

1944 Supplement
To
Mason's Minnesota Statutes, 1927
and
Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

Edited by
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CHAPTER 4

Executive Department

THE GOVERNOR

56. State capitol.

Sale of old capitol building site to Minnesota State Armory Building Commission, authorized. Act Mar. 18, 1941, c. 73. Former authorization revoked.

Commissioner of administration with approval of governor may permit tourist bureau to construct log cabin on capitol grounds. Op. Atty. Gen., (9831), Feb. 19, 1940.

57. Proclamations.

Day proclaimed by governor as Thanksgiving day is a holiday, but another day proclaimed by the President of the United States is not a holiday. Op. Atty. Gen. (276), Oct. 24, 1939.

Date set aside in proclamation of governor determines date to be observed for Thanksgiving. Op. Atty. Gen. (276), Nov. 6, 1939.

58. Powers of.

A duplicate cannot be issued where a deed executed by governor has been lost. Op. Atty. Gen. (410), May 20, 1943.

Laws 1943, c. 600, approved Apr. 24, 1943, provides as follows:

"Section 1. **Minnesota War Emergency Act.**—This act shall be known and may be cited as the 'Minnesota War Emergency Act.'"

§1.

Municipalities may incur and pay reasonable expenses in connection with war bond drive. Op. Atty. Gen. (551), Aug. 26, 1943.

Sec. 2. **Expiration date of act.**—This act shall be effective until sixty days after cessation of hostilities in the present war as declared by proper federal authority and shall then expire, or until July 1, 1945, whichever may first occur.

Sec. 3. **Restrictions.**—Nothing in this act shall be construed to authorize the Governor:

(1) By subpoena or otherwise to require any person to appear before him or any other person or to produce any records for inspection by him or any other person, or to examine any person under oath;

(2) To seize, condemn, or appropriate any property;

(3) To remove summarily from office any person except as now provided by law or hereinafter specifically authorized.

Sec. 4. **Powers and duties of Governor.**—Subdivision 1. Subject to the Constitution of Minnesota and of the United States, and other applicable provision of the law not inconsistent herewith, the Governor shall have the following powers and duties for the purpose of enabling the state to cooperate with the federal government in the prosecution of the present war:

(1) To do all acts and things necessary for the protection of life and property in the State of Minnesota and to perform all acts necessary to apply the military, civil and industrial resources of the state toward the defense of the state and nation and toward the successful prosecution of the present war.

(2) To cooperate with the military and other agents and officers of the United States of America in executing his duties hereunder in relation to the public safety and prosecution of the war.

(3) To utilize the facilities and services of all agencies and officers of the state and local governments; and all such agencies and officers shall cooperate with the Governor and extend these services and facilities as he may request.

Subdivision 2. The specific powers granted to the Governor by this act shall be construed as an addition to, and not as a limitation of, the general powers.

Subdivision 3. The Governor, by written order filed with the Secretary of State, may delegate to the director or to any other state officer or employee such of his powers hereunder as he may choose, except the power to make rules and regulations.

Sec. 5. **Division of civilian defense created.**—Subdivision 1. There is hereby created the Division of Civilian Defense, herein referred to as the Division, which shall be under the supervision and control of the Governor.

Subdivision 2. There shall be a Director of Civilian Defense, herein referred to as the director, who shall be the administrative officer of the Governor in the administration of the Division. The director's salary shall be \$5,000 per year, payable semi-monthly. He shall be appointed by the Governor and may be removed from office by the Governor at any time. When authorized by the Governor, the director shall issue orders necessary to carry out the provisions of this act, but he shall not initiate orders, rules or regulations having the effect of law.

Sec. 6. **Governor may make rules.**—Subdivision 1. The Governor may make, amend, and rescind such orders, rules, and regulations as may be necessary to carry out the provisions of this act.

Subdivision 2. All orders, rules, and regulations promulgated by the Governor shall have the full force and effect of law, when a copy thereof is filed in the office

of the Secretary of State. All rules, regulations, and ordinances of any agency or political subdivision of the state inconsistent with the provisions of this act, or with any order, rule, or regulation issued under the authority of this act, shall be suspended during the period of time and to the extent that such conflict exists.

