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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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Village recorder is to be elected for a two year term, but it is not clear that legislature intended such officer to be elected only in the even numbered years. Op. Atty. Gen. (470k), Nov. 27, 1939.

Term of president of village council has been extended to the two years by Laws 1939, chapter 185, notwithstanding provisions of Laws 1939, chapter 345. Op. Atty. Gen. (471h), Nov. 28, 1939.

Procedure set forth for election on question of incorporation of a village and election of officers. Op. Atty. Gen. (484E-4), Dec. 18, 1939.

Village president reelected to office may file his oath of office by mail. 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.

Refusal of village president elect to serve creates a vacancy, and council may appoint any person who is eligible to vote, who will hold office until first secular day in January, 1942. Op. Atty. Gen. (471i), Dec. 26, 1939.

Mayor as member of council is entitled to vote on matters coming before body, and may second motion if not contrary to rules adopted by council. Op. Atty. Gen. (847c-1), Jan. 15, 1940.

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.

If council fails to appoint some one to fill vacancy, then remaining trustees continue to function as a council, provided a quorum must always be present, and three members constitute a quorum in a village operating under Laws 1885, c. 145. Op. Atty. Gen. (471N), Feb. 1, 1940.

This section supersedes §1134 of Mason's Statutes of 1927, which was repealed by Laws 1929, c. 413. Op. Atty. Gen. (472f), Oct. 1, 1940.

Newly elected village officers may qualify at any time before first secular day in January and within a reasonable time thereafter, incumbent holding over until successor qualifies. Op. Atty. Gen. (470h), Dec. 20, 1940.

Assessors should be elected in even-numbered years notwithstanding fact that statute expressly requires them to be elected in odd-numbered years, and amendment of statute is suggested. Op. Atty. Gen., (12B-2), Jan. 10, 1941.

An assessor should have been elected in Heron Lake at Dec. 1938 village election to hold office for a 2-year term expiring first secular day in Jan. 1941, and any vacancies in such office should be filled by appointment by council for balance of an unexpired term. Op. Atty. Gen., (12B-5), Jan. 31, 1941.

601-11(2)g. Date of village election.—All village elections for the terms and in the manner herein provided shall be held annually on the first Tuesday after the first Monday of December in each year at which the officers specified in section 7 of this chapter shall be elected for the terms following, to wit: President, for a term of two years; one trustee, for a term of three years; and all other such officers, each for a term of two years. All terms, except as herein otherwise provided, shall commence on the first secular day of January following the election.

Municipal judges shall be elected for four year terms, commencing on the first secular day in January following the election and until their successors are elected and qualified. Provided, however, that the existing succession of terms of municipal judges elected under the provisions of Laws 1925, Chapter 4, or may amendments thereto, shall be continued, and successors to such municipal judges shall be elected for four year terms at the elections in December pre-

ceding expiration of the term of such municipal judges, respectively.

In every village to which this act applies, the office of President of the village council shall be voted upon at the 1941 village election. The president of the council now in office in every such village shall continue to serve until the first secular day of January, 1942, or until his successor qualifies. (As amended Act Feb. 19, 1941, c. 13, §1.)

Dates of annual village election are governed by this act and not by special acts under which villages are organized and operating. Op. Atty. Gen., (472a), Oct. 6, 1939.

Laws 1939, c. 185, amending §1152-12, extended term of office of village president from one to two years notwithstanding conflicting provision in this section. Op. Atty. Gen., (471h), Oct. 30, 1939.

By virtue Laws 1929, c. 185, term of village president is 2 years instead of one. Op. Atty. Gen. (472f), Oct. 1, 1940.

This section supersedes §1134 of Mason's Statutes of 1927, which was repealed by Laws 1929, c. 413. Id.

Notwithstanding new election law, it is probable that the term of a municipal judge begins on first Monday in January rather than on first secular day. Op. Atty. Gen. (307K), Dec. 16, 1940.

Term of office of village president is 2 years by virtue of Laws 1939, c. 185, notwithstanding contrary provisions in this section. Op. Atty. Gen. (471h), Dec. 17, 1940.

601-11(2)h. Canvassing of votes.

Where there is no question about genuineness of returns or that all returns are before them, powers and duties of canvassers are limited to mechanical function of ascertaining apparent result of election by adding or compiling votes cast for each candidate as shown on face of returns before them, and cannot inquire into regularity of election or determine consequences of a candidate acting as a judge, though they may report fact of candidate acting as a judge, leaving consequences to be determined by a court. Op. Atty. Gen. (183J), Dec. 6, 1940.

CHAPTER 4.—ELECTIONS IN CITIES OF THE FOURTH CLASS

601-11(4)l. Terms of elective offices.

Act May 5, 1941, c. 124, §1, makes term of mayor two years and until his successor is elected and qualified, in any city of the fourth class having population of less than 1,000 and not operating under a home rule charter.

601-11(4)n. Conduct of election.

Sections 16 to 20 of this chapter govern a municipal election in Chisholm, unless its charter prescribes otherwise, in which case charter provisions rule. Op. Atty. Gen., (64d), Oct. 11, 1939.

City elections in Renville continue to be governed by home rule charter and not by this chapter. Op. Atty. Gen., (64h), March 5, 1940.

601-11(4)o. Affidavit of candidacy.

Date of regular municipal election in Windom, a fourth class city, being April 8, 1941, affidavits of candidates for municipal office must be filed 15 days before that election, and last day is Mar. 24, 1941, and Secretary of State must receive filings up to usual hour of closing, and may, if he wishes, receive them up to midnight. Op. Atty. Gen., (911a-1), Mar. 10, 1941.

Laws 1870, chap. 31 fix the date of annual election in city of Canby, but conduct thereof is governed by this act, and a candidate for municipal office may withdraw, but is not entitled to a refund of filing fee. Op. Atty. Gen. (911q), Mar. 27, 1941.

601-11(4)p. City clerk to prepare ballots; etc.

Names of candidates on primary ballot of a city should be alphabetically arranged, unless otherwise provided by city charter. Op. Atty. Gen., (28B-2), Mar. 15, 1941.

CHAPTER 7

Counties and County Officers

CHANGING COUNTY SEATS

625. Petition for change.

If petition for removal is signed before but not presented to county auditor until after November general election, it will be necessary that it contain signatures equal to 60 per cent of voters who will vote at that election. Op. Atty. Gen. (106E), Oct. 25, 1940.

Corrupt Practices Act applies to an election for removal of a county seat. Op. Atty. Gen. (106E), Dec. 24, 1940.

627. Duties of county board.

County commissioners must act upon petition within a reasonable time, and mandamus will lie to compel act. Op. Atty. Gen., (106E), Dec. 30, 1940.

631. Conduct of election.

Form of ballot prescribed should be complied with, and there is no provision for any rotation. Op. Atty. Gen., (106E), Dec. 30, 1940.

Ballot for special election held in proper form. Op. Atty. Gen., (106e), Jan. 29, 1941.

632. Canvass—Certificate.

It is mandatory that offices for all county officers must be established at newly designated county seat at end of 90-day period after day of election changing county seat. Op. Atty. Gen., (106e), Jan. 29, 1941.

POWERS AND DUTIES**638. Powers.**

Civil service for county officers and employees in certain counties having a population in excess of 150,000 and an area of more than 5,000 square miles. Laws 1941, c. 423.

(2).

County may not purchase a quarter section of farm land for purpose of securing gravel from part of it and renting out the remainder, being limited to 20 acres. Op. Atty. Gen. (125a-41), Aug. 22, 1940.

643. County buildings.

Act Apr. 14, 1941, c. 226, §1, authorizes tax levy, in certain counties having a population of between 25,000 and 27,000, and an assessed valuation of between \$9,000,000 and \$11,000,000, to provide funds for present and future construction of county buildings, and to buy furniture and equipment, and also authorizes creation of a special county building and sinking fund.

It is mandatory that offices for all county officers must be established at newly designated county seat at end of 90-day period after day of election changing county seat. Op. Atty. Gen., (106e), Jan. 29, 1941.

646. Claims against county—Appeal.

Where plaintiff by written assignment acquired a claim against county and it was audited and allowed, but through mistake or oversight on part of county officers warrant issued in payment was made payable to original claimant, who cashed it, plaintiff may recover from county as against defendants' claim that statute prevents suit by a claimant to enforce a money demand and that appeal from board's disallowance in whole or in part is only remedy. *Leuthold v. R.*, 288NW165. See Dun. Dig. 2295.

COUNTY BOARD**650. Composition.**

Term of office of all state and county officers, including county commissioners, expires on first Monday of January. Op. Atty. Gen., (126e), Jan. 8, 1941.

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, or in districts having only one resident commissioner after such redistrict-

ing, the commissioner in office at the time of the re-districting 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, or in districts having only one resident commissioner after such redistricting, such commissioner-elect, after duly qualifying as a commissioner for said district, shall serve for the full period for which he was elected. (As amended Act Apr. 16, 1941, c. 268, §1.)

County should be redistricted within a reasonable time after certified copies of census of several political divisions of states are filed in office of secretary of state, if change in population requires it. Op. Atty. Gen. (56-a), July 26, 1940.

Ordinarily action of county board in re-districting a county after full compliance with law regarding notice and hearing would be a final action and could not be changed by rescinding previous resolutions. Op. Atty. Gen. (798f), Dec. 23, 1940.

Clause "when it appears that after a state or federal census" means after official notification of census has been received and filed with secretary of state. Id.

Where certain commissioners were elected for 4-year term and it later became necessary to re-district county, leaving one district undisturbed, board is not required to provide that commissioner from such district to be chosen after 2 years should hold office for a full 4-year term. Op. Atty. Gen., (126f), Mar. 11, 1941.

652. Term of office.

Appointments to fill vacancies in office of county commissioners are not governed by this section. Op. Atty. Gen. (126h), Oct. 11, 1940.

656. Salaries of county commissioners in certain counties.

Commissioners cannot charge compensation and mileage for attendance at annual convention held by association of county commissioners each year. Op. Atty. Gen. (124B), Jan. 3, 1940.

