputies who shall each be paid the sum of \$2,070 per annum; one stenographer who shall be paid the sum of \$1,752 per annum. The Sheriff shall also appoint and employ as many court room deputies as there are district court judges in and for said county. Said deputies shall attend the court of said judges and perform such duties pertaining to the sheriff's office as the sheriff may require; the compensation of each of said deputies shall be \$1,762 per annum.

One female deputy or bailiff to attend on mixed juries, who shall be paid the sum of \$1,455 per annum.

An expense fund of \$2,000 shall be set aside out of the first moneys received as fees from and after the passage of this act to be used by the sheriff to meet the current monthly expenses of the office, the money so used to be replaced in said fund at the end of each month when such expense is allowed by the County Board.

Any additional salaries provided for in this act, unless otherwise provided for, shall be paid out of any money in the county treasury not otherwise appropriated. (1923, c. 419, §6; 1927, c. 125, §1; 1929, c. 152; 1937, c. 247; 1937, Ex. Ses., c. 69; Apr. 13, 1939, c. 224.)

#### 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.

Act Apr. 17, 1937, c. 247, effective Apr. 17, 1937, amends Laws 1923, c. 419, §6, as amended, and provides that the salaries of sheriff's deputies shall be as follows: chief deputy \$3,270; assistant chief deputy \$2,350; assistant bookkeeper \$1,987; special deputy \$1,762; tax deputy \$1,987; four outside deputies \$2,350 each; insane deputy \$2,015; two outside deputies for criminal process \$2,015 each; mortgage notices deputy \$2,400; jailer \$1,911; four outside criminal deputies \$2,400 each; 12 motor cycle deputies, who shall furnish and maintain their own uniforms and equipment \$2,490 each; two assistant jailers \$1,762 each; matron \$1,147; four night watchmen \$1,622 each; cook \$1,590; two jury deputies \$1,790 each; seven general deputies \$1,852 each; two outside patrol deputies \$1,852 each; three general deputies \$2,070 each; stenographer \$1,752; court room deputies for each district

court judge \$1,762 each; six general night deputies \$1,852 each; female deputy to attend mixed juries \$1,455; and expense fund of \$2,000 for current expenses to be taken out of and restored to fee fund.

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. Amended, Laws 1939, c. 224.

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 Apr. 12, 1937, c. 193, amends Laws 1921, c. 437, as amended, and provides that in counties having 44 to 45 townships, assessed valuation of \$8,000,000 to \$14,000,000, and population of 25,500 to 26,000, clerk hire shall be limited to amount actually paid or due, and salary and fees of officers shall not exceed \$3,200, any excess to be paid into general fund; sheriff to receive \$2,520 salary and expenses in lieu of fees, and deputy hire to be allowed by the district court.

Act Apr. 26, 1937, c. 491, amends Laws 1921, c. 437, as amended, and fixes salary of sheriff at \$2,520.

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. See §§997-4a to 997-4h.

Act Mar. 19, 1937, c. 70, §6, 7, effective July 1, 1937, amends Laws 1933, c. 76, but makes no change.

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 employes 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. See §§997-4a to 997-4h.

Act Jan. 15, 1936, Sp. Ses. 1935-36, c. 27, amends Laws 1933, c. 96.

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. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

Act Apr. 14, 1937, c. 230, effective May 1, 1937, amends Laws 1925, c. 91, §13, as amended, and provides that in counties having 41 to 43 townships and 25,000 to 30,000 inhabitants, the sheriff shall receive \$1,389 salary, and not more than \$720 salary as jailer, and 85% of fees collected, the remaining 15% of fees to be paid into the county treasury monthly.

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.

Act Mar. 31, 1939, c. 99, fixes the salary and expenses of sheriffs, and their deputies and clerks, in counties having 41 to 43 congressional townships, assessed valuation, exclusive of money and credits, of \$6,000,000.00 to \$12,000,000.00, and population of 25,000 to 30,000, and repeals Laws 1921, c. 437; Laws 1925, c. 91; Laws 1929, c. 20, 161; Laws 1933, c. 432; Laws 1937, c. 230; Laws 1937, Sp. Ses., c. 54.

Act Mar. 31, 1939, c. 112, provides that in counties having population of 18,500 to 19,000, 19 to 21 congressional townships, 454,500 to 455,000 acres, the county board may purchase an automobile for the sheriff.

In counties having over 415,000 population, the sheriff shall receive \$6,500. Laws 1939, c. 204.

Act Apr. 15, 1939, c. 274, relating to salaries of sheriffs in counties having 76 to 80 congressional townships, an area of 2,000 to 2,400 square miles, amends 1933, c. 166, §§6, 11, 13.

Laws 1935, c. 218. In counties having population of more than 150,000 and area of more than 5,000 square miles sheriff shall have salary of \$5,000 per year.

Sheriff of St. Louis county is by virtue of his office a trustee in respect to fees earned by him, whether collected or not, and he is held to a strict accountability and highest practical degree of care as to collection of such fees, burden being upon him to prove exercise of such care as to fees earned but not collected. *St. Louis County v. M.*, 198M127, 269NW105. See *Dun. Dig.*, 8753.

Sheriff of St. Louis County is a salaried official with no personal interest in fees earned by him, under Laws 1911, c. 145; Laws 1921, c. 492; Laws 1925, c. 130. *Id.*

Laws 1933, c. 219, does not apply to Clearwater County and §1 thereof is not within title of act. *Op. Atty. Gen.* (104a-3), Feb. 6, 1935.

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 officers whose terms expire on first Monday of January are entitled to compensation for days of service rendered in month of January up to time that their successors qualify and take office. *Op. Atty. Gen.* (104a-9), Dec. 1, 1934.

Laws 1933, c. 96, §4, should not be construed as repealing Laws 1917, c. 312, as amended by Laws 1933, c. 24, and sheriff is entitled to compensation for use of his automobile in addition to his salary, limited to \$.05 per mile by Laws 1933, c. 13. *Op. Atty. Gen.* (390a-12), Dec. 28, 1934.

Under a statute providing that county auditor merely deducts total sum of exemptions from total valuation of property in county as equalized by tax commission, personal property exemption to each householder is not to be deducted in determining assessed valuation of all taxable property of county for purpose of determining sheriff's salary. *Op. Atty. Gen.* (104a-1), Jan. 2, 1935.

Sheriffs are not entitled to per diem under Laws 1917, c. 312, in transporting insane person to state hospital. *Op. Atty. Gen.* (390c-6), Feb. 1, 1935.

If regular deputies who are appointed by sheriff of Ramsey county under Laws 1931, ch. 258, are insufficient in number to serve notices of expiration of redemption and to make investigation and returns required by law, sheriff has power to appoint a sufficient number of deputies, and there is no statute that prohibits payment of

such deputies through a federal project. *Op. Atty. Gen.* (390b-1), Sept. 5, 1935.

Under Laws 1917, ch. 312, deputy sheriffs, except those appointed with approval of district judge, are not entitled to charge any fees or receive any compensation from county for performing services which sheriff is under obligation to perform for county without extra compensation. *Op. Atty. Gen.* (390b-2), Jan. 14, 1936.

Sheriff is not entitled to extra compensation for serving subpoena for witnesses at a coroner's inquest under Laws 1915, ch. 312. *Op. Atty. Gen.* (390c), Oct. 9, 1936.

Big Stone County is classified as having 20 full and fractional congressional townships. *Op. Atty. Gen.* (104a-9), Oct. 14, 1936.

Under Laws 1933, ch. 143, sheriff of Otter Tail County may be permitted to purchase a mechanical refrigerator for use in his residence if county board considers it necessary to suitable maintain the residence. *Op. Atty. Gen.* (390a-17), May 11, 1937.

Sheriff in county subject to Laws 1917, c. 312, may hire assistants in an emergency, but probably could not hire assistants "to search for evidence". *Op. Atty. Gen.* (390a-1), Jan. 17, 1939.

Sheriff may not charge auto mileage while riding with truck driver employed to haul goods and furniture of poor persons to their place of legal settlement. *Op. Atty. Gen.* (390a-11), March 9, 1939.

Under Laws 1937, c. 491, sheriff should return 22% of fees collected on service of executions issued for collections of personal property taxes, until total salary sheriff can receive is reached, and any further fees must be turned over. *Op. Atty. Gen.* (390c-1), April 1, 1939.

## 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.

County board cannot require county attorney or judge of probate to furnish corporate surety bonds and cannot refuse to accept, arbitrarily, a proper personal bond when tendered, but such officers must pay their own premium. *Op. Atty. Gen.* (121a-3), Mar. 2, 1935.

**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. Justice ineligible.

This section does not apply to a municipal judge, and could not in any event prevent a judge from running for office of county attorney. *Op. Atty. Gen.*, (184), Sept. 27, 1938.

**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.)

**925-2. Office of county attorney and village attorney not incompatible.**—In all counties in this state having a population of not more than 5000 inhabitants, the office of county attorney and village attorney shall not be deemed incompatible, and may be held by the same person. (Act Feb. 15, 1935, c. 14.)

### 926. Duties.

An attorney general has authority to institute in a district court a civil suit in name of state, whenever in his opinion interest of state so requires, by coming in and joining with county attorney in supplemental brief, and by filing in court below an appearance adopting acts of county attorney the actions must be considered as if originally instituted on relation of attorney general. *State v. O'Neil*, 286NW316. See *Dun. Dig.*, 8845.

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.

County attorney does not owe duty to prosecute violation of malt liquor law consisting of sale of such liquor in village refusing to grant licenses. Op. Atty. Gen., Oct. 31, 1933.

County attorney need not advise township with reference to legal matters but may do so and charge therefor. Op. Atty. Gen., Dec. 22, 1933.

Offices of county attorney and special assistant United States attorney to assist in securing flowage easements are not incompatible. Op. Atty. Gen., Feb. 7, 1934.

County attorney cannot charge for his services in suing on bonds in bastardy proceedings. Op. Atty. Gen. (121b-11), May 31, 1935.

Attorney general will not advise with respect to legal authority of county board, made upon request of county attorney. Op. Atty. Gen. (124), May 9, 1936.

Duty of making determination as to whether criminal prosecution should be commenced rests upon county attorney and if conscientiously and fairly made is not subject to review either by attorney general or any other office. Op. Atty. Gen. (605b-33), Apr. 17, 1937.

County attorney is under no obligation to prosecute misdemeanor cases before justice of the peace except where duty is specifically imposed by law. Op. Atty. Gen. (121b), Aug. 23, 1937.

Village attorney is required to prosecute all violations of village ordinances before a justice of the peace, but is not obligated to prosecute violations of state laws or give aid, counsel and advice to justice of the peace. Id.

County welfare board need not submit for approval as to form and legality of claims against board, unless requested by board. Op. Atty. Gen. (125a-64), Nov. 10, 1937.

Whether prosecution should be instituted is within discretion of county attorney. Op. Atty. Gen. (494a-1), Mar. 21, 1938.

It is duty of county attorney to assist county board in proceeding to refinance bonds of county by giving his opinion and advice without extra compensation. Op. Atty. Gen. (37a), Apr. 25, 1938.