Subdivision 3. In order to attain practical uniformity throughout the country in measures of war and civilian defense, all action taken under this act and all orders, rules and regulations made pursuant thereto shall be taken or made with due consideration to the orders, rules, regulations, actions, recommendations, and requests of federal authorities relevant thereto and, to the extent permitted by law, shall be consistent with such orders, rules, regulations, actions, recommendations and requests.

Sec. 7. **Existing councils of defense to be continued.**—Subdivision 1. The state, county, and local councils of defense established pursuant to an order of the Governor, and all personnel thereof, are hereby continued subject to changes which may be made in accordance with the provisions hereof.

Sec. 8. **Governor may authorize municipalities to lease or lend properties.**—Notwithstanding any inconsistent provision of law and to effectuate the provisions of this act the Governor may authorize any department or agency or political subdivision of the state to lease or lend, on such terms and conditions as he may deem necessary to promote the public welfare and protect the interests of the state, any real or personal property of the state or political subdivision thereof to the army, navy, or any other branch of the armed forces of the United States of America. Any lease, loan, or contract entered into pursuant to this paragraph shall be for a period not longer than the effective period of this act.

Sec. 9. **Governor to cooperate with and act as agent of United States Government.**—The Governor is authorized and empowered to cooperate with and act as agent for the United States of America in the sale of bonds, stamps, and other securities issued by the federal government to officers and employees of the state. Every officer and employee of the state may pay for such bonds, stamps, and other securities by directing in writing that deductions of the amount specified by such officer or employee be made from his salary. The head of each department of the state is hereby required to cause such deduction to be made from the salary of each said persons on every payroll abstract and to approve one voucher payable to the State Treasurer for the aggregate amount so deducted from the salaries covered by said payroll abstract, provided that deductions from salaries of officers or employees paid direct by any institution or agency of the state shall be made by the officer or employee authorized by law to pay such salaries, and remitted by him to the director by check payable to the State Treasurer with a statement showing the amount of each of such deductions and the names of the officers and employees on whose account the same have been made. The money so deposited with the State Treasurer shall be paid out on authorization of the Governor by state warrant payable to the proper federal authority or to the officer or employee from whose salary the money was deducted, as the case may require.

Change in agency to the governor by this section was imposed by operation of law upon all authorization theretofore made for deduction from state payroll for the payment of bonds, stamps or other securities of the United States, and in all cases where such authorization has heretofore been made, the deduction thereunder must now be paid to the state treasurer and paid out by him on authorization of the governor. Op. Atty. Gen. (9a-30), June 3, 1943.

In the absence of a clause in payroll allotment authorization permitting payment to co-owner or beneficiary, any balances which have not been paid over to the federal government for the purpose of bonds could not be refunded to the widow of a deceased employee. Id.

Sec. 10. **Governor may regulate traffic.**—The Governor may formulate and execute plans and regulations for the control of traffic in order to provide for the rapid and safe movement over public highways and streets of troops, vehicles of a military nature, materials for national defense and war or for use in any war industry, and may coordinate the activities of the departments or agencies of the state and of the political subdivisions thereof concerned directly or indirectly with public highways and streets, in a manner which will best effectuate such plans.

Sec. 11. **Legislative war emergency committee.**—The chairman of the senate committee on finance, the chairman of the senate committee on taxes and tax laws, the chairman of the house committee on appropriations, and the chairman of the house committee on taxes and tax laws, and two additional members, the speaker of the house of representatives and one to be elected by the senate, shall constitute a committee to be known as the Legislative War Emergency Committee. The Governor shall preside over the meetings of the committee but shall not be a member thereof. Vacancies in the legis-

lative membership of the committee shall be filled by the speaker or last speaker of the house, or, if he be not available, by the chairman or last chairman of the house rules committee, in case of a house vacancy, and by the last senate committee on committees or other appointing authority designated by the senate rules, in case of a senate vacancy. The director shall act as secretary of the committee and shall keep a permanent record and minutes of its proceedings, which shall be made available for examination upon request of any interested citizen. The director shall transmit a report to the next legislature of all actions of said committee. The members of the committee shall receive traveling expenses at the rate of 15c per mile and subsistence expenses in attending meetings of the committee. Such expenses shall be paid out of any moneys appropriated for the purposes of this act. The committee shall meet from time to time upon the call of the Governor or upon the call of the secretary at the request of three or more of its members. The Governor shall not allocate any moneys appropriated to him for the purposes of this act or make any determination of policy or issue any rule or regulation having the force or effect of law hereunder without first consulting the committee and securing its recommendation, which shall be advisory only. Failure or refusal of the committee to make a recommendation promptly shall be deemed a negative recommendation.