PARTICULAR ACTS RELATING TO COMPENSATION OF COMMISSIONERS

Laws 1933, c. 76, as amended by Laws 1935, chs. 70 and 278 as amended by Laws 1939, c. 286. Amended. Laws 1941, c. 208.

Laws 1933, c. 166. Repealed. Laws 1941, c. 295. Extra Session Laws 1935, c. 65. Amended. Laws 1941, c. 57.

Extra Session Laws 1937, c. 40. Amended. Laws 1941, c. 199.

Extra Session Laws 1937, c. 59. Amended. Laws 1941, c. 36.

Laws 1939, c. 208. Repealed. Laws 1941, c. 31, §2.

Laws 1939, c. 274. Repealed. Laws 1941, c. 295.

Act Feb. 27, 1941, c. 31, §1, allows county commissioners \$600 per annum in all counties having population of not less than 16,000 nor more than 18,000, and an assessed valuation of not less than \$9,000,000, nor more than \$10,000,000, and having a land area of between 638 and 642 square miles.

Act Feb. 27, 1941, c. 36, §1, provides that in counties having 600 to 700 square miles, 19,000 to 20,300 inhabitants, and assessed valuation of not less than \$9,500,000, county commissioners shall receive a salary of \$500 per annum payable in monthly installments in same manner as salaries of other county officers are now paid.

Act March 11, 1941, c. 57, §1, which amends Act Jan. 21, 1936, Ex. Sess. 1935-36, c. 65, provides that in certain counties commissioners shall receive an annual salary of \$800, and necessary expenses.

Laws 1941, c. 184, authorizes counties having 55 to 65 congressional townships, a population of 30,000 to 45,000, and assessed valuation of 10 million to 20 million dollars, commissioners shall receive salary of \$800 annually, and compensation for necessary mileage, not to exceed \$1200 per year.

Act Apr. 10, 1941, c. 199 amends Extra Session Laws 1937, c. 40, by providing that in counties having 10,000 to 11,000 population, 15 to 16 organized townships and assessed valuation of \$5,000,000 to \$7,000,000 county commissioners shall receive an annual salary of \$420.

Act Apr. 10, 1941, c. 201, provides that in counties having population of 15,000 to 20,000, 20 to 25 congressional townships, and area of 475,000 to 500,000 acres each county commissioner shall receive an annual salary of \$600.

Act Apr. 21, 1941, c. 337, §4, amends Laws 1937, c. 491, §12, and fixes salaries of county commissioners at \$720 per annum, and allows \$3.00 per day and 10 cents per mile each way when engaged in official duties, Section 5, limits amount of clerk hire to amounts actually paid or due, and authorized by county board.

Notes of Decisions

Under Laws 1939, c. 208, county commissioners of Cottonwood County are entitled to \$600 per year up until certified copies of population shown by federal census have been filed with secretary of state, notwithstanding that unofficial figures indicate a population in excess of 16,000. Op. Atty. Gen. (124h), Dec. 19, 1940.

Laws 1927, ch. 392, fixing salaries of members of county board, is limited in application to counties having an assessed valuation of \$250,000,000, and where assessed valuation in St. Louis County fell below that amount that act no longer applied, and Laws 1935, ch. 349, freezing salaries of county officials as of 1931 was in effect a new act, and provision in 1927 act that "each member of said board shall devote his entire time to the performance of the duties of his office" no longer governed. Op. Atty. Gen., (104a-9), Jan. 24, 1941.

657. Compensation and mileage, etc.

County attorney may properly require claims by county commissioners for mileage to be itemized so as to show mileage traveled and roads covered. Op. Atty. Gen., (124J), Nov. 13, 1939.

County commissioner may not properly charge \$3 per day and mileage for investigating applications for tax reductions or abatements unless he has been previously appointed on a committee for such investigations. Op. Atty. Gen. (124j), Dec. 28, 1939.

A trip to St. Paul to confer with highway department regarding county road matter generally would not necessarily constitute official duty, and work for which compensation is sought must be in compliance with some specific legal duty resting on board. Op. Atty. Gen. (124J), Jan. 10, 1940.

658. Meetings—Quorum.

Where bids were opened at time and place specified in advertisement and lowest bid received two votes, two board members present not voting and fifth member being absent, a majority did not vote and bid did not carry, and board could consider bids at next regular meeting without advertising. Op. Atty. Gen., (707a-7), May 6, 1940.

659. Vacancies filled by board; etc.

Where register of deeds was reelected for a term of four years commencing first Monday in January, 1939, and died before that date, and the county board appointed another to the office to fill out unexpired term the first Monday in January, and reappointed him for a four-year term expiring first Monday in January, 1943, there was no vacancy to be filled by election at the 1940 primary and the general election. State v. Erickson, 294 NW373. See Dun. Dig. 2273.

660. Vacancies in the office of county commissioner.

Where county commissioner was convicted of a felony 31 days before general election, and no appointment to fill vacancy was immediately made, vacancy could be filled at the coming election for the unexpired term and person elected could qualify immediately without waiting until January 1. Op. Atty. Gen. (126G), Oct. 11, 1940.

662. Publication.—The board shall cause the official proceedings of its sessions to be published in some qualified newspaper printed and published in its county, which publication shall be let annually by contract to the lowest bidder, at the first regular session of the board in January of each year, provided that in each county whose population exceeds 250,000, the proceedings shall be published in a daily newspaper printed and published at the county seat which paper shall be the official newspaper of the county, and in each such county the proceedings shall be published also in one other qualified newspaper printed and published in the county outside the county seat. The board may reject any offer it, in its judgment, the public interests so require, and may thereupon designate a paper without regard to any rejected offer. Provided, that in counties whose population exceeds 50,000, and is less than 250,000, the proceedings may be published in one daily and one weekly newspaper at their respective county seats. If the official newspaper of the county shall cease to exist for any reason, except by consolidation with another newspaper, the county board shall have authority to designate another newspaper for the remainder of the year. (As amended Act Apr. 28, 1941, c. 507, §1.)

County printing must all be done in a legal newspaper, and contract shall be let annually to lowest bidder at first regular session of board in January, and it is not clear whether financial statement must be published. Op. Atty. Gen., (277c-1), Dec. 20, 1939.

County commissioners may reject all bids submitted and may designate a newspaper without regard to any rejected bid or offer. Op. Atty. Gen., (707a-9), Jan. 8, 1941.

Board is obliged to let annual contract for publication of its official proceedings at its first regular session in each year, though first meeting may be kept open throughout the month of Jan. by proper adjournment from time to time. Op. Atty. Gen., (277c), Jan. 10, 1941.

Board may accept one of bids submitted or reject all bids and publish in some newspaper not bidding, but it may not arbitrarily reject the lowest bid and select some other newspaper unless there is some reasonable ground for such action in public interest. Op. Atty. Gen., (707a-9), Jan. 10, 1941.

Contract for printing proceedings does not constitute "purchase of supplies or equipment" within meaning of Laws 1937, ch. 416. Op. Atty. Gen., (707a-7), Jan. 16, 1941.

Though section 959 does not allow purchase of books for office of superintendent of schools, county may pay for books necessary in connection with duties of his office of such a nature as come within this section. Op. Atty. Gen., (125B-27), Oct. 6, 1939.

County board is authorized to pay for manuals containing a synopsis of school laws, to be distributed by county superintendent of schools to officers of rural school districts. Op. Atty. Gen., (125B-27), Nov. 17, 1939.

Forms and supplies for the coroner's office can be allowed as legal claims against county. Op. Atty. Gen., (103k), March 20, 1940.

County board may purchase set of Northwestern Digest for use of county attorney to be owned by county and become part of equipment of office. Op. Atty. Gen., (121a-8), April 18, 1940.

County board may but is not required to furnish office space for county surveyor, but must furnish necessary telephone service, stationery, etc. Op. Atty. Gen. (123d), Sept. 9, 1940.

Attorney general is not in a position to, and does not, recommend any particular set of law books, and cannot tell county board what they should purchase for a county attorney or what books should constitute county law library. Op. Atty. Gen. (121a-8), Oct. 16, 1940.

It is mandatory that offices for all county officers must be established at newly designated county seat at end of 90-day period after day of election changing county seat. Op. Atty. Gen., (106e), Jan. 29, 1941.

When county board determines that county attorney should be furnished with an office and no space is available in courthouse, board has authority to rent quarters. Op. Atty. Gen., (121a-8), Mar. 10, 1941.

666. Damaged records transcribed.

Section 833 refers solely to books and records in office of county auditor, or county abstractor, and has no application to office of register of deeds, but where records in latter office are practically impossible to read due to fact that ink has faded, county commissioners can have them transcribed under §666. Op. Atty. Gen. (373B-18 [c]), June 24, 1940.

667. Publication of annual financial statement.—

Annually not later than 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. Provided, however, that insofar as any provision of this act is inconsistent with the provisions of

Mason's Supplement 1940, Section 974-17, as amended, the provisions of that section shall prevail. (As amended Act Apr. 22, 1941, c. 370, §1.)

County board cannot avoid its duty to publish statement by failing to appropriate sufficient funds for that purpose. *State v. Heffelfinger*, 296NW181. See Dun. Dig. 2280b.

Requirement of publication within 30-day period is directory only. *Id.*

State agency may adopt and enforce a regulation binding upon county welfare board whereby local board shall monthly publish in summary form for old age assistance and aid to dependent children all expenditures, not to be itemized by name of recipient, and requiring protection from public of list of recipients and their confidential communications. *Op. Atty. Gen.*, (277c-1), Oct. 10, 1939.

Regulation requiring county welfare board to protect list of public assistance recipients and confidential communications of such recipients must not be inconsistent with this section. *Id.*

Section requires publication of names of all persons receiving old age assistance or other payments from county welfare fund and amounts paid to each. *Id.*

What is a "different section" of county than official paper is a question of fact. *Op. Atty. Gen.*, (707a-9), Jan. 10, 1941.