Attorney general does not tell the county attorney when he should or should not institute a prosecution, but it is duty of county attorney to prosecute such offenses as he believes reasonably certain of conviction. Op. Atty. Gen. (494a-2), July 29, 1938.

**929. Not to receive fees—Prohibitions.**

Laws 1935, c. 14. Offices of county attorney and village attorney not incompatible in counties having less than 5,000 population.

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.

Offices of county attorney and park district attorney are incompatible. Op. Atty. Gen. (358a-1), Feb. 5, 1935.

Offices of county attorney and city attorney are incompatible, though there are some rare instances where county attorney may be employed to represent city in a single case. Op. Atty. Gen., (358a-1), July 27, 1939.

**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.**

See notes under §935.

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

In absence of statute, county board has no legal authority to provide the county attorney with clerk hire. Op. Atty. Gen. (121a-4), July 20, 1936.

**933. Render account—Pay over moneys.**

It is necessary under §933 for county attorney to include in his report and turn over to county treasurer any fees collected under section 2214. Op. Atty. Gen. (779n), Jan. 22, 1937.

**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.

County attorney is entitled to reimbursement for expenses in connection with traveling in his own car on county business, but there is no statute whereby county board may authorize mileage at rate of 5c per mile with 1c additional for extra passengers. Op. Atty. Gen. (121a-8), Apr. 3, 1934.

County attorney may not use his automobile in connection with his duties as county attorney and collect mileage therefor, notwithstanding that he is required to transport other officers and witnesses. Op. Atty. Gen. (121c-4), Aug. 1, 1934.

Traveling expenses of out of state witnesses may be paid from contingent fund of county attorney. Op. Atty. Gen. (196r), May 16, 1935.

In absence of statute, county board has no legal authority to provide the county attorney with clerk hire. Op. Atty. Gen. (121a-4), July 20, 1936.

Expenses of county attorney in attending meetings of county attorneys' association is a legal claim on contingent fund. Op. Atty. Gen. (121a-8), July 29, 1938.

Subject to approval of district court judge it might be possible to use part of contingent fund for purpose of procuring evidence in criminal matters. Op. Atty. Gen. (390a-1), Jan. 17, 1939.

Elected county attorney may not be reimbursed from contingent fund for expenses incident to attending county attorney's convention held prior to his taking office. Op. Atty. Gen. (121a-8), Feb. 17, 1939.

County attorney attending meetings of county attorneys' association may put in claim for his expenses against his contingent fund, and if county has not set aside a contingent fund, claim may be put in against county in form of a regular bill. Id.

County attorney using his own automobile is entitled to actual expense, which may include gasoline and oil, etc., but allowance may not be based on rate of 5 cents or any other amount per mile. Id.

County commissioners of every county are urged to set aside a contingent fund in a reasonable amount, because no county attorney can efficiently carry on duties of this office without such fund. Op. Atty. Gen., (121a-4), July 28, 1939.

Any expenses of county attorney not especially provided for by law, including itemized work for clerk hire, mileage, and expenses in connection with criminal investigation or other county business, such as taking confessions, statements of defendants or witnesses, etc., may be filed a claim against contingent fund and paid, if approved by district court. Id.

**935-1. Salaries of county attorney and assistants in counties having population of 220,000 to 330,000.—**

The salary of the county attorney of each county of this state having a population of not less than 220,000 and not more than 330,000 inhabitants, shall be \$6,000.00 per annum. Such county attorney shall appoint and employ one assistant known as first assistant county attorney, who shall be paid a salary of \$4,000 per annum; one assistant known as attorney for the board of county commissioners, who shall be paid a salary of \$4,000 per annum; one assistant known as second assistant county attorney, who shall be paid a salary of \$3,200 per annum; one assistant known as third assistant county attorney, who shall be paid a salary of \$2,400 per annum; one assistant to be known as fourth assistant County Attorney who

shall be paid the salary of \$2,400 per annum; one attorney investigator who shall be paid the salary of \$2,200 per annum; said investigator shall be a peace officer and shall have all the powers now possessed by any peace officer, police officer, sheriff or deputy sheriff, including the power to make arrests with or without warrants, such investigator shall be under the sole and exclusive jurisdiction of the county attorney; two stenographers who shall each be paid a salary of not to exceed \$1,500 per annum; one information and advisory clerk who shall be paid a salary of not to exceed \$1,500 per annum. ('27, c. 420, §4; '29, c. 339, §1; '31, c. 310, §1; Apr. 13, 1939, c. 214, §1.)

**Editorial note.**—This section, though perhaps intended to apply particularly to Ramsey County, is clearly valid as involving a reasonable and valid classification avoiding the constitutional objection to local and special legislation.

#### COMPENSATION OF COUNTY ATTORNEY AND APPOINTMENT OF ASSISTANTS 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 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 exceeding \$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.

Acts July 15, 1937, Sp. Ses., c. 54, §2, amends Laws 1925, c. 91, §4, as amended by Laws 1933, c. 432, §3, by fixing the salary of the county attorney at \$1,620, and not over \$400 for clerk hire.

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 \$2,320 and three inspectors at \$2,520.

Act Apr. 19, 1937, c. 291, effective Apr. 19, 1937, amends Laws 1929, c. 187, §10, to provide for three assistants to the county attorney at \$3,100; assistant to act as attorney for the county board at \$5,500; two stenographers at \$1,760; two stenographers at \$1,320; and three inspectors at \$2,520 and traveling expenses.

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. Amended, Laws 1931, c. 310, §1; Laws 1939, c. 214.

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. Amended, Laws 1939, c. 214.

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 Apr. 12, 1937, c. 193, amends Laws 1921, c. 437, as amended, and provides that in counties having 44 to 45 townships, assessed value of \$8,000,000 to \$14,000,000, and population of 25,500 to 26,000, the county attorney shall receive a salary of \$2,520.

Act Apr. 26, 1937, c. 491, amends Laws 1921, c. 437, as amended, to make salary of county attorney at \$2,520.

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. See §§997-4a to 997-4h.

Act Mar. 19, 1937, c. 70, §5, effective July 1, 1937, amending Laws 1933, c. 76, fixes salary at \$1,200.

Laws 1935, c. 81, amending Laws 1933, c. 76. Amended, Mar. 19, 1937, c. 70; Apr. 17, 1937, c. 278.

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. Amended by adding §3-1, Laws 1935, c. 23. See §§997-4a to 997-4h.

Act Jan. 15, 1936, Sp. Ses. 1935-36, c. 27, amends Laws 1933, c. 96.

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. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

Laws 1933, c. 284. Amended, Apr. 12, 1937, c. 193.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

Laws 1933, c. 432. Amended, Apr. 14, 1937, c. 230.

Act Apr. 21, 1937, c. 329, provides that in counties having 14 to 16 townships, 8,400 to 8,600 population, the county attorney shall receive \$700 per year for clerk hire commencing Apr. 1, 1937.

Act Apr. 21, 1937, c. 334, provides that in counties having 16 to 22 townships and a second class city within its limits the district judge shall fix the salary, not exceeding \$720 in any year, of clerical help for the county attorney.

Act 23, 1937, c. 380, provides that in counties having 9,000 to 10,000 population and 38 to 40 townships, the county attorney shall receive \$1,650 per year and 5 cents per mile, and clerk hire not to exceed \$600.

Act Mar. 28, 1939, c. 88, provides that in counties having a population of 25,000 to 30,000, and 27 to 29 congressional townships, the county attorney, on order of the judge of the district court, may appoint clerical help at an expenditure of not more than \$900 in any one year.

Act Mar. 31, 1939, c. 99, fixes the salary and expenses of county attorneys, and their deputies and clerks, in counties having 41 to 43 congressional townships, assessed valuation, exclusive of money and credits, of \$6,000,000.00 to \$12,000,000.00, and population of 25,000 to 30,000, and repeals Laws 1921, c. 437; Laws 1925, c. 91; Laws 1929, cc. 20, 161; Laws 1933, c. 432; Laws 1937, c. 230; Laws 1937, Sp. Ses., c. 54.

Salaries and clerk hire in counties having 50 to 70 townships and a valuation of \$500,000 to \$1,500,000 and population of 2,000 to 3,000. Laws 1939, c. 168.

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 officers whose terms expire on first Monday of January are entitled to compensation for days of service rendered in month of January up to time that their successors qualify and take office. Op. Atty. Gen. (104a-9), Dec. 1 1934.

Laws 1933, c. 219, does not apply to Clearwater County and §1 thereof is not within title of act. Op. Atty. Gen. (104a-3), Feb. 5, 1935.

Where court on appeal affirmed order of county board fixing salary of county attorney, receipts of salary in subsequent year during the term were ineffective, and after end of term, county attorney may recover the amount of the reduction. Op. Atty. Gen. (121a-9), June 25, 1936.

Big Stone County is classified as having 20 full and fractional congressional townships. Op. Atty. Gen. (104a-9), Oct. 14, 1936.

Under Laws 1937, c. 380, county attorney may determine amount of clerk hire within \$600 limitation provided, and county board has no authority with respect thereto. Op. Atty. Gen. (104a-3), June 7, 1937.

Section 2780-15 does not authorize an increase in salary of county attorney but merely enables county board to grant him extra compensation for legal services performed for county board of education in addition to sal-

any limitations in §935. Op. Atty. Gen. (125a-13), July 22, 1937.

Where county board was under impression that it could not change salary of county attorney at beginning of new year and obtained written consent of attorney to reduction for the year, attorney was not entitled to refund of such voluntary reduction accepted by him. Op. Atty. Gen. (121a-9), March 22, 1939.

County board has power annually to fix salary of county attorneys. *Id.*

**COUNTY SURVEYOR**

**936. Bond.**

A county surveyor need not possess any qualifications for the office outside of being a legal voter, and §5697-2 does not apply to such officer. Op. Atty. Gen. (10a-3), Dec. 28, 1934.

Offices of county highway engineer and county surveyor are incompatible, and approval and filing of county highway engineer bond by one who has already qualified as county surveyor constitutes an election to vacate latter office. Op. Atty. Gen. (358a-7), Jan. 31, 1935.

**937. Duputies—Surveys, records, etc.**

Under Laws 1923, c. 441, county board was not authorized to allow claim for salary of deputy surveyor not provided for in budget or in appropriation. Op. Atty. Gen. (475b), Jan. 12, 1938.

County officer may not appoint person under 21 years of age as a deputy, but may appoint him as a clerk, though position requires a bond. Op. Atty. Gen. (126a-33), Dec. 19, 1938.

**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. See §997-4a to 997-4h.

Laws 1933, c. 432. Amended. Apr. 14, 1937, c. 230. Laws 1933, c. 219, does not apply to Clearwater County and §1 thereof is not within title of act. Op. Atty. Gen. (104a-3), Feb. 5, 1935.

Expenses incident to attending surveyors and engineers convention may not be paid out of county funds. Op. Atty. Gen. (123f), Mar. 6, 1936.

**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 \$13,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to make amended act to apply to counties as above.