Sec. 12. To promulgate safety rules.—Subdivision 1. The Governor is authorized and empowered to carry out throughout the state or in any area thereof precautionary measures against air raids and other forms of attack, including practice blackouts, blackouts, radio silences, and other measures for the protection of life or property or for the suppression of enemy activities; provided, that no such action shall be inconsistent with any order, rule, regulation, or action of the armed forces of the United States, or their duly designated agency.

Subdivision 2. Blackouts and radio silences shall be carried out only in such areas, at such times, and for such periods, as shall be designated by air raid warnings or orders with respect thereto issued by the United States Army, or its duly designated agency, and only under such conditions and in such manner as shall be consistent with any such warning or order; and practice blackouts shall be held only when and as authorized by the United States Army or its duly designated agency.

Subdivision 3. Subject to the limitations herein prescribed, the Governor may act in concert with the authorities of other states to effect such synchronization and uniformity of blackouts and other precautionary measures as may be necessary to carry out the intent and purposes of this act.

Sec. 13. May direct one municipality to assist another.—Subdivision 1. Whenever the public interest requires it on account of any imminent war emergency, the Governor may, in his discretion, authorize and direct the police, fire-fighting, health, or other forces of any city or village, herein called the sending municipality, to go to the assistance of another city or village, herein called the receiving municipality, and to take and use for such purpose such municipal personnel, equipment, and supplies as the Governor may direct.

Subdivision 2. While so engaged the officers and members of such forces shall have the same powers, duties, rights, privileges and immunities as if they were performing like service in the sending municipality, and shall be considered to be acting within the scope of and in the course of their regular employment, as employees of such sending municipality.

Subdivision 3. The receiving municipality shall reimburse the sending municipality for the compensation paid to all officers and members of the forces so furnished during such time as the rendition of such aid prevents them from performing their duties in the sending municipality, for the actual traveling and maintenance expenses of such officers and members while rendering such aid, and the cost of all insurance covering such officers and members while so engaged, but it shall be the policy of the state to reimburse any municipality by reason of additional expenses incurred by said municipality in furnishing the services and equipment required to be furnished. Any claim for such loss, damage or expense in use of equipment or for additional expenses incurred in the operation or maintenance thereof shall not be allowed unless within 60 days after the same is sustained or incurred, an itemized notice of such claim, verified by an officer or employee of the municipality having knowledge of the facts is filed with the Director of Civilian Defense.

Subdivision 4. It shall be the policy of the state to reimburse the sending municipality for any loss or damage to equipment used outside of the corporate limits of the sending municipality and to reimburse the sending municipality for any additional expenses incurred in the operation and maintenance thereof outside such corporate limits. Any claim for such loss, damage or expense in use of equipment or for additional expenses incurred in the operation or maintenance thereof shall not be allowed unless within 60 days after the same is sustained or incurred, an itemized notice of such claim, verified by an officer or employee of the sending municipality having knowledge of the facts, is filed with the Director of Civilian Defense.

Sec. 14. May create state council of defense.—Subdivision 1. The Governor may, in his discretion, create by

order a state council of defense, hereinafter referred to as the "council", the membership of which shall be limited to 17 in number. The council shall confer with the Governor from time to time, and have such other duties as he may delegate to it, but such powers shall not include the authority to make rules or regulations having the effect of law.

Subdivision 2. (1) The members of the council shall be appointed by the Governor from the officers or employees of the state whose duties are related to the state defense, the officers or members of the county or local defense councils, and the public. They may be removed by the Governor from membership upon the council at any time for cause and upon notice and hearing. The Governor shall be chairman of the council. He shall appoint a vice-chairman from the members of the council and the director shall act as secretary.

(2) The members of the council shall serve without compensation, but may be reimbursed by the Division for their actual and necessary traveling and other expenses incurred in the performance of their duties, but no expense shall be paid to any members who are officers or employees of the state.

