

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

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

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Publisher's
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SAINT PAUL 1, MINNESOTA

1944

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cil shall select and designate one polling place for each district in the city; and, not less than five days before such election, the city clerk shall post in three conspicuous places in said city, and publish once in a qualified newspaper in such city, if there be one, otherwise in a qualified newspaper in the county, a notice of the election, stating the time and place thereof, the location of each polling place, the names of the candidates, the offices to which they desire to be chosen, and also any question or proposal which may be voted on at such election; and the city clerk shall also post and publish in the same manner samples of the official ballot. (As amended Feb. 20, 1943, c. 59, §4.)

601-11(4)r. To use Australian ballot system.—In every city of the third or fourth class, the city election shall be held and conducted under the Australian ballot system as provided by law for general elections. Except in every city in which a system for the permanent registration of voters is in effect, the name and residence of each person voting at such election shall be entered by the judges on an election register. The ballots shall be counted and preserved as at general election, except that the clerk shall be the final custodian thereof. After the ballots have been counted, the election board shall publicly announce the results and certify the same, together with the ballots, to the council. The results of the election shall be canvassed

by the council and the candidate for each office who receives the highest number of votes therefor shall be declared elected thereto and shall be given a certificate of election by the city clerk. (As amended Feb. 20, 1943, c. 59, §5.)

601-11(4)s. General election laws to apply.—So far as practicable, all the provisions of this act relating to general elections, including the provisions relating to the arrangement of polling places, peace officers, challengers, procuring ballots, boxes and supplies, and all laws defining offenses and fixing penalties at general elections are hereby made applicable to city elections held in any city of the third or fourth class. (As amended Act Feb. 20, 1943, c. 59, §6.)

PART TWELVE REPEALS

601-12a. Application of act.

Mason's St. 1927, §556, is not continued in new act so as to require candidates for village offices to file verified statements of expenditures. *Aura v. Brandt*, 211M281, 1NW(2d)381. See Dun, Dig. 2994.

If appointment of senator to fill vacancy expires on date of November election, filings for office for term beginning November 3, 1942, and ending January 3, 1943, are properly received by office of Secretary of State not more than ninety days nor less than forty days before time of holding primary election, and by nominating petition within thirty days before time of holding general election. *Op. Atty. Gen.* (86A-51), Jan. 8, 1942.

CHAPTER 7

Counties and County Officers

CHANGE OF BOUNDARIES

621. County indebtedness—County buildings.

County responsible for support of feeble-minded at state institution. *Op. Atty. Gen.* (679d), Dec. 16, 1942.

CHANGING COUNTY SEATS

625. Petition for change.

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

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

627. Duties of county board.

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

631. Conduct of election.

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

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

632. Canvass—Certificate.

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

POWERS AND DUTIES

638. Powers.

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

While counties, like other bodies politic, often have a defense which relieves them from responsibility where a private corporation would be liable, the immunity of the state from suit does not extend to a county but it is required to assert its defense. *Pettibone v. Cook County*, (CCA8), 120F(2d)850, aff'g (DC-Minn), 31FSupp881. See Dun, Dig. 2300, 3744, 5602, 5609, 9520a, 9530, 9678, 9678a.

County board of county operating under township system of poor relief has power to enter into contract with state to permit use of poor house or poor farm by inmates of state institutions. *Op. Atty. Gen.* (339K), Feb. 28, 1942.

A county is not liable for negligent acts of its officers which do not amount to a positive trespass. *Op. Atty. Gen.* (844c-5), July 1, 1942.

There is no authority for county board to employ an agent to represent it in sale of real estate, but county board may give an option contract to a real estate agent or to anyone else to buy the property. *Op. Atty. Gen.* (125a-42), Feb. 11, 1943.

County purchasing from Rural Credits Division and conveying part of land must "reserve to the county any and all iron ore and other valuable minerals in and upon the same", and it would seem that gravel is not a "valuable mineral." *Op. Atty. Gen.* (700d-29), Feb. 24, 1943.

County road machinery with county employees to operate it may be leased for use on private driveways under conditions specified in this section, but the contract should be in writing so that it becomes a matter of record. *Op. Atty. Gen.* (377b-7), July 15, 1943.

(2).

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

County may accept a conveyance of real estate from an indigent person though title must be perfected by court action. *Op. Atty. Gen.* (339h), Nov. 27, 1941.

(3).

County board selling land may accept high bid and waive requirement of deposit with it. *Op. Atty. Gen.* (707a-3), Sept. 4, 1943.

638-1. County may pay road and bridge bonds from moneys obtained from state for highway purposes.

In any county which has a total outstanding indebtedness in excess of ten per cent of the assessed valuation of the property in such county where the bonds of the county have been issued to obtain money for the construction of highways and are outstanding, the county may expend moneys received from the state road and bridge fund in discharge of such bonds. (Act Mar. 17, 1943, c. 145, §1.)
[373.011]

641. Powers, how exercised.

County board of county operating under township system of poor relief has power to enter into contract with state to permit use of poor house or poor farm by inmates of state institutions. *Op. Atty. Gen.* (339K), Feb. 28, 1942.

643. County buildings.

Act Apr. 14, 1941, c. 226, §1, authorizes tax levy, in certain counties having a population of between 25,000

and 27,000, and an assessed valuation of between \$9,000,000 and \$11,000,000, to provide funds for present and future construction of county buildings, and to buy furniture and equipment, and also authorizes creation of a special county building and sinking fund.

Laws 1941, c. 226, §1, amended. Laws 1943, c. 9.

Laws 1943, c. 9, §1, authorizes county board in counties having population of 25,000 to 27,000, an assessed valuation of \$9,000,000 to \$11,000,000, containing 30 to 37 full or fractional congressional townships, to levy a tax producing not to exceed \$10,000 annually, for construction and reconstruction of a building for administration and courthouse purposes, the acquisition of grounds, office furniture and equipment.

Laws 1943, c. 11, authorizes county board in counties having population of 11,000 to 12,000, an assessed valuation of \$5,000,000 to \$6,500,000, containing 14 to 17 full and fractional congressional townships, to annually levy a tax which will produce an amount not to exceed \$10,000 for the purpose of providing funds for construction or reconstruction of a building for administrative affairs and for courthouse purposes, the acquisition of grounds, office furniture and equipment.

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

646. Claims against county—Appeal.—When any claim against a county is disallowed by the county board, in whole or in part, a claimant may appeal from its decisions to the district court by causing a written notice of such appeal to be filed in the office of the auditor within 15 days after written notice mailed to said claimant by the county auditor showing the disallowance of said claim and giving security for costs, to be approved by the auditor, who shall forthwith notify the county attorney thereof. When any claim against a county shall be allowed, in whole or in part, by such board, no order shall be issued in payment of the same, or any part thereof, until after 15 days from date of the decision; and the county attorney may, on behalf and in the name of such county, appeal from such decision to the district court, by causing a written notice of such appeal to be filed in the office of the auditor within 15 days after date of the decision appealed from; or any seven taxpayers of the county may, in their own names, appeal from such decision to the district court by causing a written notice of appeal, stating the grounds thereof, to be filed in the office of the auditor within 15 days after the date of the decision appealed from, and giving to the claimant security for his costs and disbursements, to be approved by a judge of the district court; and thereafter no order shall be issued in payment of any such claim until a certified copy of the judgment of the court shall be filed in the office of the auditor. Upon filing of such notice of appeal, the court shall acquire jurisdiction of the parties and of the subject matter, and may compel a return to be made as in the case of an appeal from a judgment of a justice of the peace. Provided that in any county subject to the provisions of Laws 1941, Chapter 118, in which a claim has been audited and certified by the county auditor as required by Laws 1941, Chapter 118, Section 5, such claim may be paid not earlier than the third day after allowance by the county board. (Act Mar. 10, 1943, c. 114, §1.)

Where plaintiff by written assignment acquired a claim against county and it was audited and allowed, but through mistake or oversight on part of county officers warrant issued in payment was made payable to original claimant, who cashed it, plaintiff may recover from county as against defendants' claim that statute prevents suit by a claimant to enforce a money demand and that appeal from board's disallowance in whole or in part is only remedy. *Leuthold v. R.*, 206M199, 288NW165. See *Dun. Dig.* 2295.

No appeal may be taken from disallowance of poor relief claim. Op. Atty. Gen. (339), May 26, 1941.

County auditor may pay claims allowed by welfare board without waiting fifteen days. Op. Atty. Gen. (125A-64), Oct. 16, 1941.

Bills for materials purchased by highway department cannot be paid sooner than 15 days after allowance, even if there would be a discount of 10% of paid within 10 days. Op. Atty. Gen. (107b-4), Nov. 24, 1941.

Fifteen-day appeal period which applies to claims allowed or disallowed by the county board do not apply to claims allowed or disallowed by county welfare board or by county board performing duties that should be performed by welfare board, as where one county presents claim against another county for hospitalization

of one having settlement in latter county. Op. Atty. Gen. (107b-4), Sept. 14, 1942.

If county has presented a claim for hospitalization to county welfare board of neighboring county, and neighboring county has refused to allow it, an action can be brought on the claim against the county, and there need not be an appeal to district court. Op. Atty. Gen. (125a-64), Oct. 16, 1942.

COUNTY BOARD

650. Composition.

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

651. Commissioner districts.—Each county shall be divided into as many districts, numbered consecutively as it has members of the board. In all counties such districts shall be bounded by town, village, ward, or precinct lines, shall be composed of contiguous territory and contain as nearly as practicable an equal population. Counties may be redistricted by the county board after each state or federal census. Provided however, that no city of the second class shall be in more than two commissioners' districts. Provided further that when it appears that after a state or federal census 30 per cent or more of the population of any county is contained in one district, exclusive of the inmates of any state penal or corrective institution, or state hospital for the insane, maintained wholly or partly within such district, such county shall be redistricted by its county board. However, the county board may first submit the question of redistricting to the voters of the county at the next regular election after such state or federal census or the passage of this act upon a separate ballot and in the following form: Shall there be a redistricting of county commissioners' districts?

Yes

No.

In the event the voters on this question cast a majority vote in favor of redistricting, the county board shall redistrict. Otherwise it need not do so. When any Board of County Commissioners has not redistricted a county as by law required prior to the enactment hereof, such board may submit to the voters the question of redistricting as herein provided and shall be subject to the provisions of this act.

Provided that the county board shall not have authority or jurisdiction to redistrict a county unless said board shall cause at least three weeks' published notice of its purpose to do so, stating the time and place of the meeting where the matter will be considered, to be published in the newspaper having the contract for publishing the commissioners' proceedings for said county for the current year. One commissioner shall be elected in each such district who at the time of the election shall be a resident thereof, and the person so elected shall be entitled to hold said office only while he remains a resident of said commissioner district. When a county is redistricted there shall be a new election of commissioners in all the districts of the county at the next general election. The board shall determine that not less than two nor more than three members of the board shall be elected for a term of two years and the remainder for a term of four years at the next general election. Thereafter all commissioners shall be elected for four years; provided, that where no change is made in the boundaries of a district, or in districts having only one resident commissioner after such redistricting, the commissioner in office at the time of the redistricting shall serve for the full period for which he was elected; provided further that where a county has heretofore been redistricted between the time of the general election and the time at which commissioners elected at such general election were required to qualify and no change was made in the boundary of the district to which such commissioner was elected, or in districts having only one resident commissioner after such redistricting, such commissioner-elect, after duly qualifying as a commissioner for said district, shall

serve for the full period for which he was elected. (As amended Apr. 16, 1941, c. 268, §1; Apr. 5, 1943, c. 300, §1.)