Contract for printing proceedings does not constitute "purchase of supplies or equipment" within meaning of Laws 1937, ch. 416. *Op. Atty. Gen.*, (707a-7), Jan. 16, 1941.

Names of mother and child in illegitimacy proceedings should not be published, but this is not true as to sums expended for hospital care in connection with aid to dependent children. *Op. Atty. Gen.*, (277c-1), Jan. 27, 1941.

668. General powers of board.—The county board of each county shall have power:

1. To examine and settle all accounts of the receipts and expenses of the county, and to examine, settle, and allow all accounts, demands, and causes of action against the same, and, when so settled, to issue county orders therefor, as provided by law.

2. To have the care of the county funds and business, except in cases otherwise provided for, and to make such orders concerning the same as they deem expedient.

3. To erect, furnish, and maintain a suitable courthouse and jail, but no indebtedness shall be created for such purpose in excess of five mills on each dollar of assessed valuation.

4. To set off, organize, vacate, and change the boundaries of towns subject to the limitations hereinafter prescribed, designate the time and place of holding the first town meeting therein, and make all necessary orders for the disposition and preservation of the records of any town vacated.

5. To apportion, pro rata, according to the assessed valuation, among the several parts of a town divided by them, any funds of such town not raised or theretofore appropriated for a purpose inconsistent with such apportionment.

6. To apportion all uncollected taxes then levied or assessed for the benefit of any town divided by said board, and provided for the payment thereof when collected, pursuant to said apportionment, having due regard to the purpose for which such taxes were levied.

7. To transfer by unanimous vote any surplus beyond the needs of the current year in any county fund to any other such fund to supply a deficiency therein, except in counties having over 75,000 inhabitants.

8. To appropriate to any county agricultural society of its county, which is a member of the state agricultural society, or to any farm improvement association organized by the citizens of two or more counties jointly for the purpose of advancing the agricultural interest of each of such counties, a sum of money not exceeding \$1,000 each, annually, provided, that in any county in which two county agricultural societies are members of the state agricultural society any appropriation so made shall be divided equally between them. Provided, in addition to the appropriation above referred to, in all cases where a county owns grounds and buildings used for agricultural fairs

and other purposes, the county board by a four-fifths vote may appropriate annually a sum of money equal to five per cent of the total value of such property in the association or society having the management, control and direction of agricultural fairs held therein, for the purpose of repairs, upkeep, improvements, extensions and alterations of such grounds and buildings; provided, further, that in all such cases if the area of any such county is not less than 43 nor more than 45 full or fractional congressional townships and the population thereof is not less than 25,000 nor more than 31,000 according to the last federal census, such additional appropriation may be a sum not exceeding ten per cent of the total value of such property.

9. To purchase or condemn land with such improvements, if any, as may be thereon, for the purpose of holding thereon agricultural fairs and exhibitions and appropriate money in payment therefor, not exceeding the sum of \$5,000, and such county board may purchase or condemn land for holding such fairs and exhibitions thereon and appropriate money in payment therefor in excess of said sum of \$5,000 when authorized so to do by a vote of the people; to accept and receive a donation or donations to be used to obtain lands for the purpose of holding thereon agricultural fairs and exhibitions and in such case and for such purpose, without being authorized by a vote of the people, to purchase or condemn lands not exceeding in value the amount of such donation or donations; to improve and erect structures thereon, for which purpose they may receive donations of money, materials or labor; and to lease such land from time to time to agricultural and other societies of similar nature and to establish reasonable rules and regulations under which such land may be used by all such societies in the county; provided, that all structures and improvements made on such land by societies using the same shall belong to the county.

All proceedings for the condemnation of such lands shall be had under the provisions of Revised Laws of 1905, Chapter 41, and the several acts amendatory thereof and supplementary thereto.

10. To appropriate in counties having a population of not more than 20,000 a sum not exceeding \$10,000 and in counties having a population of more than 20,000 and less than 10,000 a sum not exceeding \$20,000 to erect or aid in erecting a monument or other memorial to the soldiers and sailors of the nation, such monument or other memorial to be constructed on the court house square, or in a public park at the county seat, or elsewhere in the county seat.

11. To authorize by resolution any person, company, or corporation to construct and maintain railway lines to be operated by other than steam power upon any public road outside of cities and villages not boulevarded or parked, for a period not exceeding 25 years, upon the terms as to use and occupation prescribed in such resolutions; the use so granted not to interfere with the reasonable use of such road as a highway, and to cease in case of the vacation thereof, unless proceedings to condemn are taken within six months thereafter and diligently prosecuted: Provided, that such railway and its property shall be subject to taxation by such methods and at such rate as the proper authorities may from time to time prescribe in accordance with law.

12. To acquire by gift or purchase and improve not exceeding one acre of land within the county, for use as a park, site for a building, or other public purpose, and, when required by the public interest, to sell and convey the same. Such land may be paid for out of moneys in the county treasury not otherwise appropriated, or by issuing bonds of the county.

13. To exercise such other powers as are or may be conferred upon them by law. (As amended Apr. 9, 1941, c. 130, §1.)

There is no statute authorizing county board to appropriate money for purpose of maintenance and care of

pauper graves in a private cemetery. Op. Atty. Gen., (125B), April 26, 1940.

Agreement by county board pursuant to construction of a dam as a W.P.A. project in connection with establishment of a state park to hold harmless to state and federal government from any and all claims of any kind, was ultra vires and county was not liable for damages to crops caused by collapse of dam. Op. Atty. Gen., (844C), Feb. 14, 1941.

(1). County board may not appropriate funds or allow a bill for good road services presented by a voluntary association supported by dues from individual members. Op. Atty. Gen. (125B-21), Nov. 14, 1940.

(2). Authority of a county board is limited so that no contracts made may extend beyond term of office in exercising governmental powers, but in exercising business or proprietary powers, that body may ordinarily bind successors in office, as in purchasing insurance, and insurance may be purchased in a mutual company if maximum liability is within tax limits. Op. Atty. Gen. (707a-7), March 14, 1940.

(3). Source of county board's authority to erect a new jail is §668(3), but authority for issuance of bonds is found in §1942, which requires majority vote of electors, notwithstanding provisions of §10871, though §§10869 to 10874 must be complied with. Op. Atty. Gen. (37B-3), Jan. 18, 1940.

Where courthouse has become crowded and relief offices and various county offices are scattered in various rented buildings, it is discretionary with county board to purchase a building without a vote of electors and pay for the same from the "courthouse building fund." Op. Atty. Gen. (125a-20), Sept. 13, 1940.

County may take an unofficial referendum on building an addition to the court house at time of general election, without expense to the county, but ballots should not be taken and distributed at polling places where general election is being held. Op. Atty. Gen. (183), Sept. 21, 1940.

(8). A county issuing \$20,000 in bonds to help pay for a grandstand on county fair grounds, erected as a WPA project, value of fair ground property being \$90,000, may make further appropriation of \$4500 out of general revenue fund to meet unpaid bills for labor and materials. Op. Atty. Gen. (125B-1), March 12, 1940.

(12). County cannot accept a gift of 145 acres of land for a park of to obligate county morally or legally to any tree planting program. Op. Atty. Gen., (125a-42), May 22, 1940.

POWERS OF COUNTY BOARDS OF PARTICULAR COUNTIES

Laws 1933, c. 371. Repealed. Laws 1941, c. 118.

Act Apr. 2, 1941, c. 118, regulates financial affairs of all counties of state having population in excess of 150,000, and area in excess of 5,000 square miles.

Act Apr. 16, 1941, c. 270, authorizes levy of taxes for county purposes in certain counties having population of between 13,000 and 15,000, rate of which shall not exceed seven mills.

County boards in certain counties having populations of between 20,000 and 22,500, are authorized to fix salaries of enumerated county officers. Such salaries to be paid in monthly installments. Present terms of office are not affected, and inconsistent acts are repealed. Act Apr. 18, 1941, c. 311, §§9 to 11.

Act Apr. 24, 1941, c. 423 provides for the creation of a county civil service commission in counties having population of over 150,000 and an area of over 5000 square miles, and sets out the powers and duties of such commission.

Act Apr. 28, 1941, c. 515, creates a county civil service commission in counties having populations of between 250,000 and 450,000, and prescribes duties of city civil service bureaus therein.

669. Powers of county boards.

County cannot accept a gift of 145 acres of land for a park of to obligate county morally or legally to any tree planting program. Op. Atty. Gen., (125a-42), May 22, 1940.

669-12. Gifts, etc., of real property to county for certain purposes.

County cannot accept a gift of 145 acres of land for a park of to obligate county morally or legally to any tree planting program. Op. Atty. Gen., (125a-42), May 22, 1940.

669-15. Rewards, etc.

County cannot pay a reward or enter into a contract for services already performed. Op. Atty. Gen., (390a-1), Dec. 11, 1939.

672-2. County board may pay premiums.

County may legally pay premium for liability insurance covering legal responsibility of county nurses which might result from accident during transportation of crippled children to hospital outside county. Op. Atty. Gen. (844c-3), Feb. 14, 1940.

County may purchase insurance in a mutual company if contingent liability is such that maximum is within limitation permitted by §2070. Op. Atty. Gen. (707a-7), March 14, 1940.

It is not necessary for county board to advertise for bids for purchase of public liability insurance. Id.

673. Free county libraries.

Persons who vote at election but who do not vote on question of establishing a library are not to be included in calculating the majority needed to carry the proposition. Op. Atty. Gen. (285B), Oct. 25, 1940.

Considering sections 673, 1591, and 5666 together, county cannot contract for library service for county through cities outside county if there is a public library in the county, though inconveniently located. Op. Atty. Gen., (285), Nov. 10, 1939.

(2). Next "county election" means any election occurring in county where county officers are voted upon. Op. Atty. Gen. (285B), July 12, 1940.

682. Operation of hospital.

Osteopaths and chiropractors may be excluded by regulation of governing board of public hospital. Op. Atty. Gen. (1001a), Jan. 30, 1940.

