

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, construing the constitution, statutes, charters and court rules of Minnesota



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other political committee showing the total amount of receipts and disbursements, and for what purpose such disbursements were made. Such statement shall be filed with the auditor of the county in which such committee has its headquarters within thirty days after any primary or election. (12, c. 3, §19; Am. 27, c. 75.) [585].

Explanatory note.—The above subdivisions were omitted from Mason's Minn. Statutes, 1927, through error.

§563. Contributions by corporations prohibited.

Plaintiffs in a stockholders' action, themselves former directors of the corporation, held barred by acquiescence therein from complaining of unlawful expenditures by the management which were made pursuant to fixed policies of the company established and long maintained as such while plaintiffs were directors, no objection having been made before the institution of the action. *Barrett v. S.*, 237NW15.

§571. Trial—Court to determine merits.

Court properly refused to find that charges made were trivial, unimportant, and limited in character. 173M512, 217NW935.

§572. Contest, when and where commenced.

Corrupt Practices Act [538 to 579] does not apply to elections in townships of less than 5,000 population. 174M333, 219NW284.

§573. Disqualification of candidate, etc.

Where mayor of Winona was removed from office for violation of the corrupt practices act the vacancy should be filled by the council under Winona City Charter, chapter 2, section 11, and it is not necessary to call a special election under section 12 of that chapter. Op. Atty. Gen., June 9, 1931.

§579. Sections repealed.

Corrupt Practices Act of 1912 [§§538 to 579] does not apply to election of township officers in counties of less than 5,000 population. 174M333, 219NW284.

PENAL PROVISIONS.

§582. Bribery before or at elections.

Evidence held to sustain finding that defendant promised public employment in order to aid and promote his election. 173M512, 217NW935.

Whether an article upon which campaign literature is printed is a thing of value is not determined by the cost of producing the article but its value to the recipient for the purpose intended. Op. Atty. Gen., March 7, 1930.

CHAPTER 7

Counties and County Officers

CHANGING COUNTY SEATS.

§625. Petition for change.

175M486, 221NW870, note under §626.

§626. Form of notice.

Giving of notice of intention to circulate a petition is jurisdictional, but proof of the notice may be filed with the county auditor later and before he gives notice of calling of a special meeting to consider the petition. 221NW870. 174M397, 219NW458, note under §627.

§627. Duties of county board.

Voters who first give notice of intention to circulate a petition have the exclusive right of way over any other petition. 174M397, 219NW458.

§631. Conduct of election.

Laws 1929, c. 198, post, §401-1, did not change time of opening and closing polls under this section. Op. Atty. Gen.

POWERS AND DUTIES.

§638. Powers.

County is without power to appropriate money to pay expense of an association in prosecuting an action to determine validity of Laws 1929, c. 265, post, §§3036-10 to 3036-16, relating to public schools. Op. Atty. Gen., Jan. 4, 1930.

Where conveyance of mortgaged land was made to trustees for county in settlement of claim of county against insolvent depository bank, the county had power to pay off the mortgage. Op. Atty. Gen., Feb. 10, 1930.

County board had authority, on failure of a bank in which county funds were deposited to accept certificates of deposit to permit the bank to reopen, and to assume a mortgage to the bank in consideration of conveyance of mortgaged land to county. 180M423, 230NW891.

§643-1. Cities of first class and county may build court house.—Any county in this state

now or hereafter having within its limits a city of the first class may together with such city jointly acquire land for, erect, equip, furnish, maintain and operate a joint court house and city hall building to be used jointly by such county and city. (Act Apr. 26, 1929, c. 397, §1.)

§643-2. City and county to divide expense.—The cost and expense of acquiring land for, erecting, equipping and furnishing such building shall be borne equally by such county and such city. Such building shall not be erected or contracted to be erected and no land acquired therefor and no bonds shall be issued or sold by the county as hereinafter provided until the city has been authorized to issue bonds to defray its proportion of the cost of such land and building and the ordinances providing for the issuance of such bonds have been ratified by the vote of the electors of such city in the manner provided in the Charter of such city or by the laws of the State of Minnesota. (Act Apr. 26, 1929, c. 397, §2.)

§643-3. County board to issue bonds.—At any time after such city shall have been so authorized to issue bonds to defray its part of the cost of acquiring a site and of erecting said city hall and court house building, the Board of County Commissioners of any such county may issue and sell certificates of indebtedness or bonds of such county to defray the county's portion of the cost of acquiring land for, erecting, equipping and furnishing such building in an amount equal to the amount of bonds authorized to be issued by such city, without submission to the vote of the electors of such county, and the full

faith and credit of the county shall be pledged to the payment of the principal and interest of such certificates of indebtedness or bonds; provided, however, that in no event shall any such county issue its certificates of indebtedness or bonds for such purpose in an amount exceeding \$2,000,000. Such certificates of indebtedness or bonds may be issued in one or more installments, but the certificates of indebtedness, or bonds of each installment shall be serial bonds or certificates of indebtedness, a portion of which shall be payable each year after issue, but none of said certificates of indebtedness or bonds shall run for a longer term than 30 years from their date, and the Board of County Commissioners shall fix the denominations thereof and shall fix the dates of maturity of each installment so that the amounts necessary each year to pay the principal and interest maturing in such year, shall be approximately the same in each of the years during which the certificates of indebtedness or bonds of said installment shall run. Such certificates of indebtedness or bonds shall be sold in accordance with the provisions of Section 1943, General Statutes 1923, provided, however, that the rate of interest shall in no case exceed six per centum per annum. (Act Apr. 26, 1929, c. 397, §3.)

§643-4. Execution—Delivery.—Such bonds or certificates of indebtedness shall be executed in such manner as the Board of County Commissioners shall by resolution determine. The delivery of the bonds or certificates of indebtedness so executed at any time thereafter, shall be valid notwithstanding any change in such officers or in the seal of the county occurring after such execution. (Act Apr. 26, 1929, c. 397, §4.)

§643-5. Form of bonds and certificates of indebtedness.—Such bonds or certificates of indebtedness may be issued in coupon or registered form, and the Board of County Commissioners shall have authority in its discretion, to provide that bonds or certificates of indebtedness issued in coupon form, shall be exchangeable at the option of the holder for bonds or certificates of indebtedness in registered form, and vice versa, and the Board of County Commissioners shall have authority to cause to be prepared, to effectuate such exchange, new bonds or certificates of indebtedness in coupon or registered form, as the case may be, in such denomination or denominations as it may deem expedient, which shall be executed in such manner as said Board of County Commissioners shall determine. Any bond or certificate of indebtedness issued in exchange for a bond or certificate of indebtedness previously issued under the authority of this section, shall be in such form as the Board of County Commissioners shall determine, but shall bear upon its face a clause or recital indicating that it is issued in substitution for one or more bonds or certificates of indebtedness of the original issue, describing them by number or numbers so as to render possible the identification of such substituted bond or bonds, or certificate or certificates of indebtedness with the bonds or certificates of indebtedness originally issued. The Board of County Commissioners shall have authority to pass such resolutions as may be neces-

sary to carry out the powers hereby conferred, and prescribe such rules and regulations as it may deem expedient for the conversion of the bonds or certificates of indebtedness issued under the provisions of this act. (Act Apr. 26, 1929, c. 397, §5.)

§643-6. Tax levy.—The Board of County Commissioners shall levy a tax at the time and in the manner prescribed by Section 5, Chapter 131, General Laws of Minnesota 1927 [§1938-7], and amendments thereof, to pay the principal and interest of such bonds or certificates of indebtedness. This section shall not be construed as limiting the power of a municipality to levy taxes to pay its obligations issued hereunder, but the governing body of every municipality shall have the authority and it shall be its duty to levy any taxes necessary to provide revenue to pay such obligations. (Act Apr. 26, 1929, c. 397, §6.)

§643-7. Limitations.—The amount of indebtedness herein authorized to be incurred by any such county shall be in addition to and over and above any limits now fixed by law. (Act Apr. 26, 1929, c. 397, §7.)

§643-8. Judges to appoint building commission.—As soon as practicable after the Council of any such city and the Board of County Commissioners of any such county shall determine to proceed with the erection of a joint court house and city hall building, there shall be appointed by, and serve at the pleasure of, those persons who shall be judges of the district court of the judicial district of which such county may be a part (not acting in their judicial capacities), an Advisory Court House and City Hall Building Commission of nine members to be selected as follows: two members from the membership of the City Council of such city; two members from the membership of the Board of County Commissioners of such county; and five members at large who shall be freeholders and residents of such county, one of whom shall reside outside the limits of such city. (Act Apr. 26, 1929, c. 397, §8.)

§643-9. Procedure if judges fail to appoint.—If the said persons who shall be judges of the district court for any reason shall fail to make appointments to said Advisory Court House and City Hall Building Commission within 30 days after the City Council of any city and the Board of County Commissioners of any such county have determined to proceed with the erection of any such court house and city hall building, then such Advisory Court House and City Hall Building Commission consisting of nine members shall in such case be appointed as follows: four members to be appointed by the City Council of such city, two of which members shall be members of such City Council; four members to be appointed by the Board of County Commissioners of such county, two of which members shall be members of said Board of County Commissioners; the ninth member of said Commission shall be appointed by a majority vote of the members of said City Council and said Board of County Commissioners sitting in joint session. (Act Apr. 26, 1929, c. 397, §9.)

§ 643-10. Who may be members of commission.—No more than two members of said Advisory Court House and City Hall Building Commission shall be at any one time members of the Board of County Commissioners, and no more than two of such members shall be at any one time members of the Council, and in the event that any person appointed a member of said Commission who was not at the time of his appointment a member of either the City Council or Board of County Commissioners and shall subsequently become a member of either of said bodies, he shall thereupon cease to be a member of said Advisory Court House and City Hall Building Commission.

Immediately after the appointment of said Commission, the persons appointed as members thereof shall indicate their acceptance of their appointment in writing filed with the county auditor of said county.

In case any person appointed as a member of said Commission shall fail so to file his written acceptance of such appointment within 20 days after such appointment, or in case any member shall die, resign, or be removed from office, or in case any of the members of said Commission who were appointed from the membership of the City Council or Board of County Commissioners, shall cease to be members of said Council or Board, their successors shall be appointed in the manner and by the same persons as originally appointed such member.

Immediately upon the expiration of the 20 days following the appointment of the members of such Commission, or prior thereto upon the filing of such acceptance by all those appointed as members thereof, the chairman of the Board of County Commissioners shall call a meeting of such Commission and shall preside at the said first meeting. At such meeting the Commission shall select from its own members a chairman and such other officers as the Commission may deem necessary. (Act Apr. 26, 1929, c. 397, §10.)

