

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.



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**3136. Department of pedagogy.**

**Editorial note.**—Amendment by Laws 1937, c. 102, was a mistake, as there was no section 3136 in the 1936 supplement. The legislature evidently intended to amend §3161, which was later amended.

**3139-1. [Repealed.]**

Repealed by Act Mar. 30, 1933, c. 128, §1.

**3139-2. University building fund transferred to general revenue fund.**—All moneys now in the University building fund and all moneys that may be coming into said fund by virtue of levies heretofore made are hereby appropriated from said fund and credited to the general revenue fund, except as to outstanding certificates of indebtedness that may have been issued pursuant to the terms of said act and except as to outstanding contracts and obligations. (Act Mar. 30, 1933, c. 128, §2.)

Sec. 3 of Act Mar. 30, 1933, cited, provides that the act shall take effect from its passage.

**3139-3. University of Minnesota may bond employees.**—The Regents of the University of Minnesota shall have authority to indemnify the officers or employees of said University of Minnesota against liability arising out of the operation of motor vehicles or other equipment by them, while engaged in the performance of their duties as such public officials or employees, and to pay out of the public funds the premiums on the indemnity insurance policies insuring such governmental agency against such liability. The Regents of the University of Minnesota may defend any such officer or employe in the name and behalf of such officer or employe in any suit brought against him to enforce a claim, whether groundless or otherwise, arising out of the operation of a motor vehicle or other equipment by him while in the performance of his official duties, and may compromise and settle such claim or suit and may pay out of public funds, the amount of such settlement or compromise, or the amount of any judgment against such officer or employe based on any such claim, without first requiring such officer or employe to settle or pay any such claim. (Act Apr. 15, 1935, c. 173, §1.)

**3139-4. Regents may pay premiums.**—The Regents of the University of Minnesota may, in their discretion, pay the premiums on said indemnity insurance policies referred to in Section 1 hereof, insuring such officers or employes against liability for or injury to persons or property, within the limits of Section 1 hereof, and such payment of insurance premiums out of public funds shall in no way impose on said Regents of the University of Minnesota any liability whatever. (Act Apr. 15, 1935, c. 173, §2.)

**3139-5. Payments heretofore made validated.**—The payment of any insurance premiums heretofore made by the Regents of the University of Minnesota for such indemnity insurance mentioned herein is hereby approved and validated. (Act Apr. 15, 1935, c. 173, §3.)

Sec. 4 of Act Apr. 15, 1935, cited, provides that the act shall take effect from its passage.

**3139-6. Power of eminent domain.**—The Board of Regents of the University of Minnesota may use any money not specifically appropriated for other purposes for acquiring land by purchase or condemnation. In case it is desired to use the fund for the acquisition of land, the power of eminent domain may be exercised either in accordance with General Statutes 1894, Sections 4085 to 4091, inclusive, or Revised Laws 1905, Chapter 41. (July 22, 1937, Sp. Ses., c. 81, §2.)

**3139-7. School for instruction in law enforcement.**—The University of Minnesota may establish and conduct a school for the instruction of persons in law enforcement, and the governing body of any political sub-division of this state may authorize the attendance upon such school of any law enforcement officer under its jurisdiction and may provide for the payment of the expenses of such person while in attendance at such school from the general funds of such political sub-division. To each person satisfactorily completing the prescribed course of instruction in the school so established shall be issued a certificate of graduation or diploma stating that the holder has graduated therefrom. (July 22, 1937, Sp. Ses., c. 81, §2.)

**RELIGIOUS EDUCATIONAL CORPORATIONS**

**3156. Manner of calling special meetings.**

**Local and special legislation.**

Laws 1921, c. 77, are set forth, ante, as §§2802-16 to 2802-25.

Laws 1921, c. 332, Amended Mar. 23, 1937, c. 85.

Act Jan. 30, 1937, c. 6, §1, amends §1 of '21, c. 357, to apply to counties with assessed value exceeding \$200,000,000, and area of over 5,000 square miles.

Laws 1913, c. 445, providing that the voters of the district at their annual town meeting may fix the salaries of their school officers in ten-town school districts having less than thirty schools and a high school, is constitutional. 175M316, 221NW231.

Laws 1921, c. 332, supersedes Mason's Stats., §3014, and applies to school district in city of Duluth created by special act. Board of Education v. B., 192M367, 256 NW894. See Dun. Dig. 8669.

Under Laws 1921, c. 332, §1, par. 1, board of education of Duluth may make expenditures for library, including textbooks, magazines and instructional supplies, insofar as they comprise a part of school libraries, and equipment and furnishings of a more or less permanent character, but cannot under such paragraph levy taxes for fuel, water, light, power, janitor's supplies, telephone service and engineer's or janitor's salaries. Op. Atty. Gen. (519m), Oct. 10, 1934.

Board of education of Duluth may not contract any debts or incur any pecuniary liability for payment of either principal or interest of which during current or any subsequent years it shall be necessary to levy a rate of taxes higher than maximum prescribed by Laws 1921, c. 332, and Mason's Stats., §2062. Op. Atty. Gen. (161b-10), Dec. 3, 1934.

Under Laws 1921, cc. 332 and 357, Duluth School District having levied less than 30 mills for school operating purposes, was not entitled to participate in apportionment of proceeds of special school tax levied under Laws 1921, c. 357, §2, though such school district levied special taxes for such other purposes as building fund, fund for interest and retiring bonds, fund of teachers' retirement fund association, etc., amounting in all to 35 mills. Op. Atty. Gen. (519m), Jan. 8, 1935.

Under Laws 1923, c. 433, polling place must be in school building. Op. Atty. Gen. (187a-7), June 14, 1935.

**CHAPTER 15**

**Relief of the Poor**

**GENERAL PROVISIONS**

**3157. Support of poor.**

174M227, 218NW882.

175M39, 220NW156.

Evangelischer D. Verein v. T., 191M132, 253NW97; note under §3184.

In an action by one sister against another to enforce contribution for the support of their mother evidence held to show that the relief given was not voluntary but that the mother was a "poor person," and that plaintiff was entitled to recover. 172M362, 215NW512.

The words "needy, destitute and disabled persons" as used in §§4401-10 to 4401-20 mean substantially the same as "poor persons" as defined by this section. Moses v. O., 192M173, 255NW617.

On separation of village from town under §1126 to 1128, village becomes liable for support of pauper within its boundaries. Op. Atty. Gen., Nov. 23, 1929.

A grandfather of an indigent child is liable for its support in the school for feeble minded where there are no nearer relatives able to give such support. Op. Atty. Gen., July 16, 1930.

Fact that maternal grandmother has money and would be able to support children does not negative a finding of dependency on the part of children and the right of mother to a pension. Op. Atty. Gen., Oct. 30, 1930.

Woman cannot be compelled to support a pauper husband whom she has ordered from her house. Op. Atty. Gen., Dec. 4, 1930.

A person may be eligible to receive poor relief notwithstanding that he owns property, if the property is insufficient for his support. Op. Atty. Gen., May 5, 1931.

A city which supplied poor relief could receive a conveyance of land owned by the poor person and convey good title, notwithstanding that the property was taken subject to encumbrances and subject to trust impressed thereon for the payment of the otherwise unsecured debts of the poor person. Op. Atty. Gen., May 5, 1931.

A pauper is one who is in need of any or all of the commonly recognized necessities of life, such as food, shelter, clothing, medical or surgical attention, etc., and who is unable to provide the same for himself. Op. Atty. Gen., Nov. 17, 1931.

A pauper who has no blood relatives, or only relatives unable or who refuse to provide support, becomes entitled to public relief. Op. Atty. Gen., Nov. 17, 1931.

Primary duty of supporting pauper rests upon blood relatives in the order stated. Op. Atty. Gen., Nov. 17, 1931.

The duty of providing relief for all poor people entitled thereto under the law is positive, and the exhaustion of the moneys in the poor fund does not excuse a municipality from its obligation to provide necessary relief. Op. Atty. Gen., Nov. 17, 1931.

Neither §3157 nor §3171 impose limitations on liability of county to town for poor relief expended by town under §3195. Op. Atty. Gen., May 2, 1932.

Where indigent children are committed to state public school at Owatonna but are placed on waiting list, parents, and, if they cannot pay, village of their legal settlement, are liable for support of children. Op. Atty. Gen., June 14, 1932.

Commitment of indigent children to custody of state under general guardianship did not release father and mother from obligation to support them. Op. Atty. Gen., June 14, 1932.

Maternal grandparent is not financially responsible for support of an illegitimate child. Op. Atty. Gen., Aug. 9, 1932.

"Dependents" defined. Op. Atty. Gen., Dec. 16, 1933.

Ownership of property does not necessarily preclude one from receiving poor relief. Op. Atty. Gen., Jan. 9, 1934.

Relatives, if of sufficient ability, are liable for funeral bills. Op. Atty. Gen., Mar. 1, 1934.

Aid must be furnished first before proceedings may be instituted against relative liable for support of poor person. Op. Atty. Gen. (339n), July 13, 1934.

Father-in-law is not liable for support of daughter-in-law. Op. Atty. Gen. (339n), Oct. 12, 1934.

Indigent persons may be admitted to Minnesota General Hospital even though they have relatives financially able to care for them. Op. Atty. Gen. (1001c), Mar. 25, 1935.

County compelled to pay for emergency operation upon pauper married woman, could recover reimbursement from father though he had no notice of necessity for operation. Op. Atty. Gen. (339g-3), June 14, 1935.

Municipal officials cannot order WPA employees removed to place of settlement until after application for poor relief has been made. Op. Atty. Gen. (339o-3), Jan. 9, 1936.

Fact that veteran is receiving money from federal government under adjusted service certificate is only a fact to be considered in determining whether veteran is entitled to relief. Op. Atty. Gen. (339q), June 27, 1936.

### 3158. Failure to support—Recovery for.

175M39, 220NW156.

A county with county system for care of the poor paying burial expenses of a pauper not resident in the county may not recover funeral expenses from relatives. Op. Atty. Gen., Dec. 18, 1931.

Where father of poor person is out of state, proceedings may be instituted against grandparents in state without first attempting to proceed against the nonresident. Op. Atty. Gen. (339n), July 13, 1934.

### 3159. Liability of county, town, etc.

Act July 14, 1937, Sp. Sess., c. 43, repeals Sp. Laws 1887, c. 252, relating to support of poor in Pope county.

Evangellischer D. Verein v. T., 191M132, 253NW97; note under §3184.

In suit the town of a pauper's settlement for emergency hospitalization rendered the pauper, it was error to receive in evidence a letter written by the pauper months after the aid was furnished, stating he was then employed at good wages. Warren Hospital Ass'n v. M., 183M230, 236NW211. See Dun. Dig., 3229, 7434.

In suit against town of a pauper settlement for emergency hospitalization, it was error to instruct that jury must find that the person furnished aid continued to be a pauper up to the time of suit. Warren Hospital Ass'n v. M., 183M230, 236NW211. See Dun. Dig., 7429.

County board may pay for groceries furnished by grocer without prior authority. Op. Atty. Gen., Dec. 20, 1930.

Fact that husband has been sentenced to jail for violation of a city or village ordinance does not affect in any way the responsibility of the city or county for poor relief of the wife. Op. Atty. Gen., Sept. 10, 1931.

The responsibility of a city to care for its poor does not cease when the moneys in the poor fund available for such purpose have been exhausted. Op. Atty. Gen., Feb. 8, 1932.

Neither a village nor a township may make persons who rent or furnish an abode to paupers liable for poor relief subsequently furnished by village or township. Op. Atty. Gen., Feb. 11, 1932.

It is duty of municipality, charged with support of its poor, to properly provide for them. Op. Atty. Gen., Apr. 29, 1932.

County board may not make payments to building and loan association on mortgage created by party applying for poor relief. Op. Atty. Gen., July 6, 1932.

Town in which transient pauper is when he becomes a pauper must provide for him, and such town may not transfer him to the state from which he came. Op. Atty. Gen., Feb. 7, 1933.

A showing that applicant for relief has none of the relatives named in sec. 3157, or that they are not of sufficient ability or refuse or fail to support her is a prerequisite to obtaining municipal relief. Op. Atty. Gen., Apr. 8, 1933.

Duty of administering poor relief falls upon villages as well as other municipalities and village council has no discretion. Op. Atty. Gen. July 15, 1933.

County may pay employees on relief rolls by giving orders on merchants instead of cash. Op. Atty. Gen. (90b), July 24, 1934.

Obligation to administer poor relief is absolute and outweighs statutory limitations as to expenditure of funds and creation of public debt. Op. Atty. Gen. (339o-5), Aug. 7, 1934.

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

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

County of settlement is liable for emergency hospitalization in another municipality. Op. Atty. Gen. (339g-2), Mar. 18, 1935.

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

Municipality in which transient lives is responsible for his care. Op. Atty. Gen. (339o-2), Mar. 26, 1935.

County cannot compel paupers to sign agreement to work as condition to granting medical aid. Op. Atty. Gen. (339g-1), Apr. 29, 1935.

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

County compelled to pay for emergency operation upon pauper married woman, could recover reimbursement from father though he had no notice of necessity for operation. Op. Atty. Gen. (339g-3), June 14, 1935.

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

County operating under town system may levy taxes for poor relief and may issue bonds in cases of emergency to raise funds for poor relief purposes. Op. Atty. Gen. (519j), July 5, 1935.

County board may extend aid to farmers by providing twine and repairs to harvesting machinery. Op. Atty. Gen. (125a-37), July 12, 1935.

Where farmers are dependent for a living on their crops and will be unable to harvest them unless assistance is provided, county board has authority to borrow money and issue bonds without vote of electors to provide twine and repairs to harvesting machinery, where such bonds are sold to the state. Id.

Expenses incurred in connection with lighting of a home of a person with electricity should be classified as a necessity. Op. Atty. Gen. (339m), Aug. 1, 1935.

Section 3171 does not limit amount which county may expend on any particular poor person. Op. Atty. Gen. (339i-1), Aug. 16, 1935.

Statutory duty of caring for poor is mandatory and outweighs statutory limitations as to expenditure of funds or creation of public debt. Op. Atty. Gen. (125a-37), Oct. 15, 1935.

Municipality may support feeble-minded pauper outside of his or her home. Op. Atty. Gen. (339d-1), Dec. 3, 1935.

A county may levy tax or issue bonds for poor purposes though operating under the town system of poor relief, but cannot issue registered warrant unless there are moneys in treasury sufficient to pay the same or a tax is in actual process of collection pursuant to a tax levy for that purpose. Op. Atty. Gen. (107a-10), Dec. 9, 1935.

Municipal authorities charged with care of poor must determine whether a particular administrative expense is necessary or proper item of poor relief as affecting right to reimbursement from county. Op. Atty. Gen. (339m), Mar. 31, 1936.

City of Cloquet may consider an automobile a necessary expenditure for superintendent of poor, for which reimbursement may be had from county. Id.

Medical and dental care furnished to recipient of old age assistance is a charge against poor fund of township or village in county operating under township system of poor relief and not a charge against county old age assistance funds. Op. Atty. Gen. (521b), June 16, 1936.

County is responsible for lying in expenses and doctor bills of mother of illegitimate child. Op. Atty. Gen. (339d-3), July 6, 1936.

Board of public welfare may adopt reasonable rules and regulations relating to granting of relief and may require an affidavit from an applicant as to his financial status, providing affidavit is not unreasonable in its terms and does not tend to prevent needy persons from obtaining relief. Op. Atty. Gen. (59a-34), Sept. 8, 1936.

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

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

Where one without settlement in state was convicted of fine in St. Paul and sent to reformatory and later transferred to state prison and was still later committed by probate court of Washington county to hospital for criminal insane, cost of commitment must be paid by Ramsey county, and not by the state or the state prison. Op. Atty. Gen. (248b-3), Jan. 21, 1937.

A village in a county operating under the county system has no right or procedure for requiring county to pay claim for aid furnished to transient, and application of the "law of humanity" is a matter for determination of local authorities in exercise of their official judgment and discretion. Op. Atty. Gen. (339o-6), Apr. 12, 1937.

#### §159-1. Liability of estate of poor person.

175M39, 220NW156.

Counties may not accept conveyances of real estate from indigent persons conditioned upon county supporting such persons for remainder of their lives. Op. Atty. Gen., June 17, 1933.

Where farmers are dependent for a living on their crops and will be unable to harvest them unless assistance is provided, county board has authority to borrow money and issue bonds without vote of electors to provide twine and repairs to harvesting machinery, where such bonds are sold to the state. Op. Atty. Gen. (125a-37), July 12, 1935.

Expenses of treatment at University hospital may not be recovered from patient or relatives. Op. Atty. Gen. (618d-3), Jan. 7, 1936.

**§159-8. Powers of governing body of town, city or village.**—In addition to all other powers now or hereafter by law conferred upon the governing body of any town, city or village, authority is hereby given to receive and accept for their town, city or village real or personal property, encumbered or unencumbered by gift, devise, conveyance or otherwise, from any person whose care, support, treatment or maintenance in whole or in part, under the laws relating to poor relief, is or may be chargeable to, furnished or provided by such town, city or village, and to hold or dispose of the same the benefit of such town, city or village, as provided by law in the case of other property belonging to such town, city or village, and the payment and discharge of any lien or encumbrances upon any such property is authorized when such governing body determines that such payment is advisable and for the best interests of such town, city or village. (Act Apr. 16, 1929, c. 199, §1.)

A city has no authority to enter into an agreement with a pauper or an indigent person whereby the city assumes to agree to support and maintain such poor person for the term of his natural life upon condition that such poor person convey his property to the city. Op. Atty. Gen., Feb. 8, 1932.

A city which has supported a poor person during his life may sell property conveyed to the city by such poor person and place the proceeds of the sale to the credit of the poor fund. Op. Atty. Gen., Feb. 8, 1932.

#### §160. County and town systems.

Mason's Minn. St. 1927, §3195, providing for reimbursement to cities, towns, or villages of third and fourth class for part of expense of administering their local relief under town system, held unconstitutional in violation of uniformity clause. Village of Robbinsdale v. C., 199M 203, 271NW491. See Dun. Dig. 7427.

**§161. Legal settlement for poor relief purposes.**—Every person, except those hereinafter mentioned, who has resided one year continuously in any county, shall be deemed to have a settlement therein, if it has the county system; if it has the town system, he

shall have a settlement in the town, city or village therein in which he has longest resided within such year. Every person who has resided one year continuously in the state, but not in any one county, shall have a settlement in the county in which he has longest resided within such year, if it has the county system; if it has the town system, his settlement shall be in the town, city or village therein in which he has longest resided within such year. The time during which a person has been an inmate of a hospital, poorhouse, jail, prison, or other public institution, or under commitment to the guardianship of the State Board of Control or one of its state institutions as a feeble-minded, delinquent or dependent person, and each month during which he has received relief from the poor fund of any county or municipality or from funds supplied by the State of Minnesota or the United States or any department or departments thereof, supplied as direct relief or in providing work on a relief basis and in lieu of direct relief shall be excluded in determining the time of residence hereunder, except that a ward of the state public school shall have the legal settlement of the family with whom he has resided for two or more years, under a written contract with the state public school providing for his care, education and treatment as a member of such family. Every minor not emancipated and settled in his own right shall have the same settlement as the parent with whom he has resided. Every child born in a state institution shall have a settlement in the county in which the mother had a legal settlement at the time she was committed to such institution. Provided, that every minor not emancipated and settled in his own right and living apart from his parents and not supported by his parents shall, after receiving aid and support from others uninterruptedly for a period of two years, acquire the settlement of the person with whom he has resided for a period of not less than two years.

A settlement in this state shall be terminated and lost by:

1. Acquiring a new one in another state.
2. By voluntary and uninterrupted absence from this state for a period of one year with intent to abandon his residence in the state of Minnesota. (R. L. '05, §1488; G. S. '13, §3071; '19, c. 128; Apr. 21, 1933, c. 385; Jan. 24, 1936, Ex. Ses., c. 68; Mar. 23, 1937, c. 102; Apr. 5, 1937, c. 138.)

**Editorial note.**—The act of Mar. 23, 1937, c. 102, amended this section (designating it in the title and enacting part as §3136 of Mason's 1936 Supplement), by inserting after the second sentence the words "The time during which a person has been the inmate of a hospital, old age home, or nursing home for the care of the invalid or aged, whether public or private." These words were not carried into the later amendment of Apr. 5, 1937, c. 138.

The amendment of Mar. 25, 1937, c. 102, was ineffective for the reason that the title and enacting words purported to amend "Mason's Minnesota Statutes, 1936 Supplement, section 3136," instead of section 3161, which alone deals with the subject matter of the statute involved. The amendment of Apr. 5, 1937, c. 138, renders the defect in the former amendment immaterial.

179M251, 228NW929.

In determining the "settlement" of a pauper, no distinction is to be made between citizens and aliens. 182 M150, 233NW804. See Dun. Dig. 7430(76).

The word "resided," means where the person has lived or existed the longest within the one year immediately preceding the commencement of the proceedings, and does not have reference to his technical legal residence. *Smiley v. E.*, 183M562, 237NW416. See Dun. Dig., 7430.

A town is not estopped from denying a settlement because the poor person receives aid from the county while in such town, or because the county commissioner of the district which includes the town gives aid, or because the poor person voted in the town. *City of Moorhead v. T.*, 184M509, 239NW217. See Dun. Dig., 7430.

Evidence held to sustain finding that defendant town was place of settlement of poor person. *City of Moorhead v. T.*, 184M509, 239NW217. See Dun. Dig., 7430.

When a county adopts the township system of caring for the poor in lieu of the county system prevailing, pursuant to §3164, the support of poor persons falls upon the towns, and the place of settlement is determined by §3161. *City of Moorhead v. T.*, 184M509, 239NW217. See Dun. Dig. 7430.

Provision that time during which poor person "has received relief from poor fund of any county or municipality" shall be excluded in determining settlement,

cannot be construed to include also payments of mother's pension. In *Re Skog*, 186M349, 243NW384. See *Dun. Dig.* 7430.

Poor person moving into another state but returning before acquiring a settlement there does not lose his settlement in this state. *Petersburg Tp. v. C.*, 186M509, 243NW695. See *Dun. Dig.* 7430.

In determining settlement of poor person in county having town system, question is where he resided longest prior to applying for or receiving public aid. *Petersburg Tp. v. C.*, 186M509, 243NW695.

"Residence" in mother's pension statute is not synonymous with "settlement" under poor laws, and residence for one year, as distinguished from settlement, is condition precedent. *State v. Juvenile Court of Wadena County*, 188M125, 246NW544. See *Dun. Dig.* 4460b.

Mother's pension law, being newer, prevails over poor laws to extent of conflict. *State v. Juvenile Court of Wadena County*. *Id.*

Where one received aid from county in which he had not resided for year, county in which he had legal settlement owed duty to reimburse county giving aid. *County of Kanabec v. C.*, 189M161, 248NW710. See *Dun. Dig.* 7430.

A town leasing a farm in another town for a poor person was not estopped to deny settlement, where at expiration of lease, poor persons bought farm on contract and supported themselves for two years. *Town of Hagen v. T.*, 197M567, 267NW484. See *Dun. Dig.* 7430.

Fact that one received a mother's pension from county did not affect question as to her settlement as between two towns, nor did fact that two sons in family worked for wages, under Federal Emergency Relief set-up. *Id.*

Extra Session, Laws 1935-1936, c. 68, was not intended to change existing law respecting settlement of poor persons, but rather to clarify it so as to remove all doubt and uncertainty. *Equality Tp. v. S.*, 274NW219. See *Dun. Dig.* 7430.

State Emergency Relief Administration by temporarily taking over burdens of poor relief did not thereby change place of settlement of poor theretofore having a recognized place of settlement in a municipality. *Id.*

Legal settlement of a poor person having been established in a certain municipality, it there remains until a new one is acquired. *Id.*

As between two political subdivisions, settlement of a pauper who has resided one year continuously in state, but not one year in any one county, is to be fixed at place where he has resided longest during year preceding his request for aid. *City of Detroit Lakes v. V.*, 274NW236. See *Dun. Dig.* 7430.

Two periods each less than one year, separated by a residence of several months in another state, does not suffice to establish a settlement in this state. *Id.*

To determine a pauper settlement, his intention to return to his place of sojourn in this state after temporary work in another state is not of great importance. *Id.*

Where a father disappeared, and his child lived with the mother until the latter's death when he went to people living in another township and lived with them about eleven months, when she was taken to the State Sanatorium at Walker where she died, the settlement of the child was in the township where the mother resided at the time of her death. *Op. Atty. Gen.*, May 22, 1930.

Where husband failed to support his wife and children, and the wife without obtaining a divorce, goes with the children to another county, where she resides more than a year, the children acquire a settlement in the latter county, and that county is liable for support of the children, provided that the conduct of the husband has been such as to break up the home justifying the wife in establishing a separate residence. *Op. Atty. Gen.*, June 16, 1930.

"Within such year" refers to residence within the year preceding application, but it does not follow that because application has been made and no relief granted thereunder, the pauper cannot continue to establish a residence within the town. *Op. Atty. Gen.*, June 10, 1931.

Where one moves from town into village in such town, a year's residence in the village is necessary to shift liability from the town to the village. *Op. Atty. Gen.*, Jan. 8, 1932.

Where a family lived continuously for two years in a township and then moved to a city within the township where they resided for more than six months before applying for aid, the city is liable for their support. *Op. Atty. Gen.*, Jan. 14, 1932.

Where husband and wife were living in different counties intending to locate on a farm wherever they could locate one, and husband disappeared, the wife's place of settlement for the purpose of securing poor relief was the place of her residence and not that of the husband who had disappeared. *Op. Atty. Gen.*, Feb. 18, 1932.

Where pauper has legal settlement in H county and moved in to F county in July, 1930, and received temporary relief from H county in August, 1930, and received relief continuously from F county after he moved to that county, he has never acquired settlement in F county. *Op. Atty. Gen.*, Apr. 4, 1932.

Furnishing medical attention to minor child by reason of poverty of parents amounts to rendition of poor relief to parents. *Op. Atty. Gen.*, Apr. 20, 1932.

Furnishing of poor relief does not toll the running of the year in case of removal from one county to another, or the major part of year in case of removal from one municipality to another in same county. *Op. Atty. Gen.*, Apr. 20, 1932.

State has no remedy against other states for handling paupers who have resided in Minnesota for less than year. *Op. Atty. Gen.*, May 17, 1932.

Legal settlement is in municipality where person has lived or existed longest within one year immediately preceding commencement of proceedings. *Op. Atty. Gen.*, May 24, 1932.

It is not necessary that pauper reside continuously in village for period of one year before poor relief may be granted, and if poor person has resided in three different municipalities during year of application for poor relief, place where he resided longest would be charged with relief. *Op. Atty. Gen.*, June 22, 1932.

Legal settlement was not affected by performance of "made" work where relief was actually paid out of poor fund of town. *Op. Atty. Gen.*, Jan. 27, 1933.

Giving of notice by city to town to take care of family removing from town to city did not stop running of limitations so that time to make up year of residence would not run after such notice. *Op. Atty. Gen.*, Jan. 31, 1933.

Where husband is in jail and is not supporting wife, she has right to establish separate place of residence, as regards poor relief. *Op. Atty. Gen.*, Feb. 4, 1933.

Neither townships nor county may transport transient paupers to another state, but town or county in which he happened to be when he became a public charge is bound to support him. *Op. Atty. Gen.*, Feb. 7, 1933.

Where part of required year's residence has been without the state of Minnesota pauper is not entitled to poor relief. *Op. Atty. Gen.*, Mar. 16, 1933.

