

1938 Supplement
To
Mason's Minnesota Statutes
1927

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

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



Edited by

WILLIAM H. MASON, Editor-in-Chief
W. H. MASON, JR.
R. O. MASON
J. S. O'BRIEN
H. STANLEY HANSON
R. O. MASON, JR. } Assistant Editors

MASON PUBLISHING CO.
SAINT PAUL, MINNESOTA
1938

14 townships, 12,000 to 13,000 population, and assessed valuation, exclusive of monies and credits, of \$2,000,000 to \$4,000,000, may issue bonds, not exceeding \$40,000, to construct addition to high school, if approved by voters. Act Apr. 22, 1937, c. 363, validates bonds issued by independent consolidated school districts to build addition to school house.

Act Apr. 24, 1937, c. 461, provides that independent school districts in counties having 200,000 to 275,000 population, 200 to 205 townships, and assessed valuation, exclusive of monies and credits, of not less than \$200,000, may issue bonds not to exceed \$25,000.

Where electors of Wells school district voted to issue bonds in the sum of \$120,000, and a request for a special election to vote upon rescinding authorization for issuance of bonds was filed, it would be confusing and possibly invalid to call another election to vote upon proposition of issuing bonds for a lesser amount without having first rescinded the original authorization. Op. Atty. Gen., Mar. 7, 1932.

Vote of electors is not necessary for issuance of school district refunding bonds. Op. Atty. Gen. (40c-1), Dec. 7, 1934.

CHAPTER 10A

Depositories of Public Funds

1973-1. Depository bonds.—Any bank or trust company authorized to do a banking business in this state, designated as a depository of county, city, village, borough, town or school district funds, as provided by law, may, in lieu of the corporate or personal surety bond required to be furnished to secure such funds, deposit with the treasurer of the municipality making such designations, such bonds, certificates of indebtedness or warrants, except bonds secured by real estate, as are legally authorized investments for savings banks under the laws of the state of the bonds of any of the insular possessions of the United States, or the bonds of any state, or its agency, the payment of the principal and interest of which, or either, is provided for otherwise than by direct taxation—, or notes secured by first mortgages of future maturity, upon which interest is not past due, on improved real estate free from delinquent taxes, within the county wherein said bank or trust company is located, or within counties immediately adjoining such county in the State of Minnesota. The total in amount of such collateral computed at its market value shall be at least ten per cent more than the limit of deposit which would be permitted if a corporate or personal surety bond was furnished. The depository may in its discretion furnish both a bond and collateral aggregating the required amount. Any collateral so deposited shall be accompanied by an assignment thereof to the municipality designating such depository, which assignment shall recite that such depository shall pay over to the treasurer, or his order, on demand, or if a time deposit when due, free of exchange or any other charges all moneys deposited therein at any time during the period such collateral shall be so deposited, and to pay the interest thereon when due at the agreed rate; and that in case of any default upon the part of the depository the governing body of the municipality making the designation shall have full power and authority to sell such collateral, or as much thereof as may be necessary to realize the full amount due the municipality and to pay over any surplus to the depository, or its assigns. A depository may in its discretion deposit collateral of a value less than the total designation and may from time to time during the period of its designation deposit additional collateral and make withdrawals of excess collateral, or substitute other collateral for that on deposit, or any part thereof. Authority is vested in the treasurer to return the collateral to the depository when the trust so created is terminated and he shall in the case of a reduction of the deposit permit the depository to withdraw the excess portion thereof. All interest on the collateral so deposited when collected shall be paid to the depository so long as it is not in default. Before any collateral is deposited with the treasurer it shall first be approved by the same authority that designated the depository but no such authority shall be necessary for the withdrawal of collateral. The closing of a depository shall be deemed a default upon the part of the depository and no demand upon the part of the municipality, or its treasurer, shall be necessary to establish such default. If a depository shall close, any time deposit placed therein shall im-