Order directing issuance of mandamus directing county commissioners to "proceed forthwith" to redistrict their county was proper where nearly three years elapsed since official census apprised commissioners of fact that population of commissioner district exceeded thirty per cent of population of county and facts indicated that the commissioners had no intent to comply with statute, as against contention that defendant had discretion to act at such time as they should deem proper. *State v. Pohl*, 214M221, 8NW(2d)227. See *Dun. Dig.* 2267.

Object of amendment in 1917 was to provide for proportionate representation in the several commissioner districts in the counties of the state. *Id.*

Provision requiring redistricting when state or federal census shows that 30 per cent or more of population of county is contained in one district, is mandatory and may be enforced by mandamus. *Id.*

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

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

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

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

No election in county having one resident commissioner after redistricting, whose term does not expire, though it results in denial of privilege of voting during a period of six years by inhabitants of territory taken from one district and added to another. *Op. Atty. Gen.* (798e), Apr. 10, 1942.

Laws 1941, c. 268, must be treated as valid though it might result in disfranchisement of some voters in next election in territory added to a district having one commissioner. *Op. Atty. Gen.* (798e), May 25, 1942.

Where county was redistricted and certain districts were bounded by ward lines in a city and thereafter city changed the boundaries of those wards, county board must cause at least three weeks public notice to be given to change districts to agree with new boundaries of ward. *Op. Atty. Gen.* (798b), Nov. 12, 1942.

652. Term of office.

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

656. Salaries of county commissioners in certain counties.

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

Federal census does not become effective in determining salaries of county officers until a certified copy thereof is filed with the Secretary of State. *Op. Atty. Gen.* (124i), Dec. 26, 1941.

County commissioners whose salaries were increased by Laws 1943, c. 489, cannot be further increased by Laws 1943, c. 597. *Op. Atty. Gen.* (104a-9), May 6, 1943.

PARTICULAR ACTS RELATING TO COMPENSATION OF COMMISSIONERS

Laws 1933, c. 16, amended. Laws 1943, c. 221.
Laws 1933, c. 26, §1, as amended by Laws 1937, c. 248, amended. Laws 1943, c. 402.

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

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

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

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

Laws 1937, c. 69, amended. Laws 1943, c. 221.

Laws 1937, c. 91, §2, amended. Laws 1943, c. 212.

Laws 1937, c. 333, amended. Laws 1943, c. 558.

Laws 1937, Extra Session, c. 58. Repealed by c. 68, 1943.

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

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

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

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

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

Laws 1941, c. 57, amended. Laws 1943, c. 101.
Laws 1941, c. 57 as amended by Laws 1943, c. 101 amended. Laws 1943, c. 489, §1.

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

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

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

Laws 1941, c. 208, §§1-5, 8-10, amended. Laws 1943, c. 139.

Act Apr. 21, 1941, c. 337, §4, amends Laws 1937, c. 491, §12, and fixes salaries of county commissioners at \$720 per annum, and allows \$3.00 per day and 10 cents per mile each way when engaged in official duties, Section 6, limits amount of clerk hire to amounts actually paid or due, and authorized by county board.

Laws 1943, c. 53, provides that in counties in the state containing a city of the second class, and from 19 to 22 congressional townships and having a population from 34,000 to 55,000, county commissioners shall receive a salary of \$900 plus certain expenses incurred not exceeding \$300.

Laws 1943, c. 68, authorizes salary of \$600.00 annually and 5 cents per mile expenses to each member county board in counties containing 550,000 to 552,000 acres, a population of 20,000 to 26,000, and an assessed value of \$5,500,000 to \$9,000,000.

Laws 1943, c. 101, §1, amends c. 57, Laws 1941, which amended c. 65, Ex. Sess., 1935-1936, providing that in certain counties county commissioners shall receive salary of \$800 annually and necessary expenses.

Laws 1943, c. 132, provides that "in all counties of this state now, or hereafter, having an assessed valuation of not more than \$13,000,000.00 and not less than \$9,500,000.00, exclusive of moneys and credits, and having a population of not more than 19,750 and not less than 15,000 according to the last federal census, and having not more than 13 and not less than 12 full or fractional congressional townships, each member of the county board shall receive a salary of \$50.00 per month."

Laws 1943, c. 139, provides that "in all counties having not less than 35 nor more than 55 full and fractional congressional townships and an assessed valuation of not more than \$2,000,000, and a population of 5,000 to 7,000 the county board members shall receive a salary of \$480 per annum, in addition to pay for committee work and traveling expenses."

Laws 1943, c. 186, provides that in counties having 18 to 20 congressional townships, with an area of 362,000 to 364,000 acres, an assessed valuation of \$2,000,000 to \$10,000,000, the salary of county commissioner shall be \$425.00.

Laws 1943, c. 212, §1, amends Laws 1937, c. 91, §2, providing for compensation of county commissioners in counties containing 100 to 105 townships, population of 12,000 to 16,000.

Laws 1943, c. 214, provides that in counties having an area of not less than 490 square miles and not more than 510 square miles, a population of 18,000 to 23,000, the salary of county commissioners shall be \$500 per year.

Laws 1943, c. 221, provides that in counties having 81 to 85 full or fractional congressional townships and a population of 18,000 to 30,000 the members of county board shall receive a salary of \$720 per year.

Laws 1943, c. 257, provide that County Commissioners in Counties having 21 to 23 full or fractional congressional townships, an assessed value of \$6,000,000 to \$15,000,000, 16,000 to 20,000 population and from 400 to 500 square miles, County Commissioners shall receive salary of \$500 per year.

Laws 1943, c. 262, provides that in counties having population of 16,000 to 18,000 and 56 to 58 full and fractional townships, the salary of the county commissioner shall be \$600 per year.

Laws 1943, c. 291, provides county commissioners in counties having 600 to 700 square miles and population of 19,000 to 20,300 shall receive salary of \$600 per year.

Laws 1943, c. 356, provides that in counties having 14 to 15 full or fractional congressional townships, an assessed valuation of \$1,000,000 to \$4,000,000, a population of 9,500 to 9,700, the annual salary of each county commissioner shall be \$375.

Laws 1943, c. 361, provides that in all counties with an assessed valuation of less than \$1,500,000 and containing

more than 10,000 inhabitants, the salary of each county commissioner shall be \$360.00 per annum.

Laws 1943, c. 362, provides that in counties having a population of 10,000 to 11,000 a land area of less than 500 square miles, and less than 12 full and fractional congressional townships, the salary of each commissioner shall be \$375.00 per annum.

Laws 1943, c. 368, provides that in counties having population of 15,000 to 20,000, and 18 to 20 full or fractional congressional townships, and having a land area of 372,000 to 373,000 acres, each county commissioner shall receive an annual salary of \$500.

Laws 1943, c. 369, provides that in counties having 60 to 65 congressional townships, a population of 3,000 to 4,000, an assessed valuation of not more than \$1,500,000, the salary of each county commissioner shall be \$420.00 annually and \$3.00 per day for each day necessarily occupied by him in the discharge of his official duties while acting on any committee and five cents per mile each way for each mile necessarily traveled in attending such committee work, and 5c per mile each way for each mile traveled for attending meetings of the board, not exceeding twenty meetings in any one year.

Laws 1943, c. 372, provides that in counties having 10 to 12 organized townships, a population of 16,000 to 17,000 the salary of the county commissioner shall be \$480 per year.

Laws 1943, c. 383, §1. Salaries 20 to 22 townships, population 20,500 to 21,500, assessed valuation \$13,000,000 to \$20,000,000.

Laws 1943, c. 402, §1, 2, amends Laws 1933, c. 26, §1, as amended by Laws 1937, c. 248.

Laws 1943, c. 424, §1. County having a population of not less than 25,000 or more than 30,000, and an assessed valuation of not less than \$12,500,000 nor more than \$18,000,000, and having townships of not less than 18 nor more than 23.

Laws 1943, c. 547. Population 14,000 to 15,000, area 500 to 600 sq. miles.

Laws 1943, c. 552. Townships 46 to 49, population 20,000 to 27,000.

Laws 1943, c. 558, amending Laws 1937, c. 333. Population 38,000 to 42,000, valuation \$15,000,000 to \$19,000,000, containing city of third class.

Notes of Decisions

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

General statutes now govern Carlton County. Op. Atty. Gen. (124i), Aug. 20, 1941.

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

Since compensation of members of county board of Itasca County receive more than \$1200 per year as salary under Laws 1935, c. 88, they are not entitled to receive additional compensation under the law relating to tax forfeited lands. Op. Atty. Gen. (124), Jan. 8, 1943. by this chapter (Laws 1943, c. 489) cannot be further increased by Laws 1943, c. 597. Op. Atty. Gen. (104a-9), May 6, 1943.

Laws 1937, c. 433, became inapplicable and ineffective in Stevens County at the time the tax commissioner determined that the assessed valuation of the property of the county exceeded six million dollars. Op. Atty. Gen. (104a-9), Oct. 20, 1943.

657. Compensation and mileage, etc.

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

County commissioner may not properly charge \$3 per day and mileage for investigating applications for tax reductions or abatements unless he has been previously appointed on a committee for such investigations. Op. Atty. Gen. (124j), Dec. 23, 1939.

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

658. Meetings—Quorum.

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

Where four commissioners were present and two voted for a resolution, one against, and one refused to vote, resolution did not pass. Op. Atty. Gen. (124a-14), May 4, 1943.

659. Vacancies filled by board; etc.

Where register of deeds was reelected for a term of four years commencing first Monday in January, 1939, and died before that date, and the county board appointed another to the office to fill out unexpired term the first Monday in January, and reappointed him for a four-year term expiring first Monday in January, 1943, there was no vacancy to be filled by election at the 1940 primary and the general election. State v. Erickson, 208 M402; 294NW373. See Dun. Dig. 2273.

There can be no liability on a bond of register of deed for acts committed by his chief deputy after his death. Op. Atty. Gen. (373a-2), June 22, 1942.

660. Vacancies in the office of county commissioner.

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

Words "before election" mean before the election which regularly occurs for that office due to normal expiration of the term, and statute authorizes appointment when vacancy occurs less than thirty days before a general election at which the office is not to be voted upon. Op. Atty. Gen. (126h), Oct. 30, 1942.

Members of board of appointment are not entitled to compensation or mileage from county. Op. Atty. Gen. (124a), Apr. 6, 1943.

If the county commissioner has ceased to be an inhabitant of the state his office is vacant, but if he is still a resident of the county, his absence for any length of time does not create a vacancy, but his nonperformance of the duties of the office might be cause for his removal by the governor. Op. Atty. Gen. (104a-14), May 5, 1943.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Splitting up printing as equally as may be between two bidders is not basis on which county board's action should rest, but action should be determined by what is for best interests of county. Op. Atty. Gen. (277c-1), Jan. 7, 1943.

663. Chairman.

County board of county operating under township system of poor relief has power to enter into contract with state to permit use of poor house or poor farm by inmates of state institutions. Op. Atty. Gen. (339K), Feb. 28, 1942.

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

County board may purchase for the sheriff handcuffs, a gun and a strait jacket, as part of permanent equipment of his office. Op. Atty. Gen. (390a-17), March 1, 1943.

Forms printed for register of deeds showing filing and satisfaction of chattel mortgages may be paid for by the county. Op. Atty. Gen. (373b-21), June 7, 1943.

County board may provide an office in a courthouse for the county surveyor, and must furnish him with supplies. Op. Atty. Gen. (123c), Oct. 22, 1943.

665. Appropriation for expenses.

Claims for electric current may be paid out of incidental fund. Op. Atty. Gen. (107b-4), Oct. 28, 1942.

Claims against county for fixed charges under a contract for electric current may be audited by county auditor and paid by warrant without allowance by county board, if a resolution is passed authorizing such action for purpose of saving penalty. Op. Atty. Gen. (107b-4), Nov. 9, 1942.