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; provided, however, that any county so adjoining now or hereafter having a population of not less than 15,000, nor more than 16,000, and having an assessed valuation, exclusive of money and credits, of not less than \$2,200,000, nor more than \$2,500,000, and containing not less than 54, nor more than 56, full and fractional congressional townships, may annually levy, for such tubercular sanatorium purposes, a tax not to exceed five mills on the dollar of the assessed valuation in such county, of which not more than four mills shall be for maintenance, and all such taxes shall be levied and collected in the manner now provided for by law. (As amended Act Apr. 10, 1941, c. 203, §1.)

706. Employment of nurses to visit consumptives in their homes.—Upon the decision to establish and maintain a tuberculosis sanatorium under this act, the county commissioners of any county shall appoint a commission consisting of three members, residents of the county, at least one of whom shall be a licensed physician. These members shall be chosen with reference to their special fitness for such office and the appointment of said licensed physician before becoming effective shall be approved by the state board of health. Under the first appointment one member shall be chosen to hold office for one year, one for two years and one for three years, all from the first Monday of the next July following such appointment, and thereafter one member shall be chosen each year to serve for a period of three years commencing with the first Monday in July in each year respectively, and each appointee shall hold office until his successor is appointed and has qualified. This commission shall be known as the county sanatorium commission. Its members shall serve without compensation but shall be entitled to reimbursement for all necessary expenses incurred by them in connection with their official duties.

Said county sanatorium commission shall have full charge and control, except as hereinafter provided, of all moneys received for the credit of the tuberculosis sanatorium fund hereinafter described and full charge and control of the location, establishing and maintenance of any sanatorium building constructed under

this act and shall make such regulations concerning the same as may seem to it advisable, but no site shall be secured and no buildings erected or equipped without the approval and consent of the Director of the Division of Social Welfare, and before final action is taken and plans and specifications shall be submitted to the state board of health for approval as provided by Section 2131, Revised Laws of 1905. The Director of the Division of Social Welfare shall have full power and control over the construction and equipment of any such sanatorium whose establishment has been determined upon by said county sanatorium commission as hereinafter provided.

Said county sanatorium commission may when deemed necessary appoint and employ with the approval and consent of the Director of the Division of Social Welfare a competent superintendent who shall employ other necessary help at a compensation to be determined by the county sanatorium commission. Said superintendent shall be the executive officer of the sanatorium and he shall act as secretary of the county sanatorium commission. One member of said commission shall be elected annually by the commission as its president.

The county sanatorium commission of a county or group of counties may authorize the superintendent of a sanatorium to employ a nurse or nurses to visit in their homes consumptives who have been discharged from such institution and who reside within such county or group of counties. Such nurse shall render monthly reports in duplicate to the superintendent of the sanatorium and to the state board of health. Said sanatorium commission may establish an open air school or preventorium for child patients in connection with the sanatorium with the consent and approval of the Director of the Division of Social Welfare. When one or more units of said preventorium is not needed for the care of child patients infected with the tubercle bacillus, the said commission may with the consent and approval of the Director of the Division of Social Welfare, and the local authorities charged with the responsibility for the operation and management of the said Preventorium, use such unit or units for the care of indigent children convalescing from disease in a noncommunicable stage.

Said county sanatorium commission of a county or group of counties is hereby authorized, with the approval of the Director of the Division of Social Welfare, to use any surplus of the tax levy made for the maintenance of a Sanatorium, for building, purchasing equipments, building additions, building cottages, making improvements and repairs. (As amended Act Apr. 21, 1941, c. 349, §1.)

State commissioner of administration is not authorized to make purchases for county sanatorium. Op. Atty. Gen. (556-a-4), July 19, 1940.

710. Sanatorium commission to fix charges—Free patients—Nonresidents.—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 any such nonresident patient is admitted to a county sanatorium upon the application of any county the state shall pay out of moneys available for the maintenance of county sanatoriums the sum

of \$5.00 per week per patient. Provided further, that in case any such non-resident patient is admitted solely for the purpose of chest surgery or other surgery to effect treatment of tuberculosis, the full charge fixed by the county sanatorium commission shall be paid, one-half thereof by the state and one-half by the county of the patient's legal residence. (As amended Apr. 9, 1941, c. 163, §1.)

County sanatorium may accept from state and county the sum of \$15 and in addition accept from patient's family or friends any sum up to total nonresident cost, established by sanatorium. Op. Atty. Gen., (556a-8), March 28, 1940.

Both state and county of patient's residence should share in costs. Id.

Word "vacancy" means available vacancy, and not vacant beds in a cottage not available during winter months or beds in wards which are being repaired, and available vacancies should be divided into vacancies for women and vacancies for men. Id.

A resident of the state living outside a county maintaining a tuberculosis sanatorium may be placed in a county sanatorium even though there are vacancies at state sanatorium, so long as no state funds are used to pay for his care. Op. Atty. Gen. (556a-1), Dec. 17, 1940.

713. Authority of advisory commission of Minnesota Sanatorium for Consumptives.

State sanatorium cannot sell telephone equipment at private sale to telephone company, which will install new equipment, and if it did sell the equipment it could not retain the money received and use it to help defray expenses on telephone service to be rendered, authority to sell obsolete and surplus property being in the commissioner of administration, and sale on basis of competitive bids being necessary, and the proceeds thereof would go to general revenue fund of the state. Op. Atty. Gen. (640), Oct. 22, 1940.

729. Morgue.

Surviving parents of minor unmarried son had a legal right to possession of corpse for purposes of preservation and burial and a right of action for substantial damages for mental suffering for any interference with their right of possession. *Sworski v. S.*, 293NW309. See Dun. Dig. 2599.

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

County board may not make an appropriation to a village fair which is not a member of state agricultural society. Op. Atty. Gen., (125B-10), May 14, 1940.

738-16. County Board may levy tax for agricultural societies.

Treasurer of county agricultural society is not required to file a bond. Op. Atty. Gen., (772a-4), May 14, 1940.

Words "heretofore incurred", cannot be construed prospectively and do not give county board authority to levy tax to pay obligations incurred after April 8, 1927. Op. Atty. Gen. (519a), July 16, 1940.

738-17. Same—Application.

Act Apr. 21, 1941, c. 341, authorizes certain counties having populations of between 27,000 and 28,000 to levy tax for aid of county agricultural societies.

766. Claims to be itemized and verified.

County attorney may properly require claims by county commissioners for mileage to be itemized so as to show mileage traveled and roads covered. Op. Atty. Gen., (124J), Nov. 13, 1939.

COUNTY PLANNING COMMISSIONS

786-1. County Planning Commission in certain counties.—There is hereby authorized to be created in any county of this state now or hereafter containing a city of the first class, the area of which city comprises at least 25 per cent of the total area of the county, a county planning commission of not less than four and not more than 20 members. (Act Apr. 10, 1941, c. 210, §1.)

786-2. Members of Commission—Term.—The town board of any town desiring to be represented on said county planning commission may appoint, and at its pleasure may remove, two members of said commission. The governing body of each city and village, other than the city of the first class, desiring to be represented on said commission may appoint, and at its pleasure may remove, two members of said commission. When appointments to said commission are first made, the appointing authority shall appoint one member for a two year term and another member for a four year term, after which all subsequent ap-

pointments shall be for a four year term. Members shall hold office until their duly appointed successors have qualified. Appointments to fill vacancies shall be for the unexpired portion of the term. The county auditor and the county surveyor shall be members of said commission. Certified copies of the minutes of the meetings of the appointing bodies at which appointments under this act are made shall be filed with the county auditor. (Act Apr. 10, 1941, c. 210, §2.)

786-3. Meetings—Organization.—The commission shall meet within 30 days after its appointment and elect a chairman and other necessary officers from its membership. The commission may adopt rules and by-laws not inconsistent with the provisions of this act. A majority of the members of such commission shall constitute a quorum. Membership of the commission shall serve without compensation. (Act Apr. 10, 1941, c. 210, §3.)

786-4. Power and authority.—The county planning commission shall have power and authority, except as otherwise provided by law;

(a) to propose a general comprehensive plan or plans for the future physical development of the county or parts thereof outside of the limits of the city of the first class. Such plan or plans may include, among other things, the location, character, and extent of state highways, thoroughfares, viaducts, subways, bridges, water front blockades, by-ways, playgrounds, squares, parks, aviation fields, public ways, public forests, wild life sanctuaries, botanical garden grounds, public buildings, public utilities, building lines, and restricted building districts of all buildings, public or private.

(b) to propose a plan or plans which will divide the county into zones or districts and limit and regulate the construction, height, bulk, location and use of buildings and other structures and premises and lot areas in such zones or districts.

(c) to propose a plan or plans concerning the marking of historical landmarks, and location of statuary and other works of art which are or may become the property of the county and the removal or relocation of any such work belonging to the county.

(d) to propose a part of a plan covering one or more of the towns, cities, other than the city of the first class, villages, sections or divisions of the county and may from time to time propose alterations, amendments, or additions to any plan or plans; to co-operate with other planning boards and commissions of the county in the execution of its powers and authority. (Act Apr. 10, 1941, c. 210, §4.)

786-5. Preparing plans for future growth and development—Public hearing.—Whenever requested by the town board and/or the governing body of any city or village, other than a city of the first class, the county planning commission shall, at the expense of the town and/or city or village making such request, prepare a plan or alteration, amendment, extension or addition of any existing plan for the future growth and development of such town and/or city or village. It shall submit said plan together with all maps, drawings, and recommendations of the commission to the town board and/or governing body of the city or village affected. Such town board and/or governing body shall give due notice of and shall hold at least one public hearing before accepting or rejecting such plan, which acceptance or rejection shall be made within 90 days of the date of its submission to the town board and/or governing body of the city or village. (Act Apr. 10, 1941, c. 210, §5.)

786-6. Filing adopted plan—Disapproval.—If said plan or any part thereof, or any amendment, extension or addition thereto, shall be adopted by the town board and/or governing body of such city or village, the same, or a true and correct copy thereof, shall be filed with the register of deeds. In case of disapproval, the town board and/or the governing body of such

city or village, shall communicate to the commission the reason or reasons therefor. (Act Apr. 10, 1941, c. 210, §6.)