mediately become due and payable. If both bond and collateral is furnished by a depository, all or any part of the collateral may be withdrawn without in any way impairing the full force and effect of the bond unless it shall contain a provision that the collateral shall not be withdrawn without the consent of the surety thereon. If a corporate surety bond is furnished by a depository it shall be in a penal sum not to exceed the amount designated as the limit of deposit therein notwithstanding any other provisions of law to the contrary. At no time shall the treasurer maintain a deposit in any depository against collateral in excess of ninety per cent of the market value thereof. Any provision of law authorizing any county, city, village, borough, town or school district to designate banks as depositories shall be construed to include trust companies authorized to do a banking business. All bonds furnished under the provisions of this Act shall be approved by the governing body of the municipality making such designation and shall be filed in the office of the county auditor as provided by Chapter 118, of the Laws of the State of Minnesota for the year 1927, and all collateral deposited under the provisions of this Act shall be approved by the governing body of the municipality making such designation and after such approval be deposited with the treasurer of such municipality, unless the governing body of such municipality shall by resolution fix and determine some other place for the safe keeping of such collateral. Provided such collateral shall not be re-deposited in the bank or trust company furnishing the same. ('25, c. 173, §1; Apr. 25, 1929, c. 370, §1; Mar. 1, 1933, c. 41, §1.)

Sec. 2 provides that the act shall take effect from its passage.

City did not have a preferred claim against an insolvent depository bank in which city treasurer had made deposits in excess of securities deposited by the bank, the overdeposit not constituting an offense under §10303. 172M324, 215NW174.

A bank has no power to pledge any of its assets to secure the repayment of the deposits, except as given by statute. 174M286, 219NW163.

Where an unauthorized pledge of assets is made by bank and it becomes insolvent, receiver may recover assets pledged, or damages, if they have been converted. 174M286, 219NW163.

A commercial bank has no power to pledge bills receivable to secure deposits, even though it be to induce an extension of a past-due deposit. 175M363, 221NW242.

Surety held not liable where bank continued to do business several years after the close of the year covered by the bond. 175M482, 221NW869.

This section must be construed as a part of a depository bond, and liability of sureties is limited to the penalty of the bond, and where the bank closes, the liability of the sureties becomes absolute, and when they pay the loss they are subrogated to the rights of the obligee, and such right of subrogation cannot be questioned by the sureties on the treasurer's bond. 181M271, 232NW320. See Dun. Dig. 2701, 9045.

Bondsmen of depository for school district, designated without any specifications as to time, were liable to school district where bank was taken over for liquidation three years and two days after designation. School Dist. No. 75 of Kittson County v. F., 182M381, 234NW594. See Dun. Dig. 2701, 2702.

The evidence is not sufficient to sustain a finding that Liberty bonds deposited with the defendant bank, a designated depository of the plaintiff school district, were a substitute or in lieu of a bond executed with individual sureties, or that the taking of Liberty bonds discharged such bond, or that another bank was designated

as a depository; and the trial court was right in so directing the jury. School Dist. No. 75 of Kittson County v. F., 182M381, 234NW594. See Dun. Dig. 2701.

City treasurer had authority to make agreements with depositories as to interest rates and to agree or consent to changes in such interest rates from time to time, as conditions might require. City of Minneapolis v. F., 198 M280, 269NW521. See Dun. Dig. 2693.

Notice to city treasurer by a depository of a reduction in interest rate was notice to city of such reduction in rate. Id.

Where depository relation is not for any fixed term, depository may, by notice to depositor, reduce interest rate or terminate payment of interest on deposited funds. Id.

Officers and stockholders of a bank may sign a depository bond. Op. Atty. Gen., Mar. 5, 1929.

Banks are without authority to assign collaterals or securities to protect thrift funds collected from school children by school officers or teachers. Op. Atty. Gen., Apr. 8, 1929.

School district may not designate bank located outside state. Op. Atty. Gen., June 8, 1929.

Approval of collateral offered is now to be had by the county board rather than the board of audit. Op. Atty. Gen., Aug. 21, 1929.

Consolidated bank does not succeed to position as county depository. Op. Atty. Gen., Oct. 4, 1929.

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

County only has priority up to the amount of the capital and surplus, no matter how much collateral is pledged by the bank. Op. Atty. Gen., Dec. 12, 1929.

The word "municipality" in this section as amended by Laws 1929, c. 370, includes counties, and the collateral must be approved by the county board. Op. Atty. Gen., Feb. 10, 1930.

The City of Cleveland is not an "agency" of the state of Ohio, and bonds of that city are not receivable as collateral under this section as amended by Laws 1929, c. 370, but such bonds might qualify under §7714. Op. Atty. Gen., Feb. 10, 1930.

This section as amended by Laws 1929, c. 370, requires the deposit with the county auditor of all depository bonds taken by counties, towns, school districts and cities. Op. Atty. Gen., May 3, 1930.