Act Apr. 12, 1937, c. 193, amends Laws 1921, c. 437, as amended, and provides that in counties having 44 to 45 townships, assessed value of \$8,000,000 to \$14,000,000, and population of 25,500 to 26,000, the county surveyor shall receive \$5 to 15 per day, and expenses and necessary help, while engaged in public work, to be fixed by the county board.

Act Apr. 26, 1937, c. 491, amends Laws 1921, c. 437, as amended without change as to county surveyor.

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. See §997-4 to 997-4h.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224. See §997-4 to 997-4h.

Act Apr. 14, 1937, c. 230, effective May 1, 1937, amends Laws 1925, c. 91, §12, as amended and provides that in counties having 41 to 43 townships, and 25,000 to 30,000 inhabitants, the county engineer shall receive not ex-

ceeding \$2,280 salary, 5 cents mileage, not more than \$1,500 for clerk hire, all fees to be paid into the county treasury.

Act Mar. 31, 1939, c. 99, fixes the salary and expenses of county surveyors and engineers, and their deputies and clerks, in counties having 41 to 43 congressional townships, assessed valuation, exclusive of money and credits, of \$6,000,000.00 to \$12,000,000.00, and population of 25,000 to 30,000, and repeals Laws 1921, c. 437; Laws 1925, c. 91; Laws 1929, cc. 20, 161; Laws 1933, c. 432; Laws 1937, c. 230; Laws 1937, Sp. Ses., c. 54.

Big Stone County is classified as having 20 full and fractional congressional townships. Op. Atty. Gen. (104a-9), Oct. 14, 1936.

Under Laws 1923, c. 441, county board was not authorized to allow claim for salary of Deputy Surveyor not provided for in budget or in appropriation. Op. Atty. Gen. (475b), Jan. 12, 1938.

**CORONER**

**942. Bond.**

A coroner who is not a salaried officer can act on examining board at insane hearing. Op. Atty. Gen. (390b-2), July 6, 1936.

**943. Shall act as sheriff, when.**

Coroner is not entitled to additional compensation for acting as sheriff in a county operating under a special law which fixes compensation of sheriff on an annual salary basis. Op. Atty. Gen. (103a), May 8, 1935.

**946. Inquest.**

Law does not require any formal or written order of coroner to make an autopsy in case of an accidental or violent death. *Kingsley v. F.*, 192M468, 257NW95. See *Dun. Dig.* 2599.

Under Chapter 272, Laws 1915, as amended by Chapter 404, Laws 1919, and modified by Chapter 280, Laws 1921, coroner of Hennepin county or a deputy coroner is required to investigate violent, mysterious, and accidental deaths, and may order an autopsy when and where he deems proper, but order directing an autopsy did not conclude plaintiff, and she had right to show that autopsy was unauthorized or that it was improperly made, and this being construction placed on statutes, it cannot be claimed that they are in violation of due process clause of state or federal constitutions, nor violative of constitutional provision prohibiting special legislation, nor are their titles defective. *Id.*

Sections 949, 951 and 953, require presence of body at inquest, and therefore impliedly authorize coroner, for purpose of holding an inquest, to exhume a body which had been buried prior to time necessity of inquest thereon became apparent. *Sejrup v. S.*, 201M132, 275NW687. See *Dun Dig.* 2599a.

Coroners may hold inquest upon dead bodies only when they feel that such persons have come to their death by violence. Op. Atty. Gen. (103F), Jan. 23, 1935.

A coroner possesses considerable discretion in performance of his duties and is the only person that can hold an inquest, though mandamus might lie to compel him to hold an inquest in a proper case. Op. Atty. Gen. (103f), Jan. 29, 1935.

Coroner cannot hold inquests in deaths occasioned by violence on Fort Snelling Reservation unless there are civil persons, and not soldiers, who might be subjected to prosecution in state court, coroner having no jurisdiction if person committing crime is a soldier. Op. Atty. Gen. (103f), May 12, 1936.

Coroner has discretion to incur charges against county by conducting autopsy and having toxicological examination made of person dying suddenly. Op. Atty. Gen. (103i), Apr. 13, 1937.

Coroner is not authorized to hire men to search debris of burned hotel. Op. Atty. Gen. (103d), Feb. 28, 1939.

In cases of accidental drowning, no inquest is necessary, but it is probably best to have coroner sign death certificate, and in absence of coroner, a private physician called upon finding dead body, could not make a certificate because he was not in attendance at time of death. Op. Atty. Gen., (103f), July 11, 1939.

Right to exhume body after burial. 36MichLawRev1382.

**949. Oath—Failure to appear.**

*Sejrup v. S.*, 201M132, 275NW687; note under §946.

**950. Witnesses—Fees.**

Physician performing autopsy for fee of \$6 is entitled to additional fees as witness at inquest. Op. Atty. Gen., Nov. 8, 1933.

**951. Oath of witnesses.**

*Sejrup v. S.*, 201M132, 275NW687; note under §946.

**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. 25, 1933.

Compensation of coroner for taking of testimony at inquest is 15 cents per folio of the written record, and he can not make any additional charge for services of stenographer. Op. Atty. Gen. (103i), May 8, 1939.

**953. Inquisition—Form.**

Sejrup v. S., 201M132, 275NW687; note under §946.

**955. Person charged arrested.**

Municipal court obtained jurisdiction under coroner's warrant and jury's verdict. *State v. Puent*, 198M175, 269 NW372. See Dun. Dig. 2433.

**957. Deputies.**

Mileage which coroner and his deputy are entitled to charge for necessary travel is governed by §6995 and not §254-47. Op. Atty. Gen. (103a), May 8, 1935.

County officer may not appoint person under 21 years of age as a deputy, but may appoint him as a clerk, though position requires a bond. Op. Atty. Gen. (126a-33), Dec. 19, 1938.

**957-½. Salary of morgue keeper and assistant 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 \$2,400.00 per annum and who shall also be furnished free light, heat, gas and water necessary therefor and 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 \$1,500.00 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 and such light, heat, gas and water shall be paid for in such manner as the upkeep of other county buildings is paid for. (Act Apr. 13, 1933, c. 215, §1; Apr. 24, 1937, c. 389, §1.)

**957-¾a. 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. 294, §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. 12, 1937, c. 193, amends Laws 1921, c. 437, as amended, and provides that in counties having 44 to 45 townships, assessed value of \$8,000,000 to \$14,000,000, and population of 25,500 to 26,000, the coroner shall receive the salary and fees now prescribed by law; fees not to exceed \$3,200.

Act Apr. 26, 1937, c. 491, amends Laws 1921, c. 437, as amended without change as to coroner.

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.

Laws 1933, c. 219, does not apply to Clearwater County and §1 thereof is not within title of act. Op. Atty. Gen. (104a-3), Feb. 5, 1935.

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. See §§997-4a to 997-4h.

Laws 1933, c. 284. Amended. Apr. 12, 1937, c. 193.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224. See §§997-4a to 997-4h.

Act Mar. 28, 1939, c. 97, provides that in counties having an area of over 5,000 square miles and a population of over 150,000, the coroner shall receive a salary of \$3,000 a year, amending Laws 1919, c. 294, §1, as amended by Laws 1929, c. 205, §1.

Act Mar. 31, 1939, c. 99, fixes the salary and expenses of coroners, and their deputies and clerks, in counties having 41 to 43 congressional townships, assessed valuation, exclusive of money and credits, of \$6,000,000.00 to \$12,000,000.00, and a population of 25,000 to 30,000, and repeals Laws 1921, c. 437; Laws 1925, c. 91; Laws 1929, cc. 20, 161; Laws 1933, c. 432; Laws 1937, c. 230; Laws 1937, Sp. Ses., c. 54.

Laws 1935, c. 176. In counties having more than 400,000 population coroner may appoint "clerk-stenographer."

Under Chapter 272, Laws 1915, as amended by Chapter 404, Laws 1919, and modified by Chapter 280, Laws 1921, coroner of Hennepin county or a deputy coroner is required to investigate violent, mysterious, and accidental deaths, and may order an autopsy when and where he deems proper, but order directing an autopsy did not conclude plaintiff, and she had right to show that autopsy was unauthorized or that it was improperly made, and this being construction placed on statutes, it cannot be claimed that they are in violation of due process clause of state or federal constitutions, nor violative of constitutional provision prohibiting special legislation, nor are their titles defective. *Kingsley v. F.*, 192M468, 257 NW95. See Dun. Dig. 2599.

Big Stone County is classified as having 20 full and fractional congressional townships. Op. Atty. Gen. (104a-9), Oct. 14, 1936.

**957-4. Employees in coroner's office in certain counties.**—In addition to such deputies, secretary, morgue keeper and assistance to the morgue keeper as are now 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 a clerk who shall also be a stenographer and shall be designated as "clerk-stenographer," who shall be paid the sum of \$1200.00 per annum out of any moneys in the county treasury, not otherwise appropriated in semi-monthly installments in the same manner as county officials are now paid, and the same shall be in full compensation for all services rendered by such clerk-stenographer. (Act Apr. 15, 1935, c. 176, §1.)

**957-5. Inconsistent acts repealed.**—All acts and parts of acts insofar as the same are inconsistent with the provisions of this act are hereby amended, modified or repealed as the case may be. (Act Apr. 15, 1935, c. 176, §2.)

Sec. 3 of Act Apr. 15, 1935, cited, provides that the act shall take effect from its passage.

**SUPERINTENDENT OF SCHOOLS****958. Salary—Certain counties excepted.**

County board was not authorized to include in a lump sum salary fixed for county superintendent of schools and his traveling expenses, but expenses could be allowed only upon presentation to board of itemized and verified claims. *Van Loh v. W.*, 196M452, 265NW298. See Dun. Dig. 8689.

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.

County superintendent assuming office on the 7th of January was not entitled to pay for first week in that month, the retiring official being entitled thereto. Op. Atty. Gen. (399h), Jan. 14, 1935.

Law providing that superintendent of schools shall receive a minimum of \$1,600 a year does not mean that if during a calendar year there are two different persons holding that position that each should receive that amount. Id.

Salary of county superintendent of schools cannot be reduced by county board to a sum below that provided by law. Op. Atty. Gen. (399h), Jan. 22, 1935.

This section has no application to clerk hire. Op. Atty. Gen., (162), Sept. 29, 1938.

**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.

Board may pay expenses of speakers for graduation exercises. Op. Atty. Gen. (107b-1), Sept. 10, 1937.

Expense incurred by county superintendent of education in purchase of class record books is a proper claim

against county, but expenditures for school officers and teachers manuals, clerk's order books, and receipts for retirement fund are not a proper claim against county. Op. Atty. Gen., (125B-27), August 10, 1939.

