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Containing the text of the acts of the 1941 Session 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 Law Review Articles and digest of all common law decisions.

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drainage system due to the increased cost of construction of such drainage system, deficiency in interest payable on bonds issued for construction of such drainage system, the expense of improvement, maintenance and repair of same, or for any other reason, and the time for appeals has expired and no appeals have been taken therefrom or from any such proceedings, or if such appeals have been taken that the same have been determined before the passage of this act, then the said proceedings and all assessments or

liens so levied or attempted to be assessed or levied for said purposes are hereby approved, legalized and declared to be valid, and in full force and effect and a lien upon and against said lands benefited by the establishment and construction of said drainage system until paid, at the time and in the manner as set forth in said act and amendments thereto. (Act Apr. 10, 1941, c. 174, §1.)

Act Apr. 10, 1941, §2 provides that this act shall not affect any action now pending.

CHAPTER 44A

Soil Conservation

6932-4. Creation of Soil Conservation Districts.

District may be organized exactly coinciding with boundaries of a county or township. Op. Atty. Gen., (705a-5), March 28, 1940.

A. Petition.

(3).

Where district takes in portions of certain townships, it is necessary to have a definite description by boundaries and metes and bounds. Op. Atty. Gen., (705a-5), April 26, 1940.

B. Notice—hearing—adjournment, etc.

It is not mandatory that state committee hold a public hearing, but it should hold hearings except in those instances where necessary facts and information may be

fully obtained in some other manner. Op. Atty. Gen. (705a-7), Mar. 7, 1941.

F. Supervisors, appointment and election, etc.

Certificate of officer authorized to take oath is necessary part of application. Op. Atty. Gen. (605a), May 22, 1940.

H. Annexation of territory, etc.

If a majority of those petitioning for attachment are not fee owners, it is necessary to first secure consent of the majority of fee owners before attachment may take place, but proposed amendment in 1941 would eliminate necessity for such consent. Op. Atty. Gen. (705a), Jan. 17, 1941.

Both state committee and district supervisors are to proceed in accordance with subsec. (F). Id.

CHAPTER 45

Seals

6933. Private seals abolished.

Requirement of a sealed instrument for conveying easement. 26 IowaLawRev 41.

CHAPTER 46

Notaries Public

6938. Term—Bond—Oath.

The only way a personal surety may be relieved of obligations is for him to prevail on notary to secure and file a new bond. Op. Atty. Gen., (320a), Dec. 2, 1939.

CHAPTER 47

Resignations—Vacancies—Removals

6952. Resignations.

Resignation by member of school board which has not become effective by an acceptance or by some act of relinquishment may be withdrawn. Op. Atty. Gen. (161a-22), Sept. 13, 1940.

6953. Vacancies.

Offices of school board member and president of village council are incompatible, and acceptance of a second incompatible office automatically vacates the first. Op. Atty. Gen., (358f), Feb. 9, 1940.

A city councilman may be a candidate for office of mayor without resigning, but election and acceptance of later office would work an automatic vacation of first office. Op. Atty. Gen., (358e-1), Feb. 16, 1940.

Subd. 2.

Resignation from town office does not become effective and no vacancy is created until accepted by town board. Op. Atty. Gen., (437a-18), March 9, 1940.

Subd. 4.

Whether absence of village president for six months in Florida vacates office is a question of fact. Op. Atty. Gen., (471h), Dec. 20, 1939.

If a vacancy in office of village president has been created by removal from village, no judicial action looking to removal is necessary, but council may adopt a

resolution declaring a vacancy and appointing a new president for remainder of term. Id.

Where a village president permanently removes outside village he automatically vacates his office and leaves a vacancy to be filled by council by appointment for balance of unexpired term. Op. Atty. Gen., (471h), Jan. 30, 1940.

Townships are included within meaning of statute. Op. Atty. Gen., (12c-4), March 21, 1940.

A supervisor who removes from township he serves thereby vacates his office, unless removal is only temporary. Op. Atty. Gen., (437a-21), April 1, 1940.

Mere incorporation of an area within a township as a village does not automatically affect a separation of such area from town, but separation must be voted on, and until there is such a vote town clerk residing in village may continue to act as town clerk. Op. Atty. Gen. (440f), June 10, 1940.

Subd. 5.

Violation of game and fish laws does not require removal of town supervisor. Op. Atty. Gen., (475G), April 25, 1940.

School board member convicted of misdemeanor of slander of women is not subject to removal. Op. Atty. Gen., (475E), May 2, 1940.

A county commissioner auditing and allowing a fraudulent claim is guilty of a felony and an infamous crime,

and on conviction his office is automatically vacated. Op. Atty. Gen. (126G), Oct. 11, 1940.

An infamous crime is one punishable by imprisonment in state prison, and whether compounding a crime is an offense involving a violation of official oath is dependent upon connection of offense with official duties, and vacation of office is automatic in case of conviction of proper crime, and town board has no power to remove a person merely because of his conduct. Op. Atty. Gen. (475g), Dec. 2, 1940.

There is no statutory procedure for removal of elective village officers for malfeasance or nonfeasance in office, but any public office becomes vacant when incumbent is convicted of an infamous crime, or of any offense involving a violation of official oath of office. Op. Atty. Gen. (359a-20, 475h), Dec. 6, 1940.

Person pleading guilty to federal offense forfeits his office though sentence is suspended. Op. Atty. Gen. (490d), Jan. 20, 1941, overruling Op. Atty. Gen. (490d), Aug. 21, 1934.