Subdivision 3. A county council of defense, hereinafter referred to as the county council, may be established by the Governor in each county of the state. The Governor may appoint such number of members, who shall be recommended by the county board, as he may deem proper, and if recommended by the County Council, he may remove a member at any time for cause and upon notice and hearing. County councils shall cooperate with and assist the state council and shall perform such other services as may be directed by the Governor or the director. Each county council shall have jurisdiction over the county in which it is situated, including all cities and villages therein, except as otherwise directed by the Governor. The county board of each county shall appropriate funds in such amount as they deem necessary to the county council for the performance of its functions and may restrict the expenditures in any manner that it may deem proper, but in no case shall the council or its members or employees have the power to obligate the county for more than the amount appropriated by the county board.

Subdivision 4. (1) A local council of defense, hereinafter referred to as the local council, may be established by the Governor in any city or village, and may be established in any town in any county of the state having a population of 450,000 or more, and may be dissolved upon the formation of a council of defense under Paragraph 2 or 3 of this subdivision. The Governor may appoint such number of members, who shall be recommended by the governing officials of the city, village or town, as he may deem proper, and if recommended by the governing body of the city, village or town, he may remove a member at any time for cause and upon notice and hearing. Local councils shall cooperate with and assist the state council and shall perform such other services as may be directed by the Governor or the director. The city or village council or town board shall appropriate funds in such amount as they deem necessary to the local council for the performance of its functions and may restrict the expenditures in any manner that it may deem proper, but in no case shall the council or its members or employees have the power to obligate the city, village or town for more than the amount appropriated by the local council or town board.

(2) Whenever a council of defense shall have been created by ordinance in any city or village, the Governor shall designate such council of defense as a local council hereunder. Thereupon such council shall have the powers and duties of a local council hereunder, in addition to those prescribed by ordinance. The Governor may remove a member of any local council so designated by him at any time for cause and upon notice and hearing. The vacancy shall be filled as provided by ordinance, but if not so filled forthwith, the Governor may appoint a member to serve until the vacancy is so filled.

(3) Cities and villages shall have the power, subject to the limitations prescribed in this act, to initiate, coordinate, direct, and carry on all activities for the protection of life and private or public property made necessary by the war which directly affect the city or village government or which require organized community action, and to expend money therefor. The governing bodies of cities and villages shall have full power and authority to establish by ordinance within their respective governments a division of civilian defense and prescribe its organization, powers, and duties in relation to such activities. The Governor may remove for cause and upon notice and hearing any city or village officer or employee from the performance of any duty with which he may be charged hereunder.

§14(4).

A donation to the U.S.O. is not permitted. Op. Atty. Gen. (476b-2), Oct. 21, 1943.

Sec. 15. Defense activities declared to be governmental functions.—All functions hereunder and all other activities relating to civilian defense are hereby declared to be governmental functions, and neither the state nor any political subdivision thereof, nor any officer, agent, or employee of the state or any of its political subdivisions shall be liable for any injury to person or property resulting from the exercise of such functions; provided, that this shall not relieve any person from liability for willful negligence or misconduct, nor shall it affect the

right of any person to benefits or compensation to which he might otherwise be entitled under the workmen's compensation law or under any retirement or pension law or under any act of Congress.

Sec. 16. Records to be transferred to the division.—All contracts, books, maps, plans, papers, records, and property of every description of the Office of Civilian Defense under the Governor, are transferred to the Division. All employees now employed in the Office of Civilian Defense under the Governor are transferred to the Division and shall be employed in the Division in the exercise of their respective powers and duties, without reduction of compensation or change in status or classification under the State Civil Service Law or other provisions of law upon the taking effect of this act, subject, however, to subsequent change or termination of compensation, status, or classification as may be provided by the State Civil Service Act or other provisions of law.

Sec. 17. Balances reappropriated.—All balances of funds heretofore appropriated by the Executive Council to the Governor for civilian defense purposes are hereby re-appropriated to him for the purposes of this act.

§17.
Balances of funds appropriated by executive council to governor for civilian defense will be cancelled into the general revenue fund insofar as valid obligations are not incurred prior to June 30, 1943, and are properly encumbered. Op. Atty. Gen. (9a-30), June 2, 1943.

Sec. 18. Governor may accept grants and reimbursements.—Subdivision 1. The Governor shall have the authority to accept grants and reimbursements from the federal government of moneys expended by him in carrying out the provisions of this act.