**960. Assistants and clerks for County Superintendent of Schools in certain counties—Appointment, qualifications, and compensation.**—In counties containing not less than 45 nor more than 74 schools the county superintendent may be allowed annually, such sum for clerk hire as the county board shall determine, not exceeding the sum of \$500.00. In counties containing not less than 75 nor more than 124 schools the county superintendent may be allowed annually such sum for clerk hire as the county board may determine not exceeding the sum of \$600.00. In counties having 125 schools, but less than 240, the county superintendent may be allowed annually such sum for clerk hire as the county board shall determine, not exceeding the sum of \$650.00, and shall appoint one assistant, and in counties having 240 schools or more, he shall appoint two assistants, and the assistant or assistants shall give their entire time to their duties as such assistant superintendents, and shall serve during the pleasure of the superintendent. The salaries of assistants appointed to serve for full time shall be fixed by the county board. Assistants so appointed to serve for full time shall have had at least 18 months' experience in public schools, and be the holders of teachers' certificates equivalent to diplomas from a Minnesota normal school, except that in counties having two assistants, it shall be sufficient if one of them possesses the teaching experience and the certificate herein referred to. Any assistant at the time of his appointment may or may not be a resident of the county for which he is appointed. In each case the assistant county superintendent shall assist the superintendent in the performance of his general duties, as directed, and report to him. Clerk hire shall be paid to the persons actually rendering such clerical services, out of the county treasury, upon the order of the county auditor accompanied by a certificate of the county superintendent that the service has been rendered, and no allowance for such clerk hire shall be made or received in any case except for services actually rendered. ('11, c. 216, §3; G. S. '13, §1012; '27, c. 342, §1; Feb. 27, 1935, c. 22; Apr. 29, 1935, c. 353.)

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.

Clerk hire in Clay county is limited to \$600 per year. Op. Atty. Gen., (162), Sept. 29, 1932.

**960-1. Same—Counties excepted.**

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

**962. Traveling expenses.**

Laws 1933, c. 432. Amended. Apr. 14, 1937, c. 230. County board was not authorized to include in a lump sum salary fixed for county superintendent of schools and his traveling expenses, but expenses could be allowed only upon presentation of board of itemized and verified claims. Van Loh v. W., 196M452, 265NW298. See Dun. Dig. 8689.

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, §§264-47, 254-48, so as to limit allowance for use of automobile to seven cents per mile. Op. Atty. Gen., May 23, 1931.

If superintendent of schools hires a livery, she is entitled to be reimbursed by county for amount actually paid, provided it is usual and customary charge for such services. Op. Atty. Gen., Nov. 1, 1933.

**963. Same—Teachers' Institutes [Repealed].**

Repealed. Laws 1925, c. 110, §6.

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

Act Apr. 26, 1937, c. 491, amends Laws 1921, c. 437, as amended, to fix salary of superintendent at \$2,040 and fees and clerk hire as prescribed by law.

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, §16, and authorizes allowances of additional clerk with salary not to exceed \$80 per month.

Act Apr. 14, 1937, c. 230, effective May 1, 1937, amends Laws 1925, c. 91, §11, as amended, and provides that in counties having 41 to 43 townships, and 25,000 to 30,000 inhabitants, the superintendent of schools shall receive \$1,704 salary and \$900 clerk hire, 5 cents mileage and expenses according to Laws 1919, c. 473 [§959], all fees to be paid into the 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. 473, §1, so as to apply the amended act to counties as above.

Act Apr. 12, 1937, c. 193, amends Laws 1921, c. 437, as amended, and provides that in counties having 44 to 45 townships, assessed value of \$8,000,000 to \$14,000,000, and population of 25,500 to 26,000, the superintendent of schools shall receive a salary of \$2,040, and fees not exceeding \$3,200, and clerk hire as now prescribed.

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. See §§997-4a to 997-4h.

Act Mar. 19, 1937, c. 70, §8, effective July 1, 1937, amends Laws 1933, c. 76, but makes no change.

Laws 1935, c. 81, amending Laws 1933, c. 76. Amended. Mar. 19, 1937, c. 70; Apr. 17, 1937, c. 278.

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 funds. Amended by adding §3-1 Laws 1935, c. 23. See §§997-4a to 997-4h.

Act Jan. 15, 1936, Sp. Ses. 1935-36, c. 27, amends Laws 1933, c. 96.

Act Apr. 1, 1933, c. 143, amends Laws 1929, c. 69, §1, to provide that superintendent shall receive \$2,000 per annum. See §§997-4a to 997-4h.

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 \$5,000,000 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 Mar. 25, 1939, c. 85, provides that in counties having 16 to 18 townships, area of 500 to 600 square miles, assessed valuation, including money and credits of \$8,000,000 to \$11,000,000, and population of 17,000 to 19,000, the county superintendent of schools shall receive for clerk hire not less than \$800 per annum.

Act Mar. 31, 1939, c. 99, fixes the salary and expenses of superintendents of schools, and their deputies and clerks, in counties having 41 to 43 congressional townships, assessed valuation, exclusive of money and credits, of \$6,000,000.00 to \$12,000,000.00, and population of 25,000 to 30,000, and repeals Laws 1921, c. 437; Laws 1925, c. 91; Laws 1929, cc. 20, 161; Laws 1933, c. 432; Laws 1937, c. 230; Laws 1937, Sp. Ses., c. 54.

Act Mar. 31, 1939, c. 110, provides that in counties having 16 to 18 townships, 500 to 600 square miles, assessed valuation, including money and credits, of \$8,000,000 to \$11,000,000, and population of 17,000 to 19,000, the superintendent of schools shall receive an annual salary of \$2500.

Laws 1933, c. 219, does not apply to Clearwater County and §1 thereof is not within title of act. Op. Atty. Gen. (104a-3), Feb. 5, 1935.

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. See §§997-4a to 997-4h.

Laws 1933, c. 284. Amended. Apr. 26, 1937, c. 491. Laws 1933, c. 284, §16, repeals Laws 1919, c. 224. See §§997-4a to 997-4h.

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. See §§997-4a to 997-4h.

Laws 1935, c. 205, §1. Counties having population of 220,000 to 330,000, county superintendent shall receive

\$3,500 per year and stenographer not exceeding \$1,080 per year.

Laws 1905, c. 190, repealed. Laws 1935, c. 205, §2.

County officers whose terms expire on first Monday of January are entitled to compensation for days of service rendered in month of January up to time that their successors qualify and take office. Op. Atty. Gen. (104a-9), Dec. 1, 1934.

Big Stone County is classified as having 20 full and fractional congressional townships. Op. Atty. Gen. (104a-9), Oct. 14, 1936.

Since Laws 1933, c. 166, fixing salaries of county superintendents of certain schools, fails to provide for any clerk hire, county superintendent may not proceed with petition under Laws 1939, c. 319, for additional clerk hire. Op. Atty. Gen. (399c), June 14, 1939.

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

##### 964. County assessors and deputies.

Laws 1935, c. 118. Compensation of assessors in counties having more than 450,000 population and valuation of more than \$450,000,000.

##### 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.

#### COUNTY PURCHASING AGENT

**969-11. County purchasing agent in certain counties; clerical assistance; office; rules and regulations.**—In any county now or hereafter having a population of not less than fifty thousand nor more than seventy thousand inhabitants according to the last federal census, and consisting of not less than thirty-five nor more than forty-five congressional townships, the county board may by resolution duly adopted at a meeting of said board, appoint a county purchasing agent who shall act during the pleasure of the board and who shall have supervision under the direction

of said county board, of the purchase and distribution of all merchandise and supplies used by any department of said county, up to the amount of Five Hundred Dollars (\$500). The county board may allow such clerical help to such county purchasing agent as it shall deem necessary. The said county board may provide in the county court house a suitable store-room in which to store and from which to distribute said supplies and may prescribe such rules and regulations for the management of the work of said purchasing agent as it shall deem necessary. (July 14, 1937, Sp. Sess., c. 33, §1.)

**969-12. Same—Compensation; curative.**—The compensation of such purchasing agent and of any assistants shall be fixed by the county board by resolution, and upon receipt of any such resolution certifying the name, compensation, and date of appointment, it shall be the duty of the county auditor to enter the name of such purchasing agent and any assistants in the books of the office kept for recording the names of county officers and their employes and said county purchasing agent and his assistants shall be paid such compensation in the same manner as other county officials and employes are now paid, and the same shall be in full compensation for all services rendered to such county by such county purchasing agent and his assistants. Any services and acts rendered and performed by such purchasing agent and his assistants since January 1, 1937, are hereby approved and legalized and the county board is hereby authorized to compensate for the same. (July 14, 1937, Sp. Sess., c. 33, §2.)

**969-13. Same—Oath; bond, cost of.**—The county purchasing agent herein authorized to be appointed shall take the oath prescribed by law for public officials and file with the Register of Deeds for record a public bond running to the county, in the amount of One Thousand Dollars (\$1,000), the reasonable premium for which bond, if paid to any corporate surety company, shall be paid by said county. (July 14, 1937, Sp. Sess., c. 33, §3.)

#### 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.

Estimate for repair and construction of bridges of county need not be published in addition to its publication as a part of official proceedings of county board, in which case a publication of total cost of work after same has been completed by day labor is sufficient. Op. Atty. Gen., (642a-3), Sept. 13, 1938.

##### 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.

#### COUNTY WELFARE BOARD

**974-11. County welfare boards established.**—There shall be established in each county of the state a County Welfare Board which shall consist of five members, to be chosen as follows:

(a) Except in Counties which contain a city of the first class and Counties having a Poor and Hospital Commission, three members shall be chosen by the Board of County Commissioners, and at least one but not more than three shall be members of the Board of County Commissioners. Such members shall be residents of the County, shall hold office for the term of two years, and thereafter as each term expires a successor shall be appointed by the Board of County Commissioners for a like term of two years. Two members, one of whom shall be a woman, shall be appointed by the Board of Control from a list of residents, five men and five women, submitted by the Board of County Commissioners. One member shall hold office for the term of one year, and one for the

term of two years, and thereafter as each term expires a successor shall be appointed by the State Board of Control for the full term of two years from a list of five residents submitted by the Board of County Commissioners. When a vacancy occurs on the County Welfare Board by reason of the death, resignation or expiration of the term of office of a member of the Board of County Commissioners who is also a member of the County Welfare Board, the unexpired term of such member shall be filled by the appointment of another member of the County Board. Except to fill a vacancy and for the first year of its existence the term of office of each member of the County Welfare Board shall commence on the first Thursday after the first Monday in July, and shall continue until the expiration of the term for which such member was appointed or until a successor is appointed and qualifies. Provided, however, that if the Board of County Commissioners shall refuse, fail, omit or neglect to submit the list of residents to the Board of Control for appointment to the County Welfare Board by the Board of Control, as herein provided, or to appoint the three members to the County Welfare Board, as herein provided, by the time when the terms of such members commence, or, in the event of vacancies, for a period of thirty days thereafter, the Board of Control is hereby empowered to and shall forthwith appoint residents of said county to the County Welfare Board. Before the Board of Control shall fill any vacancy hereunder resulting from the failure or refusal of the Board of County Commissioners of any county to act as required herein, the Board of Control shall mail fifteen days' written notice to the Board of County Commissioners of its intention to fill such vacancy or vacancies unless the Board of County Commissioners shall act before the expiration of said fifteen day period. The members appointed immediately after this law goes into effect shall hold office from their appointment until the first Thursday after the first Monday in July, 1938.