County attorney is under no obligation to check the facts relative to the issuance of any municipal bonds offered as collateral to see that the bonds were properly issued by the municipality purporting to issue the same. Op. Atty. Gen., Feb. 20, 1931.

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

While a state bank may give a bond to secure the government for deposit of postal savings, it may not pledge any portion of its assets. Op. Atty. Gen., May 22, 1931.

A bank cannot pledge a customer's notes to secure public deposits. Op. Atty. Gen., June 11, 1931.

There is no statute regarding depositories which is applicable to the City of Marshall. Op. Atty. Gen., June 18, 1931.

A bank had no legal authority to pledge certificates of deposit, but in view of Laws 1931, c. 296, school district warrants may be pledged to secure public deposits. Op. Atty. Gen., Aug. 18, 1931.

This act should be construed in connection with §7714 in determining what securities may be lawfully accepted by a village in pledge as collateral security for deposit of village moneys. Op. Atty. Gen., Dec. 2, 1931.

Notes secured by first mortgages on real estate in Minnesota are not authorized securities under this statute. Op. Atty. Gen., Jan. 12, 1932.

Bond for city depository with individual sureties should be twice amount city has on deposit. Op. Atty. Gen., May 3, 1932.

If collateral is furnished by city depository, its market value should be at least ten per cent more than limit of deposit which would be permitted if corporate or personal surety bond was furnished. Op. Atty. Gen., May 3, 1932.

City depository, and not city, should pay premium on bond. Op. Atty. Gen., May 3, 1932.

Payment of interest by city depository is matter of contract between bank and city council. Op. Atty. Gen., May 3, 1932.

City council may designate, as depository, a bank outside city. Op. Atty. Gen., May 3, 1932.

Depository for county funds may deposit and assign county warrants as collateral security. Op. Atty. Gen., May 31, 1932.

Practice of reassigning collateral following redesignation of city depositories is proper. Op. Atty. Gen., Jan. 24, 1933.

Depository of city and school district could deposit bonds of city as collateral for city and district. Op. Atty. Gen., Feb. 2, 1933.

Notes secured by mortgages on village real estate may not be deposited as collateral by village depository. Op. Atty. Gen., Feb. 4, 1933.

A bank, while in process of reorganization, may, with consent of commissioner, complete purchase and sale of bonds under contracts. Op. Atty. Gen., Mar. 17, 1933.

Salaries and wages of bank officers and employees rendered during reorganization may be paid out of funds in hands of bank at time of issuance of lieutenant governor's proclamation. Op. Atty. Gen., Mar. 17, 1933.

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

It is not mandatory upon municipalities to accept collateral referred to as "notes secured by first mortgages," etc. Op. Atty. Gen., Mar. 20, 1933.

County attorney must examine abstract of title to real estate covered by mortgages substituted in lieu of bond as security from depositories, without extra compensation. Op. Atty. Gen., Mar. 22, 1933.

Where county board permits substitution of real estate mortgages in lieu of bond as security from depositories as permitted by this act it is the duty of county attorney to examine abstracts of title without additional compensation. Op. Atty. Gen., Mar. 22, 1933.

Securities which have been assigned to county by depository must be deposited with the county treasurer unless county board provides for their safe-keeping by one other than the treasurer, and board may not select bank or trust company furnishing same as their custodian. Op. Atty. Gen., Mar. 29, 1933.

Under this section as amended by Laws 1933, c. 41, school board may accept, in addition to personal bonds of depositories, real estate mortgages to guarantee the obligation of the depository, but not to guarantee the obligation of the sureties. Op. Atty. Gen., Mar. 30, 1933.

There is no statutory limit as to amount a village may deposit in any one bank other than the requirement that designation of depository should specify amount which may be deposited therein, and the depository must give bond in at least double the amount so specified. Op. Atty. Gen., Apr. 3, 1933.

Where village has deposit in closed bank for which it holds as part security certain of its own refunding bonds, such bonds may be cancelled at their face value and set-off against the right of the village to an equal sum of money due it from the bank as a depositor. Op. Atty. Gen., Apr. 19, 1933.

A village holding its own bonds as security for deposit in bank may cancel bonds and permit face value as equitable offset against deposit claim. Op. Atty. Gen., Apr. 19, 1933.