666. Damaged records transcribed.

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

667. Publication of annual financial statement.—

Annually not later than first Tuesday after the first Monday in February such board shall make a full and accurate statement of the receipts and expenditures of the preceding year, which shall contain a statement of the assets and liabilities, a summary of receipts, disbursements and balances of all county funds together with a detailed statement of each fund account together with an itemized account of amounts paid out, to whom and for what purpose, under the form and style prepared by the State Comptroller, and approved by the Attorney General, and state expert printer in December, 1932, and within thirty days thereafter shall cause the same to be published for one issue in some newspaper within the county which newspaper must be a duly qualified legal newspaper, as provided by law which in counties having a population of seventy-five thousand or more shall be a daily of general circulation publishing local and world news of varied and general public interest. In addition to the publication thereof in the newspaper designated by the board as the official newspaper for publication of the financial statement, the same shall be published in one other newspaper of the county,

located in a different section of the county than the official paper. Provided, however, that the county board shall call for separate bids for each publication. At its meeting in July and January of each year it shall examine and count all the funds in the Treasury, examine the accounts and vouchers of the auditor and treasurer, and make a written certificate of the condition of the treasury, showing the amount, kind and character of the funds therein, and all other matters in connection therewith, and file the same with the auditor. Provided, however, that insofar as any provision of this act is inconsistent with the provisions of Mason's Supplement 1940, Section 974-17, as amended, the provisions of that section shall prevail. (As amended Act Apr. 22, 1941, c. 370, §1.)

County board cannot avoid its duty to publish statement by failing to appropriate sufficient funds for that purpose. State v. Heffelfinger, 209M343, 296NW181. See Dun. Dig. 2280b.

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

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

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

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

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

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

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

Though with respect to assistance rendered as old age assistance, aid to dependent children and aid to the blind, financial statements should be published giving only total expenditures for each of the three several programs, the account of disbursements for poor relief and direct relief must be itemized in publication of county's financial statements. Op. Atty. Gen. (277c-1), Aug. 21, 1942.

As to money paid out for poor relief by welfare board, it is not now required that an itemized account of amounts paid out, to whom and for what purpose, be published, but a summary financial statement giving total expenditures for each of several programs of public assistance shall be published and no more. Op. Atty. Gen. (277C-1), Jan. 15, 1942.

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

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

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

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

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

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

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

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

8. To appropriate to any county agricultural society of its county, which is a member of the state agricultural society, or to any farm improvement association organized by the citizens of two or more counties jointly for the purpose of advancing the agricultural interest of each of such counties, a sum of money not exceeding \$1,000 each, annually, provided, that in any county in which two county agricultural societies are members of the state agricultural society any appropriation so made shall be divided equally between them. Provided, in addition to the appropriation above referred to, in all cases where a county owns grounds and buildings used for agricultural fairs and other purposes, the county board by a four-fifths vote may appropriate annually a sum of money equal to five per cent of the total value of such property in the association or society having the management, control and direction of agricultural fairs held therein, for the purpose of repairs, upkeep, improvements, extensions and alterations of such grounds and buildings; provided, further, that in all such cases if the area of any such county is not less than 43 nor more than 45 full or fractional congressional townships and the population thereof is not less than 25,000 nor more than 31,000 according to the last federal census, such additional appropriation may be a sum not exceeding ten per cent of the total value of such property.

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

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

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

11. To authorize by resolution any person, company, or corporation to construct and maintain railway lines to be operated by other than steam power

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

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

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

Any funds, not presently needed, may be invested in War Savings Bonds. Laws 1943, c. 193.

There is no statute authorizing county board to appropriate money for purpose of maintenance and care of pauper graves in a private cemetery. Op. Atty. Gen., (125B), April 26, 1940.

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

Money may not be appropriated to defray expenses of a county defense council. Op. Atty. Gen. (125b), July 24, 1941.

County may not appropriate money to Isaac Walton League to assist in establishing pond. Op. Atty. Gen. (107b-1), Nov. 15, 1941.

A county board may not safely recognize a moral obligation to pay a claim arising out of exercise of a governmental function. Op. Atty. Gen. (844c-5), Apr. 1, 1942.

County commissioner may not expend funds of county in buying patriotic certificate or greeting to be sent to members of armed forces serving from county. Op. Atty. Gen. (107b-1), July 16, 1942.

It is not necessary that county board advertise for bids in purchasing a particular tract of land for use of the county. Op. Atty. Gen. (125a-41), Sept. 21, 1942.

Towns are not authorized to contribute out of public funds expenses of rationing. Op. Atty. Gen. (835), Dec. 22, 1942. This seems to have been changed by Laws 1943, c. 168.

County has no authority to install or operate a ferry across the Mississippi River, except as provided by Laws 1943, c. 530, in the maintenance of a highway. Op. Atty. Gen. (370d), Apr. 7, 1943.

County board has no authority to make a donation to the Red Cross. Op. Atty. Gen. (125b-25), May 1, 1943.

Adjoining counties may operate a ferry across the Mississippi River where a bridge has been destroyed by a flood and a ferry is necessary to take care of the traffic pending reconstruction of the bridge following the war. Op. Atty. Gen. (370d), May 10, 1943.

County board may not purchase a boat or other equipment to search for the bodies of drowned persons. Op. Atty. Gen. (107b-1), Aug. 26, 1943.

County is not authorized to buy and sell sodium chlorate to farmers and townships in the control and destruction of weeds. Op. Atty. Gen. (322b), Nov. 18, 1943.

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

Where a county motorized road grader in charge of an employee was parked on a hill and left unattended and took off and left highway and damaged a private dwelling house, county is warranted in giving to the person injured, a sum which will fairly compensate him for the damages which he has sustained under the theory of a trespass. Op. Atty. Gen. (844c-5), Apr. 15, 1943.

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

Generally speaking, general revenue funds may not be used for purpose of constructing a garage to house county trucks and other equipment, but it is probable that, if no road and bridge funds are available and con-

struction is necessary in a particular case, court would sustain validity of expenditure. Op. Atty. Gen. (107b-16), June 6, 1941.

County board has power to control disposition of cash proceeds arising from sale of county poor farm. Op. Atty. Gen. (125a-36), Nov. 1, 1943.

County may pay part of cost of enlarging water main in front of courthouse as fire protection measure. Op. Atty. Gen. (125a-20), Nov. 4, 1943.

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

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

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

Expenses of holding a special election to vote on issue of bonds for construction of a court house should be paid in same manner as expenses of conducting a general election. Op. Atty. Gen. (37a-1), Apr. 2, 1941.

If county would in any way be liable for negligent maintenance of court house and grounds, board would be authorized to purchase and pay for liability insurance. Op. Atty. Gen. (125A-28), Oct. 10, 1941.

County has no authority to rent a building to be occupied solely by federal agencies, though it may allow use of spare space and facilities in public offices. Op. Atty. Gen. (125b-16), Aug. 22, 1942.

(7). Where county voted for county library system and no tax levy has been made, county can create a library fund by transferring from general fund. Op. Atty. Gen. (285b), Feb. 11, 1943.

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

An appropriation may be made to a county agricultural society to pay indebtedness incurred in prior years. Op. Atty. Gen. (125b-1), July 8, 1942.

(9). County building on fair grounds conveyed to Rice County by Faribault Agricultural and Fair Association and destroyed by fire could be rebuilt or not out of insurance money as might be determined by county board. Op. Atty. Gen. (107b-10), July 22, 1943.

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

POWERS OF COUNTY BOARDS OF PARTICULAR COUNTIES

Laws 1933, c. 371. Repealed. Laws 1941, c. 118. Act Apr. 2, 1941, c. 118, regulates financial affairs of all counties of state having population in excess of 150,000, and area in excess of 5,000 square miles.

Laws 1941, c. 118. Repealed in part. Laws 1943, c. 515, §4.

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

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

Laws 1941, c. 311. Repealed. Laws 1943, c. 15, §12. Act Apr. 24, 1941, c. 423 provides for the creation of a county civil service commission in counties having population of over 150,000 and an area of over 5000 square miles, and sets out the powers and duties of such commission.

Laws 1941, c. 423, §§5h, 7, 30. Amended. Laws 1943, c. 608.

Act Apr. 28, 1941, c. 513, creates a county civil service commission in counties having populations of between 250,000 and 450,000, and prescribes duties of city civil service bureaus therein.

Laws 1943, c. 2, provides that in counties of 250,000 to 350,000, the compensation of all officers and employees of the county government shall be fixed by county board resolution, and that board may employ temporary employees during emergency, but conditions creating emergency must be stated in resolution, and provisions of this act shall be subject to c. 513, Laws of 1941.

Laws 1943, c. 15, §12, repeals Laws 1941, c. 311.

Laws 1943, c. 85, provides that any county with population of 17,000 to 19,000, 16 to 18 whole or fractional townships, an assessed valuation of \$6,500,000 to \$10,000,000, containing an area of 500 to 600 square miles, board of county commissioners may levy taxes annually at sufficient rate to raise not to exceed \$65,000 over existing limitation for general revenue purposes.

Laws 1943, c. 175, authorizes town and county boards located in county with population of 20,000 to 26,000, an assessed value of \$5,500,000 to \$9,000,000, and containing 550,000 to 552,000 acres, to extend their road systems within boundaries of state parks upon written consent of commissioner of conservation. The expenditures for such road is limited to \$1,000 a year. This act to remain in effect until Jan. 1, 1945.

Laws 1943, c. 246, provides that counties with population of 500,000 or more and operating under township system of caring for poor may provide hospital and medical care for pregnant woman who is resident of such county, and that county welfare board shall furnish such care to such woman when a nonresident of state, and that county board shall make required appropriations.

Laws 1943, c. 263, provides that in counties having valuation of \$11,000,000 to \$13,000,000, and population of 26,000 to 30,000, county board may establish sinking fund to replace county buildings and may levy tax annually not exceeding 2 mills.

Laws 1943, c. 452. Salaries of employees in counties of 450,000 population.

Laws 1943, c. 515, §§1 to 4. School lunches in certain districts, repealing in part Laws 1941, c. 118.

Laws 1943, c. 563. Temporary increase in salaries in counties having 16 or 17 townships and area of 400 to 430 sq. miles and population of 12,500 to 14,000. Laws 1943, c. 563.

Laws 1943, c. 597, provides that county board may increase salaries of all county officials, deputies, and employees thereof, except such whose salary has been increased by 1943 legislature, and such increase by commissioners to take effect May 1, 1943, and continue until one year after cessation of hostilities in present war, and said increases to be made only in counties not containing a city of the first class, and which contains population of 36,000 to 38,000 and having 61 full and fractional townships.

Laws 1943, c. 608, amends §§5h, 7, and 30, Laws 1941, c. 423, which provides for the creation of a county civil service commission in counties having a population of over 150,000 and an area of over 5,000 square miles.

Notes of Decisions

Raises given by county board after January 1, 1943, are to be considered and deducted from general raise, but increases in raises given by district judge or county auditor are not to be deducted and general increases are to be computed on rate of pay in effect on May 1, 1943. Op. Atty. Gen. (1943).

County commissioners whose salaries were increased by Laws 1943, c. 439, cannot be further increased by this chapter (Laws 1943, c. 597). Op. Atty. Gen. (104a-9), May 6, 1943.

It is not mandatory that all officials employed and all employees of officials employed must be given an increase if an increase is granted to any county official or employee of a county official, the law being permissive and not mandatory. Op. Atty. Gen., (104a-9), May 6, 1943. See later opinions.

"Employees thereof" are limited to employees of county officers. Op. Atty. Gen. (104a-9), May 6, 1943.

Application to Kandiyohi County. Op. Atty. Gen. (104a-9) May 7, 1943.

Question whether the salary shall be increased at all is left to the discretion of the board, but if increased, act (Laws 1943, c. 597) specifies the percentage of the increase in each case. Op. Atty. Gen. (104a-9), May 8, 1943.