§ 643-11. Duty of commission.—As soon as practicable after the appointment of the members of such Commission, the Comission shall proceed to select a site or sites for such building and may contract with the owners thereof for the acquisition of such site or sites by gift or purchase, which contract or contracts shall, however, be subject to ratification by the City Council and Board of County Commissioners; provided that if the site selected be not the site of any then existing court house and city hall building, then the site selected shall be a site located within one city block of the site of any existing court house and city hall building, providing, however, that the Commission shall not recommend erection of the Court House and City Hall on a new site, unless two-thirds of the personnel of the Commission are in favor thereof and are of the opinion and shall so state in the report of the Commission that the site of the existing Court House and City Hall can not be used for such Court House and City Hall in a manner as advantageous to the city and county as the proposed new site and shall embody in its report a statement of the facts upon which it bases its conclusions in this regard and such new site shall not be finally

selected until said report shall have been published in the daily newspapers of the city and an opportunity given for the public to present its objections thereto, at a hearing on a date not earlier than thirty days after such publication. As soon as practicable after the selection of a site or sites, as aforesaid, the Commission shall report to said City Council and said Board of County Comissioners, describing the property selected as a site for said building, and the price at which said properties can be acquired. Upon the filing of said report the said Board of County Commissioners and the said City Council shall consider said report and may either reject the same or ratify the action taken by the Commissioners and in the event that either or both of said bodies shall reject the report of the Commission, the matter shall be re-submitted to the Commission for further action. In the event that the said City Council and Board of County Commissioners shall approve the site selected by said Commission but shall not approve the price at which said site or sites can be acquired, then the said City Council and the said Board of County Commissioners shall thereupon proceed to acquire said property by eminent domain. The proceedings in eminent domain for the acquisition of said property may be instituted and carried to completion in the name of either said City or said County as may be determined by said City Council and Board of County Commissioners, and may be instituted and completed either under the laws governing the condemnation of land by counties or under the provisions of the charter of such city relating to the acquisition of land by eminent domain, or under the laws of the state relating to the acquisition by cities of land by eminent domain.

The cost of acquiring said land, whether acquired by purchase or eminent domain, shall be paid one-half by such county and one-half by such city; and in case the property is acquired by eminent domain in proceedings instituted and completed by such city, the county shall reimburse it for one-half of the cost of acquiring such land and one-half of the expense incident thereto; and if the proceedings are instituted and completed by such county, the city shall likewise reimburse the county. All land acquired as a site for such courts house and city hall building shall be owned jointly by such county and such city, and in case the entire tract is acquired by either such city or such county, it shall convey an undivided one-half interest thereof to the other upon reimbursement for one-half of the cost of acquiring the same. (Act Apr. 26, 1929, c. 397, §11.)

§ 643-12. To have plans and specifications drawn.—Either before or after the selection of the site of such building, the Commission shall cause to be prepared plans and specifications for such building and may employ architects, engineers, draftsmen and such clerical help as may be deemed necessary for the purpose of preparing such plans and specifications. The compensation of such employees shall be fixed by the Commission and shall be paid in equal parts by the city and county upon presentation of statements therefor certified to be correct by a majority of

such Commission, but all such contracts and employments shall be subject to approval by the City Council and Board of County Commissioners. Upon the completion of the plans and specifications for such building, the Commission shall submit the same to the City Council and the Board of County Commissioners for approval. Said Council and Board shall thereupon approve the proposed plans and specifications, or reject them and re-submit them to the Commission for further consideration; and when the plans and specifications are satisfactory to both the City Council and the Board of County Commissioners each of said bodies shall thereupon pass a resolution authorizing and instructing the said Commission to proceed with the work. (Act Apr. 26, 1929, c. 397, §12.)

§643-13. To advertise for bids.—Upon the completion of such plans and specifications and their approval or adoption by the City Council and the Board of County Commissioners, the said Commission shall proceed to advertise for bids or proposals, for all or any portion of the work or materials, or both, to be done, performed, or furnished in the construction of such building. Such advertisement for bids or proposals shall be published in the official paper of such city if there be one, and if not, in any paper published in such county to be selected by said Commission, and may be published in such other papers or publications either within or without the State of Minnesota as the Commission may deem advisable and shall be published for such length of time as the Commission may determine. All bids or proposals shall be sealed by the bidders or proposers and shall be filed with the Commission at or before the time specified in such advertising for the opening of bids or proposals. At the time and place specified in the advertisement for the opening of bids or proposals, the Commission shall meet, open the bids or proposals, and tabulate the same, and shall thereupon award the contract or contracts to the responsible bidder whose bid or proposal is the most favorable to the City and County, or reject all bids and proposals. And in the event that all bids or proposals are rejected the Commission may re-advertise for bids or proposals or may modify or change the plans and specifications and submit such modified plans and specifications to the City Council and Board of County Commissioners for approval and when such modified or changed plans and specifications are satisfactory to both the City Council and Board of County Commissioners, the plans and specifications shall be returned to the Commission and the Commission shall proceed to again advertise for bids or proposals in the manner hereinbefore provided. Any such contract awarded by the Commission shall be subject to approval by the City Council and Board of County Commissioners. (Act Apr. 26, 1929, c. 397, §13.)

§643-14. Certified checks with all bids.—Each person submitting bids or proposals under the terms of the preceding section shall file, with his bid or proposal a certified check in an amount prescribed in the specifications of said Commission for said building, to be retained as liquidated damages and divided

equally between the City and County in case of failure to enter into a contract if he is awarded the same.

All contracts shall be in writing and shall be made in the name of the County and City proposing to erect such building, and shall be executed in behalf of such county and city by the officers empowered by law or charter to execute contracts in behalf of such county and such city. All persons who may be awarded contracts in connection with the erection of such building shall be required to furnish bonds in the amount and in the form prescribed by the laws of the State of Minnesota relating to contracts for public improvements, and such bonds shall run to the County and City erecting such building. (Act Apr. 26, 1929, c. 397, §14.)

Commission for building a court house in St. Paul could accept lowest bid, though certified check lacked a hundred dollars of being 5 per cent of the amount of the bid due to error in computation. Op. Atty. Gen., June 8, 1931.

§643-15. Wage of employees.—Specifications for all such work shall contain a provision that skilled and unskilled laborers employed in such work shall be paid a wage equal to the wage required to be paid by contractors doing work for such city, if such city has in force an ordinance providing such a scale of wages. (Act Apr. 26, 1929, c. 397, §15.)

§643-16. Cost of removing and remodeling.—In the event the selected site be then occupied by an existing City Hall and Court House, such that temporary quarters must be provided for offices and officials located therein pending completion of the new building, the cost of any remodeling of such temporary quarters, and moving expenses incident to their occupancy shall be considered a part of the cost of the new building. (Act Apr. 26, 1929, c. 397, §16.)

§643-17. Commissions may appoint architects, etc.—The work of erecting, equipping and furnishing said building shall be conducted and completed under the direction and supervision of said Commission and the members thereof are charged with the duty of requiring the work to be done in accordance with the plans and specifications. The said Commission is hereby authorized to employ such architects, engineers, supervisors, inspectors, clerks, and other employees as the Commission may deem necessary or advisable to supervise and inspect the work and assist in the performance of the duties of the Commission, and said County and City shall pay the fees and salaries of such employees in the amounts fixed by the Commission, one-half by said County and one-half by said City, upon the presentation of statements therefor certified to be correct by a majority of said Commission. Such employments shall be subject to the approval of the City Council and Board of County Commissioners in the manner hereinabove provided. (Act Apr. 26, 1929, c. 397, §17.)

§643-18. Management of building.—If at the time of the erection of such building the County and City so erecting a court house and city hall shall then be jointly owning and operating a city hall and court house build-

ing under authority and power granted by law, the management of the new building shall be vested in the same persons or committees as managed the old building then jointly owned and operated by such City and County. In all other cases the management of said building shall be vested in a joint committee consisting of two members of the Board of County Commissioners selected by said Board, and two members of the City Council selected by such Council. The said committee shall have full charge and management of said building and shall have the power to appoint such employees as the said committee shall deem necessary for the proper care, management and operation of said building, the salary and compensation to be fixed by the said committee, and the Board of County Commissioners and the said City shall each provide an amount sufficient to pay one-half of the expense of operating said building. (Act Apr. 26, 1929, c. 397, §18.)

§643-19. To serve without compensation.—The members of the Advisory Court House and City Hall Building Commission and the members of the aforesaid joint committee of the City Council and County Board to manage said building, shall not receive any compensation for their services upon said Committee or Commission, and none of the members of said Advisory Court House and City Hall Building Commission shall have any financial interest in any of the contracts awarded by said Commission. (Act Apr. 26, 1929, c. 397, §19.)

§643-20. Lands not used to be sold.—In case any land or buildings owned and used by either said County or said City, or jointly owned and used by them shall not be required for the use of said County or City or both of them after the completion of the new building, said land and buildings shall be sold as soon as practicable and the proceeds placed in separate funds of the said County and City to be used for the payment of bonds or certificates of indebtedness authorized hereunder and court house and city hall bonds issued by any such City. The proceeds of such sales shall be paid into the County and City treasuries in the proportion of ownership of each in the real property so sold. So far as practicable the proceeds of such sales shall be used to pay a portion of the bonds or certificates of indebtedness maturing in each year after such sales in such manner as to make the annual payments from the proceeds of such sales as nearly equal as may be in each of the years in which bonds or certificates of indebtedness mature. No part of the proceeds of such sale shall be used to pay interest charges on any bonds so issued, and no part thereof shall be used for any purpose other than the payment of maturing bonds or certificates of indebtedness, in which case such surplus after the payment of all bonds or certificates of indebtedness, in which case such surplus shall be paid into the general sinking fund of such City and County. (Act Apr. 26, 1929, c. 397, §20.)

§643-21. May include auditorium in new building.—If any such city desires to construct an auditorium, such building may be included in the court house and city hall build-

ing if the Board of County Commissioners shall agree thereto and an agreement is reached between such Board of County Commissioners and the City Council of such city as to the cost of such addition to the court house and city hall building, and the entire amount of such additional cost arising from the inclusion of such auditorium building in the court house and city hall building, shall be borne by such city. Nothing herein contained shall require that in the event such auditorium is made a part of the city hall and court house building the city shall sell any existing auditorium building. In the event that such auditorium is included in the city hall and court house building, the management and control of such auditorium shall not be vested in the joint committee hereinbefore provided for to manage the city hall and court house building but the management and control of such auditorium shall be vested in such City. Any additional expense in the care, upkeep and maintenance of said court house and city building arising from the inclusion of such an auditorium shall be borne by such City. (Act Apr. 26, 1929, c. 397, §21.)

§643-22. Provisions severable.—This statute shall be liberally construed to effectuate its purpose, and in the event any section or clause hereof shall be invalid, the validity of the balance of the act shall not be affected. (Act Apr. 26, 1929, c. 397, §22.)

Sec. 23 repeals inconsistent acts. Sec. 24 provides that the act shall take effect from and after its passage.

§646. Claims against county—Appeal.

A transaction between a former sheriff and the county board held to be a settlement and not an allowance of a claim and the order of the county board was not appealable. 175M236, 290NW946.

COUNTY BOARD

§651. Boundaries of commissioner district.

—Each county shall be divided into as many districts, numbered consecutively as it has members of the board. In all counties such districts shall be bounded by town, village, ford, or precinct lines, shall be composed of contiguous territory and contain as nearly as practicable an equal population. Counties may be redistricted by the county board after each state or federal census; and when it appears that after a state or federal census 30 per cent or more of the population of any county is contained in one district, such county shall be redistricted by its county board.