The settlement of a 15 year old girl in the Home School for Girls at Sauk Centre, to which she was committed while living with her mother, is in the county in which her mother enjoys settlement. *Op. Atty. Gen.*, Mar. 29, 1933.

Care of one with original residence in another state by insurance company in this state did not change residence to this state and foreign state should be obligated to care for him on his becoming subject of tuberculosis. *Op. Atty. Gen.*, May 15, 1933.

Whether inmate of G. A. R. Home obtained settlement at place where home was located, held question of fact. *Op. Atty. Gen.*, June 7, 1933.

Relief furnished to citizens by way of Red Cross flour, emergency or work relief from the state emergency relief committee is not relief from "poor funds" within this section. *Op. Atty. Gen.*, June 17, 1933.

Time during which applicant received mother's pension ought not to be deducted for purpose of residence. *Op. Atty. Gen.*, June 26, 1933.

Pauper cannot gain settlement while receiving aid from another municipality where he had former residence. *Op. Atty. Gen.*, July 6, 1933.

Words "such year" mean year immediately preceding application for poor relief. *Op. Atty. Gen.*, July 18, 1933.

Legal settlement of family was residence of wife and children where husband and father was committed as feeble-minded to board of control and ran away and later was sent to prison. *Op. Atty. Gen.*, Aug. 22, 1933.

A ward of the state may acquire residence for poor purposes. *Id.*

A person who has resided continuously in state for one year has settlement for poor relief in county or town or municipality in which he has resided longest. *Op. Atty. Gen.*, Aug. 28, 1933.

Month in which town refuses relief cannot be deducted from residence relied on to fix settlement. *Op. Atty. Gen.*, Sept. 1, 1933.

Willful absence from state for 30 days terminates settlement for poor relief purposes. *Op. Atty. Gen.*, Oct. 4, 1933.

Marriage emancipates a minor girl and her settlement follows that of her husband even though she lives with her parents. *Op. Atty. Gen.*, Oct. 20, 1933.

One residing at hospital paying his own way gained a residence. *Id.*

Receipt of aid from poor fund of municipality does not stop running of year, months, during which aid was received merely being excluded from computation. *Op. Atty. Gen.*, Oct. 25, 1933.

Fact that one makes application for poor aid, which is not granted, does not prevent him from gaining a new settlement by residing in county for one year. *Op. Atty. Gen.*, Nov. 2, 1933.

Fact that woman was feeble-minded did not prevent her from obtaining legal residence in county. *Id.*

County operating under town system is not liable for expense of caring for poor person treated in another district for tuberculosis, town or municipality being liable therefor. *Op. Atty. Gen.*, Dec. 2, 1933.

Cost of emergency operation performed on deaf child in state school for deaf is chargeable to municipality in which child has his settlement for poor relief purposes. *Op. Atty. Gen.*, Dec. 12, 1933.

Settlement is determined between municipalities to be in that municipality in which applicant has resided greater portion of year immediately preceding application for poor relief. *Op. Atty. Gen.*, Dec. 12, 1933.

Where one, in county having town system of relief, moved from village to city in such county Oct. 7, 1932, and received relief during month from village, and on July 29, such person's wife was confined as an emergency service in city, settlement had been gained in city which was liable for confinement expense. Op. Atty. Gen., Dec. 18, 1933.

Payment of poor relief by an adjoining county does not prevent mother from establishing a residence for purpose of mother's pension. Op. Atty. Gen., Dec. 19, 1933.

Mother's pension is different from poor relief and right to receive from county granting it may be lost by changing residence to another county. Op. Atty. Gen., Dec. 20, 1933.

A poor person who has a legal settlement in a particular county must reside continuously for one year in another county to acquire a new settlement. Op. Atty. Gen., Dec. 22, 1933.

Residence entitling a person to be admitted to a university hospital from a particular county is not to be confused with legal settlement within poor laws and a person may be admitted to hospital from county in which person has just established his residence. Op. Atty. Gen., Jan. 9, 1934.

Period during which a poor person receives work through CWA federal program cannot be excluded in determining whether he has established a residence. Op. Atty. Gen., Jan. 17, 1934.

Settlement for poor relief purposes is not required in order to obtain work on CWA projects. Op. Atty. Gen., Jan. 31, 1934.

Poor person who has legal settlement in a particular county must reside continuously for one year in another county in order to acquire a settlement there. Op. Atty. Gen., Feb. 10, 1934.

Wards of state cannot acquire settlement for poor purposes. Op. Atty. Gen., Feb. 23, 1934.

Year referred to in section means year immediately preceding application for poor relief. Op. Atty. Gen., Mar. 7, 1934.

A poor person who has a legal settlement in a municipality in a certain county to acquire a settlement elsewhere in another county must reside continuously for one year in such other county. Op. Atty. Gen., Mar. 20, 1934.

Lawful absence from state for 30 days terminates settlement for poor relief purposes. Op. Atty. Gen., Mar. 26, 1934.

Laws 1933, c. 385, amending this section is constitutional. Id.

If a child has in fact been emancipated and has voluntarily and uninterruptedly absented herself from the county for one year or more for purpose of abandoning her residence, county is not chargeable with her support. Op. Atty. Gen. (135a-37), Apr. 5, 1934.

Work relief under Civil Works Administration provisions is not to be excluded in determining settlement. Op. Atty. Gen. (476b-11), Apr. 6, 1934.

Person receiving hospitalization at United States Veteran Hospital located at Fort Snelling on federal territory cannot acquire settlement for poor relief purposes in this state while residing in such hospital. Op. Atty. Gen. (339a), Apr. 11, 1934.

Poor person who has resided one year continuously in state but not in any one county has his place of settlement in municipality in which he has resided immediately before application for relief. Op. Atty. Gen. (239o), Apr. 12, 1934.

Expense of burial of a pauper is imposed on county in which death occurs. Op. Atty. Gen. (339c-1), Apr. 26, 1934.

Whether moving of a few household goods and the father of family into the county started time running with respect to establishment of settlement was a question of intention. Op. Atty. Gen. (339o), Apr. 27, 1934.

Settlement may be acquired by poor relief purposes during period that mother's pension is received. Op. Atty. Gen. (335b), May 3, 1934.

If there is no other municipality in state which can be compelled to assume support for one who is applying for aid, that municipality or county in which the pauper is actually living in at the time must bear the burden. Op. Atty. Gen. (339o-2), May 3, 1934.

Settlement of persons who moved to Canada and do not acquire a citizenship in that country but who are returned for institutional care, is question of fact. Op. Atty. Gen. (339o), May 4, 1934.

There are facts which would justify and enable a wife to establish a residence of her own separate from that of her husband, who has been committed to prison or to an institution for the feeble-minded. Op. Atty. Gen. (679k), May 4, 1934.

Woman by marrying a man who was committed as feeble-minded in another county lost her settlement and took his. Op. Atty. Gen. (679k), May 4, 1934.

One voluntarily departing from state for the purpose of seeking a living somewhere else and wandering from state to state for four years has lost his Minnesota residence. Op. Atty. Gen. (339o), May 4, 1934.

Receipt of aid from poor fund of municipality does not stop running of year, time during which such aid was received merely being excluded from computation. Op. Atty. Gen. (339o), May 7, 1934.

County work relief in co-operation with federal and state government is not poor relief within meaning of this section. Op. Atty. Gen. (125a-37), May 7, 1934.

Where minor was admitted to school for deaf from one county and thereafter parents separated and father took up residence in another county, where child visited him in summer time, latter county was liable for support of child, father being indigent. Op. Atty. Gen. (339o), June 11, 1934.

Receipt of a mother's pension from one county would not prevent establishment of a settlement in another county for poor relief purposes. Op. Atty. Gen. (335b), June 28, 1934.

Burial expense of pauper is to be paid by county in which pauper had a settlement. Op. Atty. Gen. (339c-1), July 5, 1934.

Federal relief is not poor relief within meaning of section in determining place of settlement. Op. Atty. Gen. (339o), Aug. 1, 1934.

Month during which aid is received from poor fund of municipality should be excluded in computation of time in determining place of settlement. Id.

Whether one was willfully absent from state is a question of fact. Op. Atty. Gen. (339a), Aug. 15, 1934.

Period during which person is an inmate of a prison is to be excluded in determining settlement. Id.

Where woman with illegitimate children lived in county for more than one year she gained settlement there, but was committed to guardianship of state board of control while residing in another county less than one year, her commitment prevented her from gaining a new settlement, and her settlement and the settlement of her children was the county in which she last lived for more than one year. Op. Atty. Gen. (339o), Sept. 11, 1934.

A nonresident committed to a sanatorium as a public health menace cannot gain a residence for poor purposes even though he is not receiving poor relief. Op. Atty. Gen. (339o-4), Nov. 1, 1934.

Where a person committed to some state institution, like a state asylum for insane or other state institution, dies in such institution, place of settlement of indigent person at time he was committed to institution is liable for expenses incident to his burial. Op. Atty. Gen. (339c-1), Nov. 23, 1934.

Residence for purpose of mother's pension may be acquired in this state while receiving widow's pension from another state. Op. Atty. Gen. (335b), Dec. 13, 1934.

An epileptic had his settlement for pauper purposes in county wherein he spent more than a year of his time, regardless of any intention on his part to make that county his home. Op. Atty. Gen. (339o), Dec. 13, 1934.

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

Unless infants have been emancipated and have established settlements in their own rights, their settlement is the same as that of their father. Op. Atty. Gen. (339d-4), Dec. 15, 1934.

A poor person who has a legal settlement in a particular county to acquire a settlement elsewhere should reside continuously for one year in other county. Op. Atty. Gen. (339o), Dec. 18, 1934.

Time for which person receives old age pension is not to be excluded in determining settlement for poor relief. Op. Atty. Gen. (339o-2), Jan. 10, 1935.

Poor person having a legal settlement in a particular county to acquire a settlement in another county must be self-supporting for one year in the new county of residence. Op. Atty. Gen. (339o-1), Jan. 14, 1935.

A person can acquire a settlement in a county wherein he has resided six months where he has resided in state only one year, having passed four months in one county and two months in another. Op. Atty. Gen. (339o-1), Jan. 16, 1935.

Time young men spent in C. C. C. camp is to be excluded in determining settlement. Op. Atty. Gen. (339o-4), Jan. 19, 1935.

Federal relief is not poor relief for purpose of determining place of settlement. Op. Atty. Gen. (339o-2), Jan. 23, 1935.

One who came to state and lived for 11 months in South St. Paul and then went to Wisconsin on a dam project as a PWA employee of South St. Paul and after such work completed returned to state, he then had no legal settlement in the state. Op. Atty. Gen. (339o-2), Jan. 26, 1935.

Settlement of child of divorced parents held in county of father's residence though mother residing in another county was entitled to custody during nine months of the year. Op. Atty. Gen. (339o), Jan. 29, 1935.

Settlement of child was at home of father in St. Paul, though father was in California as chauffeur of family with whom he had worked for five years. Id.

Where applicant for poor relief has lived in county for a year or more, he has his settlement for pauper purposes in town, village or city wherein he has resided for longest period of time during year immediately previous to time of making application for relief, where county is under town system. Op. Atty. Gen. (339o-5), Jan. 31, 1935.

Poor person who has resided one year continuously in state but not one year continuously in any one county has settlement in county in which he has longest resided during such year. Op. Atty. Gen. (339o-1), Feb. 5, 1935.

A poor person who for many years has lived in one township and has moved into a city in the same county and has resided there seven months before applying for poor relief has settlement in the city and not in the township, county being under town system. Op. Atty. Gen. (3390-2), Feb. 7, 1935.

Year referred to in statute is year immediately preceding application for relief. Op. Atty. Gen. (3390), Feb. 11, 1935.

State relief fee paid out of federal funds is not poor relief within meaning of this section. Op. Atty. Gen. (3300), Mar. 4, 1935.

Town board may not agree to furnish support of a pauper residing in another state for an indefinite period of time. Op. Atty. Gen. (3390-5), Mar. 5, 1935.

Person may not acquire settlement while residing in transient camp. Op. Atty. Gen. (3390-6), Mar. 9, 1935.

Right of a man to fix place of settlement of wife and family continues only so long as he maintains the family relationship and discharges duties thereof. Op. Atty. Gen. (3390-2), Mar. 14, 1935.

Month or months during which person received relief is to be deducted in determining place of settlement. Op. Atty. Gen. (3390-2), Mar. 16, 1935.

Month during which person receives relief is to be excluded in determining settlement. Op. Atty. Gen. (3390-4), Mar. 18, 1935.

To acquire a new settlement in another county requires continuous residence for one year in the new county. Op. Atty. Gen. (339g-2), Mar. 18, 1935.

Willful absence from state for 30 days terminates settlement for poor relief purposes. Op. Atty. Gen. (3390-2), Mar. 26, 1935.

Month during which indigent person receives federal relief is not excluded. Op. Atty. Gen. (3390-2), Apr. 8, 1935.

Time during which a person receives relief of poor fund of another municipality is to be excluded in determining time of residence. Op. Atty. Gen. (339e-2), Apr. 16, 1935.

Feeble-minded ward of state cannot acquire new proper settlement. Op. Atty. Gen. (679h), May 1, 1935.

Settlement for poor relief purposes cannot be acquired by resident in a transient camp and when persons residing in such camp have a legal settlement for poor relief purposes in some other municipality of state, county in which transient camp is located is not liable either for medical aid furnished or burial expenses in case of death, but county in which one having no settlement in the state dies is liable for burial expenses. Op. Atty. Gen. (3390-6), June 8, 1935.

County operating under township system of poor relief is not liable for medical aid furnished persons in transient camp where they do not have a place of settlement in the state. Id.

Where person was committed to institution for feeble-minded from county in which parents resided, and paid for support at institution for some years and then moved to another county, the county of commitment and not the county to which parents moved is liable to the state for the support of the inmate. Op. Atty. Gen. (679c), July 20, 1935.

Where child was committed to private institution and it was later determined to commit it to state public school at Owatonna, county where child was first committed as a dependent child determines county liable for its support, regardless of where parents moved and location of private institution. Op. Atty. Gen. (840a-6), July 23, 1935.

Where mother of illegitimate had a legal settlement in St. Louis County at time baby was born in Minneapolis, and child was brought into juvenile court of Hennepin county on charge of dependency and was under the care of the Catholic central bureau for a number of years, and meanwhile mother remarried and left the state, proper settlement of child on being adjudged feeble-minded and placed under guardianship of state board of control was St. Louis County, which county is responsible for him. Op. Atty. Gen. (339a-2), July 30, 1935.

Settlement of mother of illegitimate at date of its birth determines county responsible for care of feeble-minded child. Op. Atty. Gen. (840a-6), Aug. 14, 1935.

County in which parent of child committed to state school for deaf has settlement is liable for support of child, whether under county or township system of poor relief. Op. Atty. Gen. (339d), Aug. 29, 1935.

Minor child retains settlement of mother at time of commitment to state board of control. Op. Atty. Gen. (339d), Sept. 9, 1935.

Place of settlement remains unchanged until new settlement is acquired in another county by a residence there of one year. Op. Atty. Gen. (3390-2), Sept. 20, 1935.

Time during which a person is inmate of state sanatorium is excluded in determining settlement. Op. Atty. Gen. (339f-3), Oct. 1, 1935.

Legal settlement of wife and children is ordinarily that of husband and father, but wife and children may obtain a separate settlement where they are legally justified in living apart by reason of husband's and father's misconduct. Op. Atty. Gen. (339d-4), Oct. 8, 1935.

Statutory duty of caring for poor is mandatory and outweighs statutory limitations as to expenditure of funds or creation of public debt. Op. Atty. Gen. (125a-37), Oct. 15, 1935.

Where one having legal settlement in Township X in M. County moved to Township Y in M. County and resided there five months and then moved to another county where he resided 11 months before applying for relief, his legal settlement was X in M. County. Op. Atty. Gen. (3390-4), Oct. 26, 1935.

Poor person to acquire a new settlement must be self-supporting for one year in another county. Op. Atty. Gen. (3390-1), Nov. 8, 1935.

Person may acquire settlement while engaged on public works project when paid out of federal funds. Op. Atty. Gen. (3390), Nov. 20, 1935.

On marriage place of settlement of wife becomes that of her husband. Op. Atty. Gen. (3390-2), Nov. 21, 1935.

Work relief on federal or state projects sponsored through local municipality is not poor relief. Op. Atty. Gen. (3390-2), Nov. 21, 1935.

One who has willfully absented himself from this state for more than 30 days has lost his settlement in this state, and no other state has authority to remove him to this state. Op. Atty. Gen. (3390-3), Dec. 18, 1935.

Settlement of delinquent child was that of its mother, and time spent by child in home school for girls or in a different county on parole did not affect settlement. Op. Atty. Gen. (339d-2), Dec. 29, 1935.

Married woman's settlement follows that of her husband. Op. Atty. Gen. (339-2), Jan. 21, 1936.

Poor person having legal settlement in particular county retains that settlement until he has resided in another county continuously for one year. Op. Atty. Gen. (3390-1), Mar. 3, 1936.

Settlement of illegitimate child is that of mother. Op. Atty. Gen. (339d-3), Mar. 11, 1936.

Time during which WPA workers are employed in transient camps excluded in determining places of settlement. Op. Atty. Gen. (3390-6), Mar. 14, 1936.

Amendment by Laws 1935-36, Sp. Sess. c. 68, is not retrospective and settlement is not lost by the amendment. Op. Atty. Gen. (3390-2), Mar. 18, 1936.

Loss of settlement by willful absence from state for a period of 30 days is not revived by enactment of Laws 1935-36, Ex. Sess., c. 68. Op. Atty. Gen. (3390-4), Mar. 19, 1936.

A person having a settlement in a particular township may lose the same and obtain a new settlement by living in another township in the same county for more than six months. Op. Atty. Gen. (3390-5), Mar. 31, 1936.

Months during which persons are employed on federal or state work projects are excluded in determining place of settlement. Op. Atty. Gen. (3390-4), Apr. 1, 1936.

Laws 1935-36, Sp. Sess., c. 68, was not retroactive insofar as new provisions were concerned. Op. Atty. Gen. (3390-2), Apr. 22, 1936.

County of commitment is charged with duty of supporting children returned from state school, and Laws 1935-36, Sp. Sess., c. 68, is not retroactive insofar as new provisions are concerned. Op. Atty. Gen. (339d), Apr. 29, 1936.

Time during which relief has been received is to be excluded in determining settlement. Op. Atty. Gen. (3390-4), May 11, 1936.

Application for old age assistance is not application for poor relief. Op. Atty. Gen. (521t-5), May 11, 1936.

Willful absence for 30 days terminated settlement for poor relief purposes. Op. Atty. Gen. (3390), May 15, 1936.

Where a person retains settlement until he has resided in another county continuously for one year, and state relief is to be excluded in determining length of residence in state. Op. Atty. Gen. (3390-1), May 19, 1936.

Month during which person has received aid from state or federal funds subsequent to enactment of Laws 1935-36, Sp. Sess., c. 68, to be excluded in determining settlement. Op. Atty. Gen. (3390-5), May 22, 1936.

Application for old age assistance is not equivalent to application for poor relief as regards settlement under poor law. Op. Atty. Gen. (521t-2), May 22, 1936.

Months during which person has received aid from state or federal funds subsequent to enactment of Laws 1935-36, Sp. Sess., c. 68, is to be excluded in determining settlement. Op. Atty. Gen. (3390-2), May 27, 1936.

Dependent children under guardianship of board of control cannot gain new settlement, and time in state public school is not counted toward settlement. Op. Atty. Gen. (848a-10), May 27, 1936.

Month during which person has received aid from state or federal fund prior to enactment of Laws 1935-36, Special Session, c. 68, are not to be excluded in determining settlement. Op. Atty. Gen. (3390-4), June 1, 1936.

Application for old age assistance is to be made in county wherein applicant has resided for one year, and it is immaterial whether or not he has acquired settlement there for poor purposes. Op. Atty. Gen. (521t-3), June 17, 1936.

Time during which person receives poor relief from municipality not to be excluded in determining settlement for old age assistance purposes. Id.

Person while receiving poor relief from a county or municipality may acquire legal settlement in another county for old age assistance purposes. Op. Atty. Gen. (521t-1), June 26, 1936.

Wife and child of husband and father confined in insane asylum may establish separate settlement. Op. Atty. Gen. (3390), July 6, 1936.

Expenses of person admitted to state sanitarium under §4545-1 are to be paid by state, and not a county, and a person admitted cannot gain residence during period of hospitalization in county from which he came or county in which sanitarium is located. Op. Atty. Gen. (339f-3), July 11, 1936.

Cost of maintaining minor epileptic colony is to be borne by county of commitment, though parents have changed legal settlement. Op. Atty. Gen. (339f-2), July 24, 1936.

Fact that husband received old age assistance from one county does not prevent him and his family from establishing a legal settlement for poor relief purposes in another county. Op. Atty. Gen. (521t-2), Aug. 4, 1936.

Two married persons living in adultery after crossing state line may establish a settlement for poor relief purposes by being self supporting for one year. Op. Atty. Gen. (339o), Aug. 11, 1936.

Month during which a person is employed on WPA project is merely excluded from computation in determining place of settlement. Op. Atty. Gen. (339o-4), Aug. 11, 1936.

Time during which WPA workers are employed in CCC or transient camps is excluded in determining place of settlement prior to passage of Laws 1935-36, Special Session, c. 63. Op. Atty. Gen. (339o-6), Aug. 22, 1936.

Time during which person taken from relief rolls is employed by contractors having contract with federal government is not to be excluded in determining settlement unless payment is made from funds supplied as direct relief or work relief. Op. Atty. Gen. (339o-2), Sept. 2, 1936.

Person having settlement in township of one county must reside for a year in another township in another county before he can obtain a settlement in such other county or township. Op. Atty. Gen. (339o-5), Sept. 15, 1936.

Residence of parents does not follow that of a child. Op. Atty. Gen. (339o-2), Oct. 2, 1936.

Persons receiving poor relief are not disqualified to vote. Op. Atty. Gen. (339r), Oct. 17, 1936.

Settlement for purpose of relief has nothing to do with residence for purpose of voting. Op. Atty. Gen. (490j), Oct. 19, 1936.

A person who has voluntarily and uninterruptedly been absent from a state for a period of 30 days has lost his settlement, even though he may not have gained a settlement in another state. Op. Atty. Gen. (339j), Nov. 12, 1936.

Where pauper moves from a township to unorganized territory in same county, application for determining settlement should be made to district court. Op. Atty. Gen. (339o-2), Nov. 12, 1936.

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

Upon discharge from guardianship of state board of control on attaining 18 years of age, pauper is resident of county from which committed, and not county where he resided at time of discharge, though such person may gain a settlement in his own right upon sufficient residence. Op. Atty. Gen. (339o-2), Jan. 12, 1937.

Settlement for pauper purposes is of no consequence in mother's pension case. Op. Atty. Gen. (335b), Jan. 20, 1937.

Where no aid is granted under application, applicant may continue to establish settlement in a town. Op. Atty. Gen. (339o-5), Jan. 27, 1937.

A family having a settlement in a subdivision of one county must reside for a year in another county before it can obtain a settlement in any municipality and such other county. Op. Atty. Gen. (339o-5), Jan. 30, 1937.

Legal settlement of one who moves about in two counties is county in which she has resided longest during year immediately preceding her application for relief. Op. Atty. Gen. (540m), Feb. 18, 1937.

Ordinarily furnishing of surplus commodities would not constitute poor relief. Op. Atty. Gen. (125a-37), Mar. 6, 1937.

Willful absence from state for 30 days terminated settlement. Op. Atty. Gen. (339o-2), Mar. 8, 1937.

Relief to veterans under §§4344 to 4366 and under Laws 1935, c. 33, and Laws 1935-36, Sp. Sess., c. 101, is not poor relief. Op. Atty. Gen. (339q), Mar. 11, 1937.

Moving of family from county of residence for one day would not interrupt settlement in county ejecting family where family moved back to such county next day. Op. Atty. Gen. (339o-3), Mar. 12, 1937.

Soldier in U. S. Army cannot acquire settlement in state while stationed at Fort Snelling. Op. Atty. Gen. (339q), Apr. 2, 1937.

Month during which person has applied for but has not received relief may not be excluded. Op. Atty. Gen. (339o-4), Apr. 7, 1937.

Month during which family receives portion of salary of boy employed in federal CCC Camp not to be excluded in determining settlement. Op. Atty. Gen. (339o-2), Apr. 15, 1937.

Time of receiving drouth relief not to be excluded in determining settlement. Op. Atty. Gen. (339o-4), Apr. 19, 1937.

Rural federal grants are not poor relief. Op. Atty. Gen. (339s), Apr. 19, 1937.

Old age assistance is not poor relief. Op. Atty. Gen. (339o-5), Apr. 30, 1937.

Place of settlement of an indigent person for poor relief purposes is where such person has resided longest period of time immediately preceding application for poor relief, excluding time during which poor relief was furnished. Id.

Soldier in U. S. Army cannot acquire settlement in municipality adjacent to Fort Snelling while stationed at the Fort as a soldier, though he has permission to live with his wife outside reservation. Op. Atty. Gen. (339q), Apr. 30, 1937.

Where condition of parole was that pauper reside with certain person in another state, his absence from state of Minnesota was not "willful" while abiding by such condition. Op. Atty. Gen. (339r), June 3, 1937.

Veterans' relief furnished pursuant to Laws 1935, c. 51 and Laws 1935-36, Ex. Sess., c. 101, is not poor relief within §3161. Op. Atty. Gen. (928c-12), June 14, 1937.

Month during which relief has been furnished from state or federal funds is to be excluded in determining settlement. Op. Atty. Gen. (339o-4), June 23, 1937.

Month during which mother receives portion of salary of boy employed in federal CCC camp is not to be excluded in determining place of settlement of mother. Op. Atty. Gen. (339o-2), June 24, 1937.

Grant from federal resettlement administration is not poor relief. Op. Atty. Gen. (339s), June 24, 1937.

Receipt of aid from poor fund of a particular municipality does not stop running of year, month or months during which aid was received merely being excluded from computation. Op. Atty. Gen. (339o-4), June 25, 1937.

Month during which person has received relief from state or federal funds is to be excluded in determining time of residence. Op. Atty. Gen. (339o-2), July 9, 1937.

Willful absence from state for 30 days terminated settlement. Op. Atty. Gen. (339o-2), July 9, 1937.

Receipt of "surplus commodities" purchased by federal government to remove them from competitive market does not necessarily affect question of settlement for poor relief purposes. Op. Atty. Gen. (339s), July 16, 1937.

Restatement of conflict of laws, as to domicile and Minnesota decisions compared. 15MinnLawRev668.

### §3161-1. Settlement of poor persons—Disputes.

Upon becoming a pauper, a person who has resided one year or more continuously in a county wherein the town system of caring for the poor is in force, is a charge for necessary support on the town, city or village therein, in which he has longest resided during the year immediately preceding the date of his proper application for poor aid. *Grove City v. Manannah*, 182M197, 233NW 875. See Dun. Dig. 7427(68), 7430.

Proceedings are informal and if a party cited is not a proper party because the "town system" has not been adopted, it should claim such defense. *Golden*, 182M221, 234NW7. See Dun. Dig. 7427(68).

Evidence held to establish settlement and that persons were paupers. *Golden*, 182M221, 234NW7. See Dun. Dig. 7430.

Finding that person was not poor person or pauper, held sustained by evidence. *Town of Dassel v. V.*, 187M 331, 245NW365. See Dun. Dig. 7426.