786-7. Binding effect of adoption of plan—Changes submitted to commission—Disapproval.—After the adoption of the plan by any town, city or village as hereinbefore provided, its provisions shall be binding upon all persons and all property in relation to all matters and things contained therein so far as it affects said town, city or village. No highway, thoroughfare, viaduct, subway, bridge, street, square, park, or other public way, and no public or private building or structure, or public utility, either publicly or privately owned, shall be constructed, altered or changed until the location, character, and extent thereof shall have been first submitted to the county planning commission for comparison with the said plan or plans, and shall have been approved by the commission. Provided, that in the case of disapproval, the commission shall communicate its reasons to the local governing body or bodies which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its members. (Act Apr. 10, 1941, c. 210, §7.)

786-8. Matters referred to Commission.—All matters concerning or relating to the platting of new areas or replatting of existing areas; the vacation or rearrangement of boulevards, streets, or alleys, the routing or rerouting of street cars and other means of transportation; the assignment of traffic to particular arteries of travel; the location and development of parks, playgrounds, parkways, or other public spaces; the location and design of all public buildings, bridges, monuments, and street fixtures; the establishment of building lines; the establishment of restricted building districts; the disposition of lands owned by the city and no longer required for public purposes; the location and installation of traffic signals; the plans for additional street lighting; the installation of public utility projects; street naming; and all other matters relating to the planning or replanning of the county shall be referred to the commission for its consideration and recommendation at such times as the local governing body or bodies of the areas affected may direct. (Act Apr. 10, 1941, c. 210, §8.)

786-9. Expenses of administration.—The electors of any town and the governing body of any city or village, other than the city of the first class, are hereby authorized to vote and levy a sum of money not in excess of \$1,000 per annum for the purpose of defraying their proportionate expense of the administration of this act. (Act Apr. 10, 1941, c. 210, §9.)

786-10. Grant of additional powers.—The town boards of all towns within said county and the governing bodies of said cities and villages, other than the city of the first class, may grant to such planning commission such further and additional powers as may be necessary to carry out the purposes of this act. (Act Apr. 10, 1941, c. 210, §10.)

786-11. Violation of act.—It is hereby declared unlawful for any person to violate any of the terms and provisions of this act or the provisions of any plan or plans proposed by the said county planning commission and accepted by the town board and/or city or village council. Violation thereof shall be a misdemeanor, punishable by a fine of not more than \$100.00 or imprisonment in the county jail for not more than 90 days. Said fines shall be paid to the treasurer of the town, city, or village in which such violation takes place. (Act Apr. 10, 1941, c. 210, §11.)

786-12. Powers of county commissioners unaffected.—None of the provisions of this act shall affect the powers and duties of the board of county commission-

ers of any such county. (Act Apr. 10, 1941, c. 210, §12.)

COUNTIES EXCEEDING 150,000

813. Certificates of indebtedness to retire outstanding warrants authorized in certain counties.

A deficit occurring in county welfare fund in 1939 as a result of inadequacy of 1938 tax levy and authorization of additional expenditures by St. Louis county board under §3199, as amended, may be regarded as a deficit carried over from a previous year within meaning of §813, and county board may issue certificates of indebtedness in 1939 in anticipation of proceeds of a deficiency tax levy which will be collected in 1940. Op. Atty. Gen., (107a-1), Sept. 30, 1939.

TERMS OF CERTAIN COUNTY OFFICERS

820. Auditor, treasurer; etc.

County board may but is not required to furnish office space for county surveyor, but must furnish necessary telephone service, stationery, etc. Op. Atty. Gen. (123d), Sept. 9, 1940.

822. County board to fill vacancies.

Where sheriff died immediately before expiration of time for filing of candidates for his office, a person appointed by board to fill vacancy would hold office for full balance of term of deceased sheriff. Op. Atty. Gen. (390a-20), Aug. 3, 1940.

TRANSPORTATION FACILITIES FOR COUNTY OFFICERS

822-2. Sheriffs 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 250,000, and less than 350,000 inhabitants, the sheriff of said county shall be allowed a sum of not more than \$6,500 for the year 1941 to be used for the purchase of automobiles, radio receiving and sending sets, insurance, including liability and property damage, covering the operator of the automobiles, firearms, and other necessary equipment and paraphernalia and for the care, maintenance, operation and upkeep of said automobiles and not more than \$6,250 per annum thereafter to be used for the purchase, care, maintenance, operation, upkeep of automobiles and insurance including liability and property damage covering the operator of the automobiles, firearms and other necessary equipment and paraphernalia to be used in the performance of the duties pertaining to his office. (As amended Act Apr. 28, 1941, c. 508, §1.)

COUNTY AUDITOR

824. County auditors allowed expenses to attend meetings called by tax commission.—The county board of each county shall audit and if found correct, allow duly itemized and verified claims of the county auditor and county treasurers for actual and necessary expenses incurred and paid by him in attending any meeting called by the Minnesota tax commission to confer in regard to assessments and taxation. (As amended Act Apr. 21, 1941, c. 344, §1.)

County auditor attending meeting called by tax commission in his own automobile is limited to a mileage of 5 cents per mile. Op. Atty. Gen., (104a-8), Mar. 12, 1941.

County may not pay annual dues of auditor to Minnesota County Auditors Association. Id.

833. Certain records may be transcribed.

Section 833 refers solely to books and records in office of county auditor, or county abstractor, and has no application to office of register of deeds, but where records in latter office are practically impossible to read due to fact that ink has faded, county commissioners can have them transcribed under §666. Op. Atty. Gen. (373B-18[c]), June 24, 1940.

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

Act Apr. 18, 1941, c. 311, §1, authorizes salaries for county auditors of from \$2,400 to \$2,800 in certain counties having populations of from 20,000 to 22,500.

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

PARTICULAR COUNTIES

Laws 1933, c. 76, as amended by Laws 1935, chs. 70 and 278 as amended by Laws 1939, c. 286. Amended. Laws 1941, c. 208.

Laws 1933, c. 166. Repealed. Laws 1941, c. 295.

Act Apr. 19, 1941, c. 323, §1, provides \$2,500 for clerk hire in office of county auditors in certain counties having populations of between 13,700 and 15,000.

Act Apr. 16, 1941, c. 259, fixes salary of county auditors, in certain counties containing populations of between 20,000 and 25,000, at \$3,000.

Act Apr. 21, 1941, c. 337, §1, amends Laws 1937, c. 491, §2, and fixes salary of county auditor at \$2,820 per annum, and allows \$3,600 per annum for clerk hire in certain counties having 44 or 45 congressional townships.

Act Apr. 22, 1941, c. 361 provides that in counties with population of 25,000 to 30,000 and assessed valuation of \$12,500,000 to \$14,000,000, the county auditor shall receive a salary of \$2,800 per annum.

Fees received for confessions of judgments are to be disposed of as are other fees received by officers, under Laws 1933, c. 143. Op. Atty. Gen., (144B-3), May 28, 1940.

COUNTY TREASURER

846. Funds, where deposited.

Provision that amount deposited in any bank shall not exceed capital stock and permanent surplus is still in force and effect. Op. Atty. Gen., (140a-1), Jan. 15, 1940.

864. New bond—Insolvency of surety.

County board may require an additional bond in certain instances, but cannot reduce amount of bond during term for which it is given. Op. Atty. Gen. (450B-2), March 1, 1940.

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 not to exceed 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. (As amended Act Mar. 11, 1941, c. 56, §1.)

Certain counties may issue master warrants. Laws 1941, c. 105.

There is no law which would permit so-called sale of master warrants to take up registered warrants, but banks sometimes cash registered warrants and hold them under an agreement with county at a 3 or 4 per cent interest rate. Op. Atty. Gen. (107a-5), Feb. 1, 1941.

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

If board arbitrarily determines there is a surplus in any fund, and that is not the case, their determination is of no effect and will constitute no authority for transfer of funds. Op. Atty. Gen., (107a-12), Nov. 27, 1939.

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

PARTICULAR COUNTIES

Laws 1923, c. 419, §16, as amended by Laws 1925, c. 398, §3, as amended by Laws of 1929, c. 301, as amended by Laws 1937, c. 275. Amended. Laws 1941, c. 526.

Laws 1933, c. 76, as amended by Laws 1935, chs. 70 and 278 as amended by Laws 1939, c. 286. Amended. Laws 1941, c. 208.

Laws 1933, c. 166. Repealed. Laws 1941, c. 295.

Laws 1939, c. 24. Amended. Laws 1941, c. 8.

Act Feb. 13, 1941, c. 8, allowing counties containing not less than 350, nor more than 400 square miles, and having a population of not less than 13,500, nor more than 16,000, and having an assessed valuation, exclusive of money and credits, of not less than \$5,000,000 nor more than \$10,000,000, and having an area of not less than 225,000 acres, nor more than 230,000 acres, sum of \$1,200 annually for clerk hire in office of county treasurer.

Act Apr. 18, 1941, c. 311, §2, authorizes salaries for county treasurers of from \$2,200 to \$2,600, in certain counties having populations of from 20,000 to 22,500.

Act Apr. 19, 1941, c. 321, amends Laws 1907, c. 139, §2, as amended, and fixes salaries of certain enumerated employees in the office of county treasurer in any county having population of between 250,000 and 350,000.

Act Apr. 19, 1941, c. 324, fixes salary of county treasurers in certain counties having populations between 32,000 and 35,500, at \$3,000 per annum.

Act Apr. 21, 1941, c. 350, §1, fixes salary of county treasurers, in certain counties having populations of between 36,000 and 36,500, at \$3,000 per annum.

Act Apr. 28, 1941, c. 526, amends Laws 1923, c. 419, §16, as amended.

REGISTER OF DEEDS

877. Tract Index books.

Act Mar. 28, 1941, c. 106, authorizes, certain counties having population of between 18,000 and 20,000, to have tract indexes transcribed, compared with original records and checked back when necessity therefor appears.