Provided that the county board shall not have authority or jurisdiction to re-district a county unless said board shall cause at least three weeks published notice of its purpose to do so, stating the time and place of the meeting where the matter will be considered, to be published in the newspaper having the contract for publishing the commissioners proceedings for said county for the current year. One commissioner shall be elected in each such district who at the time of the election shall be a resident thereof, and the person so elected shall be entitled to hold said office only while he remains a resident of said commissioner district. When a county is redistricted there shall be a new election of

commissioners in all the districts of the county at the next general election. The board shall determine that not less than two nor more than three members of the board shall be elected for a term of two years and the remainder for a term of four years at the next general election. Thereafter all commissioners shall be elected for four years; provided, that where no change is made in the boundaries of a district, the commissioner in office at the time of the redistricting shall serve for the full period for which he was elected. (As amended Mar. 28, 1931, c. 105.)

For counties with not less than 500 nor more than 700 square miles and population of over 400,000 and containing a city of the first class, see Laws 1929, c. 381.

Such act repeals Sp. Laws 1881, c. 396; Sp. Laws 1889, c. 136; Sp. Laws 1891, c. 371.

Where more than 30% of the county's population is contained in any one commissioner district, the duty of redistricting is mandatory. Op. Atty. Gen., May 27, 1931.

Where county is redistricted, county commissioners whose districts are affected will have to run for office at the next general election. Op. Atty. Gen., May 27, 1931.

Redistricting takes effect at once, but commissioners whose districts have been changed serve as commissioners at large until new commissioners are selected at the next general election. Op. Atty. Gen., July 10, 1931.

§651-1. Redistricting commissioners' districts in certain counties.

Counties having population of more than 400,000, and area of not less than 500 and not more than 700 square miles, shall be divided into commissioner districts which may be changed in manner prescribed. Laws 1929, c. 381.

§656. Salaries of county commissioners in certain counties.

Compensation of Commissioners.

Counties with 41 to 43 congressional townships and 25,000 to 30,000 population. Laws 1929, c. 20, §1, as amended by Laws 1929, c. 161, §2, and amending Laws 1925, c. 91, §§8, fixes salary of commissioners at \$400 per year, and \$3 per day while engaged in official duties, and 9 cents mileage. But see §§254-47, 254-48 as to mileage. The act authorizes allowance of additional clerk with salary not to exceed \$80 per month.

Counties with 28 to 29 congressional townships and assessed valuation of \$11,000,000 to \$13,000,000. Act Mar. 22, 1929, c. 80, fixes salary at \$600 and mileage at 10 cents. But see §§254-47, 254-48, as to mileage.

Counties with 15 to 16 congressional townships, assessed valuation of \$12,000,000 to \$20,000,000, and population of 22,000 to 40,000. Laws 1929, c. 167, fixes salary of commissioners at \$600, and per diem of \$3 while in discharge of official duties, and 10 cents per mile for travel. But see §§254-47, 254-48, as to mileage.

Counties having more than 415,000 inhabitants. Act Apr. 25, 1929, c. 376, §1, fixes salary of commissioners at \$3,600 and traveling expenses as allowed by law, and amends Laws 1921, c. 202.

180M246, 230NW637.

Counties with assessed valuation between \$3,500,000 and \$6,000,000, and population between 10,000 and 12,500. Laws 1931, c. 14, fixes salary of county board members at \$325 per year.

Counties containing 36 congressional or 30 organized townships, and from 665,000 to 670,000 acres, and having assessed valuation of \$14,000,000 to \$20,000,000, and population between 22,000 and 30,000. Laws 1931, c. 27, fixes salary of county commissioners at \$60 per year, and mileage allowance at 10 cents per mile. But see §§254-47, 254-48.

Counties containing 17 or 18 congressional townships, having assessed valuation of \$5,000,000 to \$6,000,000, and population from 8,000 to 12,500. Laws 1931, c. 45, fixes salary of com-

missioners at \$325 per year, and legalizes prior payments.

Counties with area of 1,000,000 to 1,250,000 acres, and assessed valuation of \$10,000,000 to \$12,000,000. Laws 1931, c. 135, legalizes payments of \$400 per year previously made to commissioners.

Counties having 14 to 25 congressional townships, population of 29,000 to 33,000, and assessed valuation of \$24,000,000 to \$40,000,000. Laws 1931, c. 185, amends Laws 1921, c. 275, §1, and fixes the salary of commissioners at \$800 and traveling expenses not exceeding \$1,200 for all the commissioners in any one year.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to apply to counties as above.

Counties having 24,000 to 27,000 inhabitants, assessed valuation \$18,000,000 to \$23,000,000, and area of 22 to 24 congressional townships. Laws 1931, c. 274, allows commissioners traveling expenses not exceeding total of \$1,600 per year.

Laws 1931, c. 26, validates excessive payments to county commissioners in 1928, 1929 and 1930, in counties having assessed valuation of \$10,000,000 to \$15,000,000, and population, 12,500 to 14,000.

Under Laws 1923, c. 68, commissioner is not entitled to mileage, but only his actual expenses paid to third persons. Op. Atty. Gen., Oct. 10, 1929.

County commissioner investigating financial condition and status of children is not entitled to a per diem and mileage. Op. Atty. Gen., Sept. 18, 1930.

Under Laws 1931, c. 331, ante, §§254-47, 254-48, county commissioners are only entitled to be reimbursed at the rate of seven cents per mile for the use of their own automobiles in the performance of their official duties. Op. Atty. Gen., May 18, 1931.

If county is governed by this section, allowance to county commissioner for reimbursement for use of his car is limited by Laws 1931, c. 331, ante, §§254-47, 254-48. Op. Atty. Gen., June 4, 1931.

Laws 1921, c. 275, is complete in itself, and limitations contained in §657 do not apply to counties included. Op. Atty. Gen., Dec. 1, 1930.

§657. Compensation and mileage, etc.

County commissioner cannot under the guise of committee work actively supervise road work, but may do committee work in making a report on proposed work. Op. Atty. Gen., Oct. 15, 1929.

Limitations in this section do not apply to county commissioners coming within Laws 1921, c. 275. Op. Atty. Gen., Dec. 1, 1930.

This section is not affected by Laws 1931, ante, §§254-47, 254-48. Op. Atty. Gen., May 23, 1931.

Allowance of county commissioner governed by this section is not affected by Laws 1931, c. 331, ante, §§254-47, 254-48, as respects reimbursement for use of officer's own car. Op. Atty. Gen., June 4, 1931.

§660. Vacancy in board.

Auditor cannot call a meeting to fill vacancy in office of county commissioner, who proposes to tender his resignation, until the vacancy actually exists. Op. Atty. Gen., Dec. 1, 1930.

Where county commissioner died within thirty days before biennium election, board of appointment was without authority, but vacancy should be filled at the approaching election. Op. Atty. Gen., Oct. 21, 1930.

§662. Publication.

Whether the financial statement must be published in the official newspaper is not clear, though the Supreme Court has intimated (227 NW499) that it should be. Op. Atty. Gen., Feb. 13, 1930.

Contractor may bid for printing under this section without including in his bid the general county printing. Op. Atty. Gen., June 3, 1930.

Resolution and agreement by county board is valid, though not entered on the minutes and not published. 180M423, 230NW891.

Proposal of newspaper publishing county financial statement "and sufficient circulation to cover the city of W. K and rfd tributaries" held to require paper to mail the publication of the commissioners proceedings at the time in which it is printed in the newspapers. Op. Atty. Gen., Apr. 9, 1931.

§664. Office, supplies, etc., furnished for county officers.

County may pay part of telephone expense of commissioner at his private office, where no office or telephone is provided at the court house. Op. Atty. Gen., Mar. 12, 1929.

§666. Damaged records transcribed.

There is no legislation providing for the restoration of destroyed records. Op. Atty. Gen., May 20, 1931.

§667. Annual statement.

Requirement for the publication of a county financial statement is mandatory but the period of thirty days mentioned therefor is directory only. 173M350, 217NW371.

Three weeks publication is mandatory. 178M484, 227NW499.

Mandamus will not be granted to compel publication in only newspaper bidding under unlawful agreement between newspapers. 178M484, 227NW499.

Whether the financial statement must be published in the official newspaper is not clear, though the Supreme Court has intimated (178M484, 227NW499) that it should be. Op. Atty. Gen., Feb. 13, 1930.

§668. General powers of board.

Autorizes a county to expend its funds for construction and improvement of roads within a city of fourth class lying outside county, where such roads connect with street in city of first class within county. Tousley v. H. 234NW673. See Dun. Dig. 8476.

A county board cannot appropriate money to pay for a membership in the National Child Welfare Conference. Op. Atty. Gen., June 8, 1931.

Board of county commissioners cannot employ a full time deputy sheriff at a stated salary per year. Op. Atty. Gen., June 6, 1931.

County board had authority on failure of a bank, to accept certificates of deposit for the amount of a county deposit, to enable the bank to reopen, and as part of same agreement to assume payment of a mortgage to the bank in consideration of conveyance of mortgaged land to county. 180M423, 230NW891.

County board may transfer money from other funds when the poor fund is exhausted. Op. Atty. Gen., July 30, 1930.

(3).

Where old courthouse has burned, county board has authority to reconstruct the old courthouse or build a new one without a vote of the people. Op. Atty. Gen., July 13, 1931.

Whether or not county board may commence the construction of a courthouse which it knows cannot be completed without subsequent levies by its successors or without the subsequent issue of a bond issue, discussed. Op. Atty. Gen., July 13, 1931.

Powers of county boards of particular counties.

Counties with 25,000 to 29,000 inhabitants, and assessed valuation of \$20,000,000 to \$25,000,000. Laws 1923, c. 245, relating to war records, is amended by Laws 1929, c. 279.

Laws 1929, c. 131, authorizes counties having 28 to 29 congressional townships, assessed valuation of \$12,000,000 to \$14,000,000, and population of 25,000 to 28,000, to appropriate not more than \$500 in aid agricultural society fair.

Laws 1929, c. 298, authorizes counties having area of more than 5,000 square miles to expend not exceeding \$5,000 for each bi-annual period, clearing and improving rivers or creeks to prevent floods.

County board in counties having population 400,000 or over, with assessed valuation of

\$350,000,000, exclusive of money and credits, and having bonded debt of not exceeding \$9,000,000, authorized to construct or repair dams for improvement of navigable lakes. Laws 1929, c. 362.

County board in counties having tax assessed valuation of not less than \$350,000,000, exclusive of money and credits, and bonded debt not to exceed \$7,000,000, authorized to acquire easements for, and to improve roads leading from state trunk highways into congested portions of city of first class within county. Laws 1929, c. 364. Such counties also authorized to improve or aid in improvement of roads outside the county. Laws 1929, c. 365.

The classification of counties by chapter 365, Laws 1929, is sufficiently germane to the object of the act to sustain its constitutionality. Tousley v. H., 234NW673. See Dun. Dig. 8920.

Under Laws 1923, -c. 419, §21, authorizing county board to employ additional help for the various county offices, an "assistant to the county board" should be attached to the auditor's office, in view of §832. Op. Atty. Gen., July 3, 1930.