Does not amend by implication, G. S. 1923, §3186, subd. 2. Op. Atty. Gen., Dec. 21, 1929.

This section has application to a situation where the county is operating under a town system in caring for its poor. Op. Atty. Gen., Feb. 19, 1932.

Fact that St. Cloud is within two counties does not take case of pauper removing from one of the counties to a place in city within other county from under §3161-2 for purpose of determining residence. Op. Atty. Gen., Jan. 31, 1933.

Attorney General's opinion of Aug. 10, 1931, that this act is exclusive method of determining controversy involving determination of residence for pauper purposes, is reversed. Op. Atty. Gen., Nov. 28, 1933.

Municipal officials cannot order WPA employees removed to place of settlement until after application for poor relief has been made. Op. Atty. Gen. (339o-3), Jan. 9, 1936.

Person may continue to establish residence in a town after determination of settlement in another municipality. Op. Atty. Gen. (339o-2), Mar. 6, 1937.

### §3161-2. Same—Dispute as to between counties or subdivisions of different counties, etc.—Hearing.

County of Kanabec v. C., 248NW710; note under §3161. Op. Atty. Gen., May 24; note under §3161.

Op. Atty. Gen., Jan. 31, 1933; note under §3161-1.

County may maintain proceeding to determine settlement of poor person given aid, though county is not caring for such person at time proceeding is begun. 179 M251, 228NW929.

Determination of judge of district court as to settlement of poor persons in proceedings involving residents, held res judicata. Op. Atty. Gen., May 22, 1930.

It is not necessary for a pauper to make an application for poor relief or for a county to grant such relief in order to have proceedings instituted for a determination of the settlement of such pauper by the court. Op. Atty. Gen., Feb. 19, 1932.

It is not necessary for poor person to make an application for poor relief or for municipality to grant such



poor relief in order to have a proceeding instituted for a determination of settlement. Op. Atty. Gen., Jan. 11, 1934.

Adjudication of district court as to settlement does not prevent poor person from obtaining settlement in county adjudged not to be his settlement, where nothing is done about removing him to the county of his settlement and the poor person was self-sustaining during time he remained in county. Op. Atty. Gen. (3390-1), Jan. 16, 1935.

Where persons applying for relief were found by court to have legal settlement in another county and family was moved to such other county, but returned to the first county, they cannot again be removed unless they apply for relief. Op. Atty. Gen. (3390-3), Jan. 30, 1937.

**3161-3. Same—Appeals from orders of justices—Trial of appeals—etc.**

In a controversy between political subdivisions as to place of settlement, poor person may not be removed from subdivision where he is residing pending an appeal to the district court or the supreme court. Op. Atty. Gen. (3390-3), Oct. 18, 1935.

**3161-4. Same—County of residence of poor person charged with support of.**

179M251, 228NW929.

**3162. Removal of poor person.**

There is no way in which a city may return a pauper to a place outside the state, unless by arrangement with the state from which he came. Op. Atty. Gen., Dec. 21, 1929.

Where district court has determined the place of settlement of paupers, such paupers should be ordered in writing by the chairman to remove to the proper county; and on their failure to comply, the sheriff should remove them. Op. Atty. Gen., Nov. 13, 1931.

Until a poor person applies for relief, town has no authority to cause his removal. Op. Atty. Gen., Feb. 4, 1933.

Duties of township without funds and whose warrants are not acceptable, stated. Op. Atty. Gen., Oct. 16, 1933.

This section was not repealed by Laws 1925, c. 373, (§§3161-1 to 3161-5). Op. Atty. Gen., Nov. 28, 1933.

State has no authority to attempt to deport poor persons to state from which they came unless that state recognizes its obligation and is willing to look after the indigent persons, and such persons are willing to return to such other state. Op. Atty. Gen. (335b), Dec. 13, 1934.

Application for relief from a federal agency does not authorize removal of recipient of such relief. Op. Atty. Gen. (3390-3), Feb. 27, 1935.

One who has willfully absented himself from this state for more than 30 days has lost his settlement in this state, and no other state has authority to remove him to this state. Op. Atty. Gen. (3390-3), Dec. 18, 1935.

Application for old age assistance is not application for poor relief. Op. Atty. Gen. (521t-5), May 11, 1936.

Application for old age assistance is not equivalent to application for poor relief as regards settlement under poor law. Op. Atty. Gen. (521t-2), May 22, 1936.

Where pauper moves from a township to unorganized territory in same county, application for determining settlement should be made to district court. Op. Atty. Gen. (3390-2), Nov. 12, 1936.

**3163. Bringing poor person into state.**

Removal of poor person from one municipality to another in the state is not a crime. Op. Atty. Gen. (3390-3), July 13, 1936.

**3164. Change of system.**

Act Mar. 26, 1929, c. 88, legalizes payments under special laws theretofore made.

Laws 1931, c. 328, authorizes cities of the fourth class operating under home rule charter to levy tax for 1931 and 1932 for relief of the poor.

City of Moorhead v. T., 184M509, 239NW217; note under §2161.

County board may adopt resolution for submission of question at general election and county auditor should insert notice thereof in regular notice of election which he will prepare to be posted in each election district at least 15 days before such general election as provided in §353 and he should see that notices are properly posted in three of the most public places in each election district as provided by §10933(14) and also require clerks to make out and return proper affidavits of posting immediately after the notices are posted. Op. Atty. Gen. (125a-37), Aug. 15, 1934.

A petition has been held sufficient if signed by one-fourth of number of voters who participated at last general election, but language of statute is broad enough to require one-fourth of all the legal voters of the county. Op. Atty. Gen. (125a-37), Aug. 13, 1936.

Signatures to petition need not be verified. Id.

Where majority of electors have voted in favor of changing system, county board has no power to postpone taking effect. Op. Atty. Gen. (107b-15), Sept. 11, 1936.

County board has no power to postpone taking effect of vote of electors changing system. Op. Atty. Gen. (125a-37), Sept. 18, 1936.

**3164-1. Definitions.**—As used in this act, unless the subject-matter or context requires otherwise:

(a) The term "political subdivision" shall include any subdivision of the state or any municipal corporation or public quasi-corporation, however organized.

(b) The words "support or relief of the poor" shall have the same meaning as the words are given by Chapter 15, Mason's Minnesota Statutes, 1927, and the words "poor persons" shall mean such person for whom a legal liability is imposed under that chapter.

(c) The term "work relief" shall mean support or relief in wages or other compensation, in cash or in kind, paid for work under the following conditions: (1) That the recipients of work relief and the amounts given are both determined on the basis of actual need and certified for such work relief by the officials charged with administering the relief of the poor; (2) that the funds for such relief are made available only from those specifically appropriated or contributed for support or relief of the poor; (3) that the funds are used to finance projects for which the political subdivision can legally incur expense and which could not otherwise be undertaken at the time or in the immediate future.

(d) The words "direct relief" shall mean relief to individuals or families incidental to the care of the poor, such as food, clothing, shelter, medical care and supplies, and other necessities of life; provided that nothing in this law shall be interpreted as enlarging the responsibility for relief as now imposed by the laws of Minnesota. (Act Mar. 27, 1933, c. 120, §1.)

County board may appropriate money for purpose of paying rental of sewing machine in carrying on a WPA project in cooperation with federal government. Op. Atty. Gen. (107b-15), Dec. 9, 1937.

**3164-2. Municipalities may borrow funds for poor relief.**—Each political subdivision of the state charged by law with responsibility for the support or relief of poor persons having a legal settlement therein is hereby granted authority to borrow funds and pledge the credit of such political subdivision to meet the expense thereof and to make such loans either from the State of Minnesota, the federal government, or from private sources when necessary for the support or relief of said persons; provided, however, that this act shall not be construed as increasing the limit of debt, if any, prescribed by the special law or home-rule charter or general law under which any political subdivision is organized. (Act Mar. 27, 1933, c. 120, §2.)

Duties of township without funds and whose warrants are not acceptable, stated. Op. Atty. Gen., Oct. 16, 1933.

Though no political subdivision may borrow money or issue bonds in excess of its limit of debt, there is no limitation as to amount of taxes which such a subdivision may levy for poor relief purposes. Op. Atty. Gen. (3391-4), Oct. 2, 1934.

Where farmers are dependent for a living on their crops and will be unable to harvest them unless assistance is provided, county board has authority to borrow money and issue bonds without vote of electors to provide twine and repairs to harvesting machinery, where such bonds are sold to the state. (Op. Atty. Gen. (125a-37), July 12, 1935.

Counties operating under town system may levy taxes for poor relief purposes in case of emergency, and borrow funds for poor relief purposes. Op. Atty. Gen. (125a-37), Apr. 14, 1936.

County operating under town system may issue bonds in case of emergency to raise funds for poor relief. Op. Atty. Gen. (107b-2), July 29, 1936.

**3164-3. Bonds may be issued.**—Bonds or other evidence of indebtedness may be issued pursuant to the authority granted and for the purposes specified herein by following the regular statutory or charter procedure applicable to such political subdivision, provided, however, that any political subdivision now required by statute or by charter to submit the question of the issuance of bonds or other evidences of indebtedness to a referendum vote, is hereby authorized to issue and sell such public welfare bonds or other evidence of indebtedness without submitting

the question of such issue to a referendum vote, by following the procedure hereinafter outlined.

Before any such bonds or other evidence of indebtedness may be issued hereunder by a political subdivision which is restricted by statute or by charter provision from issuing bonds and pledging the credit thereof without submitting the proposal to make such issue to a referendum vote of the electors of such political subdivision, a resolution shall first be adopted by a two-thirds vote of all the members of the official body or bodies authorized to make loans within the political subdivision, declaring an emergency to exist making it necessary to borrow in the specified amount without submitting the question of issuance of bonds or other evidence of indebtedness to a vote of the electors of said political subdivision. The action of the governing body shall be by resolution, irrespective of any requirement of any home-rule charter, general or special law requiring such action to be by ordinance. This resolution shall then be submitted to the Governor of the State, together with all facts deemed necessary to support such emergency action, including the general financial condition of the political subdivision, the need for the funds, and funds which may be available, public or private, and such other information as may be required. If after investigation the Governor finds that the amounts requested are within the reasonable needs of the political subdivision and that no other funds are available to meet the same or that it is not possible or practicable, in view of the other governmental needs of the political subdivision to secure the necessary funds from other sources or by regular methods of borrowing, he shall certify that an emergency exists sufficient to warrant the issuance of such bonds or other evidence of indebtedness subject to the requested exemption. The Governor may reduce but shall not increase the amount requested in such resolution. Upon such certification, the said governing body or bodies may then proceed to issue and sell such bonds or other evidence of indebtedness pursuant to the resolution aforesaid and in the manner prescribed by Section 1943, Mason's Minnesota Statutes, 1927, and they shall be valid legal obligations of the political subdivision without the referendum vote of the electors. (Act Mar. 27, 1933, c. 120, §3.)

Where farmers are dependent for a living on their crops and will be unable to harvest them unless assistance is provided, county board has authority to borrow money and issue bonds without vote of electors to provide twine and repairs to harvesting machinery, where such bonds are sold to the state. Op. Atty. Gen. (125a-37), July 12, 1935.

County may sell warrants or certificates of indebtedness issued against poor fund. Op. Atty. Gen. (107a-13), Aug. 11, 1936.

County operating under town system may issue evidence of indebtedness such as warrants in cases of emergency to raise funds for poor relief purposes. Op. Atty. Gen. (107b-22), Dec. 7, 1936.

**§164-4. To be expended for poor relief only.**—All moneys borrowed hereunder shall be expended only for the support or relief of the poor, through direct relief, work relief, placement service, or other service contributing to the support or relief of the poor, including the expense of administration and supervision. (Act Mar. 27, 1933, c. 120, §4.)

**§164-5. Serial bonds may be issued—tax levy.**—Upon authorization and approval of the issuance of bonds as in this act provided, the governing body or other proper bodies of any such political subdivision may proceed to issue and sell its bonds or other evidence of indebtedness covering such loans, in the manner prescribed by Section 1943, Mason's Minnesota Statutes, 1927. Such bonds or evidences of indebtedness shall be issued to mature serially, the first installment of which shall become due in not more than three years and the last of which shall become due and payable in not more than ten years from the date of their issue.

The bonds or other evidence of indebtedness issued pursuant to this act shall be subject to the provisions

of Chapter 131, Laws 1927, or of such other laws of the State as govern the particular political subdivision in making such loans, in regard to the levy of a tax for interest and principal and for the payment thereof. No provision of any act passed during the present session of the Legislature, limiting the tax which may be levied for poor relief purposes shall in any way limit the tax to be levied for the payment of the principal or interest of bonds issued pursuant to the provisions of this act. (Act Mar. 27, 1933, c. 120, §5.)

**§164-6. Inconsistent acts repealed.**—All laws or parts of laws inconsistent herewith are hereby suspended during the operation of this act; provided, however, that this action shall not be construed as repealing or suspending any other law authorizing municipalities coming within the provisions of this act to issue bonds for poor relief purposes. (Act Mar. 27, 1933, c. 120, §6.)

**§164-7. Acts validated.**—All bonds heretofore issued by any of the subdivisions of the character embraced in the provisions of this statute, and all proceedings heretofore taken for the issuance of such bonds as hereby authorized, are hereby and in all respects ratified, validated and confirmed, and such bonds are hereby declared to be valid and legally binding obligations of the issuing subdivisions of this State. (Act Mar. 27, 1933, c. 120, §7.)

**§164-8. Effective date.**—This act shall be in force and effect until April 1, 1939. Act Mar. 27, 1933, c. 120, §8; Mar. 15, 1935, c. 48; Mar. 25, 1937, c. 105, §1.)

**§164-9. Tax levy for poor relief in certain counties.**—Each city of the first class responsible by statute or by charter provision for administering poor relief therein, and each county containing a city of the first class, which county is responsible by statute for administering poor relief therein either alone or jointly with any such city of the first class and whether administering such relief through a poor commission or a board of public welfare, is hereby authorized to levy a tax at a rate of not to exceed three (3) mills for each dollar of the assessed valuation of real estate and personal property therein in excess of and in addition to any levy which might otherwise be made by such city or such county to provide funds for poor relief. (Act Apr. 13, 1933, c. 239, §1.)

**§164-10. Levies to be subject to same laws as other levies.**—Any such additional levy shall be subject to the same limitations and restrictions as to authorization as are required in case of levies for other purposes in such city or such county, and shall be authorized and levied by the same authorities and in the same manner as other levies for poor relief. (Act Apr. 13, 1933, c. 239, §2.)

**§164-11. Funds to be expended by Board of Public Welfare.**—The funds provided by any such additional levy shall be appropriated and made available for the use of the board of public welfare or poor relief commission or other body, by whatever name known, authorized and empowered with the duty and responsibility of administering and providing for the care of the poor and needy in such city or such county. (Act Apr. 13, 1933, c. 239, §3.)

**§164-12. Effective till April 1, 1935, only.**—This Act shall be in force and effect until April 1, 1935, only. (Act Apr. 13, 1933, c. 239, §4.)

**§164-13 to §164-15. [Repealed.]**  
Repealed Apr. 21, 1937, c. 332, §5, except as to expenditures made during 1937.

**§164-16. County board may contract with hospitals for care of poor. [Repealed.]**

Repealed Apr. 29, 1935, c. 359, §4.  
Though certain counties may contract with certain hospitals for care of indigent persons, ordinarily counties may not pay for care of indigent persons sent to

hospitals other than state hospitals by a township. Op. Atty. Gen. (1001d), July 12, 1934.

Repealed. Laws 1935, c. 359, §4. §§1 to 3 authorize county boards to hospitalize indigent of certain counties.

This act is supplementary to §§4577 to 4587 and this section is not mandatory upon county board relative to entering into contract with hospital in county. Op. Atty. Gen. (1001d), Jan. 24, 1935.

A county operating under the town system of poor relief has no authority to pay expenses of indigent person sent to a hospital other than the Minnesota General Hospital except those counties coming within provisions of Laws 1933 c. 393. Op. Atty. Gen. (1001d), Apr. 25, 1935.

**3164-17. Application to be made to judge of probate. [Repealed.]**

Repealed Apr. 29, 1935, c. 359, §4.

It is not lawful for judge of probate to act under this section when county board has not entered into a contract with county hospital, but board may ratify act of probate court and pay for services received. Op. Atty. Gen. (1001d), Jan. 24, 1935.

**3164-18. County to pay costs. [Repealed.]**

Repealed Apr. 29, 1935, c. 359, §4.

Cost of care, treatment and hospitalization of an indigent person is imposed upon county of legal residence of such person, and state has no authority to reimburse county for half of expenses when patients are placed in Class "A" hospitals other than Minnesota general hospital. Op. Atty. Gen., Dec. 19, 1933.

Preliminary medical examination should be paid by county of legal residence of indigent person. Op. Atty. Gen. (1001d), May 21, 1934.

Expenses of hospitalization must be borne by county in which indigent person has his "legal residence" as distinguished from "legal settlement" for poor relief purposes. Op. Atty. Gen. (1001b), Apr. 4, 1935.

**3164-19. County Board to provide hospitalization for indigent persons.—**The county board of any county in this State is hereby authorized to provide for the hospitalization in hospitals within the county or elsewhere within the State, of indigent residents of such county who are afflicted with a malady, deformity, or ailment of a nature which can probably be remedied by hospitalization and who are unable, financially, to secure and pay for such hospitalization or, in the case of a minor, whose parent, guardian, trustee or other person having lawful custody of his person, as the case may be, is unable to secure or provide such hospitalization. (Act Apr. 29, 1935, c. 359, §1.)

A person may be entitled to hospitalization even though not a poor person entitled to poor relief. Op. Atty. Gen. (1001b), Dec. 14, 1935.

This act is intended as supplementary to §§4577 to 4587, and county board may elect whether to send indigent resident to University hospital or any other hospital. Op. Atty. Gen. (339g-2), Jan. 8, 1936.

County board may enter into contract with local hospitals for care of county patients. Op. Atty. Gen. (707b-2), Apr. 8, 1936.

This act is supplementary to §§4577 to 4587, and county may elect to take advantage of this act or send an indigent patient to hospitals referred to in act or to the Minnesota General Hospital, and this act is, therefore, as applicable to counties operating under township system of poor relief as to other counties. Op. Atty. Gen. (125a-27), June 12, 1936.

County may pay local hospitalization for medical and surgical treatment. Op. Atty. Gen. (107b-15), Aug. 7, 1936.

This act seems to have been enacted for a purpose of giving county option of sending indigent persons to Minnesota General Hospital or other specified hospitals, and intended it to be supplementary to §§4577 to 4587, and same rules that govern with reference to admission to Minnesota General Hospital are applicable with reference to right of person to be admitted to other hospitals. Op. Atty. Gen. (1001h), Mar. 5, 1937.

Right of admission is governed by this act, and not by poor relief statute, and county may send patient to University Hospital, and other hospitals, whether under county or township system of poor relief. Op. Atty. Gen. (1001c), Mar. 9, 1937.

County welfare board does not have responsibility or authority for hospitalization at University Hospital. Op. Atty. Gen. (1001c), July 20, 1937.

**3164-20. Application to be filed.—**Whenever the existence of a case described in section 1 of this act shall come to the notice of the sheriff, town clerk, health officer, public health nurse, peace officer, public official, or physician or surgeon it shall be his duty to, and any other person may, file with the county auditor of the county of the legal residence of such indigent person requiring care an application for the

hospitalization of such indigent person. Such application shall be made in such form as the county board of such county may prescribe, and shall contain the name, age, residence, and physical condition of the person sought to be hospitalized and shall contain also a full statement of his financial situation and of the persons, if any, legally charged with his care and support, and such application shall be verified. The county board shall make a careful investigation of the matter in such manner as it shall deem advisable and expedient, and it shall be the duty of any public official of any county, city, village, or town of the residents of the person sought to be hospitalized to supply the county board on a request therefor all the information within his knowledge relative to the financial condition of the person sought to be hospitalized and of all persons, if any there be, who are legally liable for the support of such person. If after such investigation the county board shall be satisfied that the person on whose behalf the application is made is not financially able to provide himself with such hospitalization or in case of a minor, his parents, guardians, trustee, or other person having legal custody over him or legally responsible for his support and maintenance is not financially able to provide such hospitalization, then said county board shall direct the county physician or some other physician, to make an examination of the person on whose behalf such application was made. Such physician shall make and file with the county board a verified report in writing setting forth the nature and history of the case and such other information as will likely aid in the medical and surgical treatment of the disease; malady, deformity, or ailment affecting such person, and shall state in such report his opinion whether or not the condition of such person can probably be remedied at a hospital. Such report shall be made in duplicate, one copy of which shall be filed with the county auditor and the other shall be transmitted to the hospital at which such afflicted person is hospitalized; such report shall also give any information the examining physician shall have or acquire relative to the financial ability of the afflicted person to pay for the hospitalization and treatment of his disease, malady, deformity, or ailment, together with any other information such physician may deem helpful to the county board or the physician attending him.

If upon filing of such report and a full investigation of the application the county board shall be satisfied that the case is one which could be remedied by hospital treatment and that such afflicted person is financially unable to secure or provide the same for himself, and that the persons legally charged with the support and maintenance of such person, if any there be, are financially unable to provide such hospitalization, the county board may grant or approve said application. If the county board is not so satisfied, it may take additional testimony or make such further investigation as it shall deem proper and shall reject any application if it finds that the facts do not merit the expenditure of public money for the relief of such afflicted person. Upon the approving and granting such application and the relief therein prayed for the chairman of such county board shall arrange for the hospitalization of such afflicted person. If the county board shall find that the applicant or the person legally responsible for his support and maintenance is not able to pay in full but is able to pay in part for such hospitalization at such hospital the county board may approve such application of such afflicted person on such terms of division of hospital charges and costs as it may deem equitable, and just. The county board shall provide for taking such afflicted person to the hospital. Provided, however, that when a physician certifies that an emergency exists in any case, and that he believes that the person suffering is unable to pay for hospitalization, such person shall be admitted to any such hospital upon the order of the chairman of the county board

or upon the order of the county commissioner of the district in which such alleged indigent person resides; and thereafter an investigation shall be made in the manner hereinbefore provided. (Act Apr. 29, 1935, c. 359, §2.)

Financial ability of relatives of applicant to care for him is not a bar to his treatment at hospital, except as specifically limited by this section. Op. Atty. Gen. (1001b), Dec. 14, 1935.

**3164-21. Costs.**—The cost of hospitalization of such indigent persons exclusive of medical and surgical care and treatment shall not exceed in amount the full rates fixed and charged by the Minnesota general hospital under the provisions of Laws 1921, Chapter 411 [§§4577 to 4586], and acts amendatory thereof, for the hospitalization of such indigent patients. The cost of the hospitalization of indigent persons under the provisions of this act shall be paid by the county of the legal residence of such indigent persons at such times as may be provided for in such contract. (Act Apr. 29, 1935, c. 359, §3.)

Financial responsibility of taking care of hospitalization cases belongs to county whether under town or county system of poor relief. Op. Atty. Gen. (1001b), Dec. 14, 1935.

Local hospitalization is governed by rate of charges made at Minnesota General Hospital. Op. Atty. Gen. (125a-27), Jan. 15, 1936.

There is no provision authorizing state to pay same proportion of cost for care of indigent persons as state would bear if patients were sent to University Hospital. Op. Atty. Gen. (707b-3), Apr. 8, 1936.

County board may enter into arrangement with local hospitals to pay for medical and surgical treatment in addition to cost of hospitalization. Op. Atty. Gen. (1001c), May 23, 1936.

**3164-22. Law repealed.**—Laws 1933, Chapter 393 [§§3164-16 to 3164-18], is hereby repealed. (Acts Apr. 29, 1935, c. 359, §4.)

**STATE RELIEF ACTS**

Laws 1935, c. 51; Laws 1935-36, Ex. Ses., c. 101; Laws 1937, Ex. Ses., c. 89.

**ACTS RELATING TO PARTICULAR COUNTIES**

Act Mar. 17, 1933, c. 91 (repealing Act Feb. 11, 1933, c. 20), authorizes counties containing 21 congressional townships, with assessed valuation of not less than \$3,200,000, including moneys and credits, and which has changed to county system of poor relief, to issue bonds not to exceed \$25,000.

**COUNTY SYSTEM**

**3165. County board supervisors of the poor—overseer of poor may grant relief—county poor relief agent—poorhouses.**—In counties having the county system, the members of the county board shall be supervisors of the poor; provided that in counties where the board has employed and appointed an overseer of poor, the county board may by resolution confer full authority for granting temporary relief to the poor on the overseer of the poor or such other person as may be appointed by them, and in such cases the overseer or such other person so appointed shall be the only authorized agent of the county to incur expenses for relief of the poor. In case a person other than the overseer of the poor is appointed for said purpose, he shall be designated as the county poor relief agent and shall hold his office during the pleasure of the county board and his compensation shall be fixed by the board annually. The board may establish and maintain a poorhouse for the reception and support of poor persons chargeable on the county, and also, if it shall deem best, a poor farm or work house, or both, for the employment of the poor therein. If, in the opinion of the board the number of poor persons does not warrant the purchase or lease of a poorhouse, it may provide for their support in any other way which it may deem proper. The expense of providing the necessary land and buildings shall be defrayed by a special tax, to be assessed, levied, and collected like other county taxes. (R. L. '05, §1492; G. S. '13, §3075; Laws 1933, c. 198; Ex. Ses., Dec. 23, 1933, c. 10, §1.)

Sec. 2 of Act Apr. 10, 1933, and Sec. 2 of Act Dec. 23, 1933, cited, provides that the act shall take effect from its passage.

Act Apr. 10, 1933, c. 186, authorizes county board to use condemned buildings on poor farm for housing of poor during present emergency not to exceed a period of two years after passage of the act.

City of Moorhead v. T., 184M509, 239NW217; note under §3161.

Op. Atty. Gen. (107b-1), Aug. 11, 1934; note under §4401-13.

Where city quarantines a hotel, the county is liable for the support of poor guests of the hotel. Op. Atty. Gen., Feb. 11, 1929.

County may enter into a contract for the care and support of its poor. Op. Atty. Gen., Dec. 22, 1931.

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

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

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

County board may abolish poor farm and lease or sell it, but there must be a compliance with §§638, 641, 663. Op. Atty. Gen. (125a-36), Feb. 18, 1936.

County board may in its discretion pay office expenses of local federal rehabilitation officer lending money to farmers who are in financial straits. Op. Atty. Gen. (107b-1), Apr. 27, 1936.

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

County board may appropriate money for purpose of paying rental of sewing machine in carrying on a WPA project in cooperation with federal government. Op. Atty. Gen. (107b-15), Dec. 9, 1936.

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

**3167. Overseer of poor may be appointed in certain counties.**—When a poorhouse is established, the County Board shall appoint, for the term of one year, and may at pleasure remove, an overseer of the poor, who shall hold office until his successor qualifies, and whose compensation shall be fixed by the board annually. In a county, or counties, where no poorhouse is established, the County Board may appoint for the term of one year, and may at its pleasure remove, an overseer of the poor, who shall hold office until his successor qualifies, and his compensation shall be fixed by the Board annually. Before entering upon his office, the overseer, in either case, shall give bond to the county in such sum as the Board may direct, to be approved by it, and conditioned for the faithful performance of his duties; and the board may require an additional bond whenever such bond is deemed insufficient. (R. L. '05, §1494; G. S. '13, §3077; Feb. 9, 1933, c. 19.)

Where county enters into contract for the care and support of its poor and is not maintaining a poor house, it is not necessary to appoint an overseer. Op. Atty. Gen., Dec. 22, 1931.