County board must approve collateral deposited to secure county deposits. Op. Atty. Gen., Apr. 28, 1933.

Money deposited by clerk of court who took certificate of deposit would not be protected by securities deposited with county treasurer by bank, such money being held by clerk for distribution to private persons. Op. Atty. Gen., Apr. 28, 1933.

Under this section, as amended by Laws 1933 c. 41, a school district may invest its funds in liberty loan bonds. Op. Atty. Gen., May 3, 1933.

Bonds as security for township funds classified. Op. Atty. Gen., May 5, 1933.

City treasurer was relieved of liability for loss of funds where he deposits money lawfully in depository designated by city council. Op. Atty. Gen., May 31, 1933.

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

United States treasury notes are authorized security in lieu of depository bonds, but it is question of fact whether "South Park Commissioners, Improvement, Chicago, Ill." bonds, qualify. Op. Atty. Gen., Aug. 2, 1933.

Under this section as amended by Laws 1933, c. 41, where mortgages are assigned to county to secure deposits, assignments should be recorded, and on return of security, proper assignments should be made under §641. Op. Atty. Gen., Aug. 11, 1933.

Depositing of bonds by bank in lieu of depository bonds does not constitute an unlawful preference in case of insolvency. Op. Atty. Gen., Aug. 28, 1933.

County may accept deposit of real estate mortgages instead of bonds. Op. Atty. Gen., Oct. 6, 1933.

Where school district is holding certificates of deposit with bonds placed with it by national bank as collateral, and bank has been reorganized, district is entitled to interest on certificates of deposit and not on bonds placed as collateral. Op. Atty. Gen., Mar. 26, 1934.

National banks may pledge assets to secure public funds. Op. Atty. Gen. (29b-3), Apr. 13, 1934.

Federal home loan bank bonds and home owners' loan corporation bonds may be pledged as security. Op. Atty. Gen. (355e), May 10, 1934.

Home owners' loan corporation bonds may be deposited in lieu of surety bonds. Op. Atty. Gen. (401b-11), May 11, 1934.

Municipal deposit may equal 90% of collateral plus insured deposit liability. Op. Atty. Gen. (450a-6), Oct. 6, 1934.

Provisions of act apply to cities operating under home rule charters containing inconsistent provisions. Op. Atty. Gen. (140b-8), Apr. 26, 1935.

Bonds of Twin City Rapid Transit Company may not be deposited as security for public deposit. Op. Atty. Gen. (140f-1), Nov. 18, 1935.

Industrial bonds are not qualified to secure public deposits, and qualification of mortgages or railroad bonds

are questions of fact. Op. Atty. Gen. (450d-1), Feb. 13, 1936.

Federal farm mortgage corporation bonds and home owners loan corporation obligations are qualified to secure public deposits. Op. Atty. Gen. (140b-3), Mar. 21, 1936.

Opinion of March 29, 1933, construing this section as prohibiting the repositing with the depository collateral given by it to secure deposit of public funds held applicable to placing of such collateral in a safety deposit box of such depository. Op. Atty. Gen. (140f-1), May 4, 1936.

Trust agreements or participating certificates secured by first mortgages insured by federal housing administration may be deposited with a lawful corporate trustee and can be accepted as collateral security for county deposit. Op. Atty. Gen. (140f-11), Jan. 18, 1937.

Federal housing mortgages which federal housing administrator has insured or made a commitment to insure are eligible as collateral to secure deposit of public funds. Op. Atty. Gen. (140f), May 11, 1937.

National Housing Administration first mortgages insured under Title II of the National Housing Act may be accepted as collateral security for state deposits. Op. Atty. Gen. (140f-7), May 11, 1937.

1973-6. Depositories — Bank delinquent in payment of taxes on stock shares.

Act July 15, 1937, Sp. Sess., c. 64, prohibits the making or keeping of public deposits in national banks which have not paid taxes for the years 1937 and 1938, and makes it a gross misdemeanor to fail to comply with the act.

This statute is still in force. Op. Atty. Gen., May 29, 1930.

Treasurer of school district who was also cashier and stockholder of bank was not protected from liability by designation of the bank for deposits made in bank where it had not paid taxes on its stock. Op. Atty. Gen. (159a-21), Apr. 3, 1934.