Under the last named section the county board cannot raise salaries fixed by law, but where it is authorized to fix a salary, such salary may be in excess of that of other persons in similar situations whose salaries are limited by law. Op. Atty. Gen., July 3, 1930.

Counties containing city of first class in which is located more than 95% of taxable property by valuation, authorized to create a board of public welfare. Laws 1929, c. 371.

Laws 1931, c. 62, authorizes counties having not less than 41 and not more than 43 congressional townships, and populations of not less than 25,000, and not more than 30,000, to levy tax for establishing jail.

Counties having assessed valuation of more than \$250,000,000 and area of more than 5,000 square miles. Laws 1931, c. 169, authorizes tax levy to aid agricultural society.

Counties having more than 150,000 inhabitants and area of more than 5,000 square miles. Laws 1931, c. 193, authorizes acquisition of auxiliary county hospitals.

Counties having area of over 5,000 square miles and having drainage ditches costing more than \$600,000. Laws 1931, c. 314, authorizes purchase of drainage equipment.

§669-12. Gifts, etc., of real property, etc.

Funds provided for the maintenance of county cooperative extension service in agriculture and home economics cannot be used to pay the compensation of a caretaker for land donated under Laws 1925, c. 13. Op. Atty. Gen., Jan. 15, 1930.

§669-15. Rewards, etc.

No particular person need be accused of the crime, but there can be no general offer of a reward as to crimes not yet committed. Op. Atty. Gen., Nov. 19, 1929.

§672-1. Counties may indemnify officers and employees.—The county boards of all counties in this state are hereby authorized to indemnify their officers and employes for loss or expense arising or resulting from claims for bodily injuries, death or property damage made upon such officers or employes by reason of their operation of motor vehicles while in the performance of their official duties, and to defend, in the names of and on behalf of such officers and employes, any suits brought against them to enforce claims, whether groundless or not, arising out of their operation of motor vehicles under such circumstances, and to compromise and settle any such claims or suits and to pay the amount of such settlements or compromises or the amount of any judgments rendered against such officers or employes on any such claims without first requiring such officers or employes to pay the same. (Act Apr. 24, 1931, c. 330, §1.)

County board may in its discretion give premiums on insurance policies insuring individual employes or groups of employes against liability, but the payment of such premiums does not impose any liability upon the county. Op. Atty. Gen., May 20, 1931.

§672-2. County board may pay premiums.—The county board at its discretion may pay the premiums on insurance policies insuring the individuals or groups of individuals referred to in Section 1 hereof against liability for injuries to person or property within the limitations of Section 1 hereof, and such payment of insurance premiums shall in no way impose upon any county any liability whatsoever. Such insurance may be written in any mutual company authorized to do business in this state. (Act Apr. 24, 1931, c. 330, §2.)

§672-3. Payments legalized.—When any county shall have heretofore paid insurance premiums for the purposes indicated in Section 2 hereof such payments are hereby legalized. (Act Apr. 24, 1931, c. 330, §3.)

§673. Free county libraries.

Moneys and credits are not to be included in arriving at all the taxable property against which the one mill tax may be levied for county library purposes. Op. Atty. Gen., Mar. 14, 1931.

§682-1. Hospitals—Additional expenditures—Etc.

Act authorizing counties having population of over 150,000, and area of over 5,000 square miles to erect or purchase an auxiliary county hospital. Laws 1931, c. 193.

§682-8. Bond issue in counties and cities maintaining board of control, etc.

See Laws 1929, c. 304, authorizing payment of attorney fees.

§683. Aid to hospitals.

Money cannot be borrowed from sinking funds to pay hospital aid, except temporarily under §869-1, and warrant for aid cannot be legally issued unless there is money available on hand or sufficient moneys to be received under a tax levy already made after paying warrants already issued and other obligations already incurred against the fund. Op. Atty. Gen., Dec. 6, 1929.

§705. Tuberculosis Sanatoriums—Establishment.

District entitled to state aid though one county has a Sanatorium, if such county sells its Sanatorium. Op. Atty. Gen., Apr. 9, 1929.

Unless county of proposed district is able, its share of cost by a tax levy in one year, the question of establishment and bond issue must be submitted to voters. Op. Atty. Gen., Apr. 9, 1929.

§707. Membership of commission for sanatorium controlled by two or more counties.

—Two or more counties may unite in acquiring, establishing, equipping or maintaining such sanatorium and in such case said commission shall be composed in the first instance of two members chosen from each county in such group of the county commissioners of each such county, and after the site for the sanatorium has been selected and has received the approval of the advisory commission of the Minnesota Sanatorium for Consumptives such commission shall be increased by the addition of a third member chosen from the county in which said sana-

torium is to be located, by the county commissioners thereof;"

Such site may include lands upon which there are already erected a building or buildings, if the same are suitable and can be utilized in whole or in part for sanatorium purposes.

"Under the first appointment one member from each county shall be chosen to hold office for two years and one for three years from the first Monday of the next July following such appointment, and the additional member thereafter chosen from the county in which said sanatorium is to be located shall be chosen to hold office for one year from the said first Monday of the next July, and thereafter the members chosen to succeed said first appointees at the expiration of their terms shall each hold office for the term of three years, and each appointee provided for in this section shall hold office until his successor is appointed and qualified.

"In any case where a group of two or more counties have jointly acquired, established, equipped or maintained a sanatorium, and one or more counties in such group desires to separate from such group for the purpose of alone, or with another county or group of counties, establish or maintain separate sanatorium under this act, such county or counties desiring to withdraw from said group shall in writing, request permission of the remaining counties in such group to do so and to fix and determine the financial obligation of the petitioner and of the other remaining counties of the group. In the event that the majority of such remaining counties shall fail to consent to such withdrawal within 90 days of such request, or consenting fail to agree on said financial obligation, the county or counties desiring such separation shall through the county attorney make a petition setting forth facts showing that it would better serve the interests of all concerned that such county, either alone or with another group, carry on its work, which petition shall be presented to the district court of any county affected by said proceeding. Upon the presentation of such petition the court shall fix a time and place of hearing, and by order direct the other interested counties to appear not less than twenty days after the service of notice thereof on the several county auditors of the interested counties. At the time so fixed, or at any other time designated, the court, without a jury, shall hear said petition and such evidence as may be adduced by the parties, and, if the petition be granted, by its order detach the petitioner from the group to which it belonged, and may annex the same to another group, and may fix and determine the financial obligation of the petitioner with respect to the group of counties to which it was formerly joined, and also to the group of counties to which it may be annexed. (As amended Apr. 11, 1929, c. 160.)

§711. Tuberculosis sanatoriums—residents—How admitted.—Any person who has been a resident of a county or counties, maintaining a tuberculosis sanatorium, throughout the year immediately preceding application, who is afflicted with tuberculosis, whether in

incipient or advanced stage, is eligible for care in such sanatorium and may apply for admission thereto, or anyone may apply on behalf of any such individual, and the superintendent shall when conditions so warrant admit said person to such sanatorium for care and treatment. Preference shall be given to patients in the most advanced stages of the disease except that applications of residents of a county or counties where a sanatorium is located shall always have precedence over applications of non-residents, regardless of the stage of the disease of such non-resident applicants. The superintendent of each county sanatorium shall keep lists of applications (resident and non-resident) numbered respectively in the order in which they are received. When the conditions warrant the admission of another patient, the superintendent shall give to the applicant who is first upon the resident list, or if there be no resident list then to the applicant who is first upon the non-resident list, an order for examination directed to one of the county examiners of the state sanatorium or to any licensed physician of the State of Minnesota residing in the county in which the applicant resides to determine that said applicant is afflicted with tuberculosis. The fee for each examination by examining physician shall be three dollars (\$3.00) payable out of the funds of the sanatorium for which the examination is made. The provisions of this section shall in no manner operate to abridge or repeal the provisions of Section 5383, General Statutes of 1923, relating to the commitment of persons afflicted with tuberculosis. (As amended Apr. 19, 1929, c. 255, §1.)

§722. Counties may be admitted to sanatorium groups.—If the board of a majority of the counties forming the group decide to admit such county, the auditors of such counties shall notify in writing the advisory commission of the Minnesota sanatorium for consumptives of the action taken. If the enlargement of the group by the admission of the applying county meets with the approval of such commission, it shall notify in writing the county auditor of each county affected, and the boards of those counties shall then proceed to perfect the enlargement of the group. (As amended Feb. 4, 1931, c. 6, §1.)

§723. County boards to meet.—Upon being notified of the approval by the State commission, the boards of the counties involved, or representatives designated by them, such representatives to be either members of the boards or the county auditors, shall meet and consider the conditions upon which the applying county shall be admitted with reference to the amount of money such applying county shall pay to the other counties, if any, on account of the funds expended by them in erecting and equipping the sanatorium being maintained and operated by them. The conditions agreed upon shall be set forth in writing and submitted to the county board of each county involved and if approved by the majority of the county boards, resolutions to that effect shall be adopted and upon the adoption of such resolution by the new county to be admitted and by a majority of the counties already within such group, the conditions agreed upon shall be binding on

all such counties and the applying county shall become attached to such group. After such resolutions are adopted certified copies thereof shall be filed in the office of the advisory commission of the Minnesota Sanatorium for Consumptives. (As amended Feb. 4, 1931, c. 6, §2.)

§726. Same—Appropriation.

County which has made an appropriation under §726-2 may make an appropriation under §726. Op. Atty. Gen., Mar. 7, 1930.

§726-1 to 726-3.

Superseded by §§726-3½ to 726-3½c.

County which has made an appropriation under §726-2 may make an appropriation under §726. Op. Atty. Gen., Mar. 7, 1930.

§726-3½. County Board may aid societies in certain cases.—The County Board of any county in this state now or hereafter having a population of not less than 220,000 nor more than 330,000 inhabitants may appropriate and expend not to exceed \$50,000 for the purpose of aiding any society, association or corporation, organized and existing for the purpose of giving medical attention to children afflicted with tuberculosis or whom such society, association or corporation has reason to believe may become afflicted with tuberculosis, in constructing and equipping additional buildings to any sanitorium now operated by any such society, association or corporation, for the purpose of caring and giving medical attention to such children. (Act Apr. 18, 1929, c. 228, §1.)

§726-3½a. May appropriate money.—Such County Board may for the purpose of carrying out the provisions of this act appropriate or expend any unexpended funds now in the county treasury of such county. (Act Apr. 18, 1929, c. 228, §2.)

§726-3½b. Limitations not to apply.—Such expenditure shall be over and above the limits now fixed by law. (Act Apr. 18, 1929, c. 228, §3.)

§726-3½c. Inconsistent acts repealed.—All acts or parts of acts inconsistent herewith are hereby repealed. (Act Apr. 18, 1929, c. 228, §4.)

§738-1. Lands owned and used by counties for agricultural fair purposes exempt from zoning ordinances in certain cases.—Whenever lands lying within the corporate limits of townships or cities of the first and second classes of the State are owned by a County and used for agricultural fair purposes, such lands and the buildings now, or hereafter erected thereon shall be exempt from the zoning, building, and other ordinances of such township or city. Provided further that no license or permit need be obtained from nor fee paid to such township or city in connection with the use of such lands. (As amended Apr. 15, 1931, c. 166, §1.)