One vacating office by conviction for crime cannot be appointed to fill such vacancy. Op. Atty. Gen. (471M), Jan. 4, 1941.

Subd. 6.

Where one after election as town clerk fails to qualify within time required by law, a vacancy results to be filled by appointment until next annual town meeting, at which time a successor may be elected for balance of unexpired term. Op. Atty. Gen. (436p), April 30, 1940.

OATHS

6963. Oaths of office.

Village president reelected to office may file his oath of office by mail. Op. Atty. Gen., (471h), Dec. 20, 1939.

ACKNOWLEDGMENTS

6970. Form of certificate.

Acknowledgment is only prima facie evidence and can be assailed by one claiming deed was forged. *Am-land v. G.*, 296NW170. See Dun. Dig. 78.

6979. In foreign countries.

Acknowledgments heretofore taken in foreign countries by a judge of a court of law, declared valid. Laws 1941, c. 340.

6981-1. Validation of foreign acknowledgments.—

That all acknowledgments to any Deed or other Instrument heretofore taken in any foreign country by a Judge of a Court of Law therein, where the signature of said Judge was written and the stamp or seal

6954. Removal by governor.

Justices of the peace are state officers and their courts are state courts, and city council of home rule charter city cannot remove a justice of the peace, regardless of charter provision. *State v. Hutchinson*, 238NW845. See Dun. Dig. 8011.

Section does not apply to municipal officers or school officers, being removal proceedings by the governor. Op. Atty. Gen., (475E), May 2, 1940.

Governor has no power to remove a clerk of a school district, and the only school officer that he could remove would be a county superintendent of schools or any collector, receiver or custodian of public moneys. Op. Atty. Gen. (213G), June 22, 1940.

6957. Appointment—How long to continue—Impeachment.

Appointee to fill vacancy in office of county commissioner holds office until beginning of official year following next ensuing general election. Op. Atty. Gen., (126a), Dec. 1, 1939.

"Next general election," means the one occurring after there is sufficient time, after the vacancy, to give notice required by law that vacant office is to be filled at election, and four days is not sufficient time to give notice. Op. Atty. Gen. (126h), Oct. 11, 1940.

Appointment to fill vacancies in office of county commissioner are governed by this section. Id.

One vacating office by conviction for crime cannot be appointed to fill such vacancy. Op. Atty. Gen. (471m), Jan. 4, 1941.

CHAPTER 48

Oaths and Acknowledgments

of the Court was attached, affixed or impressed on said deed or other instrument are certified to be genuine by a President or Vice President of the Supreme Law Court of the foreign country where the acknowledgment was taken and where the signature of said President or Vice President of said Supreme Law Court and the stamp or seal of said Supreme Law Court on said instrument are certified to be genuine by the Consul or Vice Consul of the United States in said foreign country, be, and the same are hereby declared to be legal and valid and effectual for all purposes. (Act Apr. 21, 1941, c. 340, §1.)

6981-2. Same—Application.—This act shall not apply to any pending actions and no action shall be maintained questioning the validity of any acknowledgment coming within the purview of Section 1 of this Act unless said action be brought within 6 months after its enactment. (Act Apr. 21, 1941, c. 340, §2.)

CHAPTER 49

Fees

6987. Fees of clerk of district court.

Under Laws 1919, chapter 229, clerk is not entitled to receive fees in personal property tax cases, while clerks governed by Laws 1937, chapter 19, are entitled to receive and retain fees in such cases. Op. Atty. Gen., (144B-21), Sept. 30, 1939.

(48).

Clerk is not entitled to charge 20 cents for indexing each plaintiff and each defendant in actions to quiet title where there are a great number of defendants, without a rule or order of the court. Op. Atty. Gen., (144B-15), Sept. 19, 1939.

6993. Fees of sheriffs.

(23).

Where a default personal property tax judgment is entered and sheriff returns execution unsatisfied, he is entitled to usual fee, including mileage and percentage, in case taxpayer thereafter voluntarily pays amount of tax judgment to county treasurer. Op. Atty. Gen., (390c-13), Nov. 28, 1939.

6996. Fees of constables.

In a village of less than 5000 with a municipal court, a police officer making an arrest in his capacity as a peace officer, without a warrant, may not collect a fee, but if he makes an arrest upon a warrant he may charge

fee allowed constable. Op. Atty. Gen. (847a-8), Jan. 14, 1941.

(11).

Mileage fee may not be charged when summons has been sent by mail. Op. Atty. Gen., (847a-4), Sept. 22, 1939.

A constable cannot charge separate mileage for each prisoner when he transports three prisoners on same trip. Op. Atty. Gen., (847a-5), Oct. 17, 1939.

6997. Police officers—Fees in state cases.

Chief of police receiving a warrant from municipal court for a felony against an accused in jail in another county may go to that county and be reimbursed from county funds. Op. Atty. Gen., (785D), March 26, 1940.

6998. Fees of justices of the peace.

A justice of the peace is not allowed a specific fee of \$2.00 for transferring venue of a case, civil or criminal, to another justice. Op. Atty. Gen. (266B-25), Dec. 21, 1940.

(35).

Justice of the peace at Wayzata has no authority to hold court in city of Minneapolis for convenience of parties or an accused, but if he holds court in a town, village, or ward within his county adjoining the town or ward in which he resides, or in any village located within his town, he is entitled to 10 cents a mile for travel