881. Register to supervise—Compensation.

Where tract index is completely out of repair and cannot longer be mended Register of Deeds in counties of under 75,000 population is entitled to 2 cents a line for work of transcribing or copying into a new book. Op. Atty. Gen. (373b-18)(c), Jan. 9, 1941.

884. Record books, indexes, etc.

Where mortgagee has a number of mortgages against one mortgagor, and last mortgage is paid and on satisfaction he sets up mortgage paid and also all other prior mortgages and gives number and date of filing of each instrument, register of deeds is entitled to charge a separate fee for each satisfaction recorded. Op. Atty. Gen., (373B-16), March 19, 1940.

890-1. Sheriff's certificates in mortgage foreclosures filed prior to January 1, 1875—Construction.—In all foreclosures of mortgages by advertisement before January 1, 1875, where the sheriff's certificate was duly recorded prior to that date, if two persons are named in said certificate as purchasers, only one of whom subsequently conveyed or attempted to convey the property described in said certificate, it shall be prima facie presumed that such person who later conveyed or attempted to convey was the only person intended to be named in such certificate as a purchaser, and that any other person named as a purchaser in such certificate was named by inadvertent mistake. (Act Apr. 23, 1941, c. 388, §1.)

890-2. Same—Application of law.—This act shall not apply to any action or proceeding now pending in any court affecting the validity or construction of any such certificate. (Act Apr. 23, 1941, c. 388, §2.)

893. Same—Duty of register.

This section is applicable so as to require recording of old age lien certificates in Hennepin County. Op. Atty. Gen., (521p-4), Dec. 9, 1939.

Register of deeds may not charge fee for filing of old age assistance lien. Op. Atty. Gen. (521p-4), Jan. 29, 1940.

Articles of incorporation in the Norwegian language cannot be recorded. Op. Atty. Gen. (373B-17(d)), Dec. 18, 1940.

893-1. Transcribing abstract records; etc.

Where tract index is completely out of repair and cannot longer be mended Register of Deeds in counties of under 75,000 population is entitled to 2 cents a line for work of transcribing or copying into a new book. Op. Atty. Gen. (373b-18)(c), Jan. 9, 1941.

897-1. Salary of deputy register of deeds in certain counties.

Act Apr. 10, 1941, c. 209 provides that in counties of 25,000 to 26,000 population, 23 to 25 congressional townships, and not owning a tract index system, the salary of the deputy register of deeds shall be \$1,500 annually. §2 repeals c. 204, Laws 1937.

904-3. Salaries of deputies and clerks in Register of Deeds officers 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; seven 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; 20 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. (As amended Act Apr. 28, 1941, c. 519, §1.)

COMPENSATION OF REGISTER OF DEEDS IN PARTICULAR COUNTIES

Laws 1929, c. 87 as amended by Laws 1933, c. 321. Amended. Laws 1941, c. 455.

Laws 1933, c. 76, as amended by Laws 1935, chs. 70 and 278 as amended by Laws 1939, c. 286. Amended. Laws 1941, c. 208.

Laws 1933, c. 166. Repealed. Laws 1941, c. 295.

Laws 1937, c. 204. Repealed. Laws 1941, c. 209.

Act Apr. 19, 1941, c. 311, §8, authorizes salaries for registers of deeds of from \$2,200 to \$2,600, in certain counties having populations of from 20,000 to 22,500.

Act Apr. 25, 1941, c. 455, amends Laws 1929, c. 87, §§1 to 3, as amended by Laws 1933, c. 321. Section 4 repeals section 4, of such chapter 87.

SHERIFF

905. Bond and oath.

Laws 1941, c. 76, authorizes the establishment of a sheriff's contingent fund in certain counties for defraying expenses in criminal cases.

A deputy sheriff is not required or permitted to give bond to state. Op. Atty. Gen. (390B), March 13, 1940.

907. Powers and duties.

Suspension or discharge of employees in office of sheriff in counties having a population of 500,000 or over. Laws 1941, c. 385.

917. Deputies.

Act regulating suspension or discharge of employees in office of sheriff in certain counties having population of 500,000 or over. Act Apr. 22, 1941, c. 385.

A deputy sheriff is not required or permitted to give bond to state. Op. Atty. Gen. (390B), March 13, 1940.

920-1. County boards to fix salaries; etc.

Sheriff of a class B county is not entitled to fees for drawing a coroner's jury or a jury in a justice court criminal case. Op. Atty. Gen. (390c-1), June 20, 1940.

920-2. Division of counties in classes.

Class G embraces 2 groups: Counties having an area of more than 2300 square miles and a population of less than 40,000; and those having 35,000 or more but less than 40,000 inhabitants and having an area of less than 2300 square miles. Op. Atty. Gen. (390a-18), Dec. 3, 1940.

920-3. Salaries for sheriffs for certain counties prescribed.

Sheriffs' contingent fund established in certain counties having between 45,000 and 75,000 population. Act Mar. 28, 1941, c. 76, §1.

920-7. Payment of deputy sheriff.

The Sheriff of Cass County may apply to judge of district court for salary for full time deputy pursuant to this section. Op. Atty. Gen. (390B-2), Aug. 12, 1940.

922. Deputies attending court.—The judge of the district court in each county, before the commencement of any general term, shall, by order issued to the sheriff, fix the number of deputies required during such term, and direct the sheriff to furnish the same. The sheriff shall file said order with the clerk. Each such deputy shall receive such compensation as the judge shall determine not exceeding five dollars per day while attending such term of court. (As amended Act Apr. 26, 1941, c. 468, §1.)

923-4. Salaries of deputies and other employees in Sheriffs' offices in counties of 380,000 or more.

—In any county of the state containing 380,000 or more inhabitants, the sheriff shall appoint and employ one chief deputy who shall be paid the sum of \$3,270 per annum; one tavern inspector deputy who shall be paid the sum of \$2,400 per annum to inspect licenses and the operation of taverns, road-houses and places where non-intoxicating beverages and/or intoxicating liquors are sold; 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 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 gen-

eral 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 the money in the county treasury, not otherwise appropriated. (As amended Apr. 18, 1941, c. 304, §1.)

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

Laws 1931, c. 258, §1. Amended. Laws 1941, c. 506.

Laws 1933, c. 76, as amended by Laws 1935, chs. 70 and 278 as amended by Laws 1939, c. 286. Amended. Laws 1941, c. 208.

Laws 1933, c. 166. Repealed. Laws 1941, c. 295.

Laws 1939, c. 274. Repealed. Laws 1941, c. 295.

Act Apr. 18, 1941, c. 311, §6, authorizes salaries for sheriffs of from \$2,000 to \$2,400, in certain counties having populations of from 20,000 to 22,500.

Act Apr. 21, 1941, c. 347, §1 authorizes county boards of counties in which a training camp for military or naval forces is established, and adjoining counties, to fix and pay salaries of additional deputy sheriffs.

Act Apr. 28, 1941, c. 506, §1, amends Laws 1931, c. 258, §1.

Laws 1923, ch. 166, §6, as amended by Laws 1939, ch. 274, do not cover Cass County, the amendment not being a new act and being limited by title to the former act, and the sheriff of that county may apply to judge of district court for a salary for full deputy pursuant to §920-7. Op. Atty. Gen. (390B-2), Aug. 12, 1940.

COUNTY ATTORNEY**926. Duties.**

County attorney cannot represent a purchaser of tax title in action to quiet title where land involved prior to expiration of redemption was owned by old age assistance recipient and state is made a party defendant. Op. Atty. Gen. (121B), Sept. 12, 1940.

The "poor and hospital commissions" of Itasca County, created by Laws 1917, c. 187, as amended by Laws 1931, c. 60, cannot employ a special attorney to enforce claims against other counties, enforcement of such claims being a duty of the county attorney. Op. Atty. Gen. (121a), Sept. 30, 1940.

929. Not to receive fees—Prohibitions.

Section would not prohibit county attorney who conducted examination of witnesses at an inquest in which jury called death an unavoidable accident from handling a claim for damages. Op. Atty. Gen. (121a-7), Sept. 6, 1940.

It would be improper for a county attorney who has duty to enforce and collect claims for old age assistance to represent an administrator of estate. Op. Atty. Gen. (121B), Jan. 22, 1941.

930. Other attorney, when.

Where time of county attorney is taken up with other county work it is not permissible for county welfare board to appoint a special attorney to be paid from its funds to represent county at hearing on appeal from determinations of old age assistance grants, although it might be permissible for county board to employ an assistant to the county attorney. Op. Atty. Gen. (121a), Sept. 30, 1940.

930-1/2. County attorney may appoint assistant—Bond—Compensation.—The county attorney of any county in this state, who has no assistant, is hereby authorized to appoint, with the consent of the county board of said county, an attorney to assist him in the performance of his duties. Such assistant shall have the same duties and be subject to the same liabilities as the county attorney, and shall hold his office dur-

ing the pleasure of the county attorney. Such assistant shall be appointed in writing and before entering upon the duties of his office, shall give bond to the county in the penal sum of \$500.00, to be approved by the county board, conditioned in the same manner as the bond required of the county attorney, which bond, with his oath and appointment, shall be filed for record with the register of deeds. Such assistant county attorney shall receive no compensation from the county, but shall be paid for his services by the county attorney appointing him; provided, however, that in all counties in this state having a population of not less than 28,100 and not more than 30,600 and in which there is a city of the third class or of larger size, and in all counties in this state having a population of not less than 38,500 nor more than 41,000 according to the last federal census, and containing not less than 24 nor more than 25 full and fractional congressional townships, the county board of such county may fix the salary of the assistant county attorney appointed pursuant to the provisions of this act, and the salary when so fixed by such county board shall thereafter be paid by the county in equal monthly installments upon the warrant of the county auditor, during the period for which such salary is so fixed or during such portion thereof as the assistant county attorney shall continue in office. (As amended Mar. 28, 1941, c. 96, §1.)