§738-10. Same—tax levy.

Laws 1929, c. 178, authorizes counties with 24 congressional townships, population of 22,000 to 28,000, and assessed valuation of \$16,500,000 to \$22,000,000, to levy tax of not more than \$25,000 for purchase of fair grounds.

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

Explanatory note—Laws 1927, c. 111, is en-

titled: "An act authorizing counties having 20 townships, full or fractional, and an area of more than 454,000 acres of land and less than 500,000 acres of land to levy an annual tax for the aid of county agricultural societies."

Act authorizing certain county boards in counties with assessed value of \$250,000,000, and area of over 5,000 square miles to levy tax for relief of county agricultural societies. Laws 1931, c. 169.

§738-16. County Board may levy tax for agricultural societies.—That in addition to all other powers now or hereafter by law conferred upon county boards, authority hereby is given annually to levy by a four-fifths vote of the board a tax of not to exceed one-quarter of a mill upon all property subject to taxation, and from time to time to appropriate and pay over the proceeds of said tax, when collected, to any county agricultural society of its county which is a member of the state agricultural society, to assist such society in paying its financial obligations heretofore incurred. Provided, however, this act shall not apply to counties having authority to levy a greater tax under existing laws. (As amended Mar. 9, 1929, c. 48, §1.)

Under this section as amended by Laws 1929, c. 48, the county board has no power to make a conditional levy of taxes, and it has no power to take a mortgage from the agricultural society. The county has no authority to issue bonds for such purpose. Op. Atty. Gen., Dec. 18, 1929.

§738-17. Same—application.—This act shall not apply to counties in which there is a city of the first class. (Act Mar. 9, 1929, c. 48, §2.)

Laws 1929, c. 240, authorizes county boards of counties with assessed valuation of over \$300,000,000, and area of over 5,000 square miles to levy tax to aid county agricultural society.

§738-17½. Counties may aid poultry associations.—That the county board of any county is hereby authorized to appropriate annually moneys from the county treasury, not otherwise appropriated, in a sum not exceeding \$100 to aid any poultry association organized and existing in the county, provided, such poultry association holds at least one annual poultry exhibit and pays premiums thereat in at least the amount of such appropriation. (Act Apr. 19, 1929, c. 256, §1.)

§738-18. Appropriation by certain counties, etc.

Amended. Laws 1931, c. 164. The only change introduced is to permit appropriation to "not more than ten" fair associations.

§738-20. Certain counties may appropriate money to aid county agricultural societies.—That the county board of any county now or hereafter having a population of not less than 220,000 inhabitants nor more than 330,000 inhabitants which now owns or shall hereafter own the grounds, together with the buildings thereon, on which a county agricultural society, which is a member of the State Agricultural Society, holds an annual fair or exhibition may appropriate not to exceed \$7,000.00 for the purpose of remodeling and making additions to present buildings on said grounds and for paying off any indebtedness which shall now exist. (Act Apr. 25, 1929, c. 373, §1.)

§738-21. All acts or parts of acts incon-

sistent with the provisions of this act are hereby repealed. (Act Apr. 25, 1929, c. 373, §2.)

§739. Appropriation for agricultural development.

Amended by Laws 1929, c. 295. The only change introduced is to substitute "240,000" for "225,000."

§751. Maintaining water in certain lakes.

Improving navigable lakes.

Ramsey county may expend for maintenance of golf course constructed under Laws 1927, c. 209, the green fees and other revenues collected on the course, in addition to the expenditures under Laws 1917, c. 198, for the improvement of navigable lakes in the county. Op. Atty. Gen., Apr. 25, 1930.

§751-1. Acquisition of land, etc.

County establishing bathing beach is impliedly authorized to expend money for the operation thereof. Op. Atty. Gen., Apr. 24, 1930.

§756-5. Bathing beach in certain counties—etc.

County establishing bathing beach is impliedly authorized to expend money for the operation thereof. Op. Atty. Gen., Apr. 24, 1930.

§760. Commissioner to examine sites, etc.

Payment of flat rate per month for use by officer or employee of his own automobile in county business, irrespective of mileage traveled, is illegal. Op. Atty. Gen., Mar. 31, 1930.

§762. Observance of Memorial Day.

An appropriation to a village pursuant to which it expended money, did not lapse by reason of the failure of the village to submit a verified account during the same year. Op. Atty. Gen., Dec. 27, 1929.

§763. County board to establish a "Soldiers' Rest."

Act authorizing county board to assist in operation of veterans' rest camp. Laws 1931, c. 324, post, §4397-2.

§766. Claims to be itemized and verified.

School districts are not included in the word "municipality." 175M201, 220NW606.

Compliance with this section held shown. 178M411, 227NW358.

Claims against school districts need not be verified. Op. Atty. Gen., Jan. 18, 1930.

Village cannot take care of payment of wages of laborers by a pay roll system. Op. Atty. Gen., May 5, 1930.

§767. Verification.

School districts are not included in the word "municipality." 175M201, 220NW606.

Claims against school districts need not be verified. Op. Atty. Gen., Jan. 18, 1930.

§768. Auditing of claims.

School districts are not included in the word "municipality." 175M201, 220NW606.

§774. Election districts.

Electors cannot vote without a polling place and election officials, and in the absence of such place and officers they are not entitled to vote in an adjoining district; but voters cannot be deprived of their right to vote by failure to provide a place and officers, and the county board may at any time prior to the election designate a place and appoint election officers upon such reasonable notice as the circumstances will permit. Op. Atty. Gen., May 22, 1930.

§775. Judges of election.

The requirements of this section are directory

and not mandatory. So held with respect to a polling place in unorganized territory which became unavailable. Op. Atty. Gen., May 22, 1930.

§778. Members of board—offices—contracts.

Member of county board cannot sell materials to a contractor who is constructing a building under contract with the county. Op. Atty. Gen., June 12, 1931.

§784. Section corners.

Adverse possession up to boundary line. Paton v. M., 234NW459.

§786. Questions submitted to votes—ballot.

—Whenever the county board is authorized to do any act, incur any debt, appropriate money for any purpose, or exercise any other power or authority, only when authorized to do so by a vote of the people, the question to be voted upon may be submitted at a special or any general election, by a resolution specifying the matter or question to be voted upon, and, if it is to authorize the appropriation of money, creation of a debt, or levy of a tax, shall state the amount thereof. Notice of such election shall be given as in the case of special elections, and if the question submitted be adopted, the board shall pass an appropriate resolution to carry the same into effect. In all such elections the form of the ballot shall be: "In favor of (here state the substance of the resolution to be submitted), Yes No"—with a square opposite each of the words "Yes" and "No," in one of which the voter shall make a cross to indicate his choice; provided, that the county board may call a special county election upon any such question to be held within 60 days after a resolution of that effect shall be adopted by the county board. Upon the adoption of such a resolution the county auditor shall post and publish notices of such election as required by Laws 1929, chapter 297, section 6 [§270-6]. The election shall be conducted and the returns canvassed in the manner prescribed by said Laws 1929, chapter 297 [§§270-1 to 270-13], so far as practicable. (As amended Apr. 25, 1931, c. 384.)

ORGANIZATION OF TOWNS.

§788. Organization of towns—Number of petitioners.—Whenever a majority of the resident freeholders of any one, two, three, four or five congressional townships containing in the aggregate not less than twenty-five freeholders who are legal voters, petition the county board to be organized as a town, such board shall forthwith proceed to fix and determine the boundaries of such new town and name the same, and shall make and file with the auditor a full report of its proceedings in relation to the establishment thereof. For the purposes of the act the word "freeholders" shall be construed to include any person who is a legal voter in any such town occupying real estate therein under the homestead or preemption laws of the United States or under contract of purchase from any person or corporation or from the State of Minnesota. (As amended Feb. 18, 1931, c. 19.)

§789. Formation and alteration of towns.

Boundaries of town may be altered so as to add strip in which only one person resides, where such person signed the petition along

with the sufficient number of legal voters residing within the present limits of the town. Op. Atty. Gen., Mar. 20, 1931.

§790. Notice of hearing.

Hearing provided for relates only to proceedings had under §789. Op. Atty. Gen., Mar. 7, 1929.

TERMS OF CERTAIN COUNTY OFFICERS.

§822. County board to fill vacancies.

Editorial note: This section seems to supersede §250 as to power to fill vacancy.

TRANSPORTATION FACILITIES FOR COUNTY OFFICERS.

§822-1. Certain counties authorized, etc.

Laws 1931, c. 42, authorizes county board in counties having over 200,000 inhabitants, and area of over 5,000 square miles, to furnish indemnity insurance to County officers operating motor vehicles and equipment in county business.

Payment of flat rate per month for use by officer or employee of his own automobile in county business, irrespective of mileage traveled, is illegal. Op. Atty. Gen., Mar. 31, 1930.

Act relating to traveling expenses for county commissioners in counties having population of 24,000 to 27,000, assessed valuation of \$18,000,000 to \$23,000,000 and 22 to 24 congressional townships.

§822-2. Sheriff's expense in certain counties.—That in all counties in this state that now have or may hereafter have, according to the last completed state or national census, a population of not less than 220,000 inhabitants, and less than 330,000 inhabitants, the sheriff of said county shall be allowed a sum of not more than \$7,000.00 for the year 1932 and not more than \$2,500.00 per annum thereafter, to be used for the purchase, care, maintenance, operation, upkeep of automobiles, and insurance, including liability and property damage covering the operator of the automobiles, firearms and other necessary equipment and paraphernalia to be used in the performance of the duties pertaining to his office. (Laws 1929, c. 136; Apr. 24, 1931, c. 313.)

See §§254-47, 254-48.

COUNTY AUDITOR.

§826. Bond.

A county auditor is not liable on his bond for a false certificate as to tax liens on lands where no damage resulted to a person relying on such certificate. 181M334, 232NW339. See Dun. Dig. 2309.

§832. Clerk of county board.

Resolution and agreement by county board is valid, though not entered on the minutes and not published. 180M423, 230NW891.

An "assistant to the county board" employed under Laws 1923, c. 419, §21, should be attached to the auditor's office, in view of this section. Op. Atty. Gen., July 3, 1930.

§836. Disbursements—Warrant.

County held estopped to assert set-off against warrants. 180M423, 230NW891.

§836-1. Certain records may be destroyed.

—That the auditors of the several counties be and they hereby are authorized, with the consent and approval of their county boards and judge of the district court, to destroy the following vouchers, files, records and papers

of their offices at the time and under the conditions herein specified:

1. Claims and vouchers paid by the county more than 20 years prior to such destruction;

2. Receipts for taxes paid more than 20 years prior thereto;

3. Treasurers' checks paid more than 10 years prior thereto;

4. Receipts for mortgage registration taxes paid more than 20 years prior thereto;

5. Miscellaneous receipts, delinquent tax statements and miscellaneous papers and correspondence bearing dates more than 20 years prior thereto;

6. With the written approval of the treasurer county warrants paid more than 20 years prior thereto; and

7. All ballots and election returns, except the abstract of the county canvassing board, four years after the date of the election.