Subdivision 2. All moneys heretofore or hereafter received from the federal government as such grants are hereby appropriated to the Governor to pay the cost of carrying out the provisions of this act.

Subdivision 3. Any local unit of government authorized to levy taxes, which expends money for civilian defense or for other related war activities under and pursuant to the provisions of this act, is authorized to levy such amount as may be necessary to pay such expenditures in excess of and over and above present taxing limitations.

Village of Grand Rapids has authority to make expenditures for civilian defense purposes. Op. Atty. Gen. (519q), May 22, 1943.

§18 (3).
Expenditures made pursuant to the authority conferred by Laws 1943, c. 163, for the purposes therein specified, including civilian defense if made under the authority of that chapter are limited to two-tenths of a mill as therein specified, but expenditures made pursuant to authority of Laws 1943, c. 600, for the purposes therein named are limited only by the general limitation that governmental expenditures for authorized purposes must be reasonable and necessary, and the amount of the tax levy under the latter for such purposes is not limited by chapter 168. Op. Atty. Gen. (519c), May 28, 1943.

Per capita limitations may be exceeded. Op. Atty. Gen. (519i), Nov. 30, 1943.

Sec. 19. Violation a misdemeanor.—Any wilful violation of any provisions of this act or of any rule, order, or regulation made pursuant to this act and having the force of law shall be a misdemeanor.

Sec. 20. Effective date.—This act shall take effect on the first day of the month next succeeding the date of its approval by the Governor."
[400.01 to 400.19]

58-1. Sale of personal property of state—Disposition of proceeds.

This section controls sale of iron ore in a stock pile belonging to the state. Op. Atty. Gen., (983m), Oct. 10, 1940.

STATE AUDITOR

65. Duties—Seal—Bond.

Manner of extinguishing liens of judgment in favor of state following tax forfeiture and sale. Op. Atty. Gen. (425d), Jan. 9, 1943.

69. Auditor to prescribe form.

Signatory machines are legal if used as authorized and directed by person whose signature is used. Op. Atty. Gen. (24), Jan. 19, 1941.

80-2. Duties of State auditor to retain powers of his office; etc.

Section 80-2, Mason's Stat., is in conflict with §2392-8, and latter must control procedure with respect to royalty taxes. Op. Atty. Gen. (454e), Dec. 10, 1941.

Responsibility for determining method of conversion of monthly salary to daily equivalent is upon the state auditor. Op. Atty. Gen. (644f), Nov. 23, 1942.

80-3. Other duties of state auditor.

Neither state treasurer nor commissioner of administration has any right to regulate the size of bottles containing malt beverage, and they must provide stamps in such denominations as are necessary to meet the needs of the trade. Op. Atty. Gen., (218n), May 31, 1940.

In an emergency treasurer may contract for stamps without advertising for such bid. Op. Atty. Gen., (217n), May 31, 1940.

(c).
State treasurer has authority to destroy cancelled stamps for which refundment has been made after public examiner has audited the refundment and stamps. Op. Atty. Gen., (454), July 17, 1940.

No stamps should be destroyed except under supervision of the public examiner. Id.

Form of liquor excise tax stamp is now controlled by Commissioner of Administration and state treasurer, and Liquor Control Commissioner cannot complain that stamp ordered contained a name of a prior Liquor Commissioner for purpose of identity of office. Op. Atty. Gen. (218n), Oct. 1, 1942.

80-4a. Refundment of money authorized in certain cases.—Except as otherwise provided by law, any money which has been paid into the state treasury through error of any officer or employee of the state, shall be refunded and paid to the person who paid such money into the state treasury, out of the funds to which such money was credited, by warrant of the state auditor draw upon the state treasurer, provided that the payment thereof is approved by the commissioner of administration and the public examiner. There is hereby appropriated to the persons entitled to such refund, from the fund in the state treasury to which such money was credited, an amount sufficient to make such refund and payment. (Act Apr. 24, 1943, c. 654, §1.)
[6.135]

Fees paid by applicants to state board of examiners in basic sciences can be refunded only by legislature where it is later discovered that applicant is not eligible for entrance to examination or individual subsequently decides not to take examination. Op. Atty. Gen. (303b), July 16, 1943.