Board may increase salaries of some and refuse to increase salaries of others. Id. But see later opinions. Law applies to salary of executive secretary of the welfare board. Id.

Law (1943, c. 597) covers employees of county officials and not employees of county who are not employees of county officials. Op. Atty. Gen. (104a-9), May 12, 1943.

Laws (1943, c. 597) has the effect of extending limits established by law for clerk hire. Id.

County attorney's clerk is entitled to increase. Id. Where salary and clerk hire for county treasurer was increased by legislature in 1943, county treasurer and his deputy and clerk may not be considered in a general resolution increasing salaries in general. Op. Atty. Gen. (104a-9), May 12, 1943.

In order to be exempt from the operation of the act, (1943, c. 597) a county of less than 36,000 must also have 61 full and fractional congressional townships and also have 59 organized townships. Op. Atty. Gen. (104a-9), May 8, 1943. But see Op. Atty. Gen. May 14, 1943.

A county having more than 36,000 inhabitants and less than 38,000 is not included in the description of counties in this section (§3, Laws 1943, c. 597), modifying opinion of May 7, 1943. Op. Atty. Gen. (104a-9), May 14, 1943.

It is not required that when salary of one or more persons is raised that salary of all shall be raised. Op. Atty. Gen. (104a-9), May 18, 1943. See later opinions.

Act (Laws 1943, c. 597) does not apply to janitor or highway employees, but does apply to welfare board employees, and a general resolution raising the salary of all county officials, deputies and employees of the county, who are eligible to such adjustment under the act, would apply to those who are officers of the county, deputies of those officers whose salaries are fixed by the officer appointing them and not by the county board, and the employees of such appointing officers who set the salaries of such employees. Op. Atty. Gen. (104a-9), May 21, 1943.

Employees of county welfare board whose salaries are fixed by the welfare board and not by the county board are within provisions and their salaries may be increased as provided. Id.

Act (1943, c. 597) applies to employees of county welfare board and clerk of district court, but does not apply to county agent and his clerk who are hired by the Farm Bureau under Laws 1923, c. 423. Op. Atty. Gen. (104a-9), May 22, 1943.

County commissioners may raise their own salary, unless they have otherwise been increased at the 1943 session. Id.

Law (1943, c. 597) applies to salary of clerk of district court whose salary was fixed after January 1, 1943, by order of the district judge pursuant to Laws 1917, c. 476. Op. Atty. Gen. (104a-9), May 22, 1943.

Act (1943, c. 597) applies to Yellow Medicine County, Op. Atty. Gen. (104a-9), May 22, 1943.

To be excluded from the operation of the act (Laws 1943, c. 597), a county which does not contain a first class city would have to not only contain less than 36,000 inhabitants, but also would have to contain 61 congressional townships and 59 organized townships, and laws therefore applies to Mahanomen County. Op. Atty. Gen. (104a-9), May 25, 1943.

Counties with a population of less than 36,000 are not excluded from the Act of 1943, c. 597. Id.

Law (1943, c. 597) was intended to confer upon the county commissioners power to increase the salaries of employees which it had no power to set but which were set by other officers. Board may intervene and increase deputy auditor's salary. Men employed by county board, such as workmen in machine shop and janitor in courthouse, are not within act. Members of welfare boards are county officers and salary of executive secretary may be increased. Highway engineer is a county officer. Motor patrol operators, chief mechanics in machine shops, workmen in machine shops and weed men are not within act. County agent is not within law since his employees are paid by federal government. County nurses and clerical assistants of the county nurses are not within act. Men employed in drainage work are not within the act, but their salaries may be increased by the county board at its will. Op. Atty. Gen. (104a-9), May 24, 1943.

Increase in salary to county superintendent of schools authorized by this act is limited to the difference between 10% of his salary prior to January 1, 1943, and an increase received by him as of that date. Id.

Designation "county officials" includes elected county officials as well as appointed county officials. Act (1943, c. 597) includes employees of welfare department and employees of probate court, register of deeds and clerk of district court. Newly elected officials and newly appointed employees who took office after January 1, 1943, are within the purview of the act so as to permit increases for them. Op. Atty. Gen. (104a-9), May 25, 1943.

Increases granted under this act cannot be terminated prior to the expiration date specified in the act in all cases wherein the county board had no right to increase salaries except as authorized by this law, but in cases where the county board now has the right to increase salaries, the effect of the law is not to take away this right and any salaries granted in such cases may terminate prior to the expiration date specified. Id.

No conclusion has been arrived at as to whether the county board may grant increases for less than the maximum amount specified in the act. Id. See later opinions.

No final conclusion has been arrived at as to whether county commissioners may increase salaries for certain county officials and employees and exclude therefrom other county officials and employees. Id. See later opinions.

Act (1943, c. 597) does not apply to salaries of county agricultural agents. Op. Atty. Gen. (104a-9), May 27, 1943.

When county board determines to raise salaries the raise must apply to everyone in the county to whom the act is applicable. Op. Atty. Gen. (104a-9), June 11, 1943.

Act (1943, c. 597) applies to one who has started working since first of the year. Id.

Where job paid \$1680 to a person last year but a new one was hired this year at a salary of \$1800, raise in salary would be based upon salary that employee was receiving on May 1, 1943, the effective date of the act. Id.

Act (Laws 1943, c. 597) is operative in Lake County. Op. Atty. Gen. (104a-9), May 27, 1943.

A salary raise of deputy sheriff by district judge is not deductible from total raise under resolution of county board. Op. Atty. Gen. (104a-9), June 11, 1943.

County may act either under Laws 1943, c. 563 or Laws 1943, c. 597, or under neither. Op. Atty. Gen. (104a-9), June 12, 1943.

County may act either under Laws 1943, c. 563, or Laws 1943, c. 597, or under neither. Id.

If county exercises power conferred, salaries of all county officers and employees must be increased as in the act provided. Id.

Law (1943, c. 597) applies to compensation of county commissioners prescribed by statute on a per diem basis, provided such compensation was not fixed by the 1943 legislature. Id.

Laws 1943, c. 563, authorizing specified counties to increase salaries, did not "set, establish or otherwise increase" any salaries in any county within meaning of this section (§2, Laws 1943, c. 597). Op. Atty. Gen. (104a-9), June 12, 1943.

Act (1943, c. 597) applies to secretary to county attorney, county commissioners, deputy clerk of district court, clerks in auditor's office, jailor paid by the day, but not to the county agent. Op. Atty. Gen. (104a-9), June 16, 1943.

If county board increased county attorney's salary after January 1, 1943, any increase by resolution pursuant to this act (Laws 1943, c. 597) would be limited to the difference between the amounts so authorized by the county board and the amounts authorized by this act, but if the salary was fixed after January 1, 1943, by order of the court, upon appeal from action of the county board, the act would operate on the salary as it was on May 1, 1943. Op. Atty. Gen. (104a-9), June 16, 1943.

Act (1943, c. 597) applies to all officers, deputies and employees of counties to which the act applies, whether elected, appointed or hired, if their salaries have not been "set, established or otherwise increased by the 1943 session of the legislature," and members of the welfare board are entitled to a 15% increase on their salaries of \$3.00 per day, if any increases are made under the act. Op. Atty. Gen. (104a-9), June 19, 1943.

Resolution of county board misinterpreting law may be amended so as to express the intention of commissioner. Op. Atty. Gen. (104a-9), June 21, 1943.

Increase in salary received by deputy clerk of court, not granted either by the legislature or the county board, is to be disregarded in computing salary increase under this act (1943, c. 597). Op. Atty. Gen. (104a-9), June 30, 1943.

It is not necessary to take into account any salary increases made after January 1, 1943, and before May 1, 1943, which were not made by the county board or set by the legislature, and increase should be computed on salary being paid on May 1, 1943. Op. Atty. Gen. (104a-9), July 1, 1943.

Salary increase provided (Laws 1943, c. 597) does not apply to those who are not county officers, and does not apply to a court reporter. Op. Atty. Gen. (129), July 7, 1943.

Where board at first meeting in May after passage of act gave salary increases to some officers and employees and officially promised other employees to increase their salaries as of that date if they were later held eligible to such increase, increases to those employees could later be made retroactive. Op. Atty. Gen. (104a-9), July 17, 1943.

Act (1943, c. 597) applies to employees of welfare board and an increase in their compensation, if authorized by the county board, should be based on the salary or wages received by them on May 1, 1943, and if their salaries were increased in May of this year by the welfare board the only fair procedure would be for county board to adjust their compensation so that the same will be in accordance with the percentage of increase allowed by this act. Id.

Per diem pay of the members of the welfare board may be increased by the amount of percentage provided in the law, but mileage cannot be included as a basis for the increase. Id.

If county commissioners increased pay of road crew on February 1, 1943, the percentage of increase authorized under this act should be based on the salaries received on May 1, 1943, and from the amount of increases thus ascertained there should be deducted the increase given on February 1, 1943. Id.

Act (1943, c. 597) did not apply to increase salary of clerk of district court of Nobles County, in view of Laws 1943, c. 191. Op. Atty. Gen. (144a-4), July 20, 1943.

Act (Laws 1943, c. 597) does not authorize an increase of statutory fees which are paid as additional compensation for work which is only incidental to the regular official duties. Op. Atty. Gen. (104a-9), July 21, 1943.

Where fees to coroner are fixed by statute, county board may not allow any sum in excess thereof. Op. Atty. Gen. (103a), July 23, 1943.

Where fees to coroner are fixed by statute, county board may not allow any sum in excess thereof. Op. Atty. Gen. (103a), July 23, 1943.

Increase of compensation of clerk of district court is figured upon guaranteed amount rather than the salary fixed by law. Op. Atty. Gen. (104a-9), Aug. 2, 1943.

Sheriff was not entitled to any increase in salary under a general resolution where his salary had already been increased more than 15% during the year. Op. Atty. Gen. (104a-9), Aug. 6, 1943.

District court reporter is not a county employee under the act (1943, c. 597), nor is the judge of a municipal court of Montevideo. Op. Atty. Gen. (104a-9), Aug. 6, 1943.

Compensation of county board members paid on a per diem basis may be increased by resolution. Op. Atty. Gen. (104a-9), Aug. 10, 1943.

Increases in salary of county welfare workers granted by authority of this act are independent of and distinct from increases granted by county welfare board on merit basis under merit system salary regulations. Op. Atty. Gen. (104a-9), Aug. 12, 1943.

Laws 1931, c. 102, as amended by Laws 1939, c. 278, places a limitation upon the power of board to increase salaries under this act. Op. Atty. Gen. (104a-9), Aug. 18, 1943.

Resolution increasing salaries operates to increase \$3 per diem of members of County Welfare Board to \$3.45. Op. Atty. Gen. (104a-9), Aug. 26, 1943.

669. Powers of county boards.

Laws 1941, c. 118. Repealed in part. Laws 1943, c. 515, §4.

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

Old age assistance recipient may assign life insurance to county, but not to county welfare board which is not a corporate entity, but eligibility of an old person for old age assistance should not be based upon any such transfer. Op. Atty. Gen. (521a), Feb. 13, 1943.

Laws 1941, c. 118, construed as to payments and payments of welfare board. Op. Atty. Gen. (125a-64), Dec. 7, 1943; note under §3197.

669-1. Purchase by county board of county bonds out of funds in treasury.

A county may invest surplus funds in its own bonds. Op. Atty. Gen. (107a-6), June 10, 1943.

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

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

669-15. Rewards, etc.

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

669-37. Building restrictions in certain counties.

Zoning ordinance under this act held not classified "restricted" territory as non-agricultural, and lands therein could be repurchased from the state under Laws 1943, c. 164, §8. Op. Atty. Gen. (425c-13), Apr. 13, 1943.

669-41. County board to prepare plan.