(b) In any county containing a city of the first class operating under a home rule charter, wherein there is established in such city a Board of Public Welfare for administration of poor relief in such city only, the Board of County Commissioners shall be the County Welfare Board. In such counties the members shall be reimbursed by the county for expenses actually incurred in the performance of their official duties under the provisions of this act. In such counties the County Auditor shall be ex-officio secretary of said board, but shall have no voice in its proceedings. In such counties the system of caring for the poor in effect at the time of the passage of this act shall be continued, subject to all provisions of law relating thereto, except that, if such county is operating under the township system of caring for the poor, such towns, villages and cities of the third and fourth class therein may by resolution of its governing body, agree with the County Welfare Board that the latter shall supervise and administer the poor relief fund in such town, village or city. In any such county the powers and duties of such Board of Public Welfare shall not be affected by the provisions of this act. Such Board of Public Welfare in administering poor relief funds, granted by any state agency authorized so to do by law, shall comply with all standards of administration and procedure prescribed by such agency.

(c) In any county and any city of the first class within such county, which such city shall contain taxable property having an assessed valuation of more than 95 per cent of the assessed valuation for taxation purposes of all property in such county, the Board of Public Welfare shall be continued as the County Welfare Board and shall be appointed or elected as provided by Laws 1929, Chapter 371, as amended [§668 (3), note]. The said board shall receive such compensation and shall have and exer-

cise all the powers as provided by the said act of 1929, as amended, in addition to any other and further powers granted herein and shall have and perform all of the additional duties referred to in Section 7 of this act [§974-17], except that the Executive Secretary of such board shall be appointed and his salary shall be fixed pursuant to Section 4 of this act [§974-14].

(d) That in any county in this state having a population of more than 200,000, and an assessed valuation of more than \$250,000,000 and an area of over 5,000 square miles, the Board of Poor Commissioners shall be continued as the County Welfare Board and shall be appointed or elected as provided by Laws of 1907, Chapter 222, as amended [§§3196 to 3199]. The said board shall receive such compensation and shall have and exercise all the powers as provided by the said Act of 1907, as amended, in addition to any other and further powers granted herein and shall have and perform all the additional duties referred to in Section 7 of this act [§974-17].

(e) Any county now having a Poor and Hospital Commission, said Poor and Hospital Commission shall be the County Welfare Board. (Apr. 22, 1937, c. 343, §1; July 24, 1937, Sp. Ses., c. 90.)

County Welfare Board is a distinct and separate legal entity, and even in Hennepin county is a board separate and distinct from board of county commissioners, but since board has no specific authority to make and sign its own checks or warrants, proper practice would be for welfare board to authorize county auditor to issue warrants on its order, who would be authorized to issue county warrants based upon certified list of disbursements. Op. Atty. Gen. (125a-64), May 22, 1937.

County Welfare Board is not required to publish minutes of meeting, but listed disbursements are required to be published in county financial statement. Id.

County Welfare Board created by this act will assume functions and duties of old child welfare board. Op. Atty. Gen. (840a-11), May 24, 1937.

Physician as member of County Welfare Board may not be employed by board or purchase merchandise from one of its members. Op. Atty. Gen. (125a-64), June 12, 1937.

County Welfare Board assumes responsibility for operation and maintenance of poor farm and also relief to persons who have deeded their homes to county as security for relief to be issued in future. Op. Atty. Gen. (125a-64), June 23, 1937.

Of two members of county welfare board first appointed by board of control, one shall hold office for a term of one year and one for a term of two years. Op. Atty. Gen. (125a-64), July 23, 1937.

Vacancy caused by expiration of term of county commissioner is to be filled by appointment of another member of county board. Op. Atty. Gen., (125a-64), Nov. 30, 1938.

(a) Board of control should appoint one woman and one man. Op. Atty. Gen. (125a-64), June 26, 1937.

**974-12. Filing of oath of office.**—Each member of the Board, other than those holding some other public office for which they have qualified, shall take the oath of office prescribed in Mason's Minnesota Statutes 1927, Section 6963, and file same in the office of the County Auditor of the county for which such member was appointed. No person shall be qualified to act as a member of said County Welfare Board until such oath has been filed. (Apr. 22, 1937, c. 343, §2.)

**974-13. Per diem of members.**—Except as herein provided in Section 1, Subdivisions (b) and (c) [§974-11 (b, c)], the members of the County Welfare Board shall receive, in addition to any salaries they may receive from any other source, from the state or county or any municipality, the sum of \$3 per day for time actually spent in transacting the business of the Board not exceeding, however, a maximum of twenty-five days a year. Members shall be reimbursed by the county for expenses actually incurred in the performance of their official duties. (Apr. 22, 1937, c. 343, §3.)

Members of county welfare board may not be reimbursed more than five cents per mile for use of their cars. Op. Atty. Gen. (104a-8), Oct. 13, 1937.

**974-14. Election of officers.**—The County Welfare Board shall at its first meeting, and thereafter at its annual meeting on the first Thursday after the first

Monday in July of each year, meet and organize by electing a Chairman, a Vice-Chairman and a Secretary, except as provided in Section 1, Subdivision (b) [§974-11 (b)], each of whom shall perform the customary duties of his office. Said Board shall appoint an Executive Secretary and such assistants and clerical help as it may deem necessary to perform the work of the Board. The appointment of said Executive Secretary shall be made in accordance with rules and regulations to be adopted by the State Board of Control and shall be chosen upon the basis of his experience, training and general qualifications for the work. His salary shall be fixed by the County Welfare Board subject to the approval of the County Board of Commissioners, except the salary of the Executive Secretary of the County Welfare Board appointed pursuant to Section 1, Subdivision (c) hereof [§974-11 (c)], which salary shall be approved by the Board of County Commissioners of any such county and the City Council of any city of the first class located within such county, and said County Welfare Board shall fix the salary of such other employes at it may hire.

Said welfare board shall require its executive secretary and such other of its employes as it may determine, to execute and file with it a bond conditioned as are other official bonds, to the state, with corporate sureties to be approved by it, in such amount as it may fix, not less than \$1,000.00, and the premium thereon shall be paid by said board. (Act Apr. 22, 1937, c. 343, §4; Feb. 17, 1939, c. 19.)

State board of control has authority to require bond by executive secretary of county welfare board, amount to be fixed by county board, and bond to run to state of Minnesota. Op. Atty. Gen. (125a-64), July 28, 1937.

Bond of executive secretary of child welfare board cannot be paid for out of general funds of county. Id.

Executive secretary of county welfare may not be required to execute a fidelity bond, but it would not be unlawful for board of control to pass a resolution providing that it is desirable that such secretary give a fidelity bond to be filed as other bonds and paid for by county, and a bond so voluntarily given would be enforceable. Op. Atty. Gen. (104a-2), Aug. 25, 1937.

County may not pay premium on bond of executive secretary of county welfare board, nor cost of notary public commission. Op. Atty. Gen. (107b-3), Aug. 4, 1938.

State board of control has power to disapprove appointment of executive secretary. Op. Atty. Gen. (125a-64), Feb. 24, 1939.

**974-15. County to provide offices.**—The county, except as herein provided in Section 1, Subdivision (c) [§974-11 (c)], shall provide suitable offices for the County Welfare Board and its employes. (Apr. 22, 1937, c. 343, §5.)

**974-16. Salaries, etc. to be paid by county.**—The salaries, office, traveling and other necessary expenses of the County Welfare Board, including such amount as may be allowed in the discretion of the county board as compensation for cashing old age assistance and other welfare board checks, shall be paid by the county, except as provided in the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 974-11(c) and shall be subject to reimbursement out of state and Federal funds as may be provided by law. (Apr. 22, 1937, c. 343, §6; Apr. 22, 1939, c. 445, §1.)

County welfare board cannot purchase automobile. Op. Atty. Gen., (707a-7), Oct. 14, 1938.

**974-17. Duties and powers of the board.**—(a) After its establishment the County Welfare Board shall forthwith assume the powers, duties and responsibilities of the County Child Welfare Board, if any, existing in the county, and shall perform such duties as may be required of the County Child Welfare Board or by law or by the State Board of Control with regard to the enforcement of all laws for the protection of defective, illegitimate, dependent, neglected and delinquent children.

(b) The County Welfare Board, except as provided in Section 1, Subdivision (b) [§974-11 (b)], shall be charged with the duties of administration of all forms of public assistance and public welfare, both

of children and adults, and shall supervise, in cooperation with the Board of Control, the administration of all forms of public assistance which now are or hereafter may be imposed on the State Board of Control by law, including aid to dependent children, old age assistance, veterans aid, aid to the blind, and other public assistance or public welfare purposes. The duties of the County Welfare Board shall be performed in accordance with the standards, rules and regulations which may be promulgated by the State Board of Control in order to comply with the requirements of the Federal Social Security Act and to obtain grants-in-aid available under said act.

(c) The County Welfare Board provided for in Section 1, Subdivision (b) [§974-11 (b)], shall be charged with the duties of administration of all forms of public assistance and public welfare within the purview of the Federal Social Security Act and which now are, or hereafter may be, imposed on the State Board of Control by law, of both children and adults, including aid to dependent children, old age assistance and aid to the blind. The duties of such County Welfare Board shall be performed in accordance with the standards, rules and regulations which may be promulgated by the State Board of Control in order to comply with the requirements of the Federal Social Security Act and to obtain grants-in-aid available under said act.

(d) The State Board of Control shall have the authority to adopt and enforce regulations concerning the use and publication of lists of public assistance recipients by county agencies in such form as necessary to comply with the requirements of the Federal Social Security Board. Provided, however, that this section shall in no wise interfere with the publication of the annual County Financial Statement. (Apr. 22, 1937, c. 343, §7; Apr. 22, 1939, c. 407.)

County Welfare Board may publish proceedings. Laws 1939, c. 165.

Judge of juvenile court will continue to exercise functions and duties imposed by §§8671 to 8689 until Laws 1937, ch. 438, become effective. Op. Atty. Gen. (335b), June 11, 1937.

In counties operating under county system of poor relief, county welfare board will administer all forms of poor relief, and there is some question whether or not act abolished town system. Op. Atty. Gen. (125a-64), June 23, 1937.

County investigator of old age assistance will be under welfare board. Op. Atty. Gen. (125a-64), June 23, 1937.

Management and control of county sanatorium is in sanatorium commission and not in county welfare board. Op. Atty. Gen. (556a), July 19, 1937.

County welfare board does not have responsibility or authority for hospitalization at university hospital. Op. Atty. Gen. (1001c), July 20, 1937.

Welfare board is not responsible for support of feeble-minded, epileptic and insane persons receiving institutional care. Op. Atty. Gen. (125a-64), July 28, 1937.

Legislature did not intend to transfer to county welfare board in a county operating under town system responsibility of furnishing poor relief to dependent children committed to guardianship of state board of control, but county welfare board should cooperate with local relief authorities and see that such children receive adequate and proper care. Op. Atty. Gen. (339o-5), Aug. 2, 1937.

Certification of patients to Minnesota general hospital is to be made pursuant to §§4577 to 4589 and not by county welfare board. Op. Atty. Gen. (1001c), Aug. 24, 1937.

County welfare board assumes duties of local agent appointed pursuant to §4458, but guardian appointed pursuant to §§8646 and 8647 will continue to act until guardianship is terminated in usual manner. Op. Atty. Gen. (125a-64), Oct. 5, 1937.