Refund cannot be made by administrative officers except in case of error or mistake on the part of state officers or employees, and state teachers college could not refund a fee paid in by a student who left to teach but re-entered and took another subject. Op. Atty. Gen. (316), Nov. 22, 1943.

STATE TREASURER

§1. Duties—Bond.

Signatory machines are legal if used as authorized and directed by person whose signature is used. Op. Atty. Gen., (24), Jan. 19, 1941.

State warrant issued pursuant to condemnation of property for highway purposes and payable jointly to State of Minnesota and other persons may not be endorsed by state officer and delivered to other payee, since all warrants received by state officer must be deposited with State Treasurer. Op. Atty. Gen., (454), Mar. 8, 1941.

80. Gifts—Acceptance—Sale.—The state treasurer is hereby authorized to receive and accept, on behalf of the state of Minnesota, any gift, bequest, devise or endowment which may be made by any person, by will, deed or gift or otherwise, to or for the benefit of the state or any of its departments or agencies, or to or in aid, or for the benefit, support or maintenance of any educational, charitable or other institution maintained in whole or in part by the state of Minnesota, or for the benefit of students, employes or inmates thereof, or for any proper state purpose or function, and the money, property or funds constituting such gifts, bequest, or devise or endowment. Provided, however, that no such gift, bequest, devise or endowment shall be so accepted unless the governor, the state auditor and the state treasurer shall determine that it is for the interest of the state to accept the same, and shall approve of and direct such acceptance. When in order to effect the purpose for which any such gift, bequest, devise, or endowment has been accepted, it is necessary to sell any property so received the state treasurer, upon request of the authority in charge of the agency, department, or institution concerned, may sell the same at a price which shall be fixed by the state board of investment. (As amended Act Apr. 21, 1941, c. 353, §1.)

A check for \$2,000, payable to state board of control, from estate of a deceased person, for benefit of an inmate of state school for feeble-minded, pursuant to a will, should be deposited with state treasurer for acceptance as a gift or bequest and for administration of

proceeds as provided by Mason's St. 1927, §§89-92, as amended, and expenditures authorized by will should be made under direction of director of social welfare, and remainder upon death of feeble-minded person, left to state board of control to be used "for its general corporate purposes" should be handled as might be agreed between director of social welfare and director of public institutions, and in absence of agreement between them should be divided equally between division of social welfare and division of public institutions. Op. Atty. Gen. (88A-4), Jan. 5, 1942.

Gifts may be accepted by Treasurer with approval of Governor and Auditor for benefit of Division of Forestry and in order to permit it to employ an additional fire control protector. Op. Atty. Gen. (454F), Mar. 6, 1942.

Loan and scholarship funds donated to state teachers' colleges should be turned over to state treasurer. Op. Atty. Gen. (316), Nov. 10, 1942.

90. Same—Administration.

Loan and scholarship funds donated to state teachers' colleges should be turned over to state treasurer. Op. Atty. Gen. (316), Nov. 10, 1942.

92. Same—Expenditures.—In the event that such gift, bequest, devise or endowment is made or designated by the donor for a certain institution, department, or agency, the state treasurer shall, from time to time, pay out in the usual manner, upon the order of the board, commission or other body charged with the direct and immediate supervision, control or management of the designated institution, department or agency, all money which may become available for such purpose under the terms of such will, deed of gift or other instrument; and the same shall be expended and applied by such board, commission or other body as nearly as may be, in accordance with the terms and conditions of such gift, bequest, devise or endowment. (As amended Act Apr. 1, 1941, c. 353, §2.)

Persons employed in department of administration, division of administrative management and research, are in unclassified service, research being made under a gift which must be expended by June 30, 1943. Op. Atty. Gen. (644B), Jan. 27, 1942.

ATTORNEY GENERAL

113. Advice—Opinions.

Opinions of Attorney General are controlling only so far as they relate to laws of the state. Op. Atty. Gen. (310), Feb. 18, 1941.

Attorney general will not express an opinion on questions involved in litigation. Op. Atty. Gen. (768k-1), Sept. 8, 1943.

114. State officers and boards—Special counsel.

Validity of proceedings to remove an appointive officer pending before state board of education is not affected by its appointment of special counsel to represent it thereat where such appointment was made with consent and acquiescence of attorney general. State v. State Board of Education, 213M184, 6NW(2d)251, 143 ALR503. See Dun. Dig. 8845.