Whether an electric refrigerator for preservation of perishable goods is suitable furniture in a jail is a question of fact for county board to decide. Op. Atty. Gen. (390a-17), Sept. 28, 1942.

669-60. County boards may acquire historical sites.—Boards of county commissioners of any county are hereby authorized to acquire and maintain tracts of land within their counties which are designated as having historical or archeological significance and whose acquisition and maintenance are approved by the Minnesota Historic Sites and Markers Commission in accordance with the provisions of Laws 1941, Chapter 418, Section 2 and to aid in the construction of markers on such lands. (Act Apr. 16, 1943, c. 462, §1.)
[138.09]

669-61. Maintenance and improvement of abandoned cemeteries.—Whenever in any county, whether within the corporate limits of any town or village or not, there exists any cemetery that has been abandoned or neglected and the association having had charge of said cemetery has disbanded or fails to act, the county board of any county may appropriate such funds from the general revenue funds as is deemed necessary for the improvement and maintenance of said cemetery. (Act Apr. 16, 1943, c. 468, §1.)
[306.243]

669-62. Same—Duties of county board.—Wherever in any county, there is an isolated grave or graves located outside of the boundaries of a cemetery, the county board may order the disinterment of the body and the reinterment thereof in some cemetery controlled by a duly organized cemetery association and the county board may appropriate funds for the purpose of paying perpetual care to said association for the care of said grave or graves. (Act Apr. 16, 1943, c. 468, §2.)
[306.243]

669-63. Same—may delegate duties.—The management and supervision of the maintenance and care of the abandoned cemeteries, or the removal of bodies as herein provided shall be delegated by the county board to some existing cemetery association, veterans organization or charitable institution which shall be responsible to the county board for its acts. (Act Apr. 16, 1943, c. 468, §3.)
[306.243]

669-64. Same—may not appropriate funds—exceptions.—The county board shall not appropriate any funds, however, where there is an existing cemetery association having funds or where there are living heirs of the deceased who were financially responsible for the care and maintenance of the graves of their ancestors. (Act Apr. 16, 1943, c. 468, §4.)
[306.243]

672-1. Counties may indemnify officers and employees.

Act does not apply to damage to a farmer's truck from any negligence of highway foreman in instructing farmer to drive in low gear at high speed over soft spot. Op. Atty. Gen. (844c-5), July 1, 1942.

672-2. County board may pay premiums.

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

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

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

673. Free county libraries.—1. * * *

2. * * * * *

3. Contract with present library board.—If there is a free public library in the county, the board of county commissioners may contract with the board of directors of such library, upon such terms and conditions as may be agreed upon between such boards, for the use of such library by all residents of the county, and may place under the supervision of the said library board the county library fund, hereinbefore provided for, to be spent by said board for the extension of the free use of said library to all residents of the county. Provided, also, that if there is more than one such free public library in the county the board of county commissioners may contract with one or all of such library boards for such free service if in its judgment advisable. (As amended Act Mar. 2, 1943, c. 94.)

4. * * * * *

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

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

Petition should be filed within such time, preceding time when county ballots must be printed, to enable county board to act upon petition. Op. Atty. Gen. (285b), June 16, 1942.

Form of petition and ballot prescribed. Id.

Upon an affirmative vote of electors, amount of tax to be levied still remains within discretion of county board within one mill limitation. Id.

Questions for voters may be placed on "India tint" ballot. Id.

Whether librarian paid by county under contract with city is an employee of the city or the county is a question of fact. Op. Atty. Gen. (285c, 523c), July 17, 1942.

Laws relating to county library. Op. Atty. Gen. (285b), March 3, 1943.

Contract between Stearns county board and St. Cloud Library Board considered. Op. Atty. Gen. (285b), March 24, 1943.

County board having established a library pursuant to an election, it continues without further annual action. Op. Atty. Gen. (285b), Aug. 4, 1943.

When there is one free library available for use as a central library, the board of five directors may not be appointed. Id.

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

Where county voted for county library system and no tax levy has been made, county can create a library fund by transferring from general fund. Op. Atty. Gen. (285b), Feb. 11, 1943.

(3). Amended. Laws 1943, c. 94. See above text.

Where a county contracted with city public library and agreed to pay salary of a competent librarian, whether librarian is employee or city or county is question of fact. Op. Atty. Gen. (285c, 523c), July 13, 1942.

678. Buildings.

County board may not make a special tax levy, in addition to and over and above the general levy, for the purpose of raising funds to construct a county hospital. Op. Atty. Gen. (519d), Oct. 27, 1943.

680. Question, how submitted.

Question of erecting county hospital may be submitted at a special election. Op. Atty. Gen. (1001b), Sept. 2, 1943, Sept. 7, 1943.

682. Operation of hospital.

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

683. Aid to hospitals, etc.

Village may build, own and operate a hospital, to be paid for out of general fund, and may issue bonds, and county may assist. Op. Atty. Gen. (1001h), Jan. 14, 1943.

687. County sanatorium commission.

County Sanatoria may sell drugs to employees at cost if such practice has a direct relationship to healthful employment of purchaser. Op. Atty. Gen. (556A-9), Aug. 16, 1941.

A deed of land should be to commissioners as trustees. Op. Atty. Gen. (556a-5), July 30, 1942.

692-2. Counties to be charged with care.

A county admitting to its sanatorium a person who has not been a resident for a year cannot bill county of settlement for poor purposes for the expense, but if the patient is a poor person it could return him to his county of settlement under poor laws. Op. Atty. Gen. (556a-1), July 24, 1941.

695. Sanatorium Commission to fix amount necessary for maintenance—3 mill limitation.—The county sanatorium commission shall determine by resolution each year prior to July 1st, the amount of money necessary for the maintenance of such sanatorium during the following year and a certified copy of such resolution shall be forthwith forwarded to the board or boards of county commissioners, and such board or boards shall at the regular meeting in July include the properly approved and apportioned amount in the annual levy of county taxes. In no case shall the amount of such levy in any one year exceed two mills on the dollar of assessed valuation, except in counties having an assessed valuation of not less than \$4,000,000 and not more than \$7,000,000, exclusive of monies and credits, and a population of not less than 14,000 nor more than 18,000 inhabitants and containing not less than 25 full and fractional congressional townships, the amount of such levy in any one year shall not exceed three mills on the dollar of assessed valuation.

In no case shall the total levy made for all purposes as expressed in Mason's Minnesota Statutes of 1927, Sections 694 and 695, in any one year exceed two mills on the assessed valuation without authority conferred by a vote of the voters of said county or groups of counties, except in counties having an assessed valuation of not less than \$4,000,000 and not more than \$7,000,000, exclusive of monies and credits, and a population of not less than 14,000 nor more than 18,000 inhabitants and containing not less than 25 full and fractional congressional townships. (As amended Mar. 16, 1943, c. 140, §1.)

699-1. Tax limitations for sanatorium purposes in certain cases.—In all cases where not less than four, nor more than six, counties have joined in the establishment and maintenance of a tuberculosis sanatorium, which counties have a total assessed valuation of not less than \$10,000,000, nor more than \$20,000,000, and a total population of not less than 35,000, nor

more than 60,000, and a total number of full and fractional congressional townships of not less than 140, nor more than 250, the total annual levy of county taxes for all tuberculosis sanatorium purposes authorized by law shall not be in excess of four mills on the dollar of assessed valuation in the county, of which not more than three mills shall be for maintenance, and all such taxes shall be levied and collected in the manner now provided by law; provided, however, that any county so adjoining now or hereafter having a population of not less than 15,000, nor more than 16,000, and having an assessed valuation, exclusive of money and credits, of not less than \$2,200,000, nor more than \$3,200,000, and containing not less than 54, nor more than 56, full and fractional congressional townships, may annually levy, for such tubercular sanatorium purposes, a tax not to exceed five mills on the dollar of the assessed valuation in such county, of which not more than four mills shall be for maintenance, and all such taxes shall be levied and collected in the manner now provided for by law. (As amended Apr. 10, 1941, c. 203, §1; Apr. 1, 1943, c. 268, §1.)

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

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

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

The county sanatorium commission of a county or group of counties may authorize the superintendent

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

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

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

County may not pay premiums on malpractice insurance covering doctors and employees. Op. Atty. Gen. (844C-3), Sept. 30, 1941.

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

Tuberculosis Sanatorium Commissioners do not possess power of eminent domain, and whether taking of additional private property for public use is necessary is a question of fact to be determined in proceedings in eminent domain, which must be instituted by county boards. Op. Atty. Gen. (556a-3), June 16, 1943.

710. Sanatorium commission to fix charges—Free patients—Nonresidents.—The county sanatorium commission shall fix the amount to be charged for the care, treatment and maintenance of each patient.

When a patient is unable to pay said charges and has no kindred legally liable therefor from whom payment can be secured, said patient may be admitted without charge or a patient by whom or for whom continued payments cannot be made may become a free patient. Any individual, resident of the state, residing outside of a county or counties maintaining a tuberculosis sanatorium, may apply for treatment in any sanatorium established under this act, or any city, village, town or county may so apply on behalf of any of its charges, and such patient may be cared for therein upon payment of a weekly sum to be fixed by the county sanatorium commission, provided that the state board of control shall approve of the admission of such patient and the sum so fixed.

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

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

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

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

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

County may receive reimbursement from father of patient after county has agreed to pay county sanatorium balance due them over amount allowed county sanatorium from state. Op. Atty. Gen. (556a-2), Feb. 24, 1943.

711. Tuberculosis sanatoriums; etc.

A county admitting to its sanatorium a person who has not been a resident for a year cannot bill county of settlement for poor purposes for the expense, but if the patient is a poor person it could return him to his county of settlement under poor laws. Op. Atty. Gen. (556a-1), July 24, 1941.

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

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

729. Morgue.

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

738-10. Same—Tax levy.

Laws 1943, c. 126, provides that in any county in this state having a population of not less than 16,000, or more than 17,000, according to the last Federal census, and an assessed valuation of not less than \$7,000,000, and not more than \$8,000,000, exclusive of moneys and credits, the board of county commissioners may levy in excess of the legal limitation not more than one-fourth mill above said limitation for additions and improvements to the county fair.

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

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

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

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

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

Tax may not be levied under this section to raise money for the purpose of paying it to the county agricultural society to be used for any purpose other than the paying of debts. Op. Atty. Gen. (519a), June 30, 1943.

738-17. Same—Application.

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

738-22. Agricultural societies to receive aid in certain cases.—In any county wherein an existing county agricultural society or association shall have discontinued holding annual county fairs, and wherein a county fair has been annually held for more than ten years immediately preceding the passage of this act, whether by said agricultural society or association or by some other organization, and second county agricultural society or association has been incorporated and is now operating, and such new society or association has received two or more annual appropriations from the state or county for the purpose of aiding its county fair, such society shall be entitled to receive all benefits and appropriations that other county agricultural societies and associations receive from the state, county or municipalities under existing laws. (Act Apr. 13, 1943, c. 415, §1.)

[38.012]

739. Appropriations for certain agricultural developments.

City of Two Harbors may not make appropriation to Lake County Development Association for purpose of advertising resources of county. Op. Atty. Gen. (59A-3), Mar. 26, 1942.

To justify an appropriation, donee must be an incorporated development society or organization of this state and it must be opinion of members of county board that donee is the organization or society which will use the money for the best interests of the county in advertising, improving, or developing the agricultural resources of the county. Op. Atty. Gen. (125b-1), May 29, 1942.

753. Fish hatcheries in counties having 275,000 inhabitants.

County may not appropriate money to Isaac Walton League to assist in establishing pond. Op. Atty. Gen. (107b-1), Nov. 16, 1941.