Claims under §15 of old age assistance act should be executed by someone acting for county welfare board. Op. Atty. Gen. (521b-1), Oct. 11, 1937.

County physicians are to be appointed by county board and not by county welfare board. Op. Atty. Gen. (104b-7), Oct. 12, 1937.

County home and poor farm should be maintained and operated by county welfare board in counties operating under county system. Op. Atty. Gen. (125a-64), Nov. 5, 1937.

County physician is to be appointed by county board and not by county welfare board. Op. Atty. Gen. (104b-7), Nov. 22, 1937.

County welfare board has jurisdiction to enter into contract for hospitalization of indigent persons under poor relief laws, but not for hospitalization at Minnesota General Hospital or a hospital coming within Laws 1935, c. 359. Id.

County may pay state board of control for mental examination made at request of county welfare board. Op. Atty. Gen. (124a-64), Dec. 10, 1937.

Town system of poor relief was not abolished by establishment of county welfare board, and primary obligation to care for poor rests upon various municipalities, but county may extend necessary aid when municipality is unable to provide it, or refuses to provide it, and although responsibility for care of persons in need of hospitalization is upon county board, that board may designate county welfare board to act as its agent, except as to matters requiring exercise of judgment and discretion of county board. Op. Atty. Gen. (125a-27), Jan. 26, 1938.

Welfare board may pay incidental expenses in cooperation with state and federal government in connection with resettlement and national reemployment program. Op. Atty. Gen. (125a-64), Feb. 2, 1938.

Welfare board may retain osteopaths for osteopathic services to relief clients, but treatments given and services rendered must be in strict accordance with laws defining duties and authority of an osteopath. Op. Atty. Gen. (125a-64), Apr. 11, 1938.

Although primary obligation to care for poor rests upon various towns, cities, and villages in counties operating under township system, county welfare board may in proper cases extend necessary aid when municipality is unable to, or refuses to provide such aid, but municipality is not required to reimburse the county welfare board. Op. Atty. Gen. (125a-64), May 19, 1938.

"Clinical observation and treatment" is "hospital service and treatment" and responsibility for payment of cost in connection with university hospital service and treatment rests with county board and not with county welfare board or municipality in which person receiving such treatment has his place of settlement. Op. Atty. Gen. (1001c), May 19, 1938.

Welfare board may pay for expenses incurred for rent, light, salaries, janitor's salary, and maintenance and equipment for rural resettlement office, national reemployment service and seed loan office, but may not pay premium on bond of executive secretary of welfare board out of county funds. Op. Atty. Gen. (125a-64), July 19, 1938.

County under township system may levy tax for poor relief purposes, which must be expended by county welfare board. Op. Atty. Gen. (125a-64), Oct. 4, 1938.

County under town system of poor relief may levy taxes pursuant to its obligations under §§195-1 and §974-17 and §974-16, and administer aid received from state and federal government through the county welfare board, but does not have authority to make levies to defray cost of general poor relief. Op. Atty. Gen. (519j), March 8, 1939.

County welfare board and not board of county commissioners should administer county home and poor farm in counties operating under county system. Op. Atty. Gen. (339k), August 1, 1939.

**974-18. To furnish estimates to county board.**—On or before the first day of July each year the County Welfare Board, except any such board referred to in Section 1, Subdivisions (b) and (c), of this act [§974-11 (b, c)], shall submit to the County Board of Commissioners an estimate of the amount needed by it to perform its duties, including expenses of administration, and the County Board of Commissioners shall consider the estimates so submitted and, if approved, shall levy a tax as provided by law for said purposes. In the event said estimate is not approved, the County Board of Commissioners shall confer with the County Welfare Board and adjust a budget in accordance with the facts and levy a tax for the amount required.

In counties referred to in Section 1, subdivision (b) [§974-11 (b)], the estimate required shall not include poor relief in such counties or institutional requirements in any city of the first class located therein. The tax levy by the County Board of Commissioners in such counties shall be such as is required for categories of aid under the Federal Social Security Act, and shall be separate and distinct from other levies made by it. The governing body of any such city of the first class may annually levy a tax for poor relief as authorized by such home rule charter, on the real and personal property within the corporate limits of such city. Such tax levy and the proceeds thereof shall be subject to the same control and supervision as is imposed on any existing public welfare tax levy.

On the first day of July of each year the County Welfare Board referred to in Section 1, Subdivision (c) [§974-11 (c)], of this act, shall present its estimate of the amount needed by it to perform its du-

ties, including expense of administration, to the Board of County Commissioners of any such county and the City Council of the city of the first class located in such county; the cost of all such relief, including the maintenance of any almshouse, sanatorium or hospital maintained by such county and city, shall be paid 72½% by such county and 27½% by such city. (Apr. 22, 1937, c. 343, §8.)

County welfare board need not submit for approval as to form and legality claims against board, unless requested by board. Op. Atty. Gen. (125a-64), Nov. 10, 1937.

After funds have been allocated to county welfare board for administrative purposes, county board of commissioners does not have authority to pass upon advisability or necessity of expenditures by welfare board for individual items of equipment used by such board. Op. Atty. Gen. (125a-64), Nov. 15, 1937.

Although funds are allocated to county welfare board by county board, administration of funds is thereafter vested in welfare board and county board has no authority to pass upon advisability or necessity of expenditures. Op. Atty. Gen. (125a-64), Feb. 2, 1938.

County welfare board is limited to amount allocated pursuant to this section in expending county funds. Op. Atty. Gen., (125a-64), Oct. 4, 1938.

**974-19. County board to meet monthly.**—The County Welfare Board shall meet and advise with the Executive Secretary at least once each month and said Executive Secretary shall report and be responsible to said County Welfare Board and shall be directed in his activities by said Board. The Executive Secretary shall be charged with the administration of the duties of the County Welfare Board and shall perform such additional duties as the County Welfare Board may designate. (Apr. 22, 1937, c. 343, §9.)

**974-20. Inconsistent acts repealed.**—All acts or parts of acts inconsistent with the provisions of this act are hereby repealed. (Apr. 22, 1937, c. 343, §10.)

**974-21. Effective July 1, 1937.**—This act shall take effect and be in force from and after July 1st, 1937. (Apr. 22, 1937, c. 343, §11.)

**974-22. County Welfare Board may publish expenditures.**—The County Welfare Board may, with the approval of the Board of County Commissioners, publish monthly or quarterly, all expenditures, the publication of which are not prohibited by law. (Act Apr. 8, 1939, c. 165.)

#### PUBLIC BUILDINGS AND WORKS IN CERTAIN MUNICIPALITIES

Act Mar. 25, 1939, c. 79, authorizes the county board in counties having a population of 240,000 to 350,000, to regulate housing, within townships which consent to the application of the law. The act provides for no standards of regulation, and seems to be unconstitutional as a clear delegation of legislative power, and as local and special without any valid basis of classification.

#### 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.

Uncollected fees should be reported by register of deed in his verified statement. Op. Atty. Gen. (104b-7), Mar. 8, 1935.

##### 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.

Executive secretary of county welfare may not be required to execute a fidelity bond, but it would not be unlawful for board of control to pass a resolution providing that it is desirable that such secretary give a fidelity bond to be filed as other bonds and paid for by county, and a bond so voluntarily given would be enforceable. Op. Atty. Gen. (104a-2), Aug. 25, 1937.

##### 981. Bonds recorded and forwarded to secretary of state.

County officer may not appoint person under 21 years of age as a deputy, but may appoint him as a clerk, though position requires a bond. Op. Atty. Gen. (126a-33), Dec. 19, 1938.

**987. Records to be public.**

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

Petition for change of county seat is open to public inspection while on file with county auditor. Op. Atty. Gen. (125a-19), Mar. 24, 1938.

**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 on the county area plan, though carried out under livestock sanitary board. Op. Atty. Gen., July 12, 1933.

Probate judge owning newspaper is not prohibited from publishing citations, orders, etc., in his own newspaper where fees are paid by private individuals. Op. Atty. Gen., Feb. 6, 1934.

Foreigner who is himself an undertaker cannot contract with county for pauper burials. Op. Atty. Gen. (707a-7), May 2, 1934.

County board giving orders on merchants instead of cash to employees on relief rolls may not give an order on store of a commissioner. Op. Atty. Gen. (90b), July 24, 1934.

Member of board of poor and hospital commissioners appointed under Laws 1917, c. 187, as amended by Laws 1931, c. 60, is a county officer within the meaning of this section. Op. Atty. Gen. (104b-4), Aug. 13, 1934.

County board cannot enter into contract with oil company in which one of commissioners is a stockholder. Op. Atty. Gen. (707b-6), Jan. 11, 1935.

A license is not a contract and an alderman of a city may receive a license to sell intoxicating liquors, except that he cannot vote on his own application. Op. Atty. Gen. (218g), Feb. 15, 1935.

County health officer receiving no remuneration of any kind is not a county officer and may receive compensation from county for operations upon poor relief patients and for hospitalization for them in hospital owned by him. Op. Atty. Gen. (707b-6), Apr. 16, 1935.

Mortuary partnership of which coroner is a member cannot handle funerals for those on poor relief and bill county therefor. Id.

County physician is a county officer and hospital in which he owned an interest is not entitled to contract with county or charge for services. Id.

A coroner who is not a salaried officer can act on examining board at insane hearing. Op. Atty. Gen. (390b-2), July 6, 1936.

This section has no bearing on question whether deputy sheriff is entitled to collect per diem fees for acting as guard to sheriff in transporting persons to state institutions. Id.

County coroner may not enter into contract with county for burial of pauper though he is compensated on a fee basis without any regular salary. Op. Atty. Gen. (90b), Apr. 20, 1937.

Physician as member of county welfare board may not be employed by board or purchase merchandise from one of its members. Op. Atty. Gen. (125a-64), June 12, 1937.

Law prohibits member of county welfare board from being directly or indirectly interested in a contract with county, and does not forbid wife of a member of board from being interested in such a contract, but there is always an issue of fact whether a member is interested in a contract entered into by wife. Op. Atty. Gen. (125a-64), July 29, 1937.

Public policy would render it improper for member of county welfare board to receive grants of benefits in way of old age assistance, aid to dependent children, aid to the blind, direct relief, or other direct benefits administered by county welfare board. Id.

County commissioner may not be employed by county board and be paid therefor. Op. Atty. Gen. (90b), Sept. 15, 1938.

County commissioner who is also member of county welfare board and stockholder in an incorporated general merchandise store may not enter into contract with

store on behalf of county welfare board. Op. Atty. Gen. (358a-3), Nov. 30, 1938.

County treasurer may act as director of a national bank in his county wherein county deposits funds, but members of county board of audit, consisting of chairman of the board, clerk of court, and county auditor, may not be interested in depository. Op. Atty. Gen. (90B-2), July 21, 1939.

**991. Contracts in certain counties.**—In counties having less than seventy-five thousand population, no contract for work or labor, or for the purchase of furniture, fixtures, or other property, or for the construction or repair of roads, bridges, or buildings, the estimated cost or value of which shall exceed five hundred 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 to machinery in or connected with public buildings, where the public interests 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; Feb. 20, 1935, c. 17; Feb. 3, 1939, c. 5.)