Failure of poor overseer to furnish bond does not render his work illegal, but is ground for his removal. Op. Atty. Gen., Feb. 23, 1933.

County operating under town system of caring for poor may not hire an assistant to relieve administrator. Op. Atty. Gen., June 5, 1933.

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

**3168. Powers and duties of overseer.**

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

County may hire rock crushing outfit for purpose of furnishing work to needy persons and may sell line de-

rived from such operation at cost. Op. Atty. Gen. (107b-15), Dec. 4, 1936.

### 3170. Commitment by member.

County board in counties having county system and having within its limits city of 3rd class may employ relief agent. Laws 1933, c. 6.

Overseer of poor is compelled to furnish aid upon order of county commissioner. Op. Atty. Gen., Feb. 28, 1933.

### 3171. Temporary relief.

175M39, 220NW156.

A county operating under the county system of caring for the poor may not purchase provisions at wholesale and dole the same out to such persons as may be entitled to temporary relief. Op. Atty. Gen., Mar. 20, 1931.

Neither §3157 nor §3171 impose limitations on liability of county to town for poor relief expended by town under §3195. Op. Atty. Gen., May 2, 1932.

Fact that applicant for relief owns homestead, clear of all encumbrances, does not preclude applicant from receiving poor relief, but is matter to be considered as affecting amount of or necessity for relief. Op. Atty. Gen., June 21, 1932.

Counties have no authority to purchase supplies by wholesale and deliver same to poor. Op. Atty. Gen., Oct. 16, 1933.

Section is limited to counties having a poor house and an overseer of the poor and to cases in which only temporary and limited relief is required. Op. Atty. Gen. (339i-1), Aug. 16, 1935.

**3171-1. Relief agent may be employed in certain counties.**—In any county having the county system and having within its limits any city or cities of the third class, the County Board may employ a relief agent to assist any member of the Board whose district is composed solely of a city of the third class, in the performance of the duties of such Board member, prescribed by Sections 3170 and 3171, Mason's Minnesota Statutes 1927. (Act Jan. 17, 1933, c. 6, §1.)

**3171-2. Duties—reports.**—In the performance of such duties any relief agent so employed shall receive such compensation as shall be fixed from time to time by the County Board. He shall act under the general supervision and direction of the member of whose district he shall be assigned by the County Board, subject to such regulations and orders as the Board shall adopt. He shall make his report in writing to the member whom he is employed to assist. (Act Jan. 17, 1933, c. 6, §2.)

**3171-3. Term.**—The term of employment of the relief agent authorized by this act shall be fixed by the County Board. (Act Jan. 17, 1933, c. 6, §3.)

### 3172. Conveyance of poor persons.

Matter of authority of sheriff to forcibly remove a poor person from a house to county poor house is a county matter and attorney general will not pass thereon on application of city attorney. Op. Atty. Gen. (339o-3), Feb. 6, 1935.

### 3173. Settlement in another county.

County of Kanabec v. C., 189M161, 248NW710; note under §3161.

Relief given to a widow with several small children dependent upon her is proper basis for reimbursement under this section, though such woman owns property from which she derives no income. Op. Atty. Gen., Feb. 11, 1930.

One receiving workmen's compensation of \$13.33 per week is not a pauper and cannot be required to remove from the county, though he has been paid some temporary assistance, which has been paid back. Op. Atty. Gen., July 17, 1931.

Where a poor person has a settlement in one county and moves into another and four months later the county of his new residence renders necessary emergency medical treatment, such county may recover the cost from the county of the poor person's settlement, and such claim will not outlaw until six years. Op. Atty. Gen., Sept. 26, 1931.

Where district court has determined the place of settlement of paupers, such paupers should be ordered in writing by the chairman to remove to the proper county; and on their failure to comply, the sheriff should remove them. Op. Atty. Gen., Nov. 13, 1931.

Poor family may not be ordered removed from county prior to making application for relief. Op. Atty. Gen., June 1, 1932.

Authority of municipality to cause removal of pauper does not occur until application for relief has been made. Op. Atty. Gen., June 13, 1932.

Order of chairman of board is sufficient authority to sheriff to convey pauper to his place of settlement even though he resists. Op. Atty. Gen., Aug. 3, 1932.

Local authorities have no power to remove paupers against their will to another state. Op. Atty. Gen., June 17, 1933.

Adjoining township into which paupers have moved, and applied for aid, may convey such poor person back to township of settlement. Op. Atty. Gen., Oct. 16, 1933.

In order for township to be able to move persons from township, they must have settlement in another county or in a town, city or village of another county. Op. Atty. Gen., Dec. 22, 1933.

Where poor persons requested aid and were removed from township, whether they could be again removed on their return 7 months later at which time they requested no aid would depend upon facts and circumstances. Id.

Taking of wounded person to a general hospital did not amount to an application for aid to constitute patient a pauper. Op. Atty. Gen., Jan. 9, 1934.

A poor person is free to move wherever he chooses and right of deportation or removal to his place of settlement does not arise until he makes application for poor relief. Op. Atty. Gen., Jan. 11, 1934.

A pauper is free to move wherever he chooses, and right of removal to place of settlement does not arise until he makes application for relief. Op. Atty. Gen. (339e-2), Apr. 16, 1935.

Poor person receiving assistance cannot be removed to place of settlement where he has never applied for it. Op. Atty. Gen. (339o-3), May 21, 1935.

Application for relief filed with county relief office in counties operating under town system may be considered as application for relief within meaning of section warranting removal to place of settlement. Op. Atty. Gen. (400k), May 21, 1935.

In a controversy between political subdivisions as to place of settlement, poor person may not be removed from subdivision where he is residing pending an appeal to the district court or the supreme court. Op. Atty. Gen. (339o-3), Oct. 18, 1935.

Municipal officials cannot order WPA employees removed to place of settlement until after application for poor relief has been made. Op. Atty. Gen. (339o-3), Jan. 9, 1936.

One living upon a freehold estate, whether legal or equitable, cannot be removed to county of his settlement. Op. Atty. Gen. (339o-2), Feb. 8, 1936.

There is no provision of law for removing a pauper from the state. Op. Atty. Gen. (339o-5), Feb. 21, 1936.

Pauper cannot be forcibly removed to another state even with consent of other jurisdiction. Op. Atty. Gen. (339o-3), Jan. 29, 1937.

Where persons applying for relief were found by court to have legal settlement in another county and family was moved to such other county, but returned to the first county, they cannot again be removed unless they apply for relief. Op. Atty. Gen. (339o-3), Jan. 30, 1937.

A poor person cannot be removed from county unless he has made application to county board for relief, and he may not be removed until there has been a determination of his place of settlement. Op. Atty. Gen. (339o-4), Apr. 7, 1937.

Poor person not having settlement in state cannot be removed to another state, and a poor person cannot be removed from his freehold estate whether the same be legal or equitable. Op. Atty. Gen. (339o-2), June 12, 1937.

A family moving back immediately after being removed from county to place of settlement may not again be removed until application for relief is made. Op. Atty. Gen. (339o-3), July 7, 1937.

### 3174. Board to appoint physician.

It is mandatory for the county board to appoint a county physician. Op. Atty. Gen., Jan. 19, 1932.

County board may not appoint osteopath as county physician. Op. Atty. Gen. (104b-7), Mar. 8, 1935.

County health officer receiving no remuneration of any kind is not a county officer and he may receive compensation from county for operations upon poor relief patients and for hospitalization for them in hospital owned by him. Op. Atty. Gen. (707b-6), Apr. 16, 1935.

County physician is a county officer and hospital in which he owned an interest is not entitled to contract with county or charge of services. Id.

County is liable for reasonable value of services rendered by a hospital to an indigent person in an emergency requiring prompt and immediate attention. Op. Atty. Gen. (339g-2), May 15, 1935.

County compelled to pay for emergency operation upon pauper married woman, could recover reimbursement from father though he had no notice of necessity for operation. Op. Atty. Gen. (339g-3), June 14, 1935.

County board may employ physician for poor without letting work upon bids, and may change compensation from time to time, but cannot contract for a definite term at a definite salary. Op. Atty. Gen. (104b-7), Nov. 29, 1935.

### 3175. Minors, how provided for.

The mother of two dependent children born of a bigamous marriage may receive a county allowance to enable her to care for these children in her home. Op. Atty. Gen., Sept. 26, 1931.

### 3176. Burial at expense of county.

County board may allow a reasonable amount for services of a minister. Op. Atty. Gen., Apr. 6, 1929.

A county with county system for care of the poor paying burial expenses of a pauper not resident in the county may not recover funeral expenses from relatives. Op. Atty. Gen., Dec. 18, 1931.

Expense of burial of a pauper is imposed on county in which death occurs. Op. Atty. Gen. (339c-1), Apr. 26, 1934.

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

Where a person committed to some state institution, like a state asylum for insane or other state institution, dies in such institution, place of settlement of indigent person at time he was committed to institution is liable for expenses incident to his burial. Op. Atty. Gen. (339c-1), Nov. 23, 1934.

Settlement for poor relief purposes cannot be acquired by resident in a transient camp and when persons residing in such camp have a legal settlement for poor relief purposes in some other municipality of state, county in which transient camp is located is not liable either for medical aid furnished or burial expenses in case of death, but county in which one having no settlement in the state dies is liable for burial expenses. Op. Atty. Gen. (339o-6), June 8, 1935.

Where pauper from another state dies and county pays burial expenses, there is no remedy whereby county may collect from other state if it refuses to recognize claim. Op. Atty. Gen. (390c-1), Aug. 19, 1935.

### 3177. Tax for support of poor.

County operating under county system of poor relief is not required to use the Minnesota General Hospital for its indigent sick but may contract with private hospital to take care of such patients, paying therefor from the poor relief fund. Op. Atty. Gen., Apr. 12, 1933.

County was not required to use Minnesota General Hospital for care of persons entitled to poor relief but could contract with any private hospital. Op. Atty. Gen., Apr. 12, 1933.

Money for poor relief and widow's pensions may not be raised under levy for "old age pension levy." Op. Atty. Gen., June 22, 1933.

There is no maximum limit upon amount of tax which may be levied for old age pensions, widow's pensions and poor relief. Id.

Agreement may be entered into between counties operating under township system for relief and federal and state relief administration as to amount of contribution by counties, and county may levy taxes to provide therefor. Op. Atty. Gen. (339i-1), June 25, 1935.

County operating under town system may levy taxes for poor relief and may issue bonds in cases of emergency to raise funds for poor relief purposes. Op. Atty. Gen. (519j), July 5, 1935.

In a county under township system of poor relief, county may provide for poor of insolvent township. Op. Atty. Gen. (107b-15), Aug. 29, 1935.

County board of county operating under town system may pay incidental expenses in connection with caring for poor. Op. Atty. Gen. (107b-15), Nov. 1, 1935.

Counties operating under town system may levy taxes for poor relief purposes in case of emergency, and borrow funds for poor relief purposes. Op. Atty. Gen. (125a-37), Apr. 14, 1936.

**3177-1. Tax levy for social security measures.—duties of county commissioners—penalties for failure to perform duties.**—The board of county commissioners of each county shall annually levy taxes and fix a rate sufficient to produce the full amount required for old age assistance, aid to dependent children, and any other social security measures wherein there is now or may hereafter be county participation, sufficient to produce the full amount necessary for each such item, including administrative expenses, for the ensuing year, within the time fixed by law in addition to all other tax levies and tax rates, however fixed or determined, and any commissioner, or commissioners, who shall fail to comply herewith shall be guilty of a gross misdemeanor and shall be immediately removed from office by the governor of this state. (Apr. 19, 1937, c. 304, §1.)

The title of Act Apr. 19, 1937, cited, is as follows: "An act fixing the duties of county commissioners in certain cases," etc.

**3177-2. Supplemental aid to old age assistance in distressed counties; what constitutes distress.**—Any county in the State of Minnesota with a tax delinquency as shown by the annual report of the State Tax Commission in excess of forty per cent for all real and personal property tax levies for all units of government for the year 1933, payable in 1934 and delinquent January 1, 1935, or which may hereafter have such delinquency, or in which the average return of tax levied for all units during the year 1934,

payable in 1935, was in excess of one hundred and ten mills, or in which such tax levy may hereafter be in excess of one hundred and ten mills, shall be known as a distress county. (Apr. 19, 1937, c. 305, §1; July 15, 1937, Sp. Ses., c. 55, §1.)

**3177-3. Same; fund; distribution.**—Out of moneys hereafter appropriated by the State for old age assistance there shall be set aside a sum of money into a separate fund to be known as the Supplemental Reimbursement Fund in an amount which, after deducting the amounts of money actually collected in each county for old age assistance, shall be sufficient to grant to each county supplemental aid in such amount as may be necessary to pay old age assistance in such county to the extent that pensions shall be uniform throughout the state, having regard for varying costs of living and conditions in various parts of the State, provided, however, that such sum of money so set aside shall not exceed the sum of \$250,000 annually. (Apr. 19, 1937, c. 305, §2; July 15, 1937, Sp. Ses., c. 55, §2.)

**3177-4. Same; certification of distress; payment.**—Whenever any distressed county shall, through its county auditor and by resolution of the county board, certify to the State Agency that within said county there was levied an amount of money, which, if collected, would have been sufficient to pay old age assistance therein, and shall further certify that said county comes within the definition herein provided for, and shall further certify to the percentage of delinquency existing in said county, as the same has been determined or may be reasonably anticipated, and shall further certify the amount of money it has in its old age assistance fund and the amount of delinquency that will exist in said fund in so far as the same may be anticipated, and shall further certify the number of persons receiving old age assistance and the average payment for old age assistance being made, and shall certify the amount of money which in its judgment will constitute a delinquency due to delinquency in tax payments, the State Agency may pay to such county such sum or sums of money out of the funds hereinbefore provided for as supplemental old age assistance aid to such county. (Apr. 19, 1937, c. 305, §3; July 15, 1937, Sp. Ses., c. 55, §3.)

Act July 16, 1937, Sp. Ses., c. 73, provides that counties having a tax delinquency of 50%, and has borrowed from the gas tax fund, which loan has been repaid, may apply to the state agency for old age assistance for 1937.

**3177-5. Same; certification as to levy of tax excused in certain cases.**—Any county in this state having a tax delinquency of 60 per cent or more and also having an assessed valuation, exclusive of monies and credits, not exceeding \$3,500,000.00, according to the latest annual report of the Minnesota State Tax Commission, who failed to levy sufficient taxes and fix a sufficient tax rate for old age assistance for the year 1937 pursuant to Special Session Laws 1935-1936, Chapter 95, Section 24 [§3199-34], shall not be required to certify to the State Agency that such county levied an amount of money, for the year 1937, which, if collected would have been sufficient to pay old age assistance therein for the year 1937 as provided in Section 3 herein; but any such county shall otherwise fully comply with the provisions of Section 3; but nothing herein contained shall be construed to exempt any such county from fully complying with all the provisions of Section 3 herein for any subsequent years. (July 15, 1937, Sp. Ses., c. 55, §4.)

**3177-6. Same; certification as to tax levy unnecessary in certain counties.**—Any distressed county in which 50 per cent or more of the area therein is within a federal or state forest area shall not be required to certify to the State Agency that within such county there was levied an amount of money, which, if collected, would have been sufficient to pay old age assistance therein, but such county shall otherwise fully

comply with the provisions of Section 3 herein. (July 15, 1937, Sp. Ses., c. 55, §5.)

**3183. County boards to contract for care of persons other than paupers.**

Act Mar. 26, 1929, c. 89, repeals Special Laws 1883, c. 316, as amended by Special Laws 1891, c. 361.

This section does not authorize a contract for the care of the poor. Op. Atty. Gen., Dec. 22, 1931.

A county has no authority to enter into a contract with a pauper whereby the county assumes and agrees to support and maintain such pauper for the term of his natural life in consideration for such pauper transferring and conveying real estate to the county. Op. Atty. Gen., Feb. 11, 1932.

County has no authority to accept deeds of property from applicants for old age assistance and agree to increase allowance, or to keep property until death and give surplus to heir or devisee of applicant. Op. Atty. Gen. (521p-3), Aug. 5, 1936.

**3183-1. Old age pensions established.**—There is hereby established in each county in this state a system of old age pensions. Provided that whenever this act shall have been in force for more than one year in any county, the county board shall upon a petition signed by at least 25 per cent of the voters therein, according to the last general election, adopt a resolution submitting the question of continuing such old age pension in said county to the voters at the next general election thereafter; if a majority of the voters voting upon such proposition shall vote in favor thereof, said old age pension shall be continued in effect in said county, but if a majority of the voters voting upon such proposition shall vote against continuing such old age pension in said county, then, and in that event the county board will thereupon adopt a resolution discontinuing such old age pension within said county. (Act Mar. 1, 1929, c. 47, §1; Apr. 9, 1931, c. 138, §1; Apr. 19, 1933, c. 348, §1.)

Sections 3183-1, 3183-2, 3183-3, 3183-4, 3183-7, 3183-8, 3183-9, 3183-10, 3183-18, 3183-19, 3183-20, 3183-21 were amended by Laws 1935, c. 357, but that act was repealed by Laws Ex. Sess. 1935-36, c. 95, §32 [§3199-42, post], and was declared unconstitutional by an opinion of the attorney general. This would seem to leave the sections above enumerated as they existed prior to such amendment.

This act, embraced in §§3183-1 to 3183-22, is suspended during the continuance in effect of Act Jan. 27, 1936, Sp. Ses., 1935-36, c. 95, post, §§3199-11 to 3199-47, but the latter act provides that this act shall be revived in the event that the Federal Social Security Act [Mason's U. S. Code Anno., tit. 42, c. 7] is repealed or held unconstitutional by the supreme court of the United States. See §3199-42, post.

Before proposition may be lawfully submitted to the voters, a resolution must be adopted by a majority vote of the county board, and appropriate reference to this should be made in the posted notice of election provided by §353. Op. Atty. Gen., Sept. 22, 1930.

Resolution submitting proposition of old age pensions to voters is upon resolution adopted by county board, and not by poor and hospital commission. Op. Atty. Gen., Sept. 13, 1932.

County board may rescind its resolution to submit proposition of establishing a system of old age pensions to voters. Op. Atty. Gen., Sept. 15, 1932.

Laws 1933, c. 348, does not repeal §3183-18. Op. Atty. Gen., Aug. 30, 1933.

This act is unconstitutional because of material change in bill after passage by legislature in enrollment and before approval by the governor as enrolled. Op. Atty. Gen. (82r), May 8, 1935.

Duty of county board to pay pensions is mandatory, and board has no authority to defer payments until after collection of money levied for that purpose. Op. Atty. Gen. (335c-1), July 11, 1935.

County commissioners are not entitled to extra compensation either by way of per diem or for mileage while engaged in federal government relief measure, but are entitled to compensation for services performed in carrying out old age pension law. Op. Atty. Gen. (335c-1), Apr. 5, 1934.

County board has complete jurisdiction over applicants for old age pension and granting or refusing pension does not depend upon governing boards of municipalities in which applicants reside. Op. Atty. Gen. (335c-1), Aug. 13, 1934.

**3183-2. Who entitled to pension.**—Any person who shall comply with these provisions, shall be entitled to a pension, while continuing to reside in the county in which such pension is granted. The amount of such pension shall be fixed with due regard to the conditions in each case, but in no case shall it

be an amount, which, when added to the income of the applicant, including income from property, as computed under the terms of this act, shall exceed a total of one dollar per day. (Act Mar. 1, 1929, c. 47, §2; Mar. 18, 1931, c. 72, §1; Apr. 9, 1931, c. 138, §2; Apr. 19, 1933, c. 348, §2.)

Operative effect suspended. See notes under §3183-1. Time for which person receives old age pension is not to be excluded in determining settlement for poor relief. Op. Atty. Gen. (3390-2), Jan. 10, 1935.

**3183-2a. Effective January 1, 1934.**—This Act shall take effect and be in force from and after January 1, 1934. (Act Apr. 19, 1933, c. 348, §3.)

See notes under §3183-1.

**3183-3. Who may receive.**—An old age pension may be granted only to an applicant who:

(1) Has attained the age of seventy years or upwards.

(2) Has been a citizen of the United States for at least fifteen years before making application for a pension.

(3) Has resided in the state and county in which he makes application:

(a) Continuously for at least fifteen years immediately preceding the date of application, but continuous residence in the state and county shall not be deemed to have been interrupted by periods of absence therefrom if the total of such periods does not exceed three years, or,

(b) Forty years, at least five of which have immediately preceded the application;

(c) Provided, that absence in the service of the state of Minnesota or of the United States shall not be deemed to interrupt residence in the state or county if domicile be not acquired outside the state or county.

(4) Is not at the date of making application an inmate of any prison, jail, workhouse, infirmary, insane asylum, or any other public correctional institution;

(5) During the period of ten years immediately preceding such date has not been imprisoned for a felony;

(6) If a husband, has not without just cause, failed to support his wife and children under the age of fifteen years for six months or more during the fifteen years preceding the date of application;

(7) Has not, within one year preceding such application, been a habitual tramp or beggar;

(8) Has no child or other responsible person under the law of this state liable for his support and able to support him. (Act Mar. 1, 1929, c. 47, §3.)

Operative effect suspended. See notes under §3183-1. Residence was lost when applicant moved to another county and voted therein. Op. Atty. Gen. (335c-1), Apr. 3, 1934.

The granting of pension to qualified persons is absolutely compulsory, but it is within the discretion and judgment of county board to determine whether a particular applicant is entitled to the pension and amount thereof as a matter of fact. Op. Atty. Gen. (335c-1), Aug. 22, 1934.

Residence of applicant absent from county is a question of fact for county board to determine. Op. Atty. Gen. (335c-1), Dec. 1, 1934.

(3). Residence of applicant is a question of fact. Op. Atty. Gen., Jan. 19, 1934.

Old age pension terminates upon removal from county with no intention of returning, but residence in one county is not changed by temporary residence in another county. Op. Atty. Gen. (335c-1), July 13, 1934.

(3) (a). Paragraph (a) applies to applicant who has resided continuously in state and county for at least 15 years immediately preceding date of application, and paragraph (b) applies to an applicant who has not resided as set forth in paragraph (a) but who has resided in state for 40 years, at least 5 of which, immediately preceding application, have been in county in which application is made. Op. Atty. Gen., Dec. 22, 1933.

(3) (b). Residence requirement is met where a person has resided in the state for 40 years or more and in the county in which he makes application for less than 15 years, but for more than five years immediately preceding the application. Op. Atty. Gen. (335c-1), Aug. 22, 1934.

If a person otherwise eligible for old age pension has resided in state for 40 years or more and in county in which he makes application for less than 15 years but for more than 5 years immediately preceding such application, he comes within residence requirements. Op. Atty. Gen. (339c-1), Nov. 23, 1934.

(8) Applicant is entitled to pension if he has children if they are not financially able to support him. Op. Atty. Gen., May 20, 1933.

**§183-4. Restrictions.**—No old age pension shall be granted or paid to a person:

(1) While or during the time he is an inmate of and receives the necessities of life from any charitable institution maintained by the state or any of the political subdivisions of the state, or of a private charitable, benevolent or fraternal institution, or home for the aged;

(2) If the value of his property or the value of the combined property of husband and wife, living together, exceeds three thousand dollars;

(3) Who has deprived himself, directly or indirectly, of any property for the purpose of qualifying for old age relief. (Act Mar. 1, 1929, c. 47, §4.)

Operative effect suspended. See notes under §3183-1. Fact that applicant is receiving relief from the federal government does not necessarily prevent granting of pension. Op. Atty. Gen. (335c-1), Aug. 22, 1934.

**§183-5. Computation of income.**—The annual income of any property which is not so utilized as to produce a reasonable income, shall be computed at five per cent of its value. (Act Mar. 1, 1929, c. 47, §5.)

This section and sections 3183-14 and 3183-18½ were repealed by Act Apr. 29, 1935, c. 357, §15. The repealing act, however, was repealed by Laws Ex. Sess. 1935-36, c. 95, §32 [§3199-42, post]. As to whether the repealing act revived the sections repealed is to be determined by a construction of §3199-42 read in the light of §10930 of Mason's 1927 Statutes.

In any event the operative effect of §§3183-5, 3183-14, 3183-18½, is suspended by such §3199-42 while the state wide old age pension law remains in force. If they are not repealed they again become operative in the event that the federal Social Security Act is repealed or held unconstitutional by the supreme court of the United States.

**§183-6. Estate to pay pension in certain cases.**—On the death of a person pensioned, or on the death of the survivor of a married couple, both of whom were so pensioned, the total amount paid as pension, together with simple interest at three per cent annually shall be allowed and deducted from the estate of such person or persons, by the court having jurisdiction to probate the estate. The amount so recovered shall be paid in to the treasuries of the county, town, village or city, in the proportion in which they respectively contributed toward the total of the pensions received by the deceased or by the married couple of which the deceased was the survivor. (Act Mar. 1, 1929, c. 47, §6.)

See notes under §3183-1.

This section has been suspended by provisions of new old age assistance tax, particularly by §3199-42. Op. Atty. Gen. (521g-1), Mar. 15, 1937.

Estate of a deceased recipient is liable for total amount paid as old age assistance under the provisions of both the old and the new old age pension law. Id.

**§183-7. County board may require property to be deeded to county.**—(1) If the board of county commissioners deems it necessary, it may require as a condition to the grant of a pension certificate, that all or any part of the property of an applicant for a pension be transferred to the county. Such property shall be managed by the board of county commissioners, which shall pay the net income to the person or persons entitled thereto. The board shall have power to sell, lease or transfer such property or defend and prosecute all suits concerning it and to pay all just claims against it and to do all other things necessary for the protection, preservation, and management of the property, provided that the property acquired by the county under the provisions hereof shall be sold, leased or transferred only in the manner provided by Section 638, General Statutes 1923.

(2) If in the event that the pension is discontinued during the lifetime of the pensioner the property thus transferred to the board of county commissioners exceeds the total amount paid as pensions with simple interest at three per cent annually, the remainder of such property shall be returned to the pensioner; and in the event of his death such remainder shall be considered as the property of the pensioner for proper probate proceedings. The board of county commissioners shall execute and deliver all necessary instruments to give effect to this subsection.

(3) The county attorney at the request of the board of county commissioners shall take the necessary proceedings and represent and advise the board in any matters arising under this section. (Act Mar. 1, 1929, c. 47, §7; Apr. 9, 1931, c. 138, §3.)

Operative effect suspended. See notes under §3183-1. Deed of property to county constitutes acquiring property taxes for public use and section is constitutional. Op. Atty. Gen., Aug. 2, 1933.

"Person or persons" means "applicant or applicants." Op. Atty. Gen., Mar. 22, 1934.

In event of death of a pensioner, who deeded his property to the county, remainder thereof should be considered as property of pensioner for probate proceedings, and remainder of property should be returned to pensioner if pension is voted out of county. Id.

Where a married man applies for a pension and appears to be entitled to it and his wife with whom he lives is owner of a house in which they live, board may not require that wife deed house to county as a condition precedent to obtaining pension for husband. Op. Atty. Gen. (335c-1), May 21, 1934.

Real estate acquired by county by deed under old age pension act is exempt from real estate tax as long as property belongs to the county. Op. Atty. Gen. (414f), June 20, 1935.

County may not require deed of property in name of wife of applicant, but may consider fact that applicant had access to a house to live in. Op. Atty. Gen. (335c-1), Aug. 13, 1935.

County board should not reconvey property deeded to county by recipient of pension under §3183-7, and payment of pension made before effective date of Old Age Assistance Act did not remain a lien upon the property until redeemed under that act, and lands acquired by county pursuant to §3183-7 are exempt from taxation while title thereto is in county, in view of §3199-42. Op. Atty. Gen. (521p-3), Sept. 14, 1936.