765-1. Expenditures of certain towns, boroughs, villages, cities and counties legalized and validated.—Any expenditure or appropriation by towns, boroughs, villages, cities or counties made or authorized since December 7, 1941, and prior to the cessation of hostilities in the so-called "second world war" as declared by the proper federal authority, for the purpose of paying rent, clerical assistance or other expenses in connection with the operation of selective service boards, rationing boards, civilian defense or similar activities made necessary by and connected with such "second world war" are hereby declared to be legal and valid as against the objection that no legal authority exists therefor. (Act Mar. 22, 1943, c. 168, §1.)

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

Expenditures by municipalities for expenses of boards of the United States. Op. Atty. Gen. (125b-16), Apr. 29, 1943.

Laws 1943, c. 168, would not authorize payment of expenses of county officers attending a meeting in another state to clear up questions confronting county boards concerning war production and other matters. Op. Atty. Gen. (124b), May 1, 1943.

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

Village of Blooming Prairie may pay for clerk at rationing board. Op. Atty. Gen. (835), June 1, 1943.

765-2. Municipalities may expend monies during second world war—limitations.—Any such municipality may until the cessation of hostilities of said "second world war" make any necessary expenditures such as those referred to in Section 1 hereof, provided the said expenditures do not exceed an amount equivalent to two-tenths of a mill levy on the taxable property in said municipality for any one taxable year. (Act Mar. 22, 1943, c. 168, §2.)

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

"Taxable property" means the assessed valuation as finally determined by the state board of equalization. Op. Atty. Gen. (125b-16), Apr. 5, 1943.

Act does not authorize a levy in excess of per capita limitations. Op. Atty. Gen. (519i), Nov. 30, 1943.

766. Claims to be itemized and verified.

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

768. Auditing of Claims.

County may not pay a claim upon which limitations has run. Op. Atty. Gen. (107A-9), Aug. 12, 1941.

786. Questions submitted to vote—Ballot.

Question of erecting county hospital may be submitted at a special election. Op. Atty. Gen. (1001b), Sept. 2, 1943, Sept. 7, 1943.

COUNTY PLANNING COMMISSIONS

786-1. County Planning Commission in certain counties.—There is hereby authorized to be created in any county of this state now or hereafter containing a city of the first class, the area of which city comprises at least 25 per cent of the total area of the county, a county planning commission of not less

than four and not more than 20 members. (Act Apr. 10, 1941, c. 210, §1.)

[394.06]

786-2. Members of Commission—Term.—The town board of any town desiring to be represented on said county planning commission may appoint, and at its pleasure may remove, two members of said commission. The governing body of each city and village, other than the city of the first class, desiring to be represented on said commission may appoint, and at its pleasure may remove, two members of said commission. When appointments to said commission are first made, the appointing authority shall appoint one member for a two year term and another member for a four year term, after which all subsequent appointments shall be for a four year term. Members shall hold office until their duly appointed successors have qualified. Appointments to fill vacancies shall be for the unexpired portion of the term. The county auditor and the county surveyor shall be members of said commission. Certified copies of the minutes of the meetings of the appointing bodies at which appointments under this act are made shall be filed with the county auditor. (Act Apr. 10, 1941, c. 210, §2.) [394.07]

786-3. Meetings—Organization.—The commission shall meet within 30 days after its appointment and elect a chairman and other necessary officers from its membership. The commission may adopt rules and by-laws not inconsistent with the provisions of this act. A majority of the members of such commission shall constitute a quorum. Membership of the commission shall serve without compensation. (Act Apr. 10, 1941, c. 210, §3.) [394.08]

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

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

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

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

(d) to propose a part of a plan covering one or more of the towns, cities, other than the city of the first class, villages, sections or divisions of the county and may from time to time propose alterations, amendments, or additions to any plan or plans; to co-operate with other planning boards and commissions of the county in the execution of its powers and authority. (Act Apr. 10, 1941, c. 210, §4.) [394.09]

786-5. Preparing plans for future growth and development—Public hearing.—Whenever requested by the town board and/or the governing body of any city or village, other than a city of the first class, the county planning commission shall, at the expense of the town and/or city or village making such request, prepare a plan or alteration, amendment, extension or addition of any existing plan for the future growth

and development of such town and/or city or village. It shall submit said plan together with all maps, drawings, and recommendations of the commission to the town board and/or governing body of the city or village affected. Such town board and/or governing body shall give due notice of and shall hold at least one public hearing before accepting or rejecting such plan, which acceptance or rejection shall be made within 90 days of the date of its submission to the town board and/or governing body of the city or village. (Act Apr. 10, 1941, c. 210, §5.) [394.10]

786-6. Filing adopted plan—Disapproval.—If said plan or any part thereof, or any amendment, extension or addition thereto, shall be adopted by the town board and/or governing body of such city or village, the same, or a true and correct copy thereof, shall be filed with the register of deeds. In case of disapproval, the town board and/or the governing body of such city or village, shall communicate to the commission the reason or reasons therefor. (Act Apr. 10, 1941, c. 210, §6.) [394.11]

786-7. Binding effect of adoption of plan—Changes submitted to commission—Disapproval.—After the adoption of the plan by any town, city or village as hereinbefore provided, its provisions shall be binding upon all persons and all property in relation to all matters and things contained therein so far as it affects said town, city or village. No highway, thoroughfare, viaduct, subway, bridge, street, square, park, or other public way, and no public or private building or structure, or public utility, either publicly or privately owned, shall be constructed, altered or changed until the location, character, and extent thereof shall have been first submitted to the county planning commission for comparison with the said plan or plans, and shall have been approved by the commission. Provided, that in the case of disapproval, the commission shall communicate its reasons to the local governing body or bodies which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its members. (Act Apr. 10, 1941, c. 210, §7.) [394.12]

786-8. Matters referred to Commission.—All matters concerning or relating to the platting of new areas or replatting of existing areas; the vacation or rearrangement of boulevards, streets, or alleys, the routing or rerouting of street cars and other means of transportation; the assignment of traffic to particular arteries of travel; the location and development of parks, playgrounds, parkways, or other public spaces; the location and design of all public buildings, bridges, monuments, and street fixtures; the establishment of building lines; the establishment of restricted building districts; the disposition of lands owned by the city and no longer required for public purposes; the location and installation of traffic signals; the plans for additional street lighting; the installation of public utility projects; street naming; and all other matters relating to the planning or replanning of the county shall be referred to the commission for its consideration and recommendation at such times as the local governing body or bodies of the areas affected may direct. (Act Apr. 10, 1941, c. 210, §8.) [394.13]

786-9. Expenses of administration.—The electors of any town and the governing body of any city or village, other than the city of the first class, are hereby authorized to vote and levy a sum of money not in excess of \$1,000 per annum for the purpose of defraying their proportionate expense of the administration of this act. (Act Apr. 10, 1941, c. 210, §9.) [394.14]

786-10. Grant of additional powers.—The town boards of all towns within said county and the governing bodies of said cities and villages, other than the city of the first class, may grant to such planning commission such further and additional powers as may be necessary to carry out the purposes of this act. (Act Apr. 10, 1941, c. 210, §10.) [394.15]

786-11. Violation of act.—It is hereby declared unlawful for any person to violate any of the terms and provisions of this act or the provisions of any plan or plans proposed by the said county planning commission and accepted by the town board and/or city or village council. Violation thereof shall be a misdemeanor, punishable by a fine of not more than \$100.00 or imprisonment in the county jail for not more than 90 days. Said fines shall be paid to the treasurer of the town, city, or village in which such violation takes place. (Act Apr. 10, 1941, c. 210, §11.) [394.16]

786-12. Powers of county commissioners unaffected.—None of the provisions of this act shall affect the powers and duties of the board of county commissioners of any such county. (Act Apr. 10, 1941, c. 210, §12.) [394.17]

ORGANIZATION OF TOWNS

789. Formation and alteration of towns.

Proceedings may not be had under this section for detachment of land from a village. Op. Atty. Gen. (484e-2), Nov. 15, 1943.

ESTABLISHMENT OF SECTION LINES

797. Petition.

Assessor is not bound to assess the number of acres stated in the government survey if he finds that the acreage is incorrectly stated therein, and having determined correct location of corners, the acreage yields to the monuments so established. Op. Atty. Gen. (404b), Nov. 17, 1943.

COUNTIES EXCEEDING 150,000

813. Payment of warrants—accounts—how kept—certificates of indebtedness to retire outstanding warrants.—The county treasurer shall pay warrants only from the fund from which they are legally payable. Payments under any special contract shall be kept separate under the name of such contract, and under the general title of the fund from which such payment may be legally made. The treasurer need not keep a specific appropriations account separately, but shall keep a general appropriations account.

Provided, however, that in any county having an assessed valuation of not less than \$150,000,000, exclusive of moneys and credits, the county board may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any fund named in the tax levy for the purpose of raising money for such fund, but the certificates outstanding for any such separate funds shall not at any time exceed fifty per cent of the amount of taxes previously levied for such fund remaining uncollected, and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. No such certificates shall be issued prior to the beginning of the fiscal year for which the taxes so anticipated were intended, except that when taxes shall have been levied for the purpose of paying a deficit in any such fund carried over from any previous year or years certificates of indebtedness in anticipation of collection of the taxes levied for such deficit may be issued at any time after such levy shall have been finally made and certified to the county auditor. Each certificate shall state upon its face for which

fund the proceeds of said certificate shall be used, the total amount of said certificates so issued, and the whole amount embraced in said levy for that particular purpose. They shall be numbered consecutively, and be in denominations of \$100 or a multiple thereof, any may have interest coupons attached, and shall be otherwise of such form and terms, and may be made payable at such place, as will best aid in their negotiation, and the proceeds of the tax assessed and collected on account of said fund and the full faith and credit of the county shall be irrevocably pledged for the redemption and payment of the certificates so issued. Such certificates shall be payable primarily from the moneys derived from the levy for the years against which such certificates were issued, but shall constitute unlimited general obligations of the county. Moneys derived from the sale of such certificates shall be credited to the fund or funds the taxes for which are so anticipated. (As amended Apr. 9, 1943, c. 366, §1.)

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

816. Maximum tax rate.

Laws 1943, c. 367, provides that in any county in this state now or hereafter having an area of not less than 27 nor more than 29 congressional townships, whole or fractional, a land area of not less than 950 square miles nor more than 1,000 square miles, and a land area in acreage of 604,261 acres, and a population of not less than 25,000 nor more than 30,000 inhabitants, the county board may levy taxes of not to exceed three mills on a dollar of the taxable property of said county, exclusive of moneys and credits, in addition to all tax levies now authorized by law, to defray county expenses for snow removal from town roads, payable out of the road and bridge fund.

TERMS OF CERTAIN COUNTY OFFICERS

820. Auditor, treasurer; etc.

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

822. County board to fill vacancies.

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

Section is unconstitutional insofar as it relates to office of clerk of district court and does not repeal §200. Op. Atty. Gen. (144a-5), May 15, 1942, May 19, 1942.

Acting incumbent is appointed by judges of district court when court commissioner is on military leave. Op. Atty. Gen. (310h-1-a), Sept. 16, 1943.

TRANSPORTATION FACILITIES FOR COUNTY OFFICERS

822-2. Sheriff's expense in certain counties.—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 275,000, and less than 350,000 inhabitants, the sheriff of said county shall be allowed a sum of not more than \$8,500 per annum thereafter to be used for the purchase, care, maintenance, operation, upkeep of automobiles and insurance including liability and property damage covering the operator of the automobiles, firearms and other necessary equipment and paraphernalia to be used in the performance of the duties pertaining to his office. (As amended Apr. 28, 1941, c. 508, §1; Apr. 1, 1943, c. 258, §1.)

COUNTY AUDITOR

824. County auditors allowed expenses to attend meetings called by tax commission.—The county board of each county shall audit and if found correct, allow duly itemized and verified claims of the county auditor and county treasurers for actual and necessary expenses incurred and paid by him in attending any

meeting called by the Minnesota tax commission to confer in regard to assessments and taxation. (As amended Act Apr. 21, 1941, c. 344, §1.)