Provided, however, that the said auditor, instead of personally destroying any miscellaneous papers and correspondence, or any other documents, instruments, or papers which may be of historical value, shall forward the same to the historical society, St. Paul, Minnesota, and such society is authorized to permanently preserve any matter found therein deemed by it to be of historical value and to destroy all other documents, papers and matters so received by it. (As amended Mar. 9, 1929, c. 66, §1.)

This statute may be taken as an indication as to the length of time ballots cast at a municipal election in a city of the first class must be held before they may be lawfully destroyed. Op. Atty. Gen., Jan. 27, 1931.

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

Laws 1931, c. 103, legalizes payments of salaries under this section.

Laws 1931, c. 103, legalizes salaries paid under Laws 1927, c. 383. Op. Atty. Gen., July 11, 1931.

Laws 1927, c. 383, must be construed so as to be limited to cases where the reduction in assessed valuation occurs during the term of office of an incumbent, and the authorization to pay the old salary expires at the expiration of that term. Op. Atty. Gen., July 11, 1931.

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

Particular counties.

Counties having 38 to 42 congressional townships, and assessed valuation of \$8,000,000 to \$12,000,000. Laws 1929, c. 37, §2, as amended by Laws 1931, c. 254, fixes salary of auditor at \$2,500 and \$2,400 for clerk hire.

Counties with 60 to 80 congressional townships and 45,000 to 75,000 inhabitants. Act. Mar. 9, 1929, c. 69, fixes salary of auditor at \$3,000.

Counties with 41 to 43 congressional townships and 25,000 to 30,000 population. Laws 1929, c. 161, §1 amends Laws 1925, c. 91, §2, and fixes the salary of the auditor at \$2,700 and authorizes allowance of clerk hire not to exceed \$2,400 per year, and also additional clerk at not more than \$80 per month.

Counties having 220,000 to 330,000 inhabitants. Laws 1927, c. 420, §1, amending, etc., is amended by Laws 1929, c. 305, by fixing salary of stenographer at \$1,380.

Laws 1929, c. 341, §2, post, §997-4, fixes salary at \$6,000, with additional \$500 allowed if acting as member of a municipal building commission, in counties of 415,000 population or over.

Counties with area of not more than 23 and not less than 20 congressional townships, and

assessed valuation of not more than \$6,000,000. Laws 1931, c. 15, §1, fixes salary of auditor at \$2,000 in addition to fees, and \$1,500 for clerk hire. Effective Jan. 1, 1931.

Counties having assessed valuation of \$18,000,000 to \$30,000,000, containing 12 to 16 congressional townships, and population of 29,500 to 30,000. Laws 1931, c. 191, amends Laws 1923, c. 150, §1, and fixes salary of auditor at \$3,000 commencing Nov. 19, 1930.

Counties containing 55 to 57 congressional townships and assessed valuation of \$5,000,000 to \$12,000,000. Laws 1931, c. 191, allows county auditor clerk hire sum representing not more than one-third of one mill on assessed valuation.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to apply to counties as above.

Counties having population of 380,000 or over. Laws 1931, c. 271, amends Laws 1921, c. 133, §8, as amended by Laws 1923, c. 419, §8, as amended by Laws 1925, c. 398, §8, as amended by Laws 1927, c. 426, §8, and fixes salaries of deputies and assistants in auditor's office as follows: chief deputy \$3,600; chief accountant \$3,600; deputy to act as clerk of county board \$3,000; deputy \$2,500; draftsman \$2,400; two assistant draftsmen \$2,300 each; two bookkeepers \$2,000 each; two settlement clerks \$2,200 each; six deputies \$2,200 each; three clerks \$2,100 each; four clerks \$1,900 each; seven clerks \$1,800 each; eight clerks \$1,500 each.

Counties having 70 to 80 congressional townships and assessed valuation of \$2,000,000 to \$5,000,000. Laws 1931, c. 284, amends Laws 1921, c. 351, §1, by making the act apply to counties described above.

COUNTY TREASURER.

S839. Persons eligible.

This section is unconstitutional if construed to require a county commissioner to resign before a primary election to determine his candidacy for the office of county treasurer. Op. Atty. Gen., March 22, 1930.

S840. Bonds of county treasurers, etc.

Liability under official bonds extended to faithful performance of duties under §6296. See Laws 1929, c. 200, 173M283; 217NW354.

Payment of part of premium by county treasurer which the law requires the county to pay was not a voluntary payment of the obligation of another. 174M281, 219NW96.

S843. Receipt and payment of money.

Where administrator deposits unclaimed money of heir with county treasurer, it may be impounded by garnishment by creditor of heir. 171M280, 214NW26.

S844. Board of Auditors.

A county treasurer has no duty in designating depository banks for county funds, nor in approving the depository bonds, and the fact that such treasurer owned a few shares of stock in a bank does not prevent that bank from becoming a de jure depository of county funds. Co. of Marshall v. B., 234NW1. See Dun. Dig. 2263b, 2323(77), 2699.

S846. Funds, where deposited.

County had preference as to tax money deposited in bank by taxpayer to credit of county. 176M594, 224NW159.

Agreement of county board to accept certificates of deposit for county funds to enable failed bank to reopen held not to amount to designation of bank as county depository. 180M423, 230NW891.

A county treasurer has no duty in designating depository banks for county funds, nor in approving the depository bonds, and the fact that such treasurer owned a few shares of stock in a bank does not prevent that bank from becoming a de jure depository of county funds. Co. of Marshall v. B., 234NW1. See Dun. Dig. 2263b, 2323(77), 2699.

Op. Atty. Gen., Mar. 5, 1929; note under §1973-1.

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

Where county treasurer has made deposits in excess of amount of capital stock and surplus, pledged securities deposited with the treasurer may be held only until the amount legally deposited is paid and the balance must be returned for the benefit of general creditors of the bank. Op. Atty. Gen., Dec. 12, 1929.

This section applies to national banks as well as to state banks, and is mandatory. Op. Atty. Gen., Aug. 26, 1930.

County treasurer who permits money to remain in a bank after its term as depositary has expired is liable for any loss that might result by reason of the funds being permitted to remain in such bank. Op. Atty. Gen., June 19, 1931.

§848. Bonds of depositaries.

224NW159; note under §846.

The debtor of an insolvent bank when sued by its received, cannot set off his liability as a surety upon a depository bond. 172M80, 214 NW792.

Surety cannot be relieved from liability until the term of the bond expires. Op. Atty. Gen., Oct. 3, 1930.

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

Surety on bond of depository for county funds is liable for money remaining on deposit with the bank at the expiration of its two-year term, but for safety the county should demand the deposit even though the immediate withdrawal thereof would result in closing of the bank. Op. Atty. Gen., June 19, 1931.

§849. Proposals by banks.

A new advertisement and a new assignment and approval of collateral must be made every two years, a mere renewal of the former arrangement being insufficient. Op. Atty. Gen., Dec. 18, 1929.

§856. Exemption from liability.

County treasurer held not liable on his bond by reason of failure of depository bank Co. of Marshall v. B., 234NW1. See Dun. Dig., 2323 (77), 2699.

§869. Payment of orders or warrants.

County cannot pay interest on registered warrant until the principal is paid, except ditch warrants (Mason's St. 1927, §6840-108). Op. Atty. Gen., Aug. 10, 1929.

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

Laws 1927, c. 147 [2620-5 to 2620-13] is valid. 171M312, 213NW914.

§871-1. County Treasurer may receive fees and mileage in certain cases.—That in counties now having a population of less than 75,000 the county treasurer shall in attending the opening of safety deposit boxes pursuant to Section 2303, General Statutes 1923, receive from the county his actual expenses for his services in attending the opening of such safety deposit boxes, for which actual services he shall file a claim with the board of county commissioners of his county and have the same audited and allowed as are other claims against the county. (Act Apr. 12, 1929, c. 172.)

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

County treasurer is not entitled to keep fees collected for issuance of certificates for search of tax records, but must turn them into the county treasury. Op. Atty. Gen., April 22, 1931.

Particular counties.

Counties of 38 to 42 congressional townships and assessed valuation of \$8,000,000 to \$12,000,000. Laws 1929, c. 37, §3, fixes salary of treasurer at \$2,500, and \$1,800 for clerk hire.

Counties with 60 to 80 congressional townships and 45,000 to 75,000 inhabitants. Act Mar. 9, 1929, c. 69, fixes salary of treasurer at \$3,000. Sp. Laws 1891, c. 423, repealed.

In counties containing 30 townships, having total area of 665,000 acres, and assessed valuation of not less than \$16,000,000, and not more than \$20,000,000. Laws 1929, c. 107, 307; Laws 1931, c. 28. Salary is fixed at \$3,000, and payments made under 1929 acts are validated.

Counties with 20 to 25 organized townships outside cities and villages, assessed valuation of \$29,000,000 to \$35,000,000, and population of 23,000 to 36,000. Act Mar. 28, 1929, c. 108, fixes salary of treasurer at \$3,000.

Counties with not less than 48 townships, area of 1,000,000 to 1,500,000 acres, population of 15,000 to 30,000, and assessed valuation of \$10,000,000 to \$25,000,000. Act Mar. 3, 1929, c. 119, authorizes allowance for clerk hire not exceeding \$1,800 per year.

Counties with 41 to 43 congressional townships and population of 25,000 to 30,000. Laws 1929, c. 161, §4 amends §15, c. 91, Laws 1925, and authorizes additional clerk with salary not to exceed \$80 per month.

Counties with assessed valuation of \$8,000,000 to \$9,500,000, and having 16 to 18 townships. Laws 1929, c. 238, authorizes increase of salary of treasurer by 25 per cent, including years 1927 and 1928.

Counties with population of over 150,000, and area of 5,000 square miles or more. Laws 1921, c. 492, §18, is amended by Laws 1929, c. 243.

Counties of over 400,000 population. Laws 1923, c. 419, §16, as amended by Laws 1925, c. 398, §3, is further amended by Laws 1929, c. 301.

Counties with 220,000 to 330,000 population. Laws 1929, c. 338, amends G. S. 1913, §§874, 875, as amended by Laws 1927, c. 420, §2.

Counties with not less than 43 and not more than 45 congressional townships, with assessed valuation of not less than \$14,000,000 and not more than \$18,000,000. Act Apr. 25, 1929, c. 384, repeals §3, c. 437, Laws 1921, and fixes salary of treasurer at \$2,820 and allows \$2,800 for clerk hire.

Counties having area of not more than 23 and not less than 20 congressional townships, and assessed valuation of not more than \$6,000,000. Laws 1931, c. 15, §2, fixes salary of treasurer at \$2,000, in addition to fees, and \$600 for clerk hire. Effective Jan. 1, 1931.

Counties containing 55 to 57 congressional townships and assessed valuation of \$5,000,000 to \$21,000,000. Laws 1931, c. 191, allows treasurer clerk hire at sum representing one-fourth of one mill on assessed valuation.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to make amended act apply to counties as above.

Counties having 70 to 80 congressional townships and assessed valuation of \$2,000,000 to \$5,000,000. Laws 1931, c. 284, amends Laws 1921, c. 351, §1, by making the act apply to counties described above.

REGISTER OF DEEDS.