1973-8. Certain banks may be depositories.—In every case where a bank which is eligible under the provisions of General Laws 1927, Chapter 381 [Mason's Minn. Stat., 1927, §1973-6], merges or consolidates with another bank under the charter of either, such consolidated bank shall, so long as all taxes levied and assessed against its shares under the laws of this state subsequent to such consolidation are paid as required by law, be eligible to receive deposits of public moneys under said act. (Act Apr. 19, 1929, c. 262.)

1973-9. Treasurer to be reimbursed for losses.—Where the treasurer of any town, village or city of the fourth class has or shall hereafter reimburse such town, village or city for loss of funds of the town, village or city on deposit in any bank which has or may become insolvent, such town, village or city shall reimburse said treasurer for the money so paid when a majority of the electors voting thereon at the annual town meeting or at any regular or special village or city election vote so to do; provided, that the notice of such annual meeting or election shall specify that such matter will be considered thereat. (Laws 1931, c. 35; Apr. 20, 1931, c. 279.)

Supersedes Laws 1929, c. 133, limited to town treasurers.

Laws 1931, cc. 35 and 279 do not repeal Laws 1929, c. 133 so as to prevent vote to reimburse town treasurer at special town meeting. Op. Atty. Gen., July 8, 1932.

1973-10. Depositories insured under federal act excused from giving security to extent of insurance coverage.—No bank or trust company authorized to do a banking business in this state, designated as a depository of state, county, village, borough, town, or school district funds, and Cities howsoever organized, provided by law, the deposits of which bank or trust company are insured in whole or in part, under the provisions of the Act of Congress of the United States of June 16, 1933 (creating the Federal Deposit Insurance Corporation and the Temporary Federal Deposit Insurance Fund) [Mason's U. S. C. A., tit. 12, §264], shall be required to furnish any corporate or personal surety bond, or deposit any collateral in lieu of bond, to secure such funds, in so far as such funds shall constitute "insured deposit liabilities" of such bank or trust company within the provisions of said Act of Congress. Provided, that nothing in this Act shall be construed to release any bank or trust company from furnishing surety bond

or collateral for all deposits in excess of the insurance afforded by the National Banking Act. (Act Jan. 9, 1934, Ex. Ses., c. 62, §1.)

See §7697-8 relating to deposits generally.

Collateral may be released to extent of federal deposit insurance. Op. Atty. Gen. Feb. 6, 1934.

Amount allowed by statutes to be deposited by school treasurer without bond is not to be added to amount of deposit protected by federal deposit insurance. Op. Atty. Gen., Mar. 19, 1934.

As to depositories under contracts at time Congress enacted deposit insurance, it is optional with county either to release or hold security, this act not being mandatory. Op. Atty. Gen., Mar. 27, 1934.

Deposit liability exemption as provided by this act is not in addition to exemption of \$2,000 provided for in §1049-1. Op. Atty. Gen., Mar. 27, 1934.

County may consider federal bank guaranty fund to extent of \$2500 as a part of security for county deposit. Op. Atty. Gen. (107a-2), Apr. 11, 1934.

Municipalities are not obliged to return securities pledged prior to enactment of this section. Op. Atty. Gen. (450d-3), May 1, 1934.

No depository bond is necessary to the extent of insured deposit liabilities. Op. Atty. Gen. (355e); May 10, 1934.

Exemption applies to each of several depositories of county. Op. Atty. Gen. (107a-2), May 15, 1934.

County board and county treasurer may look upon federal deposit insurance as proper security for deposit of county funds without other security, but only to the extent of such federal insurance, and security should be required for deposit in excess of federal insurance. Op. Atty. Gen. (140a-16), July 25, 1934.

Federal deposit insurance corporation guarantees up to amount testified in federal act regardless of whether or not total of deposit is more than guaranteed fund. Op. Atty. Gen. (355E), Oct. 1, 1934.

Municipal deposit may equal 90% of collateral plus insured deposit liability. Op. Atty. Gen. (450a-6), Oct. 6, 1934.

Municipalities are not obliged to return securities pledged prior to passage of this act. Op. Atty. Gen. (140a-16), Oct. 22, 1934.

If depository furnishes collateral, it is to be regarded as additional security and not security in lieu of federal insurance. Op. Atty. Gen. (159a-9), Nov. 7, 1934.

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

Independent school district may deposit up to \$5,000 in depository, protected by federal insurance, without collateral. Op. Atty. Gen. (159a-9), Mar. 18, 1935.