**§183-8. Applications.**—An applicant for a pension shall file his application in writing with the county auditor of the county in which he resides in such manner and form as shall be prescribed by the county attorney. All statements in the application shall be sworn to or affirmed by the applicant, setting forth that all facts are true in every material point. Upon the filing of such an application, the board of county commissioners shall make an order fixing a time and place for the hearing thereon, which hearing shall be not sooner than thirty days after the making of such order. The county auditor shall forthwith upon the making of such order mail a copy of the same and of the application to the clerk or recording officer of the city, town or village of which the applicant is a resident; a like copy of such order shall be mailed to the applicant. (Laws 1929, c. 47, §8; Mar. 18, 1931, c. 72, §2; Apr. 9, 1931, c. 138, §4.)

Guardian may make application for old age pension for incompetent. Op. Atty. Gen., Sept. 7, 1933.

Operative effect suspended. See notes under §3183-1. County commissioners cannot require an applicant to first make application to governing bodies of township, cities and villages. Op. Atty. Gen. (335c-1), May 21, 1934.

**§183-9. County board to direct investigations.**—The board of county commissioners shall promptly make or cause to be made such investigation as it may deem necessary. The board of county commissioners shall decide upon the application, and fix the amount of the pension, if any, and such decisions shall be final. Provided, however, that in a county having a board of public welfare as authorized by Chapter 371, Laws of 1929, the board of county commissioners may delegate to such board of public welfare, subject to the supervision of the board of county commissioners, such investigation, decisions upon the applications and fixing of the amounts of the pensions, if any. Provided, that in any county having a Poor Commission authorized to administer poor re-



relief with all the powers of the county board in counties having the county system of administering such poor relief, the said Poor Commission shall make or cause to be made by competent authority, such investigations, decisions upon applications for pension, and the fixing of the amounts of pension, if any, to be awarded hereunder; all subject to the final approval of said Poor Commission by resolution and order duly entered in its records, before any such pension shall be paid by the County Auditor. In any such county where such poor relief is administered by and under the supervision of said Poor Commission, it shall be the duty of said Poor Commission and its secretary or clerk, to carry out the provisions of this act with the same powers, duties and obligations as are herein vested in the Board of County Commissioners and the County Auditor respectively, and for the purpose said Poor Commission shall have authority to employ such additional assistance as shall be found necessary. Provided further that in any county having a poor commission, it shall be the duty of the poor commission to designate the deputy clerks of court at such places where regular terms of court are held in said county as clerks for the purpose of accepting applications for such pension. It shall be the duty of such clerks of court to aid and assist the applicant in making out his application for such pension. Provided, further, that in a county having an official investigator appointed as provided in Section 8676, General Statutes 1923, the board of county commissioners may delegate such investigation to such official investigator subject to the supervision of the board of county commissioners. An applicant whose application for pension has been rejected, may not again apply for a pension until the expiration of twelve months from the date of his previous application. (Laws 1929, c. 47, §9; Mar. 18, 1931, c. 72, §3; Apr. 9, 1931, c. 138, §5.)

Operative effect suspended. See notes under §3183-1.

County commissioners cannot appoint any person that they see fit to act as investigator under old age pension law. Op. Atty. Gen., Dec. 11, 1933.

County attorney has no right or power to appoint an investigator. Id.

Filing of applications for old age pensions must be in conformity with this section. Op. Atty. Gen., Dec. 18, 1933.

Powers, duties and obligations to annually appropriate a sum of money sufficient to carry out old age pension act, and hence make levy for sufficient taxes therefor, are transferred from county board of commissioners in any county having a poor commission to the poor commission. Op. Atty. Gen., Feb. 14, 1934.

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

In counties operating under town system, municipalities are required to reimburse counties for amount allowed residents of various municipalities irrespective of approval thereof by municipalities. Op. Atty. Gen. (335c-1), Sept. 13, 1935.

**3183-10. County board to issue certificates.**—(1) The board of county commissioners shall issue to each applicant to whom a pension is allowed, a certificate stating the date upon which pension payments shall commence and the amount of each installment, which may be monthly or quarterly, as the board of county commissioners may decide.

(2) Each pensioner shall file such reports with the board of county commissioners as the said board of county commissioners may from time to time require. If it appears at any time that the applicant's circumstances have changed, the board of county commissioners may revoke or modify any pension certificate issued. Any pension paid in excess of the amount due shall be returned to the county and may be recoverable as a debt due the county. (Laws 1929, c. 47, §10; Apr. 9, 1931, c. 138, §6.)

Operative effect suspended. See notes under §3183-1.

County commissioners may modify amount of pension at any time. Op. Atty. Gen. (335c-1), May 21, 1934.

**3183-11. Funeral expenses.**—On the death of pensioner such reasonable funeral expenses for burial

shall be paid to such person as the board of county commissioners may decide; provided that these expenses do not exceed one hundred dollars, and provided further that the estate of the deceased is insufficient to pay these expenses. (Laws 1929, c. 47, §11; Apr. 9, 1931, c. 138, §7.)

Operative effect suspended. See notes under §3183-1.

**3183-12. Not to receive other aid.**—(1) During the continuance of the pension no pensioner shall receive any other relief from the state or from any political subdivision thereof, except for medical and surgical assistance.

(2) If the pensioner is, on the testimony of at least three reputable witnesses, found incapable of taking care of himself or his money, the board of county commissioners may direct the payment of the installments of the pension to any responsible person or corporation for his benefit or may suspend payment for such period as the board of county commissioners shall deem advisable. (Laws 1929, c. 47, §12; Apr. 9, 1931, c. 138, §8.)

Operative effect suspended. See notes under §3183-1.

A person receiving old age pension might also receive relief from federal government. Op. Atty. Gen. (335c-1), Aug. 22, 1934.

**3183-13. Pensions exempt from tax or process.**—All pensions shall be exempt from any tax levy by the state or by any subdivision thereof, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be inalienable in any form. (Act Mar. 1, 1929, c. 47, §13.)

Operative effect suspended. See notes under §3183-1.

**3183-14. Revocation of certificate.**—If at any time the board of county commissioners has reason to believe that a pension certificate has been improperly obtained, the board of county commissioners shall cause special inquiry to be made and may suspend payment of any installment pending the inquiry. If on inquiry it appears that the certificate was improperly obtained, it shall be cancelled, but if it appears that the certificate was properly obtained, the suspended installments shall be payable in due course. (Laws 1929, c. 47, §14; Apr. 9, 1931, c. 138, §9.)

As to operative effect of this section see note under §3183-5.

**3183-15. False statements a misdemeanor.**—Any person who by means of a wilfully false statement or representation, or by impersonation, or other fraudulent device, obtains, or attempts to obtain, or aids or abets any person to obtain:

(1) A pension certificate to which he is not entitled;

(2) A larger pension than that to which he is justly entitled;

(3) Payment of any forfeited installment grant;

(4) Or aids or abets in buying or in any way disposing of the property of the pensioner without the consent of the district judge;

Shall be guilty of a misdemeanor. (Act Mar. 1, 1929, c. 47, §15.)

Operative effect suspended. See notes under §3183-1.

**3183-16. Violation a misdemeanor.**—(1) Any person who violates any provision for which no penalty is specifically provided shall be guilty of a misdemeanor.

(2) Where a pensioner is convicted of an offense under this section the board of county commissioners may cancel the certificate. (Laws 1929, c. 47, §16; Apr. 9, 1931, c. 138, §10.)

Operative effect suspended. See notes under §3183-1.

**3183-17. Pension shall cease when.**—If a pensioner is convicted of any misdemeanor, felony, or other offense punishable by imprisonment for one month or longer, payments shall not be made during the period of imprisonment. (Act Mar. 1, 1929, c. 47, §17.)

Operative effect suspended. See notes under §3183-1.

**3183-18. County board to provide funds.**—(1) The county board of each county shall annually ap-

appropriate a sum of money sufficient to carry out the provisions of this act. Upon the orders of the board of county commissioners, the county auditor shall draw his warrant on the proper fund in accordance with said order of said board and the county treasurer shall pay out the amounts ordered to be paid as pensions, under the provisions of this act.

(2) Each city, town and village, shall reimburse the county for all amounts of money paid in old age pension to its residents, except that such reimbursements shall not be required for persons who have not been residents thereof for at least five years. The county auditor shall make a report to the county board at its annual meeting showing in detail the amounts which under this subsection are chargeable to each city, town and village, and the county board at such meeting shall determine the amount to be raised and paid by each such city, town and village, to reimburse the county. The county auditor shall charge the amount so determined to such city, town or village, and shall certify the same to the city, town or village clerk. Each city, town or village shall annually levy a tax sufficient to meet such charges, which shall be collected as are other taxes, and paid into the county treasurer. Provided, the foregoing provisions of this subdivision shall not apply in counties operating under a county system of caring for the poor. In any county where the commission system of caring for the poor is in operation, all sums paid as pensions under the law shall be paid out of the revenue fund of said county. (Act Mar. 1, 1929, c. 47, §18; Mar. 18, 1931, c. 72, §4; Apr. 9, 1931, c. 138, §11.)

See Act Apr. 17, 1937, c. 245.

Act Apr. 17, 1937, c. 245, authorizes levy of tax to effect reimbursement not later than Nov. 10, 1938.

As to operative effect of this section see notes under §3183-1.

Ramsey County which operates under county system has no valid claim against village for old age pensions paid. Op. Atty. Gen., Apr. 19, 1933.

The commission system is not applicable to Ramsey county, and city of North St. Paul is legally obliged to pay county of Ramsey any amount expended by it for old age pensions to residents of such city. Op. Atty. Gen., June 4, 1933.

This section is not repealed by Laws 1933, c. 348. Op. Atty. Gen., Aug. 30, 1933.

County auditor cannot deduct sum due from townships, cities or villages from moneys due to them under §3195. Op. Atty. Gen. (335c-1), Apr. 25, 1935.

In counties operating under town system, municipalities are required to reimburse counties for amount allowed residents of various municipalities irrespective of approval thereof by municipalities. Op. Atty. Gen. (335c-1), Sept. 13, 1935.

County may institute mandamus to compel city, town or village to levy sufficient tax. Op. Atty. Gen. (335c-1), Feb. 3, 1936.

It is obligation of city to make additional levy to reimburse county for money paid by county as pension under Old Age Pension Law to residents of city and county operating under township system, but additional levy may only cover discounts on taxes legally granted and deficiencies arising due to forfeiture of land to state for nonpayment of taxes. Op. Atty. Gen. (321w), Aug. 27, 1936.

Where, prior to separation, town and village had separate old age pension funds, it was proper under this act for town and village to separately make settlement to county, for old age pension paid by county under this act, but the new old age pension law does not require towns and villages to reimburse a county for assistance paid. Op. Atty. Gen. (521z), May 19, 1937.

(1) It is mandatory upon all counties to adopt a system of old age pension commencing Jan. 1, 1934, and it is duty of county board of each county to appropriate sufficient sum of money. Op. Atty. Gen., Dec. 18, 1933.

County board has no authority to defer payment of old age pensions until after collection of money levied for that purpose. Op. Atty. Gen., Jan. 19, 1934.

There is no exact method which each and every county board must follow to provide funds for the payment of pension, and the county may make a direct levy for old age pension or merely increase levy for the poor fund or the general fund and later transfer a certain amount to the pension fund. Op. Atty. Gen. (335c-1), July 9, 1934.

It is the duty of the county board of each county to annually appropriate a sum sufficient to carry out provisions of act. Op. Atty. Gen. (335c-1), Aug. 22, 1934.

(2).

In counties having a commission system of taking care of its poor the county must pay the old age pensions without reimbursement on the part of the various municipal subdivisions of such county. Op. Atty. Gen., Apr. 19, 1933.

Where a person entitled to a pension from county has not lived for 5 years in place of his residence but has been resident for more than 5 years in some other city, town or village of the county, county cannot ask such city, town or village for reimbursement. Op. Atty. Gen., Dec. 30, 1933.

Municipality operating under town system is not entitled to reimbursement from county of 75% of moneys paid out for old age pensions in excess of one mill of taxable value of property in such municipality. Op. Atty. Gen., Jan. 13, 1934.

County is not entitled to reimbursement from municipality unless applicant has lived for at least five years in such municipality immediately preceding application. Op. Atty. Gen., Jan. 18, 1934.

County is not entitled to reimbursement from municipality unless applicant has lived for at least 5 years in such municipality immediately preceding filing of application. Op. Atty. Gen., Mar. 19, 1934.

"Village" includes villages duly separated from their respective townships for election and assessment purposes, and not villages which are part of township. Op. Atty. Gen. (335c-1), Jan. 24, 1936.

**3183-18½. Transfer of county funds.**—Any county may transfer surplus funds from any county fund except the sinking fund or ditch fund to the general fund or to a special old age pension fund in order to provide moneys necessary to pay pensions awarded under Laws 1929, Chapter 47 [§§3183-1 to 3183-21]. The money so transferred shall be used for no other purpose, but any portion thereof no longer needed for such purpose may be transferred back to the fund from which taken when necessary by reason of failure to levy sufficient taxes for payment of said old age pensions in the county, the county board may authorize the payment of said pensions and the county auditor may carry any such payments as an overdraft on the old age pension fund of said county until sufficient tax funds shall be provided for said old age pension payments. (Act Feb. 5, 1931; c. 8.)

As to operative effect of this section see note under §3183-5.

Money received by industrial commission from Spellman Fund pursuant to provisions of this law belongs to the state and is a preferred claim against depository. Op. Atty. Gen., Apr. 8, 1933.

In any county operating under a poor commission system and in which there has been no appropriation for old age pensions and not sufficient money available in revenue fund, the poor commission in cooperation with county board must make arrangements for payment of such pensions and county auditor may carry out such payments as overdraft on old age pension fund. Op. Atty. Gen., Feb. 14, 1934.

County board has no authority to defer payment of old age pensions until after collection of money levied for that purpose. Op. Atty. Gen., Jan. 19, 1934.

**3183-19. County Auditor to make report.**—Within thirty days after the close of each calendar year, the county auditor of each county shall make a report for the preceding year to the board of county commissioners stating:

(1) The amount paid for pensions and to whom and in what amount paid;

(2) The total number of applications for pensions and the name of each applicant;

(3) The number granted, the number denied, the number cancelled during that year, the name of each applicant and such other information as the board of county commissioners may deem advisable. (Act Mar. 1, 1929, c. 47, §19.)

As to operative effect of this section see notes under §3183-1.

**3183-20. County board shall make rules.**—The Board of County Commissioners shall from time to time prescribe and promulgate rules and regulations to efficiently carry out the provisions of this act and shall publish such information as it may deem advisable to acquaint aged persons and the public generally with the old age pension plan of this state. (Laws 1929, c. 47, §20; Mar. 18, 1931, c. 72, §5; Apr. 9, 1931, c. 138, §12.)

As to operative effect of this section see notes under §3183-1.

**3183-21. Proceedings validated.**—In every case where any district court or district judge has heretofore made and entered an order for the payment of a pension under the terms of Chapter 47, Laws of 1929 [§§3183-1 to 3183-20], the same shall be and hereby is in all respects validated and confirmed and shall continue as a valid order for a pension under the terms of said act and the Board of County Commissioners or Poor Commission of the county in which such order has been so entered shall continue to pay the pension granted in accordance with the terms of said order, subject to the limitations and provisions of Chapter 47, Laws of 1929, and until modified or revoked by said county board of Poor Commission as provided by said Chapter 47, Laws of 1929 as by this act amended. (Laws 1929, c. 47, §20a, added Apr. 9, 1931, c. 138, §13.)

As to operative effect of this section, see notes under §3183-1.

**3183-22. Maximum expenditures for old age pensions in certain counties.**—In all counties of this state now or hereafter having property of the assessed valuation of not less than \$325,000,000.00 exclusive of moneys and credits and having a bonded indebtedness not exceeding \$5,000,000.00, inclusive of bonds, issued to defray the cost of permanently improving state trunk highways, which bonds the State of Minnesota has heretofore agreed to pay, the maximum amount which may be expended in any one year for old age pensions shall not exceed such a sum as may be produced by a tax levy of seven-tenths of a mill on each dollar of the taxable value of the property of such counties—, provided, however, that for the year of 1934, a sum not exceeding a tax levy of nine-tenths of a mill on each dollar of the taxable value of the property of such counties, may be so extended. (Act Apr. 17, 1933, c. 308, §1; Dec. 27, 1933, Ex. Ses., c. 23.)

As to suspension of effect of this section, see notes under §3183-1.

Municipality operating under town system is not entitled to damages from county for 75% of moneys paid out for old age pensions in excess of one mill. Op. Atty. Gen. (125a-34), June 11, 1935.

There is no limit on amounts which county may spend. Op. Atty. Gen. (107b-15), Dec. 31, 1934.

### 3183-23 to 3183-28. [Repealed.]

The above sections taken from Laws 1935, c. 357, are repealed by Act Jan. 27, 1936, Sp. Ses., c. 95, §32, post, §3199-42.

## TOWN SYSTEM

### 3184. Town board and councils to be superintendents—Relief.

Laws 1937, c. 201, validates expenditures. Op. Atty. Gen. (107b-1), Aug. 11, 1934; note under §4401-13.

Farmer owning a number of animals and sufficient equipment to operate farm and half interest in crops held not a "poor person," though property was mortgaged, and town was not liable for hospital bill. *Evangelscher D. Verein v. T.*, 191M132, 253NW97. See Dun. Dig. 7427.

Expenditures made by town to pay taxes on land owned by pauper and to pay interest on a loan of the pauper are not proper for poor relief. Op. Atty. Gen., July 28, 1931.

County would not be justified in refusing payment to town because bills had not been presented to town board of audit in advance of their allowance. Op. Atty. Gen., May 2, 1932.

County was liable to town for relief expended by town without certificates provided for by this section being made and filed by some member of town board. Op. Atty. Gen., May 2, 1932.

There is no machinery provided by law for compelling town board to extend relief to particular person when it refuses to do so. Op. Atty. Gen., May 17, 1932.

Where town and village are one assessment district and village has not levied any separate tax for support of poor, members of town board are superintendents of poor with duty to support poor residing in village. Op. Atty. Gen., Jan. 25, 1933.

County under town system may not treat resident for tuberculosis at expense of county outside of sanatorium. Op. Atty. Gen., Mar. 8, 1933.

County operating under town system of caring for poor may not hire an assistant to relieve administrator. Op. Atty. Gen., June 5, 1933.

It is for county board, and not attorney general, to determine whether county funds should be used to pay a secretary to assist federal and state government in poor relief, though county is under town system. Op. Atty. Gen. (125a-13), May 23, 1934.

Expense of federal district reemployment administrator for telephone toll was a proper charge against city of third class if city is operating under town system and its residents were furnished relief work. Op. Atty. Gen. (59a-22), Sept. 20, 1934.

A city may cooperate with the SERA and may audit and allow all claims of merchants based on orders on town funds issued by relief workers. Op. Atty. Gen. (59a-34), Dec. 11, 1934.

Where a poor person takes sick, amounting to an emergency, village cannot avoid liability to physician caring for such person, notwithstanding mayor in advance told physician that village would not pay him, and an attack of the flu, succeeded by acute bronchitis, complicated by a developing articular rheumatism with swollen and painful joints, often resulting in heart complications and requiring watchful attendance of a physician, constitutes an emergency case. Op. Atty. Gen. (339g-1), Jan. 30, 1935.

Town board may not agree to furnish support of a pauper residing in another state for an indefinite period of time. Op. Atty. Gen. (339o-5), Mar. 5, 1935.

County need not reimburse town for purchase of insulin for poor relief purposes, except that county board would have authority to reimburse for a portion of the cost of insulin if expenditure of town exceeded one mill on taxable property. Op. Atty. Gen. (107b-15), Mar. 8, 1935.

A county operating under the town system of poor relief has no authority to pay expenses of indigent person sent to a hospital other than the Minnesota General Hospital, except those counties coming within provisions of Laws 1933, c. 393. Op. Atty. Gen. (1001d), Apr. 25, 1935.

County under town, village and city system of poor relief has no authority to establish a county relief office and to hire a person to supervise administering of relief such as investigators, etc. Op. Atty. Gen. (107b-15), Aug. 7, 1935.

County board of county operating under township system may administer poor relief for county allocated by state to counties under Laws 1935-36, Sp. Sess., c. 101, § 12, and county board may employ necessary help and employ agencies for the purpose. Op. Atty. Gen. (125a-37), Mar. 24, 1936.

Board of supervisors of a town may not hire and pay a relief investigator, but if town comes under county-state agency, it may pay its share of expense of maintaining a central relief office. Op. Atty. Gen. (437a-7), Apr. 17, 1936.

Mayor, or any other member of city council of Glenwood, may bind city for poor relief in case of emergency without any action taken by council as a whole. Op. Atty. Gen. (339g), Jan. 9, 1937.

Separation of village from township as affecting liability for hospitalization of injured persons. Op. Atty. Gen. (339o-5), Mar. 4, 1937.

County board in a county operating under town system may incur such incidental expenses of national reemployment offices and WPA offices and reemployment offices as it finds necessary in order to render relief to needy and destitute persons in cooperation with state and federal agencies. Op. Atty. Gen. (1001c), Mar. 9, 1937.

### 3186. Relief and transportation.

Authorizes a town to convey a pauper, not having a settlement therein, to the place of his settlement only if he has one in this state. *Litchfield v. M.*, 182M150, 233NW804. See Dun. Dig. 7431.

City was liable for medical services performed for prisoner at request of chief of police in an emergency if the prisoner was an indigent person. Op. Atty. Gen., Mar. 14, 1929.

Subd. 2 of this section is not amended by implication by Laws 1925, c. 378, §1 [§§3161-1 to 3161-5]; the latter act only providing method for determination of settlement. Op. Atty. Gen., Dec. 21, 1929.

This section, though not expressly repealed, is largely superseded by the juvenile court act, and in any event it does not contemplate expenditures by the county, but the placement of children in homes for support. Op. Atty. Gen., Jan. 13, 1930.

The liability for the care of a pauper who has no legal settlement in the state rests upon the county in which the town where the pauper becomes a public charge is located. Op. Atty. Gen., Mar. 17, 1931.

A town board has no authority to purchase land for use by paupers, nor to expend public funds or incur public indebtedness for that purpose. Op. Atty. Gen., May 25, 1931.

A poor person cannot be ordered out of the county unless he has made application for relief. Op. Atty. Gen., Sept. 26, 1931.

The fact that a poor person may be able to provide the ordinary necessities of life without public assistance does not render him less entitled to medical care or treatment in case he is in need thereof and unable to provide the same for himself. Op. Atty. Gen., Mar. 16, 1932.

Where county is under township system of caring for the poor, either the town or village in which poor persons needing insulin reside may furnish the same under the general poor laws. Op. Atty. Gen., Mar. 16, 1932.

Where family has not resided in state for one year, duty of supporting them devolves upon town, city or village in which they happen to be when they become public charges. Op. Atty. Gen., Aug. 28, 1933.

If poor person has no settlement within the state, the ultimate liability rests upon the county without right of recovery. Op. Atty. Gen. (3390), Apr. 12, 1934.

A pauper is free to move wherever he chooses, and right of removal to place of settlement does not arise until he makes application for relief. Op. Atty. Gen. (339e-2), Apr. 16, 1935.

Poor person may not be removed to place of settlement unless he has made application for relief, and having been removed to his place of settlement he cannot be again removed on his return unless he makes another application for relief. Op. Atty. Gen. (339a-15), May 16, 1935.

Application for relief filed with county relief office in counties operating under town system may be considered as application for relief within meaning of section warranting removal to place of settlement. Op. Atty. Gen. (400k), May 21, 1935.

Claim for reimbursement for care of transient pauper can be made by town against county under subdivision two. Op. Atty. Gen. (3390-6), Oct. 17, 1935.

In a controversy between political subdivisions as to place of settlement, poor person may not be removed from subdivision where he is residing pending an appeal to the district court or the supreme court. Op. Atty. Gen. (3390-3), Oct. 18, 1935.

City assisting poor person not having any settlement in the state may recover from county. Op. Atty. Gen. (3390-5), Oct. 23, 1935.

Municipal officials cannot order WPA employees removed to place of settlement until after application for poor relief has been made. Op. Atty. Gen. (3390-3), Jan. 9, 1936.

Authority to remove does not arise until indigent person makes application for relief to officials of municipality. Op. Atty. Gen. (3390-3), Jan. 10, 1936.

Whether or not relief furnished by way of work relief on federal, state or local projects is poor relief depends upon kind and form of such relief and also whether funds used are local, state or federal. Id.

City in county operating under township system is entitled to reimbursement from county for funds paid for relief of person not having poor settlement within state. Op. Atty. Gen. (3390-5), Feb. 28, 1936.

Person may not be removed to place of settlement until application for relief has been made. Op. Atty. Gen. (3390-3), July 13, 1936.

Person may not be removed to place of settlement while self-supporting nor until after application for relief is made. Op. Atty. Gen. (3390), Aug. 7, 1936.

Municipality is entitled to reimbursement from county for money necessarily spent in giving poor relief to transients. Op. Atty. Gen. (3390-5), Aug. 8, 1936.

Person having no settlement within state may not be removed to another state against his will. Op. Atty. Gen. (339j), Dec. 10, 1936.

Pauper cannot be forcibly removed to another state even with consent of other jurisdiction. Op. Atty. Gen. (3390-3), Jan. 29, 1937.

Moving of family from county of residence for one day would not interrupt settlement in county ejecting family where family moved back to such county next day. Op. Atty. Gen. (3390-3), Mar. 12, 1937.

Liability for support of person who has no settlement in state rests upon municipality in which he resides, with right of recovery from county. Op. Atty. Gen. (339q), Apr. 2, 1937.

(2). Authority of municipality to cause removal of pauper does not occur until application for relief has been made. Op. Atty. Gen., June 13, 1932.

It is only when a person has a settlement in this state that public officers are authorized to direct an applicant's removal from municipality. Op. Atty. Gen. (3390-2), May 3, 1934.

Where person applying for relief has no settlement within the state, local authorities have power to remove him against his will to another state or to another county or municipality. Op. Atty. Gen. (3390), Dec. 18, 1934.

(3). County board is not authorized to pay board for minor children which have been chargeable upon any town, city or village for support. Op. Atty. Gen., Sept. 7, 1933.

**3188. Taxes, how levied.**

Duties of township without funds and whose warrants are not acceptable, stated. Op. Atty. Gen., Oct. 16, 1933.

**3190. Change from county system.**

It is duty of county upon changing from county system to town system, to pay 80% of taxes collected or levied for poor purposes in the year of change and also to pay to municipality 75% of amount in excess of one mill on taxable value of property in the municipality expended for poor purposes. Op. Atty. Gen., Feb. 8, 1934.

On change from county system to town system, taxes levied for poor relief prior to such change and to be

collected thereafter must be paid to the town as herein required and may not be retained by the county to take care of overdrafts in county funds from last year, but change from county system to town system does not prevent expenditure by county in cooperation with state and federal relief administration. Op. Atty. Gen. (339p), Feb. 15, 1935.

Where change from county to town system is voted tax for the year levied by county for poor relief purposes, to extent of 80% thereof, must be paid over to the towns and municipalities, and cannot be used by county to pay overdrafts from county poor fund in previous years. Op. Atty. Gen. (3390-5), Mar. 30, 1935.