§877. Tract Index books.

If tract index in register of deeds' office is so incomplete and unreliable as to be unfit for use, county may purchase a new one. Op. Atty. Gen., Feb. 29, 1929.

§877-5. County Board may issue bonds to pay for tract index in certain counties.—The Board of County Commissioners of any county in this state now or hereafter having property of an assessed valuation of not less than Three Hundred Fifty Million Dollars exclusive of money and credits, and having a bonded indebtedness of not to exceed Nine

Million Dollars 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 under the provisions of Chapter 522, Laws of 1921 [§§2640, 2641], is hereby authorized by resolutions duly passed by a majority vote of such Board, to issue and sell negotiable bonds of such county in such amount as it shall deem necessary not to exceed, however, One Hundred Thousand Dollars par value, for the purpose of providing funds with which to pay the cost of compiling, acquiring or purchasing for such county a tract index of lands therein situated, such tract index to be compiled, acquired or purchased and maintained pursuant to the provisions of Section 534, Revised Laws of 1905, as amended and Chapter 19, General Laws of 1927 [Mason's Minn. St. 1927, §877]. (Act Apr. 18, 1929, c. 227, §1.)

§877-6. Bonds—Rate of interest—Date of maturity.—The Board of County Commissioners of any such county may issue and sell the bonds of the county for the purposes hereinbefore specified not exceeding one hundred thousand dollars par value of such bonds, the principal of which bonds shall mature and be payable in not more than 15 annual installments as nearly equal as practical, the first annual installment whereof shall mature in not more than 3 years from the date of the issuance of such bonds. Such bonds shall be sold in the manner provided for in Section 1943, General Statutes of 1923 and acts amendatory thereof; but the rate of interest shall in no case exceed 5 per cent per annum, payable annually or semi-annually. Such bonds shall be signed by the chairman of the board of county Commissioners and attested by the auditor of such county and sealed with his official seal and shall have proper interest coupons attached.

The auditor shall keep a record of all bonds issued under the provisions of this act which record shall show the date, number and amount of each bond, rate of interest, time when due and the name of the person to whom issued. (Act Apr. 18, 1929, c. 227, §2.)

§877-7. Funds to be held by county treasurer.—The proceeds of the sale of such bonds shall be placed with the county treasurer of such county to the credit of the tract index fund and shall be used in accordance with and for the purposes described in this act and for no other purpose whatsoever. (Act Apr. 18, 1929, c. 227, §3.)

§877-8. Tax levy.—The County Board shall levy a tax at the time and in the manner prescribed by Section 5, Chapter 131, General Laws of 1927 [1938-7], and acts amendatory thereof to pay the principal and interest of such bonds; the full faith and credit of the county shall be pledged to the payment of the principal and interest of such bonds. (Act Apr. 18, 1929, c. 227, §4.)

§877-9. Inconsistent acts repealed.—Any acts or parts of acts inconsistent herewith are hereby repealed. (Act Apr. 18, 1929, c. 227, §5.)

§895. Consecutive numbering.

Where two mortgages were filed for record at the same moment and register of deeds gave one bearing an earlier date of filing number just ahead of the other that was *prima facie* evidence and nothing more that such mortgage took priority over the other. 176M559, 223NW 925.

§897-1. Salary of deputy register of deeds in certain counties.—The county board of every county having a population of less than 75,000 inhabitants, may by written order to be filed in the office of the county auditor allow one deputy register of deeds in such county, compensation for his or her services as such deputy, not exceeding \$900.00 per year. Provided, that in all counties in this state now or hereafter containing not less than 22 and not more than 25 organized towns (not intending cities and villages), and which counties now have or hereafter may have a population of not less than 29,000 and not more than 33,000 inhabitants, according to the last preceding federal or state census, the county board may, by written order to be filed in the office of the county auditor, allow one deputy register of deeds in such county, the compensation for his or her services as such deputy not exceeding \$1200.00 per year. (L. 1911, c. 382, §1; L. 1917, c. 83; Laws 1927, c. 207; Apr. 9, 1931, c. 39, §1.)

§897-2. Effective January 1, 1931.—This act shall be effective from and after January 1, 1931, and in each county of the state having a population of not less than 29,000 inhabitants and not more than 33,000 inhabitants, according to the last federal census, in which a deputy register of deeds has actually been paid a salary in excess of the amount allowed by law but not in excess of the amount fixed by said Laws 1927, Chapter 207, such payments of salary are legalized and made valid. (Act Apr. 9, 1931, c. 139, §2.)

§904-2. Same—Contents—Supplemental abstracts.

Compensation of Register of Deeds in particular counties.

Counties with 60 to 80 congressional townships and population of 45,000 to 75,000. Act Mar. 9, 1929, c. 69, fixes salary of register of deeds at \$3,000.

Counties with 60 to 80 congressional townships and 45,000 to 75,000 inhabitants. Act Mar. 26, 1929, c. 87, allows register of deeds to collect fees as provided by law, including 20 cents an entry for abstracts of title, and not to exceed \$3,500 per year for clerk hire.

Counties with 41 to 43 congressional townships and population of 25,000 to 30,000. Laws 1929, c. 161, §4, amends Laws 1925, c. 91, §15, and authorizes allowance of additional clerk with salary not to exceed \$80 per month.

Laws 1931, c. 139, amends Laws 1911, c. 382, §1, as amended by Laws 1917, c. 83, and Laws 1927, c. 207. See §§897-1, 897-2.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to make amended act apply to counties as above.

Laws 1923, c. 419, §12.

County board is not authorized to employ "deputies" and fix their compensation otherwise than as fixed by this section, but the board may employ assistants under §21, and fix their compensation at an amount in excess of that paid to deputies and chief clerk appointed under this section. Op. Atty. Gen., Apr. 26, 1930.

SHERIFF.**§907. Powers and duties.**

Although sheriff is not required to keep his office open for routine business except during ordinary office hours, he is subject to call at any hour of the night or day in case of emergency. Op. Atty. Gen., Feb. 25, 1931.

§907-1. Duties of sheriff in counties having 300,000 inhabitants or over.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to make amended act to apply to counties as above.

§907-2. Acts of sheriff legalized.—In any case arising prior to the passage of this act where any person has claimed the right to hold the office of sheriff in any county in this state, though not lawfully entitled thereto, and under such claim has performed any official act of said office, every such official act performed by such person is hereby legalized and made valid as against any claim that it was not performed by a lawful incumbent of said office, and every such act shall be deemed to have full force and effect for all purposes as if performed by such lawful incumbent; provided, that this act shall not affect any legal action or proceeding now pending in any court of this state involving any such case. (Act Apr. 20, 1931, c. 260.)

§916. Disabilities.

A deputy sheriff may not serve at the same time as a salaried game warden. Op. Atty. Gen., Apr. 9, 1931.

§917. Deputies.

Private individuals cannot, because of presence of suspicious strangers in town, employ an armed guard to prevent a possible bank robbery and charge the county therewith. Op. Atty. Gen., Oct. 24, 1930.

§922. Deputies attending court.

Bailiff's fee is payable only to deputy not on a salary basis. Op. Atty. Gen., Nov. 30, 1929.

§923. Compensation of jailers.**Compensation of Sheriffs, Deputies, etc., in particular counties.**

Counties having 380,000 population or over. Act Apr. 11, 1929, c. 152, amends §6 of Laws 1923, c. 419, as amended by Laws 1927, c. 125, §1, by inserting a provision for 6 general deputies for night duty at salary of \$1,650, and one female deputy or bailiff to attend mixed juries at salary of \$1,320.

Counties with 41 to 43 congressional townships and 25,000 to 30,000 population. Laws 1929, c. 161, §3 amends Laws 1925, c. 91, §13, as amended by Laws 1929, c. 20, and fixes the salary of the sheriff at \$1,800, authorizes allowance of not more than \$1,800 per year for deputy hire, and authorizes allowance of 9 cents per mile for use of automobile as to mileage, see §§254-47, 254-48. The act also authorizes allowance of additional clerk at not to exceed \$80 per month.

Counties with population of 220,000 to 330,000. Laws 1909, c. 361, §§2, 4, amended by Laws 1929, c. 317.

Laws 1925, c. 370, repealed by Laws 1929, c. 317, §5 and Laws 1931, c. 258, §5.

Laws 1929, c. 341, §2, fixes salary at \$5,000 in counties of 415,000 population or over.

Counties with population of 220,000 to 330,000. Laws 1929, c. 317, §§2, 4, as amended by Laws 1931, c. 258, fixes the number and salaries of the deputies, clerks, and assistants of the sheriff, and repeals Laws 1925, c. 370.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to

\$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to apply the act to counties as above.

Laws 1917, c. 312.

Deputy sheriff living in village away from county seat, and acting as an officer of a justice court, is not entitled to compensation to which the sheriff would not have been entitled in absence of special statutory provision. Op. Atty. Gen., May 17, 1930.

§3.

Sheriff is not entitled to a fee from the county for selling property on execution under a judgment in favor of county against sureties on a depositary bond. Op. Atty. Gen., Dec. 23, 1930.

COUNTY ATTORNEY**§926. Duties.**

County attorney is not required to appear for and on behalf of the sheriff in habeas corpus proceedings brought to discharge a person held by the sheriff for the purpose of being extradited to another state. Op. Atty. Gen., May 6, 1931.

§929. Not to receive fees—Prohibitions.

County attorney preparing, complaint and warrant charging former bank officer with a bank embezzlement, could not ethically, after the criminal proceedings were dismissed by the Justice of the Peace on motion of the accused, appear as the bank's attorney in a civil law suit between the bank and accused. Op. Atty. Gen., July 18, 1931.

§930. Other attorney, when—

County cannot employ attorney to collect personal property taxes. Op. Atty. Gen., Aug. 20, 1929.

County board may employ attorney to assist county attorney in collecting personal property taxes. Op. Atty. Gen., Aug. 20, 1929.

County cannot deduct expense of collecting tax before distribution of tax collected. Op. Atty. Gen., Sept. 28, 1929.

§930 1/2. County attorney may appoint assistant, etc.

See notes under section 935.

§934. Contingent fund—Expenses.

A county attorney required to make investigations in connection with applications of mothers for county allowances is entitled to take expenses necessarily incurred out of his contingent fund. Op. Atty. Gen., Mar. 26, 1931.

A county attorney may use his own automobile and receive compensation therefor from the county out of his contingent fund or otherwise. Op. Atty. Gen., Mar. 26, 1931.

If a county attorney finds it necessary in the performance of his official duties to make a trip into a neighboring state he is entitled to be reimbursed for his actual expenses, payable from his contingent fund or allowed as a claim by the county board. Op. Atty. Gen. May 20, 1931.

§935. Compensation in certain counties.

Op. Atty. Gen., May 20, 1931; note under §934.

Counties with 60 to 80 congressional townships and population of 45,000 to 75,000. Act Mar. 9, 1929, c. 69, fixes salary of county attorney at \$2,400.