Offices of assistant county attorney and city attorney are incompatible, and one accepting appointment as assistant county attorney automatically vacates former office of city attorney. Op. Atty. Gen. (358a-1), Jan. 20, 1941.

935-2. Clerk hire in counties with population under 150,000.—The county board may annually appropriate a sum not to exceed \$720.00 to be used for providing clerk hire for the county attorney. The amount to be allowed for such purpose shall be determined by the county board but shall not exceed the sum of \$60.00 per month. All disbursements from such funds shall be made in the manner provided by law. This act shall not apply in any county now or hereafter having a population of 150,000 or more inhabitants or in any county wherein clerk hire for the county attorney is provided for by any other law. (Act Apr. 28, 1941, c. 483, §1.)

COMPENSATION OF COUNTY ATTORNEY AND APPOINTMENT OF ASSISTANTS IN PARTICULAR COUNTIES

Laws 1933, c. 76, as amended by Laws 1935, chs. 70 and 278 as amended by Laws 1939, c. 286. Amended. Laws 1941, c. 208.

Laws 1933, c. 166. Repealed. Laws 1941, c. 295.

Laws 1937, c. 291, §10. Amended. Laws 1941, c. 509.

Laws 1937, c. 380. Amended. Laws 1941, c. 15.

Act Feb. 21, 1941, c. 15, amends Laws 1937, c. 380, and provides that in any county having a population of not more than 12,000 nor less than 9,000, the annual salary of county attorney shall be \$1,650, and 5 cents per mile, and clerk hire not to exceed \$600.

Act Apr. 18, 1941, c. 311, §5, authorizes salaries for county attorneys of from \$1,500 to \$2,000, in certain counties having populations of from 20,000 to 22,500.

Act Apr. 21, 1941, c. 337, §2, amends Laws 1937, c. 491, §6, and fixes salary of county attorneys at \$2,820 per annum, in certain counties 44 or 45 congressional townships.

Act Apr. 21, 1941, c. 347, §1, authorizes county boards of counties in which a training camp for military or naval forces is established, and adjoining counties, to fix and pay salaries of additional assistant county attorneys.

Act Apr. 28, 1941, c. 509, §1, amends Laws 1937, c. 291, §10.

CORONER

956. Burial.

A person is not "unknown" if his identity can be ascertained by reasonable inquiry, and coroner is liable in damages for directing embalming and preparation for burial of a known person without authority of those entitled to possession. *Sworski v. S.*, 293NW309. See Dun. Dig. 2599.

Coroner after examination of body had no authority to direct embalming without authority of parents of deceased, and both coroner and undertaker were liable for damages. *Id.*

957-3. Same—Expenses.

CORONERS IN PARTICULAR COUNTIES

Gen. Stat. 1913, §1007, 1008. Repealed. Laws 1941, c. 241.

Act Apr. 16, 1941, c. 241, §§1-3, requires coroner to be a duly licensed physician and surgeon, and allows him an annual salary of \$4,000. It also fixes salaries of a deputy coroner, secretary, assistant secretary, and morgue keeper.

SUPERINTENDENT OF SCHOOLS

958. Salary—Certain counties excepted. (Repealed.)

Repealed. Laws 1941, c. 169 except as provided therein. Reenacted as 3156-2(9).

959. Same—Certain expenses. [Repealed.]

Repealed. Laws 1941, c. 169 except as provided therein. Reenacted as 3156-2(10).

Statutes seem to contemplate that examinations are to be given by county superintendent, and though state board supplies sample questions, expenses of examinations are to be paid by county. Op. Atty. Gen., (397), Sept. 27, 1939.

This section does not allow purchase of books for office of superintendent of schools, but county may pay for any books necessary in connection with duties of his office under §664. Op. Atty. Gen., (125B-27), Oct. 6, 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, 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. (As amended Act Feb. 25, 1941, c. 22, §1.)

Editorial note.—Section 960, was repealed by Act Apr. 10, 1941, c. 169, Art. XIV, §1, and reenacted as §3156-2(11), by such chap 169, Art. II, §11. Section 960, had been amended to read as above by Act Feb. 25, 1941, c. 22, §1. It is possible that this section as amended was not included in such repeal.

960-1. Same—Counties excepted. [Repealed.]

Repealed. Laws 1941, c. 169 except as provided therein. Reenacted as 3156-2(12).

961. Delivery of records etc. [Repealed.]

Repealed. Laws 1941, c. 169 except as provided therein. Reenacted as 3156-2(13).

962. Traveling expenses. [Repealed.]

Repealed. Laws 1941, c. 169 except as provided therein. Reenacted as 3156-2(14).

963. Same—Teachers' institutes. [Repealed.]

Repealed. Laws 1925, c. 110, §6.

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

Laws 1933, c. 76, as amended by Laws 1935, chs. 70 and 278 as amended by Laws 1939, c. 286. Amended. Laws 1941, c. 208.

Act Apr. 10, 1941, c. 206 provides that in counties having 19 to 22 organized townships, 39,000 to 41,000 population, and 24 to 25 congressional townships, the salary of the clerk of county superintendent of schools shall be \$650 to \$1,500 per annum.

Act Apr. 18, 1941, c. 310, fixes salaries of superintendents of schools in certain counties having populations of between 32,000 and 35,500, at \$2,500 per annum.

Act Apr. 18, 1941, c. 311, §7, authorizes salaries for superintendents of schools of from \$1,800 to \$2,200, in certain counties having populations of from 20,000 to 22,500.

Act Apr. 21, 1941, c. 337, §3, amends Laws 1937, c. 491, §11, and fixes salaries of superintendents of schools at \$2,520 per annum, and fees and clerk hire as now prescribed by law, in certain counties having 44 or 45 congressional townships.

COUNTY WELFARE BOARD

974-11. County welfare board established.—There shall be established in each county of the state a County Welfare Board which shall consist of the number of members, as hereinafter provided, 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, said County Welfare Board shall consist of seven members, including the Board of County Commissioners to be selected as herein provided: Two members, one of whom shall be a woman, shall be appointed by the Director of Social Welfare 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 or a vacancy occurs by reason of death or resignation a successor shall be appointed by the Director of Social Welfare for the full term of two years from a list of five residents submitted by the Board of County Commissioners—(provided however, that the Board of County Commissioners may by resolution adopted by a majority of said board, determine that only three of their members shall be members of the County Welfare Board, in which event said County Welfare Board shall consist of five members instead of seven.) 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, the unexpired term of such member shall be filled by appointment by the County Commissioners. 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 director of Social Welfare for appointment to the County Welfare Board by the Director of Social Welfare, 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 Director of Social Welfare is hereby empowered to and shall forthwith appoint residents of said county to the County Welfare Board. Before the Director of Social Welfare 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 Director of Social Welfare 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. (As amended, Act Apr. 17, 1941, c. 284, §1.)

(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, or contract with any one or more of the public subdivisions of the county for the purpose of jointly supervising and administering the poor relief funds in such towns, villages or cities. 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. The said board shall receive such compensation and shall have and exercise 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 Mason's Supplement 1940, Section 974-17, except that the executive secretary of such board shall be appointed and his salary shall be fixed pursuant to Mason's Supplement 1940, Section 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 Mason's Minnesota Statutes of 1927, Sections 3196, 3197 and 3198 and Mason's Supplement 1940, Section 3199. The said board shall receive such compensation and shall have and exercise all the powers as provided by the Mason's Minnesota Statutes of 1927, Sections 3196, 3197 and 3198 and Mason's Supplement 1940, Section 3199, in addition to any other and further powers granted herein and shall have and perform all the additional duties referred to in Mason's Supplement 1940, Section 974-17.

(e) Any county now having a poor and hospital commission, said poor and hospital commission shall be the county welfare board. (As amended Act Apr. 16, 1941, c. 261, §1.)

Act Apr. 16, 1941, c. 261, §2, provides that nothing herein contained or omissions shall be construed as repealing any other amendments to the foregoing sections by the 1941 session of the legislature.

Act Apr. 17, 1941, c. 284, §3, provides that act shall take effect on July 1, 1941.

(a).

Where term of office of member of county board, who is also member of county welfare board, expires, he may not be legally appointed by county board as a lay member of county welfare board to fill the vacancy, but he might

be appointed at expiration of term. Op. Atty. Gen. (125a-64), Dec. 26, 1940.

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 Director of Social Welfare 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 except the salary of the Executive Secretary of the County Welfare Board appointed pursuant to Section 1, Subdivision (c) hereof (Sec. 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 employees as it may hire.

Said welfare board shall require its executive secretary and such other of its employees 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. (As amended Act Apr. 17, 1941, c. 284, §2.)

Act Apr. 17, 1941, c. 284, §3 provides that said act shall take effect on July 1, 1941.

974-16. Salaries, etc., to be paid by county.

Act Apr. 10, 1941, c. 200 provides that members of County Welfare Board in counties having 81 to 85 townships, and 20,000 to 30,000 population shall receive annual salary of \$300, plus actual and necessary travelling expenses.

County board in county under township system can create a revolving fund for purchase of "food stamps" for distribution of surplus commodities, and their resale to municipalities, and may provide clerical help and offices in connection with administration of the plan. Op. Atty. Gen. (125a-64), Nov. 1, 1940.

974-17. Duties and powers of the board—Director of social welfare.—

(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 Director of Social Welfare 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), 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 co-operation with the Director of Social Welfare, the administration of all forms of public assistance which now are or hereafter may be imposed on the Director of Social Welfare 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 Director of Social Welfare 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) 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 Director of Social

Welfare 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 Director of Social Welfare 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 Director of Social Welfare shall be the authority to adopt and enforce rules and regulations concerning the use and publication of lists of public assistance recipients and governing the custody, use and preservation of public assistance records, files and communications. The Director of Social Welfare shall adopt such rules and regulations as may be necessary to comply with the requirements of the Federal Social Security Board; but in any event shall provide for the annual publication of a summary financial statement giving total expenditures for each of the several programs of public assistance; and shall make all finance records available for such examinations and audits as are required by law. No use or publication of the lists, records, files and communications herein referred to shall be made until such rules and regulations are adopted, and then only in the manner and form therein provided. All other acts or parts of acts now in effect inconsistent with the provisions of this act are hereby repealed, superseded, modified or amended so far as necessary to conform to and give full force and effect to the provisions of this act. The provisions of this act will not be construed to apply to poor relief or direct relief. (As amended, Act Apr. 22, 1941, c. 370 §2.)