Counties having 75,000 to 225,000 population, must advertise for bids on all expenditures in excess of \$500. Laws 1939, c. 246.

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 materlas 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.

Laws Special Session 1933, c. 69, does not apply to Anoka County. Op. Atty. Gen., Feb. 13, 1934.

In constructing an addition to court house at a cost not to exceed \$8500, labor may be done through ERA or relief labor, but county board must advertise for bids for material. Op. Atty. Gen. (107b-16), Sept. 29, 1934.

Insurance may be purchased without bids. Op. Atty. Gen. (125a-28), Jan. 8, 1935.

Statute does not require county purchasing wood lots to be used in furnishing employment to needy poor persons to advertise for bids. Op. Atty. Gen. (107b-15), Feb. 5, 1935.

Counties having less than 75,000 population were not relieved of requirements of this section as amended. Op. Atty. Gen. (707a-7), Feb. 26, 1935.

Where county does not have sufficient room in courthouse, county board may buy land and a building next door without a vote of the people or a call for bids, it having sufficient money on hand to make the purchase. Op. Atty. Gen. (125a-41), May 9, 1935.

A county may not lease an automatic coal stoker with option to purchase at end of term, though entire cost of stoker is to be paid out of moneys paid by the device. Op. Atty. Gen. (707b-3), June 13, 1935.

County board may employ physician for poor without letting work upon bids, and may change compensation from time to time, but cannot contract for a definite term at a definite salary. Op. Atty. Gen. (104b-7), Nov. 29, 1935.

All counties should advertise for bids, notwithstanding that they may have less than 75,000 population. Op. Atty. Gen. (707a-1), Feb. 15, 1936.

County need not forfeit deposit with bid by contractor who wished to withdraw after acceptance of a bid because of honest mistake in his estimate, if the bidder pays expenses of re-advertisements. Op. Atty. Gen. (707a-3), June 27, 1936.

Under statute requiring three weeks' published notice of bids, time of opening bids should be not less than one week from date of last publication. Op. Atty. Gen. (125a-17), May 7, 1937.

In advertising for bids for bridge work, \$2595, rather than \$991 should be followed. Id.

As regards construction of courthouse as a PWA project with government aid, this section is superseded by §1918-56, as extended by Laws 1937, ch. 328. Id.

It is not necessary for a county to advertise for bids in purchasing a particular tract of land for gravel purposes. Op. Atty. Gen. (125a-41), July 30, 1937.

Contract for more than \$500 without advertising for bids is void, but persons furnishing labor and materials is entitled to recover reasonable value. Op. Atty. Gen. (707a-1), Aug. 9, 1937.

Failure to comply with bid provision of statute renders contract void, but person doing work and furnishing materials may recover the reasonable value thereof. Op. Atty. Gen. (707a-7), Aug. 17, 1937.

Section relates only to work done by contract, and county board may have county road work done by day labor and hire necessary machinery at a stipulated rate per hour, though no purchase of materials in excess of \$500 may be made without first advertising for bids, but contracts for construction in excess of \$500 may not be made under guise of day labor work without first calling for bids. Op. Atty. Gen. (707a-1), Sept. 29, 1937.

In order to give employment to those out of work, county may draw individual contracts with truckers to haul gravel on county roads without calling for bids, if each contract is in fact a separate contract. Op. Atty. Gen. (412a-23), Jan. 26, 1938.

Blue Earth County is not required to advertise for bids on remodeling court house even though estimated cost exceeds \$500. Op. Atty. Gen. (707a-7), Feb. 8, 1938.

County board may employ day labor to remodel court house without advertising for bids pursuant to PWA contract. Op. Atty. Gen. (707a-7), Feb. 8, 1938.

County or village may purchase land at sales held pursuant to Laws 1935, c. 386 (§2139-15). Op. Atty. Gen. (425c-10), May 4, 1938.

Counties must accept or reject bids as received and opened and may not allow bidder to change terms so as to permit allowance as to low items, where bids are conditioned on acceptance of combined projects. Op. Atty. Gen. (707a-10), May 11, 1938.

County board constructing county garage as a PWA project may employ day labor without advertising for bids. Op. Atty. Gen. (707a-17), Aug. 10, 1938.

Where cost of materials is less than \$500 county board may purchase materials and construct additions to court house by day labor without advertising for bids, though

total cost exceeds \$500. Op. Atty. Gen., (125a-20), Aug. 20, 1938.

Mower County is not required to advertise for bids in purchasing material and employing day labor in connection with repair and construction of bridges. Op. Atty. Gen., (642a-3), Sept. 13, 1938.

Passage of Laws 1933, Ex. Sess., c. 69 and Laws 1935, Ex. Sess., c. 17, did not intend to eliminate requirement for advertising for bids. Op. Atty. Gen., (707a-7), Oct. 14, 1938.

County need not advertise for bids upon sale of used road machinery, but where used machinery is to be applied on purchase of new machinery of more than \$500, it forms an integral part of purchase price of new equipment and should properly be subject of open and competitive bidding. Op. Atty. Gen. (707a-7), March 11, 1939.

**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, 1939.

**993-1. Purchasing contracts in certain counties.—**

In all counties having a population in excess of 75,000 and less than 225,000, no contract for the purchase of supplies, materials or equipment, and no contract for work or labor or for the construction or repair of buildings, roads, bridges or other permanent improvements, the estimated cost or value of which shall exceed \$500, shall be made by the county board, commission or agency having charge of any activity supported in whole or in part by taxes upon the taxable property of such counties without first advertising for sealed bids which shall be solicited by public notice inserted at least once in the official newspaper of the county at least ten calendar days before the final date of submitting bids. All bids shall be opened in public at a specified time and place and shall be read aloud and tabulated. All such contracts shall be let to the lowest responsible bidder, shall be duly executed in writing, and the person to whom the same is awarded shall give sufficient bond for its faithful performance and it shall be approved by resolution of the Board or commission and signed by its chairman. In case no satisfactory bid is received, the board, or commission, may re-advertise. Every contract made without compliance with the provisions of this act shall be void; provided, that in case of an emergency arising from the breaking, damaging or decay of any county property of any such county, that cannot be allowed to wait for the time required to advertise for bids as herein required, and where the public health and safety would suffer by the delay, contracts for the purchase or repair may be made without advertising for bids. (Act Apr. 14, 1939, c. 246.)

**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, 1939.

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.

Where court order establishing judicial ditch imposed assessment upon counties benefited, and assessments were erroneously imposed on township later, and were paid, claim of township to reimbursement is one that must be presented to county board for allowance, and general rule is that statute of limitations does not begin to run against such a claim until it is presented and rejected by board. Op. Atty. Gen. (151a), Apr. 10, 1937.

**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.

Where salaries of certain commissioners were restored after reduction by fall in valuation, such commissioners should receive same reimbursement for their actual and necessary traveling expenses as they received previous to their reduction in salary. Op. Atty. Gen., Nov. 4, 1933.

Words "any county officer" include county commissioners. Op. Atty. Gen., Feb. 10, 1934.

In order to effectuate increase in salary pursuant to this section, some action by county board by way of a resolution is necessary, but board may not adopt a resolution which would be retroactive in effect, as where commissioners have already accepted a reduced salary. Op. Atty. Gen. (104a-9), Dec. 18, 1934.

It is not necessary in arriving at assessed valuation of property in a county for salary purposes to go behind assessed valuation as determined by tax commission, and lands to which state has acquired title through operations of rural credit department should not be included, while so-called \$100 exemption of personal property should be included. Op. Atty. Gen. (104a-9), Dec. 27, 1934.

Sections 837(6) and 997-2 must be construed so as to be limited to salaries of county officers where reduction of assessed valuation occurs during term of office of a particular county officer or officers. Id.

**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 turning 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.

**997-4a. Salaries of county officers in certain counties.**—The annual salary of the county auditor, county treasurer and county commissioners, in all counties of this state, except as hereinafter provided, shall be the same amount as provided by law for the year 1931, regardless of any decrease in valuation, any change in population or any other factor on which such salary may have been based, provided, however, that where the salary now being paid to any county auditor or county treasurer is 20 per cent or more below the minimum amount herein provided, the same is hereby fixed at 90 per cent of said minimum amount for the year 1936. (Act Apr. 29, 1935, c. 349, §1; Jan. 18, 1936, Ex. Ses., c. 39, §1.)

The effect of Laws 1935, ch. 349, is to place the actual salaries to be paid after sum actually received by commissioners during year 1931, and where pursuant to Laws 1921, ch. 275, and Laws 1931, ch. 185, and Laws 1919, chs. 242 and 487, salary was reduced on April 17, 1931, because of change in population, salary received before April 17 should be added to that received after April 17, 1931, and the total fixes the compensation. Op. Atty. Gen. (1241), Aug. 7, 1935.

Where county board took advantage of §837 (6) and fixed salary of county auditor at the same amount as before reduction in valuation of property, for term of office beginning in 1931, a succeeding county auditor was entitled to benefits of this act on the basis of such fixed salary for 1931. Op. Atty. Gen. (22), Oct. 31, 1935.

Minimum amount herein provided means "amount provided by law for the year 1931," or the amount validly fixed as compensation for that year. Op. Atty. Gen. (22), Dec. 20, 1935.

Where salary of auditor was \$2,500 in 1931 and was later reduced to \$2,000, he was entitled to salary at rate of \$2,500 per year for last half year 1935, and \$2,250 for year 1936. Id.

In any county not coming under exceptions of §997-4c, salaries of commissioners should be on same basis as they received for year 1931 after July 1, 1935. Op. Atty. Gen. (104a-9), Feb. 19, 1936.

Under Laws 1929, c. 80; Laws 1933, c. 183; Laws 1935, c. 349; and Laws 1935, ex. sess. c. 39, annual salary payable to Todd County Commissioners is the same as that

paid in 1931, which was \$600, but mileage is 5 cents per mile. Op. Atty. Gen. (1241), March 10, 1939.

**997-4b. Minimum salaries.**—In all counties of this state where the salaries of the county auditor, county treasurer and county commissioners are fixed by Laws 1933, Chapter 166 [§§200, 656, 837, 872, 904-2, 923, 2853, 8707, notes], the minimum salary of the county auditor shall be \$2,100, together with all fees authorized by law to be collected by him, and the minimum salary of the county treasurer shall be \$1,800, as county treasurer, and \$300 as treasurer of unorganized school districts. The minimum salaries of the county commissioners shall be the same as provided by Laws 1933, Chapter 166. (Act Apr. 29, 1935, c. 349, §2; Jan. 18, 1936, Ex. Ses., c. 39, §1.)

**997-4c. Not to affect certain officers.**—The provisions of section 1, of this act shall not apply to any county where the salaries of county auditors, county treasurers or county commissioners are fixed by Laws 1933, Chapters 16, 46, 76, 96, 143, 281, 284 and 432 [§§200, 656, 837-1, 872, 904-2, 923, 935, 938, 941, 957-3, 962, 963, 1664-42, 8707, notes], or by any act heretofore passed by the 1935 Legislature, and provided, further, that it shall not apply to any county now having not less than 10 nor more than 12 organized townships and a population of not less than 15,000 nor more than 16,000 inhabitants, according to the United States census of 1930, nor to any county now having not less than 60 nor more than 63 full or fractional congressional townships and a population of not less than 33,000 nor more than 38,000 inhabitants according to the 1930 census. (Apr. 29, 1935, c. 349, §3; Jan. 18, 1936, Ex. Ses., c. 39, §1.)