Counties having population of 28,000 to 30,000 and assessed valuation of \$20,000,000 to \$25,000,000. Laws 1929, c. 147, authorizes county board to fix salary at not less than \$2,500 and not more than \$4,500, and authorizes county attorney to appoint an assistant at salary not exceeding \$1,000. Laws 1931, c. 110, changes population limitation to counties having not less than 34,000 and not more than 35,000, and legalizes payments made in 1929, 1930, and 1931.

Counties with 41 to 43 congressional townships and population of 25,000 to 30,000. Laws 1929, c. 161, §4, amends Laws 1925, c. 91, §15, and authorizes allowance of additional clerk with salary not to exceed \$80 per month.

Counties with population of 400,000 or over. Laws 1929, c. 187, amends Laws 1921, c. 133, §10, as amended by Laws 1923, c. 419, as amended by Laws 1927, c. 184, by fixing salary of attorney inspector at \$3,400, providing for one attorney secretary with salary at \$2,100 providing for two stenographers at \$1,760, and one chief inspector at \$2,820 and three inspectors at \$2,520.

Counties with population of 150,000 to 240,000 and area of more than 3,000 square miles. Laws 1929, c. 194, amends Laws 1925, c. 259, §3, by fixing salary of one investigation at \$2,700.

Counties having population of 220,000 to 330,000. Laws 1929, c. 339, amends Laws 1927, c. 420, §4.

Counties with population of 220,000 to 330,000. Laws 1931, c. 310, amending Laws 1929, c. 339, which amended Laws 1927, c. 420, §4, fixes salary of county attorney at \$5,000; one assistant, \$4,000; one assistant to be attorney for county board, \$4,000; second assistant, \$3,200; third assistant, \$2,400; fourth assistant, \$2,400; one investigator, \$2,200; two stenographers, \$1,500 each; information and advisory clerk, \$1,500.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to apply the act to counties as above.

COUNTY SURVEYOR

\$938. Compensation.

Counties with 41 to 43 congressional townships and 25,000 to 30,000 population. Laws 1929, c. 161, §4, amending Laws 1925, c. 91, §15, and authorizes allowance of additional clerk with salary not to exceed \$80 per month.

\$941. Lost posts.

Compensation of Surveyors and Assistants, Appointments In Particular Counties

Counties having not less than 225,000, and not more than 330,000. Act Apr. 27, 1929, c. 422, amends Laws 1921, c. 207, which amended Laws 1913, c. 193, §1, and fixes salary of surveyor at \$5,000 and actual expenses, fees collected to be turned into county treasury.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 437, §1, so as to make amended act to apply to counties as above.

CORONER

\$952. Testimony filed—Certificate—Fees.

Reduction of testimony to writing and filing with clerk of court is mandatory. Op. Atty. Gen., Sept. 13, 1929.

\$957-3. Same—Expenses.

Coroners In Particular Counties

Counties with area of over 5,000 square miles and assessed valuation of over \$250,000,000. L. 1919, c. 294, §1, amended by L. 1929, c. 205, and salary of coroner fixed at \$3,000.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amended Laws 1921, c. 437, §1, so as to apply the amended act to counties as above.

SUPERINTENDENT OF SCHOOLS

\$962. Traveling expenses.

Payment of a flat sum per month for use by county officers and employees of their own automobiles in county business, irrespective of mileage traveled and without itemized verified claim, held illegal. Op. Atty. Gen., Mar. 31 1930.

This section is modified by Laws 1931, c. 331, ante, §§254-47, 254-48, so as to limit allowance for use of automobile to seven cents per mile. Op. Atty. Gen., May 23, 1931.

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

Compensation of Superintendent of Schools, etc., In Particular Counties

Counties with 60 to 80 congressional townships and 45,000 to 75,000 inhabitants. Act Mar. 9, 1929, c. 69, fixes salary of superintendent at \$2,400.

Counties with 41 to 43 congressional townships and 25,000 to 30,000 population. Laws 1929, c. 161, §4, amending Laws 1925, c. 91, §15, and authorizes allowance of additional clerk with salary not to exceed \$80 per month.

Counties having 44 to 45 congressional townships and assessed valuation of \$12,000,000 to \$18,000,000. Laws 1931, c. 192, amends Laws 1921, c. 473, §1, so as to apply the amended act to counties as above.

ASSESSORS IN COUNTIES HAVING 200,000 AND LESS THAN 275,000 INHABITANTS

\$967. Expenditures—Experts, etc.

This section authorizes the county to publish a manual giving rules and regulations with respect to making assessments, but such manual is for use of the employees in the assessor's office and not for the general public. Op. Atty. Gen., Apr. 30, 1930.

PUBLIC BUILDINGS OR WORKS IN MUNICIPALITIES

\$974-1. Public buildings or works in counties, etc.

The publication of the amount of the estimate as a part of the official proceedings of the county board does not do away with the necessity of publishing the total cost of the work. Op. Atty. Gen., Feb. 27, 1931.

\$974-3. Same—Total costs published.

The publication of the amount of the estimate as a part of the official proceedings of the county board does not do away with the necessity of publishing the total cost of the work. Op. Atty. Gen., Feb. 27, 1931.

MISCELLANEOUS PROVISIONS

\$976. To report fees.

Income of register of deeds from abstracts of title, certified by him as such officer, must be reported. Op. Atty. Gen., Aug. 30, 1929.

\$990. Officials not to be interested in contracts.

A county treasurer has no duty in designating depository banks for county funds, nor in approving the depository bonds, and the fact that such treasurer owned a few shares of stock in a bank does not prevent that bank from becoming a de jure depository of county funds. Co. of Marshall v. B., 234NW1. See Dun. Dig. 2263b, 2323(77), 2699.

\$991. Contracts in counties of less than seventy-five thousand.

If accepted bidder refuses to sign contract for road work or furnish bond within a reasonable time, his deposit is forfeited, and county must readvertise for bids. Opp. Atty. Gen., Apr. 18, 1929.

Where county advertises for bids and enters into contract for road materials for one year, it cannot renew the contract for another year without again advertising for bids. Op. Atty. Gen., Jan. 2, 1930.

Advertisement for bids and contract should specify some definite quantity, more or less.—Id.

Contract by county to purchase all the material it may need for a year is unauthorized.—Id.

County desiring to equip new court house with furniture cannot treat each room as a unit and dispense with advertisement on the theory that cost of each room will be less than \$500. Op. Atty. Gen., Jan. 7, 1930.

County may advertise for bids for the haul-

ing of all gravel to be used by the county for a year, instead of advertising for each particular item of gravel required. Op. Atty. Gen., Apr. 2, 1930.

Where bids were opened at one meeting and all of them rejected, the board cannot at a subsequent meeting reconsider its former action and let the contract to the lowest bidder. Op. Atty. Gen., May 14, 1930.

Successful bidder for county printing would be required to do all printing except that provided for by particular statutes which contemplate a special advertisement for bids or which confer on particular officers the duty of contracting for publication. Op. Atty. Gen., June 3, 1930.

§992. Same—Counties of more than 200,000.

County desiring to purchase automobile must advertise for bids, it being improper to decide on particular make of car before bids are submitted. Op. Atty. Gen., Mar. 8, 1930.

§994. Actions against counties.

One who has not appealed from the disallowance of his claim cannot thereafter, in the absence of fraud or mistake, bring suit thereon against the county. Suhr v. Co. of Dodge, 236 NW463. See Dun. Dig. 2296(10).

Section is not indefinite because of the expression therein making the right of action contingent upon the failure of the county board to act upon a claim "within the time fixed by law." Suhr v. Co. of Dodge, 236NW463. See Dun. Dig. 2295.

The section is not invalid because of there being no provision in the statutes for notice to a claimant of the disallowance of his claim. Suhr v. Co. of Dodge, 236NW463. See Dun. Dig. 2295.

"Within time fixed by law." Op. Atty. Gen., Sept. 17, 1930.

County is not liable for negligent acts of its employees resulting in injury to others on highways of the county when the county is engaged in carrying on its governmental activities, such as constructing or maintaining a highway. Op. Atty. Gen., May 20, 1931.

§997-1. Salaries not reduced.

See §8707-5.

§997-2. Salaries of county officers in certain counties.—Whenever the salary or clerk hire of any county officer shall be decreased during the term for which he is or was elected because of a reduction in the assessed valuation of the county, the board of county commissioners are hereby authorized to fix said salary and clerk hire in an amount equal to that received prior to such reduction in the assessed valuation of the county. (Act Apr. 24, 1929, c. 313.)

§997-3. All fees in certain counties to be paid in county treasury.—In all counties of this state having, or which may hereafter have, a population of 415,000 inhabitants or over, no elective county official who receives a stated salary shall have or retain any fees or revenue of any kind whatsoever whether such fees are received by reason of services rendered pursuant to the laws of this state or of the United States or whether such official acts as an agency of the county, state or of the United States in performing the services for which such fees are paid and all such fees collected by or paid to any such county official shall on the first Monday of each month,

be turned into the county treasury (and by him put into the general revenue fund of the county) and a correct statement thereof shall on said day be filed with the county auditor. The turning in and relinquishment of all such fees by any such county official to the county shall be a condition to be performed before he shall be entitled to or shall receive any compensation, salary or installment thereof whatsoever.

Such county official, as a part of the duties of his office, shall perform all the duties and collect all fees or licenses which like officials of other counties perform or collect upon a fee basis and the fees so collected shall be turned into the treasury of such county as a condition to the payment to such county official of any salary, compensation or installment thereof whatsoever.

In cases in which the laws of this state allow any such county official to delegate the collection of fees or the issue of licenses to some person or deputy outside the office of such county official, such county official shall not be liable for any malfeasance or failure to account for such fees or licenses if he shall have used reasonable and ordinary care and diligence in the selection or appointment of such agent or deputy. If he shall require surety bonds of such agent or deputy, the premiums thereof may be paid by such county official out of the fees or licenses collected. Such county official shall be allowed to pay to such agents or deputies the sums or commissions now or hereafter provided by law. (Act Apr. 24, 1929, c. 341, §1.)

County auditor cannot pay other than agents' commissions out of license moneys. Op. Atty. Gen., May 21, 1929.

§997-4. Salary of county officers.—The county officials hereinafter named of any such counties shall receive as full compensation for all services of every kind and nature performed as such officials whether pursuant to the laws of this state or of the United States or of any home rule charter adopted pursuant to Article 4, Section 36, of the constitution of this state, stated annual salaries as follows; to-wit: county attorney, \$7,000.00; auditor, \$6,000.00, (provided that he may also receive, in addition, any sum not more than \$500.00 which may be otherwise provided for services as a member of a municipal building commission); coroner, \$4,500.00; clerk of the district court, \$6,500.00; sheriff, \$5,000.00; surveyor, \$3,000.00; register of deeds and registrar of titles where the two offices are held by one person, \$6,500.00; treasurer, \$6,500.00; court commissioner, \$3,500.00. Provided that in case this act cannot be held to apply to fees received by the clerk of the district court from the federal government, the salary of such district clerk shall be \$4,000.00. Provided further that the court commissioner may retain fees which he may receive for performing marriage ceremonies without accounting for the same or turning them into the county treasury. (Act Apr. 24, 1929, c. 341, §2.)

Laws 1929, c. 374, relates to payment for road labor in counties having assessed valuation and area of over 5,000 square miles. It is omitted as local.