**3194. Duty of auditor—Poor fund.**

This section applies alone to the fund mentioned in §3193 arising on change from county to town system and does not prevent transfer of funds received from other sources as provided by §1053. Op. Atty. Gen., Mar. 24, 1930.

**3195. Counties to pay portion, etc.**

Litchfield v. M., 182M150, 233NW804; note under §3186. Op. Atty. Gen., Apr. 4, 1932; note under §394. Op. Atty. Gen., Feb. 8, 1934; note under §3190.

This section is unconstitutional. Village of Robbinsdale v. C., 199M203, 271NW491. See Dun. Dig. 7427.

Village may file claim against county and include therein separate charges for several years, it not being necessary to file a claim each year. Op. Atty. Gen., June 16, 1930.

Village cannot recover from county for cash paid to a pauper. Id.

If village has not been separated from town, then the valuation of all property in the township, including the property in the village, is to be taken into consideration for determining the taxable value of the property of the township. Op. Atty. Gen., Mar. 10, 1931.

Town board may file its application with county auditor at any time. Op. Atty. Gen., Mar. 10, 1931.

County board is authorized to inquire into the necessity for the relief granted by a town and the expense incurred in determining whether or not the statement received from the township clerk is correct, but the determination of the town board is conclusive. Op. Atty. Gen., Mar. 10, 1931.

The terms of this section are mandatory. Op. Atty. Gen., Mar. 10, 1931.

Expense incurred by town in caring for a nonresident pauper should be made under §3186(2). Op. Atty. Gen., Mar. 17, 1931.

Expenditures made by town to pay taxes on land owned by pauper and to pay interest on a loan of the pauper are not proper for poor relief. Op. Atty. Gen., July 28, 1931.

Mason's Stat., §3177, is still in effect in counties having town system, and such counties may levy in excess of the five mill limitation for poor purposes, and this levy may include moneys for the payment of mothers' pensions. Op. Atty. Gen., Oct. 30, 1931.

Amount to be expended by town for "a decent burial" of a pauper is a matter that rests largely within the discretion of the municipality chargeable with the burial. Op. Atty. Gen., Jan. 19, 1932.

County board has no authority to reduce the amount to be allowed to any township, though in the opinion of the board the township has expended an amount grossly in excess of what is necessary. Op. Atty. Gen., Jan. 19, 1932.

The place of burial of a pauper is a matter that rests within the discretion of the municipality whose duty it is to provide a "decent burial." Op. Atty. Gen., Jan. 19, 1932.

Failure to set forth each claim separately in minutes of town meeting did not affect liability of county if claims filed with town were properly verified. Op. Atty. Gen., May 2, 1932.

Poor relief claims paid by township should be paid by county, though printed form of endorsement was filled in but not signed by clerk or member of town board of audit. Op. Atty. Gen., May 2, 1932.

County would not be justified in refusing payment to town because bills had not been presented to town board of audit in advance of their allowance. Op. Atty. Gen., May 2, 1932.

Neither §3157 nor §3171 impose limitations on liability of county to town for poor relief expended by town. Op. Atty. Gen., May 2, 1932.

Towns, cities, etc., may require recipients of poor relief to work out their allotment on road projects and still claim reimbursement from county of 75% of amount in excess of one mill levy extended for relief purposes. Op. Atty. Gen., Sept. 26, 1933.

Municipality operating under town system is not entitled to reimbursement from county of 75% of moneys paid out for old age pensions in excess of one mill of taxable value of property in such municipality. Op. Atty. Gen., Jan. 13, 1934.

Where a tubercular person is placed in a sanatorium at the request of the municipality of his settlement, municipality is acting under its legal poor obligation and is entitled to a refund from the county under §3195, but if the municipality is proceeding under §5351 and expends money thereunder, it is entitled to a refund of ½

of its expenditures from the county, but the half assumed by the municipality cannot be included as poor relief for purpose of securing a further reimbursement under §3195. Op. Atty. Gen. (339f-3), June 15, 1934.

Premiums on insurance on poor person paid by a city cannot be included in determining amount city is entitled to receive from county under this section, but this does not prevent city claiming contribution for money actually spent for poor relief. Op. Atty. Gen. (339n), Aug. 9, 1934.

In arriving at taxable value of property in municipality, money and credits should be included. Id.

A municipality should file its claim for reimbursement annually, but failure to so file does not constitute waiver of right to contribution from county. Id.

Villages and cities may be reimbursed for expenditures in excess of one mill in accordance with this section where made through state and federal relief agencies. Op. Atty. Gen. (125a-37), Sept. 27, 1934.

County need not reimburse town for purchase of insulin for poor relief purposes, except that county board would have authority to reimburse for a portion of the cost of insulin if expenditure of town exceeded one mill on taxable property. Op. Atty. Gen. (107b-15), Mar. 8, 1935.

Auditor cannot deduct sum due from townships, cities or villages under §3183-18(2) from moneys due to them under this section. Op. Atty. Gen. (335c-1), Apr. 25, 1935.

In view of Laws 1935, c. 51, §5, a township or village is authorized to enter into an agreement with federal, state and county relief agencies which would permit expenditures of amount in excess of one mill on taxable value of property, and county may thereby become liable for 75% of such excess to the municipality. Op. Atty. Gen. (125b-23), May 14, 1935.

Whether municipality can include in poor bill a part of salary of a city and school nurse is a question of fact. Op. Atty. Gen. (125a-34), June 11, 1935.

Municipality is not entitled to reimbursement for salary paid to city engineer who is employed by the year when such engineer supervises emergency relief administration projects. Id.

Municipality operating under town system is not entitled to damages from county for 75% of moneys paid out for old age pensions in excess of one mill. Id.

Agreement may be entered into between counties operating under township system for relief and federal and state relief administration as to amount of contribution by counties, and county may levy taxes to provide therefor. Op. Atty. Gen. (339i-1), June 25, 1935.

County may pay mileage and incidental expenses in connection with maintenance of county national reemployment office, even though county is under township system of poor relief. Op. Atty. Gen. (125a-31), Aug. 1, 1935.

City furnishing electric energy for lighting of homes of poor persons is entitled to reimbursement from county. Op. Atty. Gen. (339m), Aug. 1, 1935.

County under town, village and city system of poor relief has no authority to establish a county relief office and to hire a person to supervise administering of relief such as investigators, etc. Op. Atty. Gen. (107b-15), Aug. 7, 1935.

In a county under township system of poor relief, county may provide for poor of insolvent township. Op. Atty. Gen. (107b-15), Aug. 29, 1935.

County board of county operating under town system may pay incidental expenses in connection with caring for poor. Op. Atty. Gen. (107b-15), Nov. 1, 1935.

Municipality is entitled to reimbursement for money over one mill expended for poor relief, though poor persons were required to work out amount of relief on local work projects, if the primary purpose was poor relief and not conferring of special benefits upon municipality sponsoring works project. Op. Atty. Gen. (125a-37), Nov. 19, 1935.

A county may levy tax or issue bonds for poor purposes though operating under the town system of poor relief, but cannot issue registered warrant unless there are moneys in treasury sufficient to pay the same or a tax is in actual process of collection pursuant to a tax levy for that purpose. Op. Atty. Gen. (107a-10), Dec. 9, 1935.

City in county operating under township systems is entitled to reimbursement from county for funds paid for relief of person not having poor settlement within state. Op. Atty. Gen. (339o-5), Feb. 28, 1936.

Municipal authorities charged with care of poor must determine whether a particular administrative expense is necessary or proper item of poor relief as affecting right to reimbursement from county. Op. Atty. Gen. (339m), Mar. 31, 1936.

City of Cloquet may consider an automobile a necessary expenditure for superintendent of poor, for which reimbursement may be had from county. Id.

Counties operating under town system may levy taxes for poor relief purposes in case of emergency, and borrow funds for poor relief purposes. Op. Atty. Gen. (125a-37), Apr. 14, 1936.

Townships are entitled to reimbursement. Op. Atty. Gen. (107b-15), May 11, 1936.

Section is not unconstitutional as respects reimbursement to towns, cities and villages in counties having no cities of first and second class. Op. Atty. Gen. (125a-37), July 10, 1936.

Counties not having cities of the first or second class are governed by this section, though it has been held unconstitutional as applied to Hennepin County. Op. Atty. Gen. (107b-15), July 17, 1936.

Where township in county operating under town system expends in care and maintenance of tubercular persons in discharge of its legal obligations of providing medical attention to its proper residents, it is impairable to reimbursement of 75 per cent as provided in §3195, but if township is proceeding pursuant to §5351, township is entitled to reimbursement of one-half of its expenditures, but the half of the expenditure assumed by township cannot be included as poor relief for purpose of securing further reimbursement under §3195. Op. Atty. Gen. (400k), Aug. 1, 1936.

County board may not use the state relief fund to reimburse townships. Id.

In view of Laws 1937, c. 286, case of Village of Robbinsdale v. County of Hennepin, 199M203, 271NW491, has no effect as respects a county having no city of the first or second class. Op. Atty. Gen. (339m), May 20, 1937.

In view of Laws 1937, c. 286, county may reimburse townships and villages for poor relief expenditures made in year 1936 in excess of one mill tax levy, notwithstanding Village of Robbinsdale v. County of Hennepin, 199M203, 271NW491. Op. Atty. Gen. (339m), June 4, 1937.

Laws 1937, c. 286, is broad enough to authorize reimbursement payments for year 1936. Op. Atty. Gen. (339m), June 14, 1937.

**3195-1. Liability of counties for care of poor by towns.**—In all counties of this state wherein the poor are cared for under the town system, if the expense incurred by any town, village or city, however organized, for the care of the poor therein, in any calendar year, exceeds an amount in excess of one mill of the taxable value of property in such town, village or city for that year, the county in which said town, village or city is situated, shall be liable for seventy-five per cent of the amount in excess of such one mill on the taxable value of property in such town, city or village. (Apr. 19, 1937, c. 286, §1.)

In view of this act, county may reimburse townships and villages for poor relief expenditures made in year 1936 in excess of one mill tax levy, notwithstanding Village of Robbinsdale v. County of Hennepin, 271NW491, holding §3195 unconstitutional insofar as it applied to Hennepin County. Op. Atty. Gen. (339m), June 4, 1937.

**3195-2. Same—county board to make estimate—tax levy.**—The County Board, at its first meeting in January of each year, shall estimate the amount which it shall deem necessary for such purpose, and shall include in the tax levy a sufficient amount of taxes to pay the expense of such poor relief, and same shall be extended against all property with such county. (Apr. 19, 1937, c. 286, §2.)

**3195-3. Same—municipal authorities to certify levies.**—In all said towns, cities and villages, the chairman and clerk of the town, in case of towns, or the president and clerk of the village council, in case of villages, or the mayor and clerk of the city, in case of cities, as the case may be, shall certify to the county auditor, a statement showing when, for what purpose, the amount and to whom expense was incurred by such town, village or city, in the care of each named poor person. The county auditor shall lay such statement before the county board at its meeting next following the receipt thereof. If such statement is deemed by the county board to be correct, the amount so certified shall be a claim against the county to the extent of the liability of the county as stated in Section 1 hereof, and shall be allowed and paid by the county to the treasurer of such town, village or city, who shall credit the sum so paid to the poor fund of the town, city or village. (Apr. 19, 1937, c. 286, §3.)

**3195-4. Same—application of act.**—This act shall not apply to any county in this state now or hereafter having a city of the first class, in which city is located ninety per cent or more in value of the taxable property of the county. (Apr. 19, 1937, c. 286, §4.)

COUNTIES EXCEEDING 75,000

**3196. Board of poor commissioners, how constituted.**

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

**3199. Tax levy for poor purposes.**—On or before October 1, in each year, such board shall determine by resolution the amount of tax to be levied for the ensuing year for the support of the poor; the maintenance of the poor-house and other places provided for the reception of the poor, and the erection of any buildings or improvements, and the adoption of such resolution shall constitute a levy on the property taxable in the county of the amount named therein; but the amount so levied for all purposes, except for the erection or repair of buildings, shall not exceed an amount equal to three mills on each dollar of assessed valuation. On or before October 5, thereafter, the board shall file a certified copy of such resolution with the county auditor who shall enter the amount upon the tax lists, after said levy shall have been submitted to the board of county commissioners of said county for its approval but not exceeding the amount approved by said county board after any reduction. Such tax, when collected, shall be credited to the county poor fund. Provided, in each of the years 1937 and 1938 the amount of such levy for all such purposes, except for the erection or repair of buildings, may exceed three mills but shall not exceed five mills. ('07, c. 222, §4; G. S. '13, §3108; Apr. 25, 1931, c. 355; Apr. 20, 1933, c. 334; Jan. 18, 1936, Ex. Ses., c. 50; Apr. 14, 1937, c. 229, §1.)

Laws 1931, c. 60, amends Laws 1917, c. 187, §§1-4, relating to poor and hospital commissioners in counties having not less than 80 congressional townships, and assessed valuation of from \$20,000,000 to \$50,000,000.

Whether secretary of Itasca County Poor and Hospital Commission who is an ex-service man may be removed "except for incompetency and misconduct shown after a hearing on stated charges" depends upon details of work performed by him, and he cannot be removed without a hearing unless it can be said that he is a private secretary or deputy of the board, or unless he occupies a strictly confidential relation to such board. Op. Atty. Gen. (85e) Feb. 26, 1935.

COUNTIES WITH 400,000 POPULATION OR OVER

**3199-3. Same—Tax levy.**

Act Mar. 2, 1933, c. 43, as amended by Act Mar. 31, 1933, c. 131, and Act Apr. 20, 1933, c. 338, authorizes counties having population of 200,000 to 240,000, and assessed valuation of less than \$350,000,000, and having a now existing overdraft on the poor fund, to issue bonds to raise money for such fund. It is omitted as local and temporary.

STATE WIDE SYSTEM OF OLD AGE ASSISTANCE

**3199-11. System established—Declaration of policy.**—The care and relief of aged persons who are in need and whose physical or other conditions or disabilities seem to render permanent their inability to provide properly for themselves is hereby declared to be a special matter of state concern and a necessity in promoting public health and welfare. To provide such care and assistance a state wide system of old age assistance is hereby established. Jan. 27, 1936. Ex. Ses., c. 95, §1.)

See note under §3183-1.

Appropriation to carry out provisions of Laws Ex. Sess. 1935, c. 95. Act Jan. 30, 1937, c. 4.

Act Apr. 26, 1937, c. 489, makes an appropriation.

**3199-12. Definitions.**—When used in this act the term:

(a) "Old age assistance" or "assistance" shall mean money payments for aged persons, made hereunder.

(b) "Applicant" shall mean any person who has applied for old age assistance.

(c) "Recipient" shall mean any person who has been granted old age assistance.

(d) "County agency" or "county agencies" shall mean the board of county commissioners, or such

other board as may be hereinafter authorized to administer this act in any county; provided, however, in any county having a poor commission authorized to administer poor relief with all the powers of the county board in counties having the county system of administering such poor relief, and where such poor relief is administered by and under the supervision of said poor commission, the term "county agency" shall mean said poor commission and said poor commission shall have all the powers, rights and duties vested in the board of county commissioners and the county auditor, respectively, and for these purposes said poor commission shall have authority to employ such additional assistance as shall be found necessary.

(e) "State agency" shall mean the state board of control. (Jan. 27, 1936, Ex. Ses., c. 95, §2.)

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

**3199-13. State agency—duties.**—The state agency shall:

(a) Supervise the administration of old age assistance by the county agencies under this act.

(b) Make and publish uniform rules and regulations, not inconsistent with law, for carrying out and enforcing the provisions of this act in an efficient, economical and impartial manner, and to the end that the old age assistance system may be administered uniformly throughout the state, having regard for varying costs of living in different parts of the state, and in all things to carry out the spirit and purpose of this act. Such rules and regulations shall require the approval of the attorney general as to form and legality and shall be made and published once in a legal newspaper of general circulation published at the city of St. Paul in this state. From and after the date of such publication, such rules and regulations shall be in full force and effect. An affidavit of such publication, setting forth the rule or regulation in full and the dates of such publication thereof, shall be made by the publisher of such newspaper or by the manager or agent of such publisher, and shall be kept on file in the office of the state agency with the original of such rule or regulation. Such rules and regulations shall be furnished immediately to all county agencies and shall be binding on such county agencies.

(c) Prescribe the form of, print, and supply to the county agencies, blanks for applications, reports, affidavits and such other forms as it may deem necessary or advisable, and establish a uniform system of accounting.

(d) Cooperate with the Federal Social Security Board, created by Title 7 of the Social Security Act, Public No. 271, enacted by the 74th Congress of the United States and approved August 14, 1935 [Mason's U. S. Code Anno., title 42, Ch. 7], in any reasonable manner as may be necessary to qualify for federal aid for assistance including the making of such reports in such form and containing such information as the Federal Social Security Board may from time to time require, and comply with such provisions as such board may from time to time find necessary to assure the correctness and verifications of such reports.

(e) Within 60 days after June 30, 1936, and within 60 days after the close of each fiscal year thereafter, prepare and print for said fiscal year a report which shall include a full account of the operation of this act, the expenditure of all funds under this act, adequate and complete statistics divided by counties, concerning all old age assistance within the state, and such other information as it may deem advisable.

(f) Prepare and release a summary statement monthly showing by counties the amount paid under this act, the total number of persons assisted, and the total administrative cost of the state agency.

(g) Furnish information to acquaint aged persons and the public generally with the old age assistance plan of this state. (Jan. 27, 1936, Ex. Ses., c. 95, §3.)

State relief agency is not required to submit budgets to Department of Administration and Finance. Op. Atty. Gen. (980c-32), July 2, 1936.

Expense incurred by county agency in obtaining appointment as special administrator to act as guardian for incapacitated recipient is proper administrative expense. Op. Atty. Gen. (521j-4), July 22, 1936.

It is within province of state agency to set standards to govern county agency in payment of funeral expenses. Op. Atty. Gen. (521j-2), June 7, 1937.

(b).

A rule that assistant could only be paid for month in which granted, but in no case for a period prior to filing of formal application, provided, that state agency may upon review or appeal require payment of assistant to begin from filing of preliminary application form, or from date of filing of formal application, or from date of registration of applicants for assistants, but in no case prior to March 1, 1936, was valid and approved. Op. Atty. Gen. (521d), Oct. 23, 1936.

**3199-14. County agencies—duties.**—(a) The county agencies shall administer the old age assistance system in their respective counties under the supervision of the state agency, and shall make such reports, prepare such statistics, and keep such records and accounts in relation to old age assistance as the state agency may require.

(b) In a county having a board of public welfare as authorized by Laws 1929, Chapter 371, the board of county commissioners may delegate to such board of public welfare, subject to the supervision of the board of county commissioners, the investigation of applications and recipients, decisions upon applications and the fixing of the amount of old age assistance, if any.

(c) In any county having a poor commission, it shall be the duty of the poor commission to designate the deputy clerks of court at such places where regular terms of court are held in said county as clerks for the purpose of accepting applications for such old age assistance. It shall be the duty of such clerks of court to aid and assist the applicant in making out his application for such old age assistance.

(d) In a county having an official investigator appointed as provided in Mason's Minnesota Statutes of 1927, Section 8676, the board of county commissioners may delegate such investigation to such official investigator subject to the supervision of the board of county commissioners.

(e) The county agency may appoint some person or other agency to investigate applications and recipients and assist applicants in making out of applications, always, however, subject to the supervision of the county agency; provided, that decisions upon applications and fixing of amount of old age assistance shall be made by the county agency. (Jan. 27, 1936, Ex. Ses., c. 95, §4.)

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

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

(a).

State agency may require county to determine total amount of payments paid to a recipient under old pension law. Op. Atty. Gen. (521b-1), June 9, 1936.

(e).

County agency need not employ an investigator. Op. Atty. Gen. (521b-1), Apr. 8, 1936.

**3199-15. Qualifications of pensioners—amount of pension—Other assistance.**—(a) Any resident of this state who shall comply with the provisions of this act shall be eligible for old age assistance while continuing to reside in this state. Temporary absences from the state may be allowed by recipient by permission from the county agency in accordance with the regulations of the state agency, and may be continued where the recipient can receive from a relative, or otherwise, a substantial amount of gratis service or subsistence not available in the state.

(b) The amount and the manner of payment of old age assistance shall be fixed with due regard to the conditions in each case and shall be an amount which, when added to the net income of the applicant,

including subsistence or service reasonably available to him, does not exceed a maximum of \$30.00 per month, subject, however, to the following:

(1) The annual income of any property which is not so utilized as to produce reasonable returns shall be deemed to be the net income which would be available if the property were suitably used. Due consideration shall be given to the current or prevailing conditions affecting the use of such property.

(2) Irregular or casual earnings, and gifts, when such do not exceed \$100 in any calendar year, may be excluded in calculating income.

(c) While a recipient is receiving old age assistance, he shall not receive any other relief from the state or from any political subdivision thereof, except for medical, dental, surgical or hospital assistance, or nursing care. (Jan. 27, 1936, Ex. Ses., c. 95, §5.)

Indians are not excluded from act. Op. Atty. Gen. (512-a), Apr. 17, 1936.

Medical and dental care furnished to recipient of old age assistance is a charge against poor fund of township or village in county operating under township system of poor relief and not a charge against county old age assistance funds. Op. Atty. Gen. (521b), June 16, 1936.

Application for assistance by person having \$300 or more in liquid assets and property not exceeding \$500 net value must be determined by administrative agency in accordance with facts of each case. Op. Atty. Gen. (521p-1), July 5, 1936.

An old age assistance grant may properly include items for medical, dental, surgical or hospital assistance or nursing care. Op. Atty. Gen. (521v), Aug. 1, 1936.

Medical and dental care may be granted to a recipient who is not receiving a maximum amount of assistance. Id.

Residents of poor farm leased to private party are eligible for assistance if county has no control of farm. Op. Atty. Gen. (521t-4), May 7, 1937.

One receiving old age assistance may also receive poor relief in form of medical, dental, surgical, hospital or nursing care. Op. Atty. Gen. (521v), May 18, 1937.

(b).

County agency may fix value on subsistence paid to applicant from child if such payment has not entailed undue hardship on child and deducts such value from allowance, but if support by child is an undue hardship or child refuses to further support applicant, no deduction from assistance may be made. Op. Atty. Gen. (521a), Apr. 6, 1936.

Medical care consisting of trained nurse necessary at all times and other expenses, furnished by children and relatives, is not necessarily income of the aged person which would prevent granting of old age assistance together with medical care. Op. Atty. Gen. (521r), May 16, 1936.

Whether an applicant, who has entered into an enforceable contract whereby he is to receive care and maintenance for remainder of his life, can be granted in both questions of fact for administrative agency. Op. Atty. Gen. (521d), Feb. 25, 1937.

"With due regard to the conditions in each case" allows assistance to a recipient if he does not have sufficient income to take care of both the needs of his legal dependent and his own personal needs. Op. Atty. Gen. (521i-2), May 5, 1937.

(e).

Old age assistance recipients are not poor persons and are not entitled to medical and hospital aid provided by municipality for such persons, unless old age assistance given, plus necessary medical and hospital aid, exceeds \$30 per month, but question of who are poor persons is one of fact in each case for county agency and state agency to determine. Op. Atty. Gen. (521v), June 15, 1937.

**3199-16. Same—age—citizenship—residence—institutional care.**—Old age assistance may be granted to an applicant who:

(a) Has attained the age of 65 years;

(b) Is a United States citizen, or has resided continuously in the United States for over 25 years;

(c) Has been a resident of the state for five years or more within the nine years immediately preceding application, at least one year of which shall have been continuous and immediately precede such application; provided, that whenever a person has been a resident of the state at least two years continuously and immediately preceding application, but has not resided therein five years within the above mentioned nine-year period, there may be added to the years of actual residence within said nine-year period a credit for years of actual residence in the state preceding said nine-year period on the following basis:

(1) 40 per cent of actual residence in the six years immediately preceding the above mentioned nine-years; and

(2) 20 per cent of actual residence in the five years immediately preceding the above mentioned six years; and

(3) Ten per cent of actual residence in the ten years immediately preceding the above mentioned five years; and

(4) Five per cent of actual residence in any time preceding the above mentioned ten years; and

(d) Is not, because of physical or mental condition, in need of continued institutional care, and such care is reasonably available to him. (Jan. 27, 1936, Ex. Ses., c. 95, §6.)

"Residence" in §3199-19 refers to county settlements and not to general residence provisions of §3199-16, and an inmate of poor house need not go out on his own for a year before he shall be considered to have residence one year continuously in county of his settlement. Op. Atty. Gen. (521t-2), Apr. 2, 1936.

One who resided in United States for 25 years and then moved into Canada and then homesteaded and then returned to the United States is eligible for assistance, though he is not a citizen of the United States. Op. Atty. Gen. (521t-2), Apr. 14, 1936.

County may grant assistance to a person in another state for purpose of obtaining nurse and care from a niece who resides there. Op. Atty. Gen. (521t-5), Oct. 19, 1936.

(c). Absence from state as disqualification involved question of fact. Op. Atty. Gen. (521t-2), Apr. 28, 1936.

An old person cared for in a mission in another state at expense of township within state is eligible for assistance, if not eligible for assistance in foreign state. Op. Atty. Gen. (521t-4), Oct. 30, 1936.

Aged person under guardianship was eligible for pension though guardian was having her stay with her daughter in an adjoining state. Op. Atty. Gen. (521t-2), Dec. 2, 1936.

(d). A ward of state board of control out of institution on parole has not legal capacity to make application in his own behalf. Op. Atty. Gen. (521t-4), Jan. 5, 1937.

**3199-17. Absence in state or federal service.**—For all purposes of this act absence in the service of the State of Minnesota or the United States shall not be deemed to interrupt residence in the state if domicile be not acquired outside of the state. (Jan. 27, 1936, Ex. Ses., c. 95, §7.)

**3199-18. Disqualification of pensioners.**—No old age assistance shall be paid to a person:

(a) While or during the time he is an inmate of, and receives gratuitously all the necessities of life from any public charitable, custodial or correctional institution maintained by the United States, or any state or any of the political subdivisions of the state; provided, in the case of temporary medical or surgical care in a hospital or infirmary, part or all of any old age assistance may be paid at the discretion of the county agency subject to rules and regulations made by the state agency;

(b) If the net value of his property or the net value of the combined property of husband and wife exceeds \$3,500; provided, however, that household goods and furniture in use in the home, wearing apparel and a lot in a burial ground may be owned in addition to the property limitation provided in this subsection;

(c) Who has after the passage of this act or within two years prior thereto deprived himself, directly or indirectly, of any property for the purpose of qualifying for old age assistance;

(d) Whose spouse, living with said person, has made an assignment or transfer, directly or indirectly, of any property for the purpose of qualifying either person for old age assistance under this act. (Jan. 27, 1936, Ex. Ses., c. 95, §8.)

This section does not prohibit inmate of an institution from applying for assistance, but only prohibits payment to a person while an inmate. Op. Atty. Gen. (521t-2), Apr. 2, 1936.

Aged persons do not take themselves out of application of act by entering into contract for maintenance with private home for the aged. Op. Atty. Gen. (521t-4), Apr. 29, 1936.

Application for assistance by person having \$300 or more in liquid assets and property not exceeding \$500 net

value must be determined by administrative agency in accordance with facts of each case. Op. Atty. Gen. (521p-1), July 3, 1936.

Proposed leases by counties of county homes to private individuals will not prevent recipient of assistance from living in the leased homes, if all supervision and control of the home is surrendered by the county, and provided assistance payments are made direct to recipients, who will make their own arrangements with the lessees of those homes, and assistance may also be paid to old persons living in houses provided by the federal resettlement administration, title to which is expected to be conveyed to the county, provided the poor persons receive the aid direct and make their own arrangements with respect to food, cook and caretaker. Op. Atty. Gen. (521t-4), Mar. 29, 1937.