**997-4d. Application of act.**—Except for the minimum amounts as herein provided, the salaries of county auditors, county treasurers and county commissioners shall be the same as otherwise provided by law. (Act Apr. 29, 1935, c. 349, §4; Jan. 18, 1936, Ex. Ses., c. 39, §1.)

Added. Laws 1935-36, Ex. Ses., c. 39, §4.  
This act does not apply to county officers in county where salaries are fixed by other act at and prevails in case of any inconsistency. Op. Atty. Gen. (107b-14), Sept. 13, 1935.

**997-4e. Provisions severable.**—If any part, section or provision of this act shall be found to be unconstitutional or invalid by any court of competent jurisdiction, it shall not affect the remainder of this act. (Act Apr. 29, 1935, c. 349, §5; Jan. 18, 1936, Ex. Ses., c. 39, §1.)

**997-4f. [Superseded.]**  
Superseded Jan. 18, 1936, Ex. Ses., c. 39, amending Laws 1935, c. 349, and omitting this section.

**997-4g. Clerk hire for county auditors and county treasurers in certain counties.**—There shall be allowed for clerk hire in the office of the county auditor and the county treasurer in all counties of the state an amount equal to that provided by law for the year 1931, and the amount allowed pursuant to Mason's Minnesota Statutes of 1927, Sections 837-1 and 872, which amounts have heretofore been approved by the public examiner and the attorney general. This act shall not apply to any county where such clerk hire is provided for by Laws 1933, Chapters 16, 76, 166, 281, 284 and 432, or by any act heretofore passed by the 1935 Legislature, provided, however, that the county board at its annual meeting in January of each year may revoke the authorization of the amount granted by it, or any part thereof under the provisions of Mason's Minnesota Statutes for 1927, Sections 837-1 and 872. (Act Apr. 29, 1935, c. 351, §1.)

Where minimum clerk hire of \$85 per month was allowed county treasurer for many years under Laws 1927, c. 374, additional clerk hire may be given incumbent clerk by passage of resolution by the county board with approval of attorney general and public examiner. Op. Atty. Gen. (450c-1), Jan. 31, 1939.

**997-4h. Clerk hire as otherwise provided by law.**—Except as herein provided, the clerk hire allowance for such county auditors and county treasurers

shall be the same as otherwise provided or fixed by law. (Act Apr. 29, 1935, c. 351, §2.)

**997-4i. Salaries of county officers in certain counties.**—In each county of the state now or hereafter having 100 or more full and fractional congressional townships and an assessed valuation including moneys and credits of not less than \$4,000,000.00 nor more than \$6,000,000.00 the following county officers shall receive yearly salaries as follows:

County Auditor .....	\$2250.00
County Treasurer .....	1800.00
Judge of Probate .....	1400.00
County Commissioners .....	540.00
Registers of Deeds .....	1800.00

Provided however, that when the fees of the register of deeds are less than \$1,800.00 the difference between the amount of fees so received and the sum of \$1,800.00 shall be paid by the county, and provided further, that in event the fees so received are in excess of \$1,800.00 the same shall be retained by the register of deeds. (Act Apr. 29, 1935, c. 361, §1.)

**997-4j. Salary of clerk of court in certain counties.**—The clerk of the district court in each of such counties shall receive in full compensation for all services rendered by him for said county, except in real estate tax proceedings, in lieu of the fees now provided by law, a yearly salary of \$990.00. In said real estate tax proceedings, said clerk shall receive the sum of 15 cents for each description as set forth in Mason's Minnesota Statutes of 1927, Section 2125. (Act Apr. 29, 1935, c. 361, §2.)

Act Apr. 6, 1937, c. 156, provides that in counties having 16 to 20 townships and population of 7,500 to 8,500 and valuation of \$4,500,000 to \$8,000,000, the clerk of district court shall receive same salary as in 1931.

Act July 14, 1937, Ex. Ses., c. 14, amending Act Apr. 14, 1937, c. 226, provides that in counties having 13 to 17 townships and 7,500 to 9,000 population, clerk of district court shall receive minimum salary of \$1,320.

**997-4k. Traveling expenses for county board in certain counties.**—Each member of the county board of such counties shall also receive his actual and necessary traveling expenses incurred in the performance of his official duties within his county, to be audited and allowed as other claims against the county. All claims for such expenses shall show clearly the nature of the services in which the same were incurred, and date of same, and all claims for expenditures amounting to one dollar or more, shall be accompanied by a receipt signed by the person to whom the money was paid, provided, when a member of such county board furnishes his own conveyance for necessary travel in the discharge of his official duties, he shall be entitled to charge at the rate of five cents per mile therefor. (Act Apr. 29, 1935, c. 361, §3.)

**997-4l. County board to fix clerk hire in certain counties.**—The clerk hire of county officers shall be fixed by the county board. (Act Apr. 29, 1935, c. 361, §4.)

Sec. 5 of Act Apr. 29, 1935, cited, repeals all inconsistent acts.

**997-4m. Clerk hire in county offices including that of probate judge.**—In all counties of this state where the amount of clerk hire now or hereafter provided by law for any county office, including the office of probate judge, shall be insufficient to meet the requirements of said office, the county officer in need of additional clerk hire shall prepare a petition and statement setting forth therein the amount of additional clerk hire needed and file the same with the county auditor, who shall present the same to the board of county commissioners at the next meeting of said board. If the board of county commissioners shall grant said petition by unanimous vote of all members elected to the board then the amount of additional clerk hire requested in said petition shall thereupon become effective for said office. Said board shall act on any such petition within 60 days from the time it has been filed with the county au-

ditor. If the board of county commissioners shall determine that the amount of additional clerk hire requested in said petition is excessive and more than is necessary for said office, it shall fix the amount of such additional clerk hire to be allowed, if any, and notify such officer thereof. If said county officer or any taxpayer of the county shall be dissatisfied with the decision of the board of county commissioners, he may, at his own expense, within ten days after the decision of said board, appeal to the district court. The district court, either in term or vacation and upon ten days notice to the chairman of the board of county commissioners, shall hear such appeal and summarily determine the amount of additional clerk hire needed by an order, a copy of which shall be filed with the county auditor. (Act Apr. 20, 1939, c. 319.)

County superintendent of schools may not proceed with a petition under this act where Laws 1933, c. 166, fixing salaries, failed to provide for any clerk hire. Op. Atty. Gen. (399c), June 14, 1939.

Act apparently applies only to those county attorneys who are already provided with clerk hire on a monthly basis by general or special act. Op. Atty. Gen. (121a-4), July 28, 1939.

**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 construed 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 irrepealable 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.

Laws 1935, c. 354. Legalizing of all municipal acts relating to relief.

Act Apr. 19, 1937, c. 300, legalizes salary payments in counties having 14 to 16 townships, assessed valuation of \$4,600,000 to \$4,800,000, and population of 9,000 to 10,000.

Laws 1937, c. 251, amends Laws 1903 c. 247, §2, respecting control and allocation of space in Hennepin county court house and city hall.

**997-21. Tax relief for certain counties.**—Any county in which the full value of all property which is exempt from local taxation, because taxes thereon are paid into the state treasury under the provisions of the gross earnings tax laws, exceeds the taxable value of all other non-exempt real and personal property, exclusive of moneys and credits, shall be entitled to receive from the state treasury such an amount annually as would be produced by computing a tax of one-fourth of the current tax rate for county purposes upon the full value of such property which is exempt from local taxation because of the provisions of the gross earnings tax laws. (Apr. 22, 1937, c. 344, §1.)

**997-22. Shall make application to State Auditor.**—Any such county desiring to take advantage of this act shall apply in writing therefor to the State Auditor, and such application shall contain the following facts:

(a) The valuation of the property in said county not subject to local taxation because the same is subject to taxation under the gross earnings tax law. Railroad valuation shall cover all railroad property located in said county except rolling stock, main tracks, and fills or bridges supporting the same.

(b) The value of all real and personal property, exclusive of moneys and credits, within any such county, subject to local taxation.

(c) The rate of taxation in mills for county purposes for the current and next preceding year.

(d) The total amount spent for all county purposes by any such county for the last preceding year, and an estimate of the expenses for the county for the current year.

The information called for in subdivision (a) shall be ascertained and certified, upon the request of any such county by the railroad and warehouse commission; and the information called for in subdivision (b); (c) and (d) shall be certified by the county auditor of such county. (Apr. 22, 1937, c. 344, §2.)

**997-23. Auditor to fix amounts.**—The State Auditor shall immediately consider said matter and determine whether or not any such county is entitled to aid under the provisions of this act, and if he finds that any such county is entitled to such aid, he shall determine the amount to which such county is entitled to within the limitations of this act and he shall draw his warrant upon the state treasurer in favor of any such county, for the amount to which it is entitled and deliver the same to such county, taking proper voucher or receipt therefor. (Apr. 22, 1937, c. 344, §3.)

**997-24. Limit of payments.**—That not more than \$30,000.00 in the aggregate shall be disbursed in any one calendar year to all the counties entitled to aid under the provisions of this act, and in the event that said amount of \$30,000.00 shall be insufficient to pay the full amount to which said counties shall be entitled annually hereunder, the State Auditor shall apportion the said sums pro rata to each of said counties. (Apr. 22, 1937, c. 344, §4.)

**997-25. Purposes for which money may be expended.**—Moneys received by any county under this act shall be used only for the purpose of

(a) Payment or providing for the payment of any bonded or other indebtedness of such county outstanding January 1, 1937.

(b) Any such revenue not required to pay or provide for the payment of any such indebtedness shall be used to cover and pay current operating expenses to reduce and replace tax levies on real and personal property. (Apr. 22, 1937, c. 344, §5.)

**997-26. Appropriation.**—For the purposes of carrying out the provisions of this act there is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of \$30,000.00 to be available for the year ending June 30, 1938, and the sum of \$30,000.00 to be available for the year ending June 30, 1939. (Apr. 22, 1937, c. 344, §6.)

## CHAPTER 8

### Towns and Town Officers

#### POWERS—DUTIES—LIABILITIES

##### 999. Corporate powers.

Where an organized township constructs and maintains a town telephone system, under §§5312 to 5316 and furnishes ordinary telephone service thereby to private residents of township, town is engaged in operating a public utility and is liable for negligence of its officers and agents in so doing. *Storti v. T.*, 194M628, 261NW 463. See *Dun. Dig.* 9658.

Fact that township owned telephone system is also operated in part for governmental purposes, for protection from forest and prairie fires, promoting public wel-

fare, public health, and public safety, and facilitating work of public improvements, does not exempt town from liability for negligence in operating a public utility. *Id.*

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.

Liability of township for negligent damage to tile laid under road depends upon facts. *Op. Atty. Gen.*, Nov. 4, 1933.