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

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

826. Bond of County Auditor—county to pay premiums.—Each county auditor, before entering upon the duties of his office, shall give a bond, to the state, to be approved by the county board, in such penal sum, not less than two thousand dollars, as such board requires, conditioned for the faithful discharge of the duties of his office, upon which shall be indorsed his oath of office. The bond so indorsed shall be filed and recorded in the office of the register of deeds.

The County Board shall pay the premiums upon such bonds out of the treasury of the county in cases where the surety is a corporation duly authorized by law to be surety. (As amended Act Apr. 10, 1943, c. 387, §1.)

Laws 1943, c. 181, provides that in any county having a population of not less than 55,000 nor more than 70,000 and consisting of not less than 35, nor more than 49, congressional townships, the premiums on the bonds required by law to be furnished by the county auditor and his deputies, the register of deeds and his deputies, and the sheriff and his deputies shall be paid by the county, and that payments of such premiums heretofore made are validated.

Laws 1939, c. 205, §1. Amended. Laws 1943, c. 181.

833. Certain records may be transcribed.

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

836. Disbursements—Warrant.

Surety on official bond of county auditor was liable to holder of county warrant issued by county auditor in payment of his own salary when no salary was due, even though warrant fails to state on its face time of service covered thereby, unless it be shown that it has been released by holder's participation in or connivance with auditor's wrongful acts, or there be proof that holder's negligence in acquiring warrant was proximate cause of loss. State Bank of Mora v. Billstrom, 210M497, 299NW 199. See Dun. Dig. 2309.

There could have been no recovery upon a warrant issued by county auditor in payment of his own salary from the county if proof disclosed that no salary was due. Id. See Dun. Dig. 2313.

It is doubtful whether a salary warrant of an elective officer comes within statute as to requirement that warrant state on its face time of service covered. Id.

Claims against county for fixed charges under a contract for electric current may be audited by county auditor and paid by warrant without allowance by county board, if a resolution is passed authorizing such action for purpose of saving penalty. Op. Atty. Gen. (107b-4), Nov. 9, 1942.

837-2. Salaries of deputies and clerks in the office of County Auditor, etc.

SALARY, DEPUTIES AND CLERK HIRE OF AUDITORS IN PARTICULAR COUNTIES

Laws 1933, c. 16. Amended. Laws 1943, c. 221.
Laws 1933, c. 76, as amended by Laws 1935, chs. 70 and 278 as amended by Laws 1939, c. 286. Amended. Laws 1941, c. 208.

Laws 1933, c. 143. Amended. Laws 1943, c. 52.
Laws 1933, c. 166. Repealed. Laws 1941, c. 295.
Laws 1937, c. 69. Amended. Laws 1943, c. 221.
Laws 1937, c. 491, §2. Amended. Laws 1943, c. 97.
Act Apr. 19, 1941, c. 323, §1, provides \$2,500 for clerk hire in office of county auditors in certain counties having populations of between 13,700 and 15,000.

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

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

Laws 1941, c. 311. Repealed. Laws 1943, c. 15, §12.
Act Apr. 21, 1941, c. 337, §1, amends Laws 1937, c. 491, §2, and fixes salary of county auditor at \$2,820 per annum, and allows \$3,600 per annum for clerk hire in certain counties having 44 or 45 congressional townships.

Act Apr. 22, 1941, c. 361 provides that in counties with population of 25,000 to 30,000 and assessed valuation of

\$12,500,000 to \$14,000,000, the county auditor shall receive a salary of \$2,800 per annum.

Laws 1943, c. 15, §2, provides that in counties with 46 to 49 full or fractional congressional townships and population of 20,000 to 27,500, that county auditor's salary shall be \$2,400 to \$2,750.

Laws 1943, c. 52, amends Laws 1933, c. 143, to provide county auditor shall receive salary of \$3,000.

Laws 1943, c. 81, Amended, Laws 1943, c. 488.

Laws 1943, c. 97, amends c. 337, Laws 1941, which amended c. 491, Laws 1937, in respect to auditor's salary and clerk hire in counties having 44 to 45 congressional townships, whole or part, and an assessed valuation of \$8,000,000 to \$14,000,000.

Laws 1943, c. 139, provides that "in counties having not less than 35 nor more than 55 full and fractional congressional townships and an assessed valuation of not more than \$2,000,000, and a population of 5,000 to 7,000, the county auditor shall receive a salary of \$1,950 per annum, in addition to fees.

Laws 1943, c. 184, provides that in all counties in this state having an area of not less than 600 square miles nor more than 700 square miles, and having a population of not less than 19,000 nor more than 20,300, and having an assessed valuation of not less than \$9,500,000.00, the annual salary of the county auditor shall be \$2,750.00.

Laws 1943, c. 186, provides that in counties having 18 to 20 congressional townships, with an area of 362,000 to 364,000 acres, an assessed valuation of \$2,000,000 to \$10,000,000, the clerk hire in the office of county auditor shall be \$1,800.00 per annum, and that upon petition of any county officer, county board may allow additional amounts for clerk hire.

Laws 1943, c. 214, provides that in counties having an area of not less than 490 square miles and not more than 510 square miles, a population of 18,000 to 23,000, the salary of county auditor shall be \$3,000 per year.

Laws 1943, c. 219, authorizes county board in counties with population of 60,000 to 75,000, and 35 to 49 congressional townships, to fix by resolution the salary of the county auditor.

Laws 1943, c. 221, provides that in counties having 81 to 85 full or fractional congressional townships and a population of 18,000 to 30,000, the county auditor shall receive a salary of \$2,750 per year.

Laws 1943, c. 282, provides that in counties having 400 to 500 square miles, population of 22,000 to 30,000, compensation of all elected county officials shall be increased 15%, except county commissioners, who shall receive \$420.00 per year. That all increases will terminate December 31, 1944.

Laws 1943, c. 283, provides that in counties having 12 to 14 organized townships, an assessed valuation of \$3,000,000 to \$4,000,000, the compensation of all elected county officials, except county commissioners, shall be increased 15% until Dec. 31, 1944, and county commissioners shall be \$420.00 per year.

Laws 1943, c. 303, provides that in counties having an assessed value of \$1,000,000 to \$1,500,000, a population of 8,000 to 10,000, 15 to 17 full or fractional congressional townships, and a land area of 350,000 to 400,000 acres, to board of county commissioners may fix the salary of the county auditor at \$1,800 to \$2,000 annually.

Laws 1943, c. 356, provides that in counties having 14 to 15 full or fractional congressional townships, an assessed valuation of \$1,000,000 to \$4,000,000, a population of 9,500 to 9,700, the annual salary of the county auditor shall be \$2,400.

Laws 1943, c. 362, provides that in counties having a population of 10,000 to 11,000, a land area of less than 500 square miles, and less than 12 full and fractional congressional townships, the salary of the county auditor shall be \$2,400 per year.

Laws 1943, c. 372, provides that in counties having 10 to 12 organized townships; a population of 16,000 to 17,000 the salary of the county auditor shall be \$2,500 per year.

Laws 1943, c. 388, §1. Population 25,000 to 30,000, valuation \$12,500,000 to \$18,000,000, townships 18 to 23.

Laws 1943, c. 394, §1. Counties with 16 to 18 townships, 553 to 570 square miles, 348,000 to 350,000 acres, population 9,000 to 11,000.

Laws 1943, c. 398, §1. Counties containing not less than 18 nor more than 21 townships, with an assessed valuation of not less than \$1,000,000 nor more than \$4,000,000, and having a population of not less than 14,000 nor more than 818,000 inhabitants.

Laws 1943, c. 478, §1. Population 15,100 to 16,800, townships 19 to 21, valuation \$7,500,000 to \$10,000,000.

Laws 1943, c. 488, §1, amends Laws 1943, c. 81, to read as follows: In counties containing 18 to 20 full or fractional congressional townships, a population of 36,000 to 36,500, with assessed valuation of \$20,000,000 to \$30,000,000, county auditor shall receive salary of \$3,500 annually and there shall be allowed for clerk hire $\frac{1}{2}$ of a mill of the assessed valuation including money and credit tax.

Laws 1943, c. 531, §1, amends Laws 1943, c. 411, §1, to read as follows: Counties containing not less than 19 nor more than 21 organized townships, and having a population of not less than 35,000 nor more than 42,000 inhabitants, according to the last federal census, and having an assessed valuation of not less than \$32,000,000 and not more than \$45,000,000.

Notes of Decisions

Salary of county auditor is "fixed by law" within meaning of §836. State Bank of Mora v. Billstrom, 210M497, 295NW199. See Dun. Dig. 2313.

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

Federal census does not become effective in determining salaries of county officers until a certified copy thereof is filed with the Secretary of State. Op. Atty. Gen. (1241), Dec. 26, 1941.

Monies and credits are to be included in determining classification of counties for salary purposes where assessed valuation is a factor in such determination. Op. Atty. Gen. (104a-9), Dec. 31, 1942.

Laws 1943, c. 15, is constitutional and must be put into effect at once. Op. Atty. Gen. (104a-9), Mar. 22, 1943.

In Isanti County which is a class C county under Laws 1917, c. 476, and in which clerk of court is paid a yearly salary of \$800, as provided by Laws 1919, c. 229, the 15% increase in compensation provided by Laws 1943, c. 283, should be calculated on the basis of the \$800 salary, and not on the basis of the \$1500 minimum guaranteed income provided for in Laws 1919, c. 299. Op. Atty. Gen. (144a-4), May 22, 1943.

Construing Laws 1943, c. 411, and Laws 1943, c. 531, together, officers of Mower County were not entitled to increased salaries between the approval dates of the two acts, in view of Laws 1941, c. 492, §31. Op. Atty. Gen. (104a-9), June 7, 1943.

COUNTY TREASURER

844. Board of auditors.

Actual checking of duplicate tax receipt with entries in county treasurer's current tax list must be done by members of board and cannot be delegated to a clerk or deputy in the county auditor's office. Op. Atty. Gen. (541), June 10, 1943.

Member of board may not employ clerk in his behalf to make audit. Op. Atty. Gen. (541), Aug. 20, 1943.

846. Funds, where deposited.

County treasurer and county auditor must pay over to township tax money collected for it, and cannot refuse on ground that town must stand its proportionate share of former loss of tax money through bank insolvency. State v. County of Pennington, 211M569, 2NW(2d)41. See Dun. Dig. 2313, 2323, 9260, 9260a, 9261.

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

It is not essential that each individual bond offered as collateral security for deposit of county funds be approved, and it is sufficient if entire issue is approved, as in case of United States bonds or State of Minnesota bonds. Op. Atty. Gen. (140F-3), June 16, 1941, June 20, 1941.

Commodity Stamp Fund should be deposited by stamp issuing officer with depository designated by county welfare board. Op. Atty. Gen. (140A-7), Aug. 8, 1941.

Commodity stamp funds. Op. Atty. Gen. (140a-7), Dec. 22, 1941; note under §3199-114.

Provision that the amount deposited in any bank shall not exceed the capital stock and permanent surplus thereof was repealed by implication by Laws 1935, c. 318, §1, Op. Atty. Gen. (140a-1), March 15, 1943.

There is no requirement that designated bank be situated in the county, and though county may pay a bank a monthly service charge, it should advertise and accept best proposal. Op. Atty. Gen. (29a-17), March 23, 1943.

848. Bonds of depositaries.

Commodity Stamp Fund should be deposited by stamp issuing officer with depository designated by county welfare board. Op. Atty. Gen. (140A-7), Aug. 8, 1941.