Municipal funds may not be deposited in excess of amount that such deposits are insured under provisions of federal reserve act without requiring collateral security. Op. Atty. Gen. (29a-12), May 31, 1935.

Section does not release any banks from furnishing surety bond or collateral for all deposits in excess of insurance afforded. Op. Atty. Gen. (140b-6), Aug. 5, 1936.

1973-11. Same—repeal.—All Acts or parts of Acts, inconsistent herewith, are hereby repealed. (Act Jan. 9, 1934, Ex. Ses., c. 62, §2.)

1973-12. Limitation of deposits dependent on capital and surplus.—No designation of a bank or trust company as a depository of state, county, town, city, village, borough or school district funds, and no deposit of such funds in such designated depository shall be limited by the amount of the capital or surplus of such depository, but the authority designating such depository may nevertheless fix the limit of deposit to be made therein and shall require security therefor as provided by law. (Act Apr. 29, 1935, c. 318, §1.)

This act applies uniformly to all municipalities throughout the state, including the city of Minneapolis, and must prevail over city charter. Op. Atty. Gen. (59a-22), Nov. 13, 1935.

1973-13. Application of act.—This act shall apply to all cities, villages, and boroughs, however organized. (Act Apr. 29, 1935, c. 318, §2.)

Sec. 3, of Act Apr. 29, 1935, cited, repeals all inconsistent laws.

1973-14. Deposit of town and school district funds with county treasurer in certain cases.—Whenever the town board of any town or the school board of any school district in this state, by a unanimous resolution, deem it advisable, such town board or school board may invest such amount of funds in such town or school treasury as will not, in the opinion of such board, be needed by such town or school district during the fiscal year, in any of the bonds of any county, city, town, village, school district,

drainage or other district created pursuant to law for public purposes in Minnesota, Iowa, Wisconsin and North and South Dakota, or in the bonds of any city, county, town, village, school district, drainage or other district created pursuant to law for public purposes in the United States, containing at least 3500 inhabitants provided that the total bonded indebtedness of any such municipality or district shall not exceed ten per cent of its assessed valuation. (Apr. 17, 1937, c. 250, §1.)

1973-15. Same—Investment of funds.—Any town board or school district board, investing such surplus funds in such authorized securities as herein provided, shall deposit such securities for safe-keeping with the county treasurer of the county wherein such town or school district is located. Such county treasurer shall give a receipt for each and all of the said securities to the town board or school district board, as the case may be, and such county treasurer shall keep such securities for safe-keeping until such time as such town board or school district board shall adopt a resolution requesting the county treasurer to turn such securities or any of them over to the treasurer of such town or school district. (Apr. 17, 1937, c. 250, §2.)

1973-16. Same—Need not be covered by bonds.—The funds of such town or school district invested in such securities and deposited with such county treasurer by such town board or school board as herein provided shall not be included within the amount of money for which such town treasurer or school treasurer is required by law to give a bond to such town or school district. (Apr. 17, 1937, c. 250, §3.)

1973-17. Deposit of county funds.—In all counties in this state, now or hereafter having an area of more than five thousand (5,000) square miles and an assessed valuation of more than Two Hundred Million Dollars (\$200,000,000.), exclusive of moneys and credits, it shall be the duty of the County Treasurer to place all moneys of the county belonging to the various funds on deposit in banks situated within the respective individual Commissioner's districts to which the said moneys and funds are either allocated or for whose specific needs and benefit such moneys and funds are used. The county and its proper disbursing officers shall draw warrants and vouchers upon said funds in the banks located in each said Commissioner's districts. (Apr. 26, 1937, c. 430, §1.)

Sec. 2 of Act Apr. 26, 1937, cited, provides that the Act shall take effect from its passage.

CHAPTER 11

Taxes

Laws 1929, c. 38, creates a bank tax commission to study question of national bank taxation and to report at next session of legislature. Laws 1931, c. 275, continues the commission to the end of the 1933 session. Laws 1933, c. 323, continues commission.

Laws 1931, c. 303, authorizes the tax commission to compromise taxes assessed against shareholders of national banks. See, also, Res. No. 8, Laws 1931, p. 627.

GENERAL PROVISIONS

1974. Property subject to taxation.

1. General rules.

Intangibles, if so used as to become integral part of local business, may acquire situs for taxation other than domicile of their owner. *Baker v. S.*, 186M160, 242NW 697. See Dun. Dig. 9155, 9572b.