Where county leases its county home to a private individual for farming purposes, old age assistance recipients may live therein after lease is executed without coming in conflict with federal government requirement that they shall not be inmates of a public institution. Op. Atty. Gen. (521t-4), Apr. 21, 1937.

Residents of poor farm leased to private party are eligible for assistance if county has no control of farm. Op. Atty. Gen. (521t-4), May 7, 1937.

(a). Inmates of city or county poorhouse may move out and make application for old age assistance, and matter of permitting them to reenter by paying for their care is a matter within discretion of officials. Op. Atty. Gen. (521t-4), May 28, 1936.

Person being cared for in a home for the aged, all expenses being paid by a city, is disqualified for assistance, but may qualify self by leaving home for purpose of qualifying, but assistance will be discontinued if person returns to home. Op. Atty. Gen. (521t-4), Oct. 20, 1936.

(c). Assignment of income bearing property by applicant to son, though all property was less than \$3,500, would not bar assistance unless the assignment was made for purpose of qualifying old age assistance, though the assignment would bar assistance if made for that purpose. Op. Atty. Gen. (521m), Apr. 21, 1936.

Old age assistance should not be denied because applicant prior to passage of act conveyed his property to city, town or village as a condition for granting of poor relief. Op. Atty. Gen. (521b-1), June 9, 1937.

**3199-19. Legal settlement—Application to county agency—Verification—Hearing appeal.**—(a) For the purposes of this act every person who has resided one year continuously in any county shall have a legal settlement therein, and such legal settlement shall not be deemed lost or terminated until a new settlement shall have been acquired in another county of this state or acquired in another state. The time during which a person has been an inmate of a hospital, poor house, jail, prison or other public institution shall be excluded in determining the time of residence hereunder.

(b) An applicant for old age assistance shall file his application in writing with the county agency of the county in which he has a legal settlement, in such manner and form as shall be prescribed by the state agency. Provided, however, that as to a person otherwise qualified who has no legal settlement in any county of the state, his legal settlement for the purpose of making application hereunder shall be deemed to be the county in which he has longest resided during the year immediately preceding the filing of such application.

(c) All statements in the application shall be sworn to or affirmed by the applicant, setting forth that all facts are true in every material point. Upon the filing of such application, the county agency shall make an order fixing a time and place for the hearing thereon. The county agency shall forthwith upon the making of such order mail a copy of the same to the applicant. Any applicant or recipient shall have the right to produce any evidence that he desires and be represented by a friend or counsel.

(d) Whenever an application is rejected or denied by a county agency upon the sole ground that the same was not filed in the county of applicant's legal settlement, an appeal may be taken to the state agency in the same manner as other appeals, and the state agency shall thereupon determine the question of legal settlement and refer the application to the county agency of the proper county for further action. (Jan. 27, 1936, Ex. Ses., c. 95, §9.)



"Residence" in §3199-19 refers to county settlements and not to general residence provisions of §3199-16, and an inmate of poor house need not go out on his own for a year before he shall be considered to have resided one year continuously in county of his settlement. Op. Atty. Gen. (521t-2), Apr. 2, 1936.

Application for old age assistance is not equivalent to application for poor relief as regards settlement under poor law. Op. Atty. Gen. (521t-2), May 22, 1936.

County originally granting assistance continues to pay regardless of any change of residence within state. Op. Atty. Gen. (521t-1), May 15, 1936.

Time during which person receives poor relief from municipality not to be excluded in determining settlement for old age assistance purposes. Op. Atty. Gen. (521t-3), July 17, 1936.

Fact that husband received old age assistance from one county does not prevent him and his family from establishing a legal settlement for poor relief purposes in another county. Op. Atty. Gen. (521t-2), Aug. 4, 1936.

County may grant assistance to a person in another state for purpose of obtaining nurse and care from a niece who resides there. Op. Atty. Gen. (521t-5), Oct. 19, 1936.

Time for settlement accrues in favor of an applicant for assistance during time application is pending and after decision by county commissioners. Op. Atty. Gen. (521t-2), Jan. 26, 1937.

Determination of legal settlement for assistance purposes is a matter of fact to be determined by county agency in first instance, and not by the attorney general. Op. Atty. Gen. (521t-2), June 3, 1937.

(a).

Where applicant has resided for one year in one county prior to moving his residence to another county, where he has not resided for one year continuously, legal settlement for old age assistance is in first county. Op. Atty. Gen. (521t-2), May 7, 1936.

Legal settlement can be acquired in another county while person is receiving pension under old pension law in another county. Op. Atty. Gen. (521b-1), May 23, 1936.

Application for old age assistance is to be made in county wherein applicant has resided for one year, and it is immaterial whether or not he has acquired settlement there for poor purposes. Op. Atty. Gen. (521t-2), June 17, 1936.

Person while receiving poor relief from a county or municipality may acquire legal settlement in another county for old age assistance purposes. Op. Atty. Gen. (521a-1), June 26, 1936.

(a).

It is not permissible after pension has been granted and recipient has been absent and residing in another county for over a year for county agency to discontinue assistance on ground that recipient has established a new residence. Op. Atty. Gen. (521t-5), Apr. 22, 1937.

(b).

Applicant is to file application with county agency in county in which he considers he has a legal settlement, and it is duty of county agency to determine legal settlement. Op. Atty. Gen. (521t-2), Feb. 23, 1937.

**§3199-20. Investigations—determination—renewal of application.**—The county agency shall promptly make or cause to be made such investigation as it may deem necessary; the object of such investigation shall be to ascertain the facts supporting the application made under this act and such other information as may be required by the rules of the state agency. Upon the completion of such investigation, the county agency shall promptly decide upon the application, and fix the amount of old age assistance, if any, and issue to each applicant to whom old age assistance is allowed, a certificate stating the date upon which old age assistance payments shall commence and the amount of each installment, which shall be paid monthly. An applicant whose application for old age assistance has been rejected by the county agency or to whom old age assistance was denied on appeal, as hereinafter provided, may not again apply for old age assistance until the expiration of 12 months from the date of his previous application, unless said refusal was on the sole ground that applicant had not complied with the residence requirements. (Jan. 27, 1936, Ex. Ses., c. 95, §10.)

Residence of an applicant is a question of fact for county agency of county where application is pending to determine. Op. Atty. Gen. (521b-1), June 10, 1936.

Application for assistance by person having \$300 or more in liquid assets and property not exceeding \$500 net value must be determined by administrative agency in accordance with facts of each case. Op. Atty. Gen. (521p-1), July 3, 1936.

**§3199-21. Appeal to state agency—notice—new hearing by county agency—review—appeal to district court—review of rules and regulations—appeal to**

**supreme court—Taxpayer's objections.**—(a) Any applicant or recipient aggrieved by any order or determination by the county agency may appeal from such order or determination to the state agency. Before making such appeal to the state agency the applicant or recipient shall give written notice to the county agency that he is not satisfied with the decision made. The county agency shall, within 30 days thereafter, grant a new hearing. The county agency may adhere to the decision already made, or may modify its order. If the applicant or recipient is then dissatisfied he may, within 30 days after receiving notice of such order, appeal to the state agency as herein provided. The state agency shall upon receipt of such an appeal notify the county agency and review the case, giving the applicant or recipient an opportunity for a fair hearing before such state agency. The state agency may also, upon its own motion, review any decision made by the county agency. The state agency may make such additional investigation as it may deem necessary, and shall make such decision as to the granting of assistance and the amount and nature of assistance to be granted the applicant or recipient as in its opinion is justified and in conformity with the provisions of this act. All decisions of the state agency shall be binding upon the county involved and the applicant or recipient and shall be complied with by the county agency unless modified or reversed on appeal as hereinafter provided.

(b) If a decision or determination by the state agency is not, in the opinion of the county agency or applicant or recipient, in conformity with this act, either may within 30 days after such decision appeal from the decision or determination of the state agency to the district court of the county in which the application was filed, by serving a copy of a written notice of such appeal upon the state agency and adverse party and filing the original of such written notice, together with proof of service, with the clerk of the district court of the said county. Such appeal may be brought on for hearing by either party by mailing ten days' written notice stating the time and place of such hearing. Upon serving of such notice, the state agency shall, if demanded, furnish the county agency and applicant or recipient a summary of the issues involved, a copy of all supporting papers, a transcript of any testimony and a copy of its decision. The court shall summarily, upon 10 days' written notice, try and determine the said appeal upon the record of the state agency as certified to it and in said determination shall be limited to the issue as to whether the order of the state agency is fraudulent, arbitrary or unreasonable. No new or additional evidence shall be taken on such appeal or introduced by any party to such hearing on appeal in the district court, unless such new or additional evidence, in the opinion of the court, is necessary to a more equitable disposition of the appeal. If the court shall find the order of the state agency fraudulent, arbitrary or unreasonable, the court shall make an order declaring the order of the State Agency null and void, giving its reasons therefor, and shall order the State Agency to take further action in said matter not inconsistent with the determination of the court.

During the pendency of said appeal, if the state agency has awarded old age assistance to a recipient, said old age assistance shall be paid to him pending the determination of said appeal. If said appeal shall be from the order of the state agency raising or lowering the amount paid to a recipient, and if the order of the state agency shall not be sustained, then the recipient shall receive the amount, if any, theretofore fixed by the county agency. (As amended Apr. 26, 1937, c. 482, §1.)

(c) The county agency may question the validity of any rule or regulation of the state agency, and the district court where said county agency is located shall have power to determine the validity of any such rule or regulation by original proceedings in said court. Either the state agency or the county agency may

appeal from such decision to the supreme court of the State of Minnesota in the same manner as other appeals in civil actions.

(d) Any taxpayer of the State of Minnesota, resident therein, may appear at any time before the county agency of the county wherein he resides, and protest the granting or continuance of any individual old age assistance, or any portion thereof, with the same right to appeal to the state agency as granted an applicant or recipient. (Jan. 27, 1936, Ex. Ses., c. 95, §11.)

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

(a) State agency may on its own motion review decision of county agency refusing to pay funeral expenses. Op. Atty. Gen. (521j-2), Sept. 25, 1936.

**3199-22. Attorney general and county attorney to act for state and county agencies respectively.**—The attorney general shall be the attorney for the state agency in all matters pertaining to this act. The county attorney of each county shall be the attorney for the county agency in all matters pertaining to this act. (Jan. 27, 1936, Ex. Ses., c. 95, §12.)

**3199-23. Subpoenas—administration of oaths.**—The county agency and the state agency shall have the power to issue subpoenas for the witnesses and compel their attendance and the production of papers and writing; and officers and employees designated by the county agency or the state agency may administer oaths and examine witnesses under oath in connection with any application or proceeding under this act. (Jan. 27, 1936, Ex. Ses., c. 95, §13.)

**3199-24. Death of recipient—funeral expenses—claim against estate.**—On the death of a recipient, the county agency may pay an amount for reasonable funeral expenses, not exceeding \$100. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses, or if the children, or spouse, who were legally responsible for the support of the deceased during his lifetime, are able to pay such expenses. In determining the sufficiency of such estate due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant funeral expenses where the sale would cause undue loss to the estate. Any amount paid by the county as funeral expenses shall be a prior claim against the estate, as provided in Laws 1935, Chapter 72, Section 108 [§8992-108], and any amount recovered shall be paid to the treasury of the county which paid said expenses and be deposited in the county old age assistance fund, and 50 per cent thereof shall be paid to the state agency. (Jan. 27, 1936, Ex. Ses., c. 95, §14.)

Payment of funeral expenses is discretionary with county agency. Op. Atty. Gen. (521j-2), July 20, 1936.

Matter of county bearing burden of burying persons who have been recipients of old age assistance is discretionary with county agency, and the state agency is authorized to reimburse the counties that have paid such expenses in accordance with provisions of act. Op. Atty. Gen. (521j-2), July 21, 1936.

State agency may on its own motion review decision of county agency refusing to pay funeral expenses. Op. Atty. Gen. (521j-2), Sept. 25, 1936.

Warrants issued and delivered to recipients, but not cashed prior to recipient's death, become part of estate of deceased and pass to his heirs as other property. Op. Atty. Gen. (521g-3), Mar. 25, 1937.

County may pay \$100 towards funeral expenses, total expense of which exceeds said sum and where excess is paid by friends or relatives not liable for any such expenses, providing that total cost has been determined by county agency to be "reasonable funeral expenses." Op. Atty. Gen. (521j-2), June 7, 1937.

It is within province of state agency to set standards to govern county agency in payment of funeral expenses. Id.

**3199-25. Same—claim against estate—limitations.**—On the death of any person who receives any old age assistance under this or any previous old age assistance law of this state, or on the death of the survivor of a married couple, either or both of whom received such old age assistance, the total amount paid as old age assistance to either or both, without interest, shall be allowed as a claim against the estate

of such person or persons by the court having jurisdiction to probate the estate. The statute of limitations which limits the county agency or the state agency, or both, to recover only for assistance granted within six years shall not apply to any claim made under this act or reimbursement for any assistance granted hereunder. (Jan. 27, 1936, Ex. Ses., c. 95, §15.)

Where homestead is disposed of by will which does not otherwise provide and in all cases where homestead descends to spouse or children or issue of deceased children, homestead of deceased recipient of old age assistance is not subject to claims of county or state agencies. Op. Atty. Gen. (521p-3), Apr. 6, 1936.

Claim of county for money paid as assistance against state of deceased recipient is same as claim of common creditor and is not preferred. Op. Atty. Gen. (521g), Apr. 15, 1936.

County agency cannot transfer remainder of any property previously deeded to county under old age pension law to state agency or to person who transferred same to county. Op. Atty. Gen. (521b-1), June 9, 1936.

County has no authority to accept deeds of property from applicants for old age assistance and agree to increase allowance, or to keep property until death and give surplus to heir or devisee of applicant. Op. Atty. Gen. (521p-3), Aug. 5, 1936.

County agency is proper party to file claim. Op. Atty. Gen. (521g-1), Jan. 6, 1937.

Estate of a deceased recipient is liable for total amount paid as old age assistance under the provisions of both the old and the new old age pension law. Op. Atty. Gen. (521g-1), Mar. 15, 1937.

Claim against estate of deceased recipient should be filed in the name of county agency and not in name of county for total amount paid as old age assistance without itemizing proportionate contributions and sources. Id.

**3199-26. Liability of children or spouse of recipient—enforcement.**—If at any time during the continuance of any assistance granted under this act the state agency or the county agency finds that any child or the spouse of any recipient is reasonably able to contribute to the necessary care and support of such recipient without undue hardship to himself or his immediate family, and such person so able to contribute to the care and support of such recipient fails or refuses to contribute according to his ability to the care and support of such recipient, then, after notice to such person or persons, there shall exist a cause of action against said person or persons for such amount of assistance furnished under this act subsequent to such notice, or such part thereof as such person or persons are reasonably able to pay. Said action may be ordered by the state agency, or county agency, and shall be brought in the name of the county by the county attorney of the county in which such assistance was granted and shall be brought against said person or persons for the recovery of such amount of assistance granted after such notice, as hereinbefore provided, together with a cost and disbursements of such action. (Jan. 27, 1936, Ex. Ses., c. 95, §16.)

County agency may fix value on subsistence paid to applicant from child if such payment has not entailed undue hardship on child and deducts such value from allowance, but if support by child is an undue hardship or child refuses to further support applicant, no deduction from assistance may be made. Op. Atty. Gen. (521r); Apr. 6, 1936.

Medical care consisting of trained nurse necessary at all times and other expenses, furnished by children and relatives, is not necessarily income of the aged person which would prevent granting of old age assistance together with medical care. Op. Atty. Gen. (521r), May 16, 1936.

Children or spouse of recipient of aid can pay after notice without being sued. Op. Atty. Gen. (521r), July 11, 1936.

**3199-27. Reimbursement of United States out of amounts collected.**—Whenever any amount shall be recovered from any source for assistance furnished under the provisions of this act, there shall be paid to the United States the amount which shall be due under the terms of the Social Security Act and the balance thereof shall be paid into the treasuries of the state, county, town, village, borough or city in the proportion in which they respectively contributed toward the total assistance paid. (Jan. 27, 1936, Ex. Ses., c. 95, §17.)

Matter of distributing amount recovered between county, state and federal government is a matter of administration of act by county agency and entirely outside

province of probate court. Op. Atty. Gen. (521g-1), Jan. 6, 1937.

Claim against estate of deceased recipient should be filed in name of county agency and not in name of county for total amount paid as old age assistance without itemizing proportionate contributions and sources. Op. Atty. Gen. (521g-1), Mar. 15, 1937.

**3199-28. Payment to trustee of recipient.**—If a person receiving old age assistance is, on the testimony of reputable witnesses, found incapable of taking care of himself or his money, the county agency may direct the payment of the old age assistance to any responsible person in trust for such recipient. (Jan. 27, 1936, Ex. Ses., c. 95, §18.)

Expense incurred by county agency in obtaining appointment as special administrator to act as guardian for incapacitated recipient is proper administrative expense. Op. Atty. Gen. (521j-4), July 22, 1936.

**3199-29. Assignability of pension—exemption.**—No old age assistance given under this act shall be transferable or assignable at law or in equity except as provided in Section 18 hereof; and no money paid or payable under this act shall be subject to execution, levy, attachment, garnishment or other legal process, or to the operation of any bankruptcy or insolvency law. (Jan. 27, 1936, Ex. Ses., c. 95, §19.)

Proposed leases by counties of county homes to private individuals will not prevent recipient of assistance from living in the leased homes, if all supervision and control of the home is surrendered by the county, and provided assistance payments are made direct to recipients, who will make their own arrangements with the lessees of those homes, and assistance may also be paid to old persons living in houses provided by the federal resettlement administration, title to which is expected to be conveyed to the county, provided the poor persons receive the aid direct and make their own arrangements with respect to food, cook and caretaker. Op. Atty. Gen. (521t-4), Mar. 29, 1937.

**3199-30. Reports by recipients—modification, suspension or revocation of assistance—excessive payments.**—Each recipient shall file such reports with the county agency as the county agency or the state agency may from time to time require. If it appears at any time that the recipient's circumstances have materially changed or that a certificate was improperly obtained by any recipient, or if the recipient has failed to comply with the provisions of Section 26 [§3199-36], the county agent may modify, suspend or revoke any old age assistance certificate issued to such recipient, and may suspend payment of any installment pending any inquiry. If on inquiry it appears that the certificate was improperly obtained, it shall be cancelled, but if it appears that the certificate was properly obtained, the suspended installments shall be payable in due course. Any old age assistance paid in excess of the amount due shall be returned to the county and may be recoverable as a debt due the county. (Jan. 27, 1936, Ex. Ses., c. 95, §20.)

It makes no difference that a person after having been granted assistance removes to another county and resides at a home for the aged, provided such person pays for his necessities furnished by the home. Op. Atty. Gen. (521t-1), June 4, 1936.

Recipient may be required to refund only amount of assistance he received during period he was under 65 years of age. Op. Atty. Gen. (521y), Apr. 19, 1937.

**3199-31. Unlawful obtainment of assistance gross misdemeanor.**—Any person who has obtained or who by means of a willfully false statement or representation, or by impersonation, or other fraudulent device, hereafter obtained, or attempts to obtain, or aids or abets any person to obtain:

(a) An old age assistance certificate to which he is not entitled;

(b) More old age assistance than that to which he is justly entitled;

(c) Payment of any forfeited installment grant;

(d) Or who knowingly aids or abets any person buying or disposing of the property of the recipient with the intention to assist in receiving or qualifying any person for old age assistance;

(e) Or any recipient who transfers any personal property exceeding \$300.00 in value without first giving notice to the County Agency of his intention to do

so; shall be guilty of a gross misdemeanor. (Jan. 27, 1936, Ex. Ses., c. 95, §21; Mar. 25, 1937, c. 103, §1.)

Section required purchaser of property from recipient of assistance to obtain consent from county agency, but agency could not demand promise from applicant that he would obtain consent before transferring his property as a condition precedent to granting of assistance. Op. Atty. Gen. (521p-2), Apr. 15, 1936.

**3199-32. Same—cancellation of certificate.**—Where a recipient or applicant is convicted of an offense under Section 21 [§3199-31], the county agency may cancel the certificate or refuse to issue same. (Jan. 27, 1936, Ex. Ses., c. 95, §22.)

**3199-33. Payment by county—cost, how distributed—reimbursement—expenses, apportionment—insufficient federal funds.**—Each old age assistance granted under this act shall be paid by the county in which an old age assistance certificate is issued and while the same is in effect. The cost of old age assistance grants in each county shall be borne as follows:

(a) Payments shall be made by the state to the counties of that portion of old age assistance paid by the Federal government and the state on or before the 20th day of each month for the succeeding month upon requisition from the counties as to the amount required for said succeeding month. The expense of old age assistance grants shall be borne one-third thereof by the state from state funds; one-sixth thereof from the counties by county funds; and one-half thereof from Federal funds; provided that in the event Federal funds shall be inadequate to pay in full 50 per cent of all old age assistance paid by each county, then the available federal funds shall be paid ratably and proportionately to the several counties in the proportion which the total amount of old age assistance paid by each county bears to the total amount of old age assistance paid by all counties of the state.

(b) Not exceeding one-fourth of any funds available for administrative purposes shall be used to defray necessary expenses of the state agency in the supervision of the old age assistance laws of this state, and the balance shall be used to repay the counties pro rata in the proportion the total number of recipients in the county bears to the total number of recipients in the state for the period in question. (Jan. 27, 1936, Ex. Ses., c. 95, §23; Apr. 26, 1937, c. 484, §1.)

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

Additional compensation for board of county commissioners not included in terms "for actual administrative expenses." Op. Atty. Gen., Mar. 6, 1936.

County can be reimbursed out of state and federal fund for payment of assistants under new act to persons who have received pension and who have deceded their property to county under old pension law. Op. Atty. Gen. (521b-1), June 9, 1936.

County is entitled to reimbursement for state's one-half in case of a recipient whose certificate of assistance was suspended while he was an inmate of sanitarium until death. Op. Atty. Gen. (521j-2), Oct. 5, 1936.

State agency is entitled to reimbursement for state and federal money paid as reimbursement to a county on account of persons whose allowance has been subsequently cancelled and revoked on ground that persons were not entitled to assistance. Op. Atty. Gen. (521b-2), Oct. 18, 1936.

Where no federal funds were available as to recipients of assistance who contracted with county for board at poor house, state funds may be used to reimburse county for payments made, but not to exceed thirty-three and a third per cent. Op. Atty. Gen. (521b-1), Dec. 28, 1936.

State and federal funds as grants in aid for dependent children and old age assistance must be paid by state board of control directly to county, and not to welfare board. Op. Atty. Gen. (521j-2), May 20, 1937.

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

**3199-34. County budget—levy of tax—transfer from other funds—warrants—overdrafts—claims for reimbursement—payment.**—The providing of funds necessary to carry out the provisions of this act on the part of the counties and the manner of administering and disbursing funds of the counties and the state shall be as follows:

(a) The board of county commissioners of each county shall annually set up in its budget an item designated as the county old age assistance fund, and shall levy taxes and fix a tax rate for old age assistance sufficient to produce the full amount of such item, in addition to all other tax levies and tax rates, however fixed or determined, sufficient to carry out the provisions of this act and to pay in full the county share of old age assistance and administrative expenses for the ensuing year; and shall annually, on or before October 10th, certify the same to the county auditor to be extended by him on the tax rolls. Such tax levy and tax rate shall make proper allowance and provision for shortage in tax collections.

(b) Any county may transfer surplus funds from any county fund, except the sinking or ditch fund, to the general fund or to the county old age assistance fund in order to provide moneys necessary to pay old age assistance awarded under this act. The money so transferred shall be used for no other purpose, but any portion thereof no longer needed for such purpose, shall be transferred back to the fund from which taken.

(c) Upon the orders of the county agency the county auditor shall draw his warrant on the proper fund in accordance with said orders and the county treasurer shall pay out the amounts ordered to be paid out as old age assistance under the provisions of this act. When necessary by reason of failure to levy sufficient taxes for the payment of said old age assistance in the county, the county board shall nevertheless authorize payment of said old age assistance and the county auditor shall carry any such payments as an overdraft on the old age assistance fund of said county until sufficient tax funds shall be provided for said old age assistance payments. The board of county commissioners shall include in the tax levy and tax rate in the year following the year in which such overdraft occurred an amount sufficient to liquidate such overdraft in full.

(d) Claims for reimbursement shall be presented to the state agency by the respective counties in such manner as the state agency shall prescribe not later than ten days after the close of the month in which the expenditures were made. The state agency shall audit such claims and certify to the state auditor the amounts due the respective counties without delay. The amounts so certified shall be paid within ten days after such certification, from the state treasury upon warrant of the state auditor from any moneys available therefor. The moneys available to the state agency to carry out the provisions of this act, including all federal funds available to the state, shall be kept and deposited by the state treasurer in the revenue fund and shall be disbursed upon warrants in the same manner as other state funds except that such warrants shall be countersigned by a member of the state agency or some other person thereunto duly authorized by resolution thereof. (Jan. 27, 1936, Ex. Ses., c. 95, §24.)

Act July 16, 1937, Sp. Ses., c. 73, authorizes certain counties to apply to the state agency for an award of aid for the year 1937.

County agencies must proceed to administer act irrespective of the availability of federal funds. Op. Atty. Gen. (521b-1), Mar. 9, 1936.

Power of county to issue funding bonds to take up floating indebtedness represented by warrant over-drawing poor funds as applied to administration of old age assistance act. Op. Atty. Gen. (521-2), Mar. 26, 1936.

Application for old age assistance is not application for poor relief. Op. Atty. Gen. (521-5), May 11, 1936.

Warrants for old age assistance must be issued even though county has no funds. Op. Atty. Gen. (521), May 14, 1936.

Medical and dental care furnished to recipient of old age assistance is a charge against poor fund of township or village in county operating under township system of poor relief and not a charge against county old age assistance funds. Op. Atty. Gen. (521b), June 16, 1936.

Matter of county bearing burden of burying persons who have been recipients of old age assistance is discretionary with county agency, and the state agency is authorized to reimburse the counties that have paid such expenses in accordance with provisions of act. Op. Atty. Gen. (521j-2), July 21, 1936.

County operating on cash basis pursuant to §1946-26½ may issue warrants or other evidence of indebtedness pursuant to §1938-23, without complying with the former, and may sell such evidence of indebtedness pursuant to §1944-1. Op. Atty. Gen. (107b-22), Dec. 15, 1936.

(c). Procedure stated for issuance of warrant for old age assistance. Op. Atty. Gen. (521-2), Apr. 21, 1936.

**3199-35. Mandamus to compel compliance.**—In the event that the county agency or the county auditor, or both, of any county fails to comply with the provisions of this act, mandamus proceedings may be instituted against such county agency or county auditor, or both, by the state agency or any interested party to compel such county agency or county auditor, or both, to comply therewith. (Jan. 27, 1936, Ex. Ses., c. 95, §25.)

**3199-36. Change of residence by recipient.**—Whenever a recipient changes his place of dwelling he shall notify the county agency in which his old age assistance certificate is in effect. If he removes to another county he shall declare whether such absence is temporary or for the purpose of taking up regular domicile. The county originally granting old age assistance shall continue to pay the same regardless of change of residence within the state by a recipient. (Jan. 27, 1936, Ex. Ses., c. 95, §26.)

County originally granting assistance continues to pay regardless of any change of residence within state. Op. Atty. Gen. (521t-1), May 15, 1936.