Department of highways is entitled to reimbursement from state teacher's college for mileage expenses and compensation of a special assistant attorney general in highway department while working on condemnation proceedings for the college. Op. Atty. Gen. (640), Oct. 20, 1939.

Attorney general has nothing to do with wisdom or expediency of legislation. Op. Atty. Gen., (899c), Dec. 29, 1939.

115. Opinion to county, city, village or town attorney, etc.

The opinion of the attorney general, though not binding upon the courts as to construction of laws relating to school matters, is binding on school officers until reversed by the courts. Belkema v. Bd. of Education of City of Duluth, 215M590, 11NW(2d)76. See Dun. Dig. 8845.

When attorney general has rendered an opinion construing school laws and it has not been reversed by the courts and the law has been reenacted in the same language, it may be assumed in construing the law that the legislative intent was that the reenacted language should have the interpretation which the attorney general had placed upon it, if it is susceptible of that construction. Id. See Dun. Dig. 8952.

Attorney general is not permitted to render official opinions to county auditor. Op. Atty. Gen. (412a-10), Sept. 25, 1939.

County attorney is legal advisor of county treasurer, and questions should, in the first instance, be submitted to him. Op. Atty. Gen., (474h), Oct. 6, 1939.

City attorney is legal advisor of city officials on city affairs, and questions on city affairs should not be submitted to attorney general from any other person, though he is a state senator. Op. Atty. Gen. (64d), Oct. 11, 1939.

In giving opinions attorney general will abide by judgment of district court from which no appeal is to be taken. Op. Atty. Gen. (472t), Nov. 14, 1939.

Attorney general may render official opinions on municipal matters only on request of municipal attorney. Op. Atty. Gen., (476B-2), Jan. 18, 1940.

Attorney-general may render his official opinion on questions arising in administration of city government only to the city attorney, and no such opinion may be rendered to city officers where there is no city attorney. Op. Atty. Gen., (59a-40), Apr. 29, 1942.

Attorney general cannot give an official opinion to a county attorney upon any question arising under laws relating to public schools. Op. Atty. Gen. (166a), Sept. 17, 1942.

GENERAL PROVISIONS

121-3. Same—Shall be paid out on legislative appropriations only.

Even if commissioner of conservation has authority to accept a surrender of lease on Douglas Lodge, there is no authority or fund to purchase equipment in the lodge. Op. Atty. Gen. (333), Mar. 4, 1942.

124-1. Shall not expend money except for purposes for which it is appropriated.

Laws 1943, c. 660, §54, repeats this section in substance.

125. Officials not to exceed appropriation.

Laws 1943, c. 660, §§1-61, app'ns for expense of government.

Laws of 1943, c. 660, §54, repeats this section in substance.

125-12. May not hire publicity representative.

This section has been repeated in substance in c. 660, §56.

125-14. Certain acts illegal.

This section has been repeated in substance in c. 660, §54.

126. Board of relief.

(1) to (5) * * * * *

(6) For the purpose of carrying out the provisions of this act, whenever an emergency exists, the Executive Council, within the limitations hereinafter prescribed, is authorized to borrow such a sum of money as shall in its judgment be necessary and sufficient. The Executive Council shall not expend or borrow, under authority of this act, more than \$200,000 during any fiscal year.

(7) to (10) * * * * *. (As amended Act Apr. 15, 1943, c. 457, §1.)

128-3. Powers and duties.

(c).

State geographic board is authorized to change name of a lake which it has borne for 50 years, with approval of county board, but it should investigate and weigh reasons for and against change, and decide what action will best serve public interests. Op. Atty. Gen., (273a), April 26, 1940.

CHAPTER 5

Judicial Department

SUPREME COURT

132. Writs—Process.

Prohibition is an extraordinary remedy not to be used where there is an adequate remedy by appeal or certiorari. State v. District Court, 206M645, 287NW491. See Dun. Dig. 7842.

District court had jurisdiction to enter judgment against village and also to determine and enter judgment in favor of attorney for judgment creditor for a certain sum as a lien upon the first judgment, and to permit village to deposit the amount of the judgment with the clerk of court when a judgment creditor of the first judgment creditor attempted to levy execution on the judg-