Power of taxation is inherent in sovereignty and resides in legislature, except as limited by state or national Constitution, and except as so limited, it is exhaustive and embraces every conceivable subject of taxation. *Reed v. B.*, 191M254, 253NW102. See Dun. Dig. 9115.

Taxation is a burden or charge imposed by legislative power upon persons or property to raise money for public purposes, with essential characteristic that it is not a voluntary payment or donation but an enforced contribution. *Bemis Bro. Bag Co. v. W.*, 197M216, 266NW 690. See Dun. Dig. 9114.

Power of taxation is inherent in sovereignty and resides in the legislature except as it is limited by state or national constitution. *Id.* See Dun. Dig. 9115.

Mason's Stat. 1927, §2021, was enacted as a taxation statute and not merely to provide taxing officers with information whereby value of bonds or stock could be determined for purpose of taxation under §1974, and the latter section is not applicable to corporate excess taxation. *Id.* See Dun. Dig. 9128.

City of Mankato could not enact an ordinance requiring one starting a new mercantile business to post a bond conditioned that if the concern does not stay in business for more than one year, the amount thereof should be forfeited to the city in liquidation of personal property taxes, license, etc. *Op. Atty. Gen.*, Mar. 27, 1931.

Taxes assessed against land owned by state are not a lien thereon and may be cancelled. *Op. Atty. Gen.* (770e), June 12, 1934.

Life tenant must pay taxes during lifetime under a deed of a farm to a town. *Op. Atty. Gen.* (349a-22), June 16, 1936.

2. Credits of non-residents in the hands of local agents.

Intangible managed by a resident trustee where right of revocation is reserved by non-resident trustor is subject to tax. *Op. Atty. Gen.* (421c-15), Apr. 29, 1935.

6. Federal property and agencies.

An allotment to a mixed blood Chippewa Indian, fee patent for which had not been delivered, issue of patent not even having been applied for by him, is not subject to taxing power of state or any of its municipal subdivisions. *Warren v. M.*, 192M464, 257NW77. See Dun. Dig. 9120.

Personal property belonging to an individual or corporation located on United States government land, not deeded by state legislature, is not exempt from taxation,

even though used under contract with government. *Op. Atty. Gen.* (414a-2), Jan. 20, 1937.

7. Interstate commerce.

Cattle, temporarily owned by licensed dealers at stockyards as they arrive and are purchased and resold outside state, are not subject to state taxation, such holding constituting interstate commerce. *State v. Blasius*, 187M420, 245NW612. *Rev'd* 54SCR34. See Dun. Dig. 4894.

The power of the states to tax intangibles. 15Minn LawRev741.

8. Held taxable.

A membership in the South St. Paul Traders' Livestock Exchange is property, and subject to taxation. *State v. Blasius*, 187M420, 245NW612. See Dun. Dig. 9128.

Franchises are subject to taxation. *City of South St. Paul*, 189M26, 248NW288. See Dun. Dig. 9125.

1975. Property exempt from taxation.—All property described in this section to the extent herein limited shall be exempt from taxation, to-wit:

- (1) All public burying grounds.
- (2) All public schoolhouses.
- (3) All public hospitals.
- (4) All academies, colleges, and universities, and all seminaries of learning.
- (5) All churches, church property and houses of worship.
- (6) Institutions of purely public charity.
- (7) All public property exclusively used for any public purpose.

(8) Personal property of every household of the value of \$100. The county auditor shall deduct such exemption from the total valuation of such property as equalized by the tax commission assessed to such household, and extend his levy of taxes upon the remainder only.

In case there is an assessment against more than one member of a household the \$100 exemption shall be divided among the members assessed in the proportion that the assessed value of the personal property of each bears to the total assessed value of the personal property of all the members assessed. (R. L. '05, §795; '13, c. 259, §1; G. S. '13, §1970; '25, c. 171, §1; Apr. 29, 1935, c. 385. Jan. 24, 1936, Ex. Sess., c. 66.)

Op. Atty. Gen. (414d-10), July 19, 1934; note under §113.

Farm lands acquired by state through foreclosure of mortgages are not subject to taxation. *State, Appeal of*, 234M691. See Dun. Dig. 9151a.

The courts cannot acquire jurisdiction in proceedings to enforce taxes over state property. *State, Appeal of*, 182M437, 234NW691. See Dun. Dig. 9151a.