It makes no difference that a person after having been granted assistance removes to another county and resides at a home for the aged, provided such person pays for his necessaries furnished by the home. Op. Atty. Gen. (521t-1), June 4, 1936.

It is not permissible after pension has been granted and recipient has been absent and residing in another county for over a year for county agency to discontinue assistance on ground that recipient has established a new residence. Op. Atty. Gen. (521t-5), Apr. 22, 1937.

**3199-37. Funeral expenses paid by county—reimbursement by state.**—All funeral expenses paid under this act shall, in the first instance, be paid by the county in which the deceased received his old age assistance certificate; and the state shall reimburse said county for 50 per cent of the payments made for reasonable funeral expenses from state funds. (Jan. 27, 1936, Ex. Ses., c. 95, §27.)

Matter of county bearing burden of burying persons who have been recipients of old age assistance is discretionary with county agency, and the state agency is authorized to reimburse the counties that have paid such expenses in accordance with provisions of act. Op. Atty. Gen. (521j-2), Oct. 5, 1936.

County is entitled to reimbursement for state's one-half in case of a recipient whose certificate of assistance was suspended while he was an inmate of sanitarium until death. Op. Atty. Gen. (521j-2), Oct. 5, 1936.

County may pay \$100 towards funeral expenses, total expense of which exceeds said sum and where excess is paid by friends or relatives not liable for any such expenses, providing that total cost has been determined by county agency to be "reasonable funeral expenses." Op. Atty. Gen. (521j-2), June 7, 1937.

**3199-38. Assistance granted under prior law—modification or revocation.**—The claim of any person to any old age assistance existing on the effective date of this act, which claim has been granted under any old age assistance law of this state, shall continue as a valid order for old age assistance under this act for the amount previously approved; provided, however, that such old age assistance may be modified, suspended, or revoked by the county agency or the state agency, in the same manner as though said old age assistance was originally granted under this act. (Jan. 27, 1936, Ex. Ses., c. 95, §28.)

County cancelling payment of pension under old pension law prior to effective date of new Old Age Assistance Act cannot be compelled to continue to pay assistance under new act to an applicant residing in another county. Op. Atty. Gen. (521b-1), May 23, 1936.

County can be reimbursed out of state and federal fund for payment of assistance under new act to persons who have received pension and who have deeded their property to county under old pension law. Op. Atty. Gen. (521b-1), June 9, 1936.

**3199-39. Modification by groups.**—Neither the county agency nor the state agency shall have the power to modify any old age assistance as a group,

but must consider each application, each modification, and each old age assistance, individually, upon its merits. (Jan. 27, 1936, Ex. Ses., c. 95, §29.)

**3199-40. Separability of provisions.**—The various provisions of this act shall be severable. If any section or part of this act or the application of such provision to any person, board or circumstance shall be declared unconstitutional or invalid for any reason, the remainder of this act shall not be affected thereby. (Jan. 27, 1936, Ex. Ses., c. 95, §30.)

**3199-41. [Repealed.]**

This section, being §31 of Act Jan. 27, 1936, Ex. Ses., c. 95, was repealed Feb. 13, 1937, c. 26, §1. Sec. 2 of Act Mar. 25, 1937, cited, provides that the Act shall take effect from its passage.

State agency may not expend more than \$75,000 for administrative and supervisory expense. Op. Atty. Gen. (521b-2), Mar. 5, 1936.

Act authorizes state board of control to expend funds for administrative and supervisory expenses as needed and budget commissioner and director of personnel is authorized to make releases of such funds to meet such needs, and if funds should be exhausted, problem will be one for legislature to deal with when it is convened. Op. Atty. Gen. (521j-1), Mar. 24, 1936.

**3199-42. Repeal—suspension of prior laws—validation—act inoperative in event of repeal or invalidity of federal law—instruments, how signed.**—Upon the effective date of this act, Laws 1935, Chapter 357 [§§3183-1 to 3183-4, 3183-7 to 3183-10, 3183-18 to 3183-21, 3183-23 to 3183-28], are hereby expressly repealed; provided, however, that all tax levies, agreements, mortgages and liens made pursuant to Laws 1935, Chapter 357, are hereby in all respects validated and confirmed, and all funds received, or to be received, are hereby made available to the respective county agencies for the purpose of paying old age assistance and administrative costs authorized in this act. During the period that this act is in effect Mason's Minnesota Statutes of 1927 (1934 Supplement), Sections 3183-1 to 3183-22, inclusive, and all acts or parts of acts, general and special, inconsistent with the provisions of this act and not expressly repealed hereby are hereby suspended, except all tax levies, and reimbursements due counties from local units of government, made pursuant to these laws, which are hereby in all respects validated and confirmed and shall remain in full force and effect for the periods for which made; and all funds received or to be received are hereby made available to the respective county agencies for the purpose of paying old age assistance and administrative costs authorized in this act and shall be subject to this act. In the event that Title I of the Social Security Act, same being Public No. 271, of the 74th Congress [Mason's U. S. Code, Anno., title 42, ch. 7], shall at any time be repealed or become void by final decision of the supreme court of the United States, then this act shall become and be suspended and inoperative, and all laws and parts of laws hereby suspended shall again become operative and be in full force and effect. All instruments necessary to accomplish the intent of this section shall be signed by a majority of the members of the county agency in office on the date of such instrument, and when so executed shall be effective to accomplish the results herein provided for. (Jan. 27, 1936, Ex. Ses., c. 95, §32.)

Funds raised by counties under old law must be transferred to be expended as provided for in new act. Op. Atty. Gen. (521i-2), Mar. 19, 1936.

It is obligation of city to make additional levy to reimburse county for money paid by county as pension under Old Age Pension Law to residents of city and county operating under township system, but additional levy may only cover discounts on taxes legally granted and deficiencies arising due to forfeiture of land to state for nonpayment of taxes. Op. Atty. Gen. (521w), Aug. 27, 1936.

County board should not reconvey property deeded to county by recipient of pension under §3183-7, and payment of pension made before effective date of Old Age Assistance Act did not remain a lien upon the property until redeemed under that act, and lands acquired by county pursuant to §3183-7 are exempt from taxation while title thereto is in county, in view of §3199-42. Op. Atty. Gen. (521p-3), Sept. 14, 1936.

Section 3183-6 of old age assistance act has been suspended by this act, particularly by this section. Op. Atty. Gen. (521g-1), Mar. 15, 1937.

**3199-43. Reservation of right to amend repeal or suspend law.**—Anything in this act to the contrary notwithstanding, the legislature reserves the right to alter, amend, repeal or suspend at any time the whole or any part or portion of this act. (Jan. 27, 1936, Ex. Ses., c. 195, §33.)

**3199-44. Act dependent on federal aid—reduction of assistance.**—This act in its various terms and provisions, including the amount of old age assistance paid to an individual hereunder, is intended to comply with and give effect to the Social Security Act above referred to. In the event federal funds shall not be available or shall be inadequate to pay in full one-half of all old age assistance grants contemplated by this act, then and in such case, and until federal funds are available in full, the county agency of each county may reduce each old age assistance grant by an amount equal to such deficiency. (Jan. 27, 1936, Ex. Ses., c. 95, §34; Mar. 25, 1937, c. 100, §1.)

Sec. 2 of Act Mar. 25, 1937, cited, provides that the Act shall take effect from its passage.

County agencies must proceed to administer act irrespective of the availability of federal funds. Op. Atty. Gen. (521b-1), Mar. 9, 1936.

Expense incurred by county agency in obtaining appointment as special administrator to act as guardian for incapacitated recipient is proper administrative expense. Op. Atty. Gen. (521j-4), July 22, 1936.

Where no federal funds were available as to recipients of assistance who contracted with county for board at poor house, state funds may be used to reimburse county for payments made, but not to exceed thirty-three and a third per cent. Op. Atty. Gen. (521b-1), Dec. 28, 1936.

**3199-45. Appropriation.**—For the purpose of carrying out the provisions of this act, there is hereby appropriated out of the general revenue fund, from moneys not otherwise appropriated, the sum of \$2,750,000, or so much thereof as may be necessary, the same to be made available for the period commencing with the effective date of this act, and ending June 30, 1937; provided, that an amount not to exceed \$10,000 of the above appropriation may be used by the state agency to supplement reimbursements to those counties where the total assessed valuation, exclusive of moneys and credits, does not now or hereafter exceed \$1,000,000, as shown by the annual report of the state tax commission. All federal funds made available for the purposes of this act are hereby appropriated to the state agency to be disbursed and paid out in accordance with the provisions of this act. (Jan. 27, 1936, Ex. Ses., c. 95, §35.)

**3199-46. Anticipation of effective date.**—The state agency is hereby empowered to anticipate the effective date of this act, and until the effective date may expend not to exceed \$10,000 of the sum authorized in Section 31 [§3199-41], hereof. (Jan. 27, 1936, Ex. Ses., c. 95, §36.)

**3199-47. Effective date.**—This act shall take effect March 1, 1936, and said day shall be the effective date of this act. (Jan. 27, 1936, Ex. Ses., c. 95, §37.)

Appropriation to carry out provisions of Laws Ex. Ses., 1935, c. 95. Act Jan. 30, 1937, c. 4.

**PENSIONS FOR THE NEEDY ADULT BLIND**

**3199-51 to 3199-62. [Repealed.]**

Repealed Apr. 21, 1937, c. 324, §27, post, §3199-89, effective as provided by §3199-87.

Blind person having income of less than \$365 per year is a "needy" person, and he is entitled to a pension of \$360 per year in addition thereto. Op. Atty. Gen. (88a-5), July 8, 1936.

**3199-63. Definitions.**—The following words, terms and phrases shall for the purposes of this Act, have the following meanings:

(a) "County Agency" means a County Welfare Board.

(b) "State Agency" means the State Board of Control.

(c) "Applicant" means a person who has applied for assistance under this Act.

(d) "Recipient" means a person who has received assistance under the terms of this Act.

(e) "Assistance" means any money payments to blind persons in need as provided for in this Act.

(f) A "blind person" means a person who has no vision or who, with the help of eye glasses or other resources, has not sufficient ocular power for the ordinary affairs of life.

(g) The term "adult" shall mean any male or female person of the age of twenty-one or over.

(h) "Ophthalmologist" shall mean a physician licensed to practice medicine in this State, and who is actively engaged in the treatment of diseases of the human eye.

(i) "Rehabilitation" shall mean any medical or surgical treatment, vocational training or social service intended to improve the individual's physical, social and economic condition. (Apr. 21, 1937, c. 324, §1.)

**3199-64. Duties of state agency, for blind persons.**—The State Agency shall:

(a) Supervise the administration of assistance to the needy blind under this Act, and administer same in cooperation with county agencies, as hereinafter provided;

(b) Make all rules and regulations and take such action as may be necessary or desirable for the carrying out of the provisions of this Act. All rules and regulations made by the State Agency shall be binding on the counties, and shall be complied with by the respective County Agencies.

(c) Establish minimum standards for personnel employed by the State Agency in the administration of this Act, and make rules and regulations necessary to maintain such standards.

(d) Prescribe the form of and print blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable.

(e) Cooperate with the Federal Social Security Board created under Title 7 of the Social Security Act approved August 14, 1935, or other agency of the Federal Government, in any reasonable manner as may be necessary to qualify for Federal Aid for assistance to the needy blind and in conformity with the provisions of this Act; including the making of such reports in such form, and containing such information as the Federal Agency of the Federal Government may from time to time require, and comply with such provisions as such Board may from time to time find necessary to assure the correctness and verification of such reports;

(f) Appoint a suitable number of ophthalmologists, duly licensed to practice in Minnesota and actively engaged in the treatment of diseases of the human eye, to examine applicants and recipients of assistance to the blind;

(g) Fix and pay to ophthalmologists, from funds appropriated to the State Agency, fees for examination of applicants and recipients, and also pay necessary travel and incidental expenses incurred in connection with such examination;

(h) Maintain proper records of all persons making application for and receiving assistance under this Act;

(i) Promptly examine all applications and other supporting evidence submitted, as herein provided, and determine;

(1) Eligibility as to blindness, and;

(2) The possibility for rehabilitation or other constructive service.

(j) No application shall be approved until the applicant has been examined by an ophthalmologist designated or approved by the State Agency to make such examination and the possibility of a rehabilitation program determined by the State Agency. (Apr. 21, 1937, c. 324, §2.)

**3199-65. Duties of county agency, for blind persons.**—The County Agency shall render to the State Agency such service in connection with the adminis-

tration of this Act as the State Agency may, from time to time, find necessary and advisable. (Apr. 21, 1937, c. 324, §3.)

**3199-66. Public assistance.**—Assistance shall be given under this Act to any person who;

(a) Is an adult blind person found, by the State Agency, to be in need of financial assistance to enable him to pay for his maintenance or for other purposes;

(b) Has lost his eyesight while a resident of the State, or shall have resided in the State for a period of five years during the nine years immediately preceding the filing of the application for assistance, the last year of which shall be continuous and immediately precede such application;

(c) Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health;

(d) Is not an inmate of, or being maintained by any municipal, State, National, County or private institution at the time of receiving assistance. An inmate of an institution may, however, make application for such assistance, but the assistance, if granted, shall not begin until after he ceases to be an inmate of such institution;

(e) Has not made an assignment or transfer of property so as to render himself eligible for assistance under this Act, at any time within two years immediately prior to the filing of application for assistance pursuant to the provisions of this Act;

(f) Is not, because of his physical or mental condition in need of continuing institutional care;

(g) Is not, while receiving assistance under this Act, soliciting alms;

(h) Is not, while receiving assistance under this Act, receiving Old Age Assistance. (Apr. 21, 1937, c. 324, §4.)

**3199-67. Who may receive assistance.**—No person receiving a grant under this Act shall at the same time receive any other public relief from the State, or from any instrumentality or political subdivision thereof, except for temporary medical and surgical assistance. (Apr. 21, 1937, c. 324, §5.)

**3199-68. Amount of assistance.**—The amount of assistance which any recipient shall receive shall be determined by the State Agency, with due regard to the resources and necessary expenditures of the individual and the conditions existing in each case and in accordance with the rules and regulations made by the State Agency, and shall be sufficient, when added to all other income and support of the recipient to provide him with a reasonable subsistence compatible with decency and health. (Apr. 21, 1937, c. 324, §6.)

**3199-69. Applications.**—Application for assistance under this Act shall be made to the State Agency. The application shall be in writing, or reduced to writing in the manner and upon the form prescribed by the State Agency, and shall be verified by the oath or affirmation of the applicant. Such application shall contain a statement of the amount of property, both personal and real, in which the applicant has an interest, and of all income which he may have at the time of the filing of the application, and such other information as may be prescribed by the State Agency. (Apr. 21, 1937, c. 324, §7.)

**3199-70. Investigations.**—Whenever an application for assistance under this Act is received the State Agency shall immediately arrange for an examination as to the blindness of the applicant by an ophthalmologist designated by the State Agency, and shall cause to be made such social and economic investigation as may be necessary to determine facts supporting the application made under this Act, and such other information as may be required by rules and regulations of the State Agency.

The State Agency and the officers and authorized employees thereof shall have the power to conduct examinations and subpoena witnesses. The officers and employees designated by the State Agency may administer oaths and affirmations. (Apr. 21, 1937, c. 324, §8.)

**3199-71. Applicants must be examined.**—No application shall be approved until the applicant has been examined by an ophthalmologist designated by the State Agency to make such examinations. The examining ophthalmologist shall certify in writing upon forms prescribed by the State Agency as to diagnosis, prognosis, and visual acuity of the applicant. (Apr. 21, 1937, c. 324, §9.)

**3199-72. State agency to determine eligibility.**—Upon the completion of such examination the State Agency shall determine the eligibility of the applicant for assistance under the provisions of this Act, and determine the amount of assistance, if any, and the date on which it shall begin. In determining the amount of assistance account shall be taken of any income or property of the applicant, and any support which he may receive from other sources. The State Agency shall notify the applicant of its decision in writing. Assistance shall be paid monthly from funds appropriated to the State Agency for such purposes, and from moneys furnished to the State of Minnesota by the Federal Government for such purposes. (Apr. 21, 1937, c. 324, §10.)

**3199-73. Guardians.**—If, in the opinion of the State Agency a blind recipient is incapable of handling his own affairs, or the assistance received under this Act is not used for his best interests, the State Agency may arrange for the appointment of a legal guardian, and when appointment is made the State Agency shall pay the assistance through such guardian. (Apr. 21, 1937, c. 324, §11.)

**3199-74. Assistance not transferable.**—All assistance granted under this Act shall not be transferable or assignable, at law or in equity, and none of the money paid, or payable under this Act shall be subject to execution, levy, attachment, garnishment or other legal process, or to the operation of any bankruptcy or insolvency law. (Apr. 21, 1937, c. 324, §12.)

**3199-75. Appeals.**—If an application is not acted upon within a reasonable time after the filing thereof, the applicant may appeal to the State Agency in the manner and form prescribed herein. Any applicant who is aggrieved by any order or determination of the State Agency may request a reconsideration of his application and shall be entitled to a fair and impartial hearing before the State Agency. All requests for reconsideration by the State Agency shall be made in writing. After a fair and impartial hearing all decisions of the State Agency shall be binding, and the applicant may not again apply for assistance under this Act until the expiration of twelve months from date of his previous application, unless such application is approved by the State Agency.

The State Agency may make such additional investigation as it may deem necessary, and shall make such decision as to the granting of assistance and the amount of assistance to be granted the applicant as, in its opinion, is justified and in conformity with the provisions of this Act.

If any final decision or determination by the State Agency is not, in the opinion of the applicant or recipient, in conformity with this Act, either may within 30 days after such decision appeal from the decision or determination of the State Agency to the district court of the county in which the application was filed or in which the applicant resides, by serving a copy of a written notice of such appeal upon the State Agency and filing the original of such written notice, together with proof of service, with the clerk of the district court of the said county. Such appeal

may, upon not less than ten days' written notice, be brought on for hearing by either party before said district court at any general or special term, out of term, or in chambers; and in judicial districts having more than one judge, the senior or presiding judge shall hear the same or, if unable, shall refer the matter to some other judge in said district. Upon serving of such notice, the State Agency shall furnish all parties in interest a concise statement of the issues involved, copies of all supporting papers, a transcript of the testimony taken at the hearing before the State Agency and a copy of its decision. The court shall summarily hear and determine said appeal by a review of the records and proceedings had before the State Agency, and the State Agency shall enter an order in accordance with such determination, provided that the findings of the State Agency as to the facts, if supported by the evidence and in the absence of fraud, shall upon said appeal be conclusive and the order of the State Agency as to the amount of assistance to be granted shall be final if it is in conformity with the law. (Apr. 21, 1937, c. 324, §13.)

**3199-76. Reconsideration of assistance grants.**—All assistance grants made under this Act shall be reconsidered as frequently as may be required by the rules of the State Agency. After such reconsideration, the grant of assistance may be modified, suspended or revoked, if the State Agency finds that the recipient's circumstances have altered sufficiently to warrant any such action, provided that whenever assistance is reduced, cancelled, revoked or suspended the recipient shall be given an opportunity for a hearing as provided for in Section 13 [§3199-75]. (Apr. 21, 1937, c. 324, §14.)

**3199-77. Re-examinations.**—Every recipient shall submit to a re-examination as to his eyesight at least once in every three years, and at other times when required to do so by the State Agency, unless excused therefrom by the State Agency. He shall also furnish any information required by the State Agency for the purpose of establishing his continued eligibility for assistance under this Act. (Apr. 21, 1937, c. 324, §15.)

**3199-78. Who may not receive assistance.**—No assistance under this Act shall be granted or continued to any person who refuses medical, surgical or other treatment when his eyesight may be partially or wholly restored by such treatment, and a certificate in writing to that effect is made by three properly qualified and licensed ophthalmologists, one selected by the affected person, one selected by the State Agency, and one selected by the first two. Any person denied assistance upon this ground may appeal to the State Agency in the manner hereinbefore provided. (Apr. 21, 1937, c. 324, §16.)

**3199-79. Shall notify State Agency of acquisition of state property.**—If at any time during the continuance of assistance under this Act the recipient thereof becomes possessed of any property or income in excess of the amount stated in the application provided for in Section 7 of this Act [§3199-69], it shall be the duty of the recipient to notify the State Agency of the receipt, or possession of such property or income, and the State Agency may, after investigation, either cancel the assistance or alter the amount thereof in accordance with the circumstances. Any assistance paid after the recipient has come into the possession of such property or income and in excess of his need shall be recoverable by the State as a debt due the State. (Apr. 21, 1937, c. 324, §17.)

**3199-80. Assistance to be claim against estate of decedent.**—On the death of any recipient the total amount of assistance paid under this Act shall be allowed as a claim against the estate of such person. (Apr. 21, 1937, c. 324, §18.)

**3199-81. Recipient who moves to notify State Agency.**—Any recipient who moves to another county in this State shall notify the State Agency. (Apr. 21, 1937, c. 324, §19.)

**3199-82. Payments to be made monthly.**—All payments of aid to the blind provided for in this Act shall be made monthly, in accordance with rules and regulations of the State Agency. The State Agency shall certify to the State Auditor the amounts due the respective recipients. The amounts so certified shall be paid within ten days after such certification from the State Treasury upon the warrants of the State Auditor from any moneys available therefor. The moneys available to the State Agency to carry out the provisions of this Act, including all Federal funds available to the State, shall be kept and deposited by the State Treasurer in the "aid to the blind" fund and shall be disbursed upon warrants in the same manner as other State funds except that such warrants shall be countersigned by a member of the State Agency or some other person thereunto duly authorized by resolution thereof. Any interest accruing on such fund shall be credited to that fund. (Apr. 21, 1937, c. 324, §20.)

**3199-83. Fraudulent claims—penalty.**—Whoever obtains, or attempts to obtain, or aids or abets any person to obtain by means of a wilfully false statement or representation, or by impersonation or other fraudulent device, assistance to which he is not entitled, or assistance greater than that to which he is entitled, or knowingly aids or abets in buying or in any way disposing of the property of a recipient of assistance without the consent of the State Agency with intent to defeat the purposes of this Act, shall be guilty of a misdemeanor, and upon the conviction thereof shall be fined not more than One Hundred Dollars (\$100.00) or be imprisoned for not more than three months, or be both so fined and imprisoned in the discretion of the court. (Apr. 21, 1937, c. 324, §21.)

**3199-84. No vested rights in grants.**—All assistance granted under this Act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing Act that may hereafter be passed, and no recipient shall have any claim for compensation, or otherwise, by reason of his assistance being affected in any way by any amending or repealing Act. (Apr. 21, 1937, c. 324, §22.)

**3199-85. Aid to the blind Act.**—This Act may be cited as the "Aid to the Blind Act." (Apr. 21, 1937, c. 324, §23.)

**3199-86. Appropriation of U. S. aid.**—All monies received or to be received from the United States Government for aid to the needy blind are hereby appropriated for the purpose of carrying out the provisions of this Act. (Apr. 21, 1937, c. 324, §24.)

**3199-87. Effective date.**—This Act shall take effect upon approval by the Social Security Board, pursuant to the provisions of Title X of the Federal Social Security Act approved August 14, 1935 [Mason's U. S. Code, July 1935 Year Book, Title 1, c. 4], of a State plan for aid to the blind formulated by the State Agency pursuant to this Act. (Apr. 21, 1937, c. 324, §25; July 16, 1937, Sp. Ses., c. 77.)

**3199-88. Provisions severable.**—If any section of this Act shall be held unconstitutional, the remaining provisions shall be given full force and effect as if the part held unconstitutional had not been included herein. (Apr. 21, 1937, c. 324, §26.)

**3199-89. Laws repealed.**—Mason's Minnesota Statutes 1927, Section 4617-1, and Extra Session Laws 1935, Chapter 93, and all acts and parts of acts inconsistent with the provisions of this Act are hereby repealed. (Apr. 21, 1937, c. 324, §27.)

**Local and temporary acts.**

Laws 1937, c. 209, appropriates \$2,000,000 for distribution by executive council to communities and agencies for poor relief.

## CHAPTER 16

### Intoxicating Liquors

Act Apr. 13, 1933, c. 214, provides for convention to consider repeal of 18th amendment to federal constitution. It is temporary and specific, and is omitted from this compilation.

#### PROHIBITORY LAW

**3200. [Repealed].**

Repealed. Laws 1933, c. 130.

**1. In general.**

It would be unlawful for grocer to possess or to sell wort knowing that it was designed or intended for use in the manufacture of beer. Op. Atty. Gen., May 25, 1932.

**4. City ordinances.**

A complaint charging one only with possession of intoxicating liquor was insufficient under an ordinance prohibiting the maintaining of a liquor nuisance. State v. Tremont, 185M101, 240NW118. See Dun. Dig. 4938a.

**5. Indictment.**

Complaint held not sufficient to sustain conviction for manufacture of beer. Op. Atty. Gen., May 25, 1932. 174M457, 219NW770.

Indictment charging maintenance of a liquor nuisance, held sufficient. 177M278, 225NW20.

**6. Evidence.**

Evidence held to warrant conviction for maintenance of a liquor nuisance. 177M278, 225NW20.

Judicial notice is taken that moonshine is an intoxicating beverage. The word "potable" means drinkable. 177M500, 225NW431.

**3200-1 to 3200-4. [Repealed].**

This act (Mar. 27, 1933, c. 115) prohibited the manufacture, sale or transportation and the possession of liquor containing more than 3.2% of alcohol by weight. It was repealed by Act Jan. 6, 1934, Ex. Ses., c. 46, §58, post, §3200-58.

**Annotations under Act Mar. 27, 1933, c. 115.**

In view of Laws 1933, c. 115, a city may require from licensee a bond conditioned upon observance of city ordinance but not upon observance of state or federal law. Op. Atty. Gen., May 13, 1933.

This act repeals Mason's Stats., §3230. Op. Atty. Gen., Aug. 19, 1933.

**1.**

Wine of less than 3.2% of alcohol may be sold without restriction. Op. Atty. Gen., Apr. 20, 1933.

Any ordinance defining intoxicating liquor to mean any liquid containing more than ½ of 1 per centum of alcohol is in conflict with this act. Op. Atty. Gen., July 10, 1933.

Liquor or persons seen drinking intoxicating liquor in an automobile is not admissible for prosecution under this act, but would be admissible in prosecution for drunken driving or other criminal proceeding. Op. Atty. Gen., Sept. 18, 1933.

**2.**

Search warrants may not be issued under authority of this act. Op. Atty. Gen., Apr. 27, 1933.

There is now no law authorizing issuance of search warrant to discover evidence of violation of liquor laws. Op. Atty. Gen., June 27, 1933.

City of St. James under its home rule charter may authorize search warrants by city ordinance. Op. Atty. Gen., June 28, 1933.

There is now no law authorizing officers to make search for intoxicating liquors and only method of enforcing such laws is to hire detectives for purpose of making purchases. Op. Atty. Gen., June 21, 1933.

A sheriff has legal right to seize alcohol being transported in automobile, but he may not seize the vehicle. Id.

City, as condition of granting of beer license, may require applicant to sign waiver of rights as to searches and seizures. Op. Atty. Gen., July 20, 1933.

After repeal of 18th amendment and prior to action by legislature, it was lawful to transport non-beverage alcohol into state. Op. Atty. Gen., Oct. 31, 1933.

Advertisements for agents to sell hard liquor after it should become legal to sell it were not unlawful advertisements soliciting orders for intoxicating liquors. Op. Atty. Gen., Nov. 15, 1933.

Intoxicating wines and liquors could be manufactured, sold and transported into state between repeal of 18th