(e) The director of social welfare shall have authority to require such methods of administration as are necessary for compliance with requirements of the federal social security act as amended and for the proper and efficient operation of all welfare programs. This authority to require methods of administration shall include methods relating to the establishment and maintenance of personnel standards on a merit basis as concerns all employees of county welfare boards except those employed in an institution, sanatorium, or hospital; provided, however, that the director of social welfare shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods. The adoption of methods relating to the establishment and maintenance of personnel standards on a merit basis of all such employees of the county welfare boards and the examination thereof, and the administration thereof shall be directed and controlled exclusively by the director of social welfare. (As amended Act Apr. 26, 1941, c. 476 §1.)

A county welfare board, subject to supervisory regulations by state agency, may compromise its claim against estate of a deceased old age assistance recipient if circumstances warrant a compromise. Op. Atty. Gen., (521g), Oct. 2, 1939.

State agency may adopt and enforce a regulation binding upon county welfare board whereby local board shall monthly publish in summary form for old age assistance and aid to dependent children all expenditures, not to be itemized by name of recipient, and requiring protection from public of list of recipients and their confidential communications. Op. Atty. Gen., (277c-1), Oct. 10, 1939.

County and village may participate in Food Stamp Plan. Op. Atty. Gen. (339S), Dec. 13, 1940.

(d). Names of all persons receiving old age assistance or other payments from county welfare funds and amounts paid to each must be published in annual county financial statement. State v. Heffelfinger, 296NW181. See Dun. Dig. 2280b.

974-22. County Welfare Board may publish expenditures. [Repealed.]

Repealed. Laws 1941, c. 370.

Names of all persons receiving old age assistance or other payments from county welfare funds and amounts paid to each must be published in annual county financial statement. State v. Heffelfinger, 296NW181. See Dun. Dig. 2280b.

State agency may adopt and enforce a regulation binding upon county welfare board whereby local board shall monthly publish in summary form for old age assistance

and aid to dependent children all expenditures, not to be itemized by name of recipient, and requiring protection from public of list of recipients and their confidential communications. Op. Atty. Gen., (277c-1), Oct. 10, 1939.

MISCELLANEOUS PROVISIONS

976. To report fees.

Judge of probate must file annual statement of fees collected. Op. Atty. Gen. (347E), Jan. 9, 1940.

Judge of probate is a "county officer" required to file accounting of receipt of fees and emoluments. Op. Atty. Gen. (347E), March 6, 1940.

990. Officials not to be interested in contracts.

Employment of coroner by county commissioners for medical examination of poor persons, violates this section. Op. Atty. Gen. (103-E), Aug. 9, 1940.

If call for bids for a snow plow is general enough to include all types of equipment of a certain kind, and particular equipment which is desired is among those bid, but is not lowest, purchase may be made of exact equipment desired though bid is not lowest. Op. Atty. Gen. (707-a-7), Jan. 21, 1941, Jan. 30, 1941.

County board may exercise its judgment and discretion as to which one is the "lowest responsible bidder". Op. Atty. Gen. (707a-7), Jan. 21, 1941, Jan. 30, 1941.

It would be illegal for county board to buy a truck from a company whose local dealer was a member of the county board, even though such member would not receive anything out of the sale. Op. Atty. Gen. (90b), Mar. 27, 1941.

991. Contracts in certain counties.

In counties of over 450,000 population county auditor must advertise for bids for purchase of goods and supplies. Laws 1941, c. 348.

It is not necessary for county board to advertise for bids for purchase of public liability insurance. Op. Atty. Gen. (707a-7), March 14, 1940.

Road machinery may not be rented without advertising for bids. Op. Atty. Gen., (707d-2), April 8, 1940.

Where bids were opened at time and place specified in advertisement and lowest bid received two votes, two board members present not voting and fifth member being absent, a majority did not vote and bid did not carry, and board could consider bids at next regular meeting without advertising. Op. Atty. Gen., (707a-7), May 6, 1940.

County auditor is not required to advertise for bids for printing primary election ballots and other election supplies, but must require printer to give bond. Op. Atty. Gen. (707a-7), June 12, 1940.

County board cannot accept a tied bid unless proposal calling for bid permits them. Op. Atty. Gen. (707a-7), June 22, 1940.

Existence of an emergency which would justify dispensing with requirement to advertise for bids is a question of fact for county board, but they should be prepared to defend themselves in court by facts sufficient to show that there was an emergency, and county board

could and should have foreseen requirements and necessity for snow fence delivered in 6 parts between Dec. 17 and Dec. 28, totaling more than \$1000, but each separate bill being less than \$500. Op. Atty. Gen. (707a-8), Jan. 21, 1941.

Whether an emergency exists warranting dispensing with calling for bids is a question of fact within sound judgment and discretion of county board. Op. Atty. Gen. (707a-8), Jan. 22, 1941.

A notice for bids for "one or more Diesel-powered motor patrol graders complete with snow plow and wing as per specifications on file in county engineer's office" is probably too indefinite, but the notice might properly call for separate bids on one motor patrol, on two motor patrols, etc. Op. Atty. Gen. (707a-1), Feb. 28, 1941.

993-1. Purchasing contracts in certain counties.

Election ballots and supplies might be deemed "supplies and materials". Op. Atty. Gen. (707a-7), June 12, 1940.

Act Apr. 21, 1941, c. 348, requires county auditor in counties having population of more than 450,000 to advertise for bids for purchase of goods.

994. Actions against counties.

Where plaintiff by written assignment acquired a claim against county and it was audited and allowed, but through mistake or oversight on part of county officers warrant issued in payment was made payable to original claimant, who cashed it, plaintiff may recover from county as against defendants' claim that statute prevents suit by a claimant to enforce a money demand and that appeal from board's disallowance in whole or in part is only remedy. *Leuthold v. R.*, 238NW165. See Dun. Dig. 2295.

997-4. Salary of county officers.

Act Apr. 10, 1941, c. 208, relative to salaries and other compensation of various county officers is, by its descriptive terms, applicable to Lake of the Woods county.

997-4a. Salaries of county officers in certain counties.

Act Apr. 17, 1941, c. 295, §§1 to 11, fixes the salaries of various county officers in counties having 76 to 80 congressional townships and assessed valuation of \$2,000,000 to \$5,000,000.

Laws 1927, c. 392, fixing salaries of members of county board, is limited in application to counties having an assessed valuation of \$250,000,000, and where assessed valuation in St. Louis County fell below that amount that act no longer applied, and Laws 1935, c. 349, freezing salaries of county officials as of 1931 was in effect a new act, and provision in 1927 act that "each member of said board shall devote his entire time to the performance of the duties of his office" no longer governed. Op. Atty. Gen. (104a-9), Jan. 24, 1941.

997-4b. Minimum salaries. [Repealed.]

Repealed. Laws 1941, c. 295.

CHAPTER 8

Towns and Town Officers

POWERS—DUTIES—LIABILITIES

1002. Powers of town meetings.

Unless a town has been given authority to do so by some special act it has no authority to construct sewers. Op. Atty. Gen., (387G), Oct. 12, 1939.

No town board has authority to enter into a town contract obligating it to expend a greater sum of money than is in township treasury plus taxes actually levied and in process of collection, although a town may raise revenue by issuance of orders, which may be stamped "Not Paid" and which bear interest from date stamped, or the issuance of bonds. Op. Atty. Gen., (688c-1), March 25, 1940.

Town board has no authority to license dairy companies or their trucks, where it has no platted portion which would give it additional powers of a village. Op. Atty. Gen., (292c), May 6, 1940.

(3).

In connection with proceedings to establish a town ditch, town board has no authority to employ an attorney not asked for in the petition. Op. Atty. Gen., (151B), Dec. 18, 1939.

Towns may authorize payment of reasonable value of services of attorney in an emergency defense of legal action brought against board for alleged negligence in maintenance of a town bridge. Op. Atty. Gen. (779a-4), Mar. 13, 1941.

(6).

Town board is authorized to appropriate and expend a reasonable sum as assistance for improvements and maintenance of a bridge outside limits of town on a road leading into town, but it may not contribute money to construction of a new bridge. Op. Atty. Gen., (442a-21), March 29, 1940.

(9).

Town has authority at a special meeting to authorize town board to remodel and enlarge town hall and determine amount of money to be raised for such purpose. Op. Atty. Gen., (434c-2), April 23, 1940.

(10).

It would not be improper to include in notice of annual town meeting a statement that a proposal to acquire additional land for a cemetery will be voted upon, but it is not necessary. Op. Atty. Gen. (870d), Feb. 10, 1941.

1002-1. Dissolution of township government, etc.

When a township is dissolved, it is duty of county commissioner to appoint an actuary for town cemetery until it is disposed of. Op. Atty. Gen. (870f), Dec. 10, 1940.

A conveyance to a town "this town to maintain car tracks and wall gate, said land to revert to the party of the first part when ceased to be used by said town", constituted a condition subsequent, upon breach of which, coupled with re-entry, estate of town will be defeated, unless condition has become merely nominal, but such condition is directed toward a particular public use and not against succession of property to county upon dissolution of town, and there is no reverter resulting from failure to use the property unless there is a re-entry or an equivalent act before performance of condition as resumed. Op. Atty. Gen. (441B), Jan. 4, 1941.

Where land was conveyed to a town wherein grantee "agreed that the above described property shall be improved and kept improved, and that said grounds shall be used for a public park and picnic grounds only and for no other purpose whatsoever", property went to county upon dissolution of town by operation of law, including appurtenant rights, privileges and duties, and wheth-