849. Proposals by banks.

Proposals by banks must contemplate depository relationship for term of two years, not to be terminated at option of bank. Op. Atty. Gen. (140A-(7)), Dec. 27, 1943.

854. Compensation and mileage of board of auditors.

Mileage allowance provided by this section is not affected by limitations of §254-47. Op. Atty. Gen. (124a), May 17, 1941.

Commissioner cannot charge mileage for every day traveled to and from county seat when a meeting of board of audit is in session for several days. Op. Atty. Gen. (124a), May 22, 1941.

864. New bond—Insolvency of surety.

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

869. Payment of county orders or warrants—Insufficient funds—Interest—Borrowing money—Transfer of funds—Counties on cash basis.—When any order

or warrant drawn on him as treasurer is presented for payment, if there is money in the treasury for that purpose, the county treasurer shall redeem the same, and write across the entire face thereof the word "Redeemed," the date of the redemption, and his official signature. If there is not sufficient funds in the proper accounts to pay such orders they shall be numbered and registered in their order of presentation, and proper endorsement thereof shall be made on such orders and they shall be entitled to payment in like order. Such orders shall bear interest at not to exceed the rate of four per cent per annum from such date of presentment. The treasurer, as soon as there is sufficient money in the treasury, shall appropriate and set apart a sum sufficient for the payment of the orders so presented and registered, and, if entitled to interest, he shall issue to the original holder a notice that interest will cease in 30 days from the date of such notice; and, if orders thus entitled to priority of payment are not then presented, the next in order of registry may be paid until such orders are presented. No interest shall be paid on any order, except upon a warrant drawn by the county auditor for that purpose, giving the number and the date of the order on account of which the interest warrant is drawn, provided, that in any county in this state now or hereafter having an assessed valuation of all taxable property, exclusive of money and credits, of not less than \$250,000,000, the county treasurer, in order to save payment of interest on county warrants drawn upon a fund in which there shall be temporarily insufficient money in the treasury to redeem the same, may borrow temporarily from any other fund in the county treasury in which there is a sufficient balance to care for the needs of such fund and allow a temporary loan or transfer to any other fund, and said treasurer may pay such warrants out of such funds. Any such money so transferred and used in redeeming such county warrants, shall be returned to the fund from which drawn as soon as money shall come in to the credit of such fund on which any such warrant was drawn and paid as aforesaid. Provided, that any county operating on a cash basis may use a combined form of warrant or order and check, which, when signed by the chairman of the county board and by the auditor, is an order or warrant for the payment of the claim, and, when countersigned by the county treasurer, is a check for the payment of the amount thereof. (As amended Apr. 5, 1941, c. 56, §1; Apr. 5, 1943, c. 298, §1.)

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

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

Notice must be received by holder of warrant. Op. Atty. Gen. (107a-5), Dec. 26, 1941.

Issuance of master warrant covering disbursements from road and bridge fund for one month is illegal. Op. Atty. Gen. (107a-5), May 19, 1943.

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

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

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

PARTICULAR COUNTIES

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

Laws 1933, c. 16. Amended. Laws 1943, c. 221.

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

Laws 1933, c. 143. Amended. Laws 1943, c. 52.

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

Laws 1937, c. 69. Amended. Laws 1943, c. 221.

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

Act Feb. 13, 1941, c. 8, allowing counties containing not less than 350, nor more than 400 square miles, and having a population of not less than 13,500, nor more than

16,000, and having an assessed valuation, exclusive of money and credits, of not less than \$5,000,000 nor more than \$10,000,000, and having an area of not less than 225,000 acres, nor more than 230,000 acres, sum of \$1,200 annually for clerk hire in office of county treasurer.

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

Laws 1941, c. 311. Repealed. Laws 1943, c. 15, §12.

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

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

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

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

Laws 1943, c. 15, §3, provides that in counties with 46 to 49 full and fractional congressional townships and population of 20,000 to 27,500, county treasurer shall receive salary from \$2,200 to \$2,600 annually. Section 12 of the act repeals c. 311 of Laws 1941.

Laws 1943, c. 30, provides that in each county of this state containing not less than 18 nor more than 20 full or fractional congressional townships and having a population of not less than 31,600 nor more than 32,500 inhabitants, according to the last preceding federal census, and having an assessed valuation of all property, including money and credits, at last previously equalized, of not less than \$19,000,000 nor more than \$25,000,000, the county treasurer shall receive from the county in full payment for his services an annual salary of \$3,000.

Laws 1943, c. 96, authorizes the board of county commissioners, in counties having a population of 22,000 to 24,000, 28 to 30 full and fractional congressional townships, to fix the annual salary of the county treasurer at not less than \$2,500 nor more than \$3,000.

Laws 1943, c. 97, amends c. 337. Laws 1941, which amended c. 491, Laws 1937, in respect to treasurer's salary and clerk hire in counties having 44 to 45 congressional townships, and assessed valuation of \$8,000,000 to \$14,000,000.

Laws 1943, c. 139, provides that "in counties having not less than 35 nor more than 55 full and fractional congressional townships and an assessed valuation of not more than \$2,000,000, and a population of 5,000 to 7,000, the county treasurer shall receive a salary of \$1,650 per annum in addition to fees.

Laws 1943, c. 214, provides that in counties having an area of not less than 490 square miles and not more than 510 square miles, a population of 18,000 to 23,000, the salary of county treasurer shall be \$3,000 per year.

Laws 1943, c. 219, provides that in counties having population of 60,000 to 75,000 and 35 to 49 congressional townships, county board shall fix by resolution salary of county treasurer at not more than \$4,000 per year.

Laws 1943, c. 221, provides that in counties having 81 to 85 full or fractional congressional townships and a population of 18,000 to 30,000 the county treasurer shall receive a salary of \$2,100.00 per year.

Laws 1943, c. 262, provides that in counties having population of 16,000 to 18,000 and 56 to 58 full and fractional townships, the salary of the county treasurer shall be \$2,200 per year.

Laws 1943, c. 273. Amended. Laws 1943, c. 490.

Laws 1943, c. 303, provides that in counties having an assessed value of \$1,000,000 to \$1,500,000, a population of 8,000 to 10,000, 15 to 17 full or fractional congressional townships and a land area of 35,000 to 400,000 acres, to board of county commissioners may fix the salary of the county treasurer at \$1,500 to \$1,800 annually.

Laws 1943, c. 325, provides that in counties having a value of \$4,000,000 to \$5,000,000, 10,000 to 15,000 population, containing 17 to 21 full or fractional congressional townships, and less than 500 square miles, the county treasurer shall receive a salary of \$2,300 per annum.

Laws 1943, c. 372, provides that in counties having 10 to 12 organized townships; a population of 16,000 to 17,000, the salary of the county treasurer shall be \$2,500 per year.

Laws 1943, c. 378, §1. Counties of 600 to 700 square miles and population 19,000 to 20,300.

Laws 1943, c. 380, §1. Counties with population 25,000 to 30,000 and assessed valuation \$12,500,000 to \$18,000,000 and 18 to 23 townships.

Laws 1943, c. 394, §1. Counties having not less than 16 nor more than 18 townships, and not less than 553 nor more than 570 square miles of land area, and not less than 348,000 and not more than 350,000 acres of land area, and a population of not less than 9,000 and not more than 11,000, according to the last federal census. Laws 1943, c. 394, §1.

Laws 1943, c. 490, §1, amends Laws 1943, c. 273, to read: In counties with 18 to 20 congressional townships, population of 36,000 to 40,000, an assessed valuation of \$20,000,000 to \$30,000,000 county treasurer shall receive salary of \$3,000 and \$2,800 as clerk hire.

Laws 1943, c. 516, §1. Valuation \$5,500,000 to \$8,000,000, population 10,000 to 15,000, townships 17 to 21, area less than 500 sq. miles.

Laws 1943, c. 531, §1, amends Laws 1943, c. 411, §1, to read as follows: Counties containing not less than 19

nor more than 21 organized townships, and having a population of not less than 35,000 nor more than 42,000 inhabitants, according to the last federal census, and having an assessed valuation of not less than \$32,000,000 and not more than \$45,000,000.

Notes of Decisions

Federal census does not become effective in determining salaries of county officers until a certified copy thereof is filed with the Secretary of State. Op. Atty. Gen. (124i), Dec. 26, 1941.

Monies and credits are to be included in determining classification of counties for salary purposes where assessed valuation is a factor in such determination. Op. Atty. Gen. (104a-9), Dec. 31, 1942.

Laws 1943, c. 15, is constitutional and must be put into effect at once. Op. Atty. Gen. (104a-9), Mar. 22, 1943.

Construing Laws 1943, c. 411, and Laws 1943, c. 531, together, officers of Mower County were not entitled to increased salaries between the approval dates of the two acts, in view of Laws 1941, c. 492, §31. Op. Atty. Gen. (104a-9), June 7, 1943.

REGISTER OF DEEDS

873. Bond.

Laws 1939, c. 205, §1. Amended. Laws 1943, c. 181. There can be no liability on a bond of register of deeds for acts committed by his chief deputy after his death. Op. Atty. Gen. (373a-2), June 22, 1942.

877. Tract Index books.

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

Fee provisions of this section are not applicable to office of abstract clerk in Ramsey County, and county commissioners may make any allowance desired to abstract clerk for compensation for indexing tract index books. Op. Atty. Gen. (1L), Jan. 5, 1942.

881. Register to supervise—Compensation.

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

882. To Exhibit records.

In view of federal law, register of deeds may not disclose or furnish list of old age assistance liens for delivery to a political candidate or for political purpose—fees which may be charged if list may be furnished. Op. Atty. Gen. (521t-4, 851e), Aug. 31, 1942, Sept. 23, 1942.

883. Abstracter—Bond.

Doing business under a trade name in the making of abstracts does not exempt register of deeds from application of the law as to fees therefor, and he cannot charge more for abstracts of title than the legal fees, and abstracter using register of deed's office is limited to fees provided by statute, and county board may charge rent to abstract company using space in court house. Op. Atty. Gen. (1d), Aug. 10, 1943.

884. Record books, indexes, etc.

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

885. Filing of certificates of discharge from U. S., etc.

Register of deeds may make certified copies of record of discharge certificates. Op. Atty. Gen. (310), Aug. 16, 1943.

890-1. Sheriff's certificates in mortgage foreclosures filed prior to January 1, 1875—Construction.

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

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

893. Same—Duty of register.

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

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

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

893-1. Transcribing abstract records; etc.

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

897. Deputies.

There can be no liability on a bond of register of deeds for acts committed by his chief deputy after his death. Op. Atty. Gen. (373a-2), June 22, 1942.

A state legislator may not hold office of deputy register of deeds. Op. Atty. Gen. (280h), Aug. 17, 1942.

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 \$1500.00 per year. (As amended Apr. 16, 1943, c. 465, §1.)

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

897-2. Same—Effective date.

—This act shall be effective from and after May 1, 1943, 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. (As amended Apr. 16, 1943, c. 465, §2.)

900. Abstracts of title.

Duties of register of deeds in making abstracts and charges permissible therefor. Op. Atty. Gen. (1L), Nov. 15, 1943.

901. Fees of abstract clerks in certain counties.

Abstract clerk in Ramsey County is separate and distinct from office of Register of Deeds, and county commissioners may prescribe what, if anything, shall be paid to abstract clerk for indexing tract index books, including power to say what shall be paid "for indexing the first description" and to define meaning of term, if additional compensation for this work is to be fixed by board upon a fee basis. Op. Atty. Gen. (1L), Jan. 5, 1942.

904-2. Same—Contents—Supplemental abstracts.

Special Laws 1887, c. 356, §7, relating to compensation of register of deeds, Otter Tail County. Repealed by Laws 1943, c. 130, §1.

904-3. Salaries of deputies and clerks in Register of Deeds officers in counties of 380,000 inhabitants or over.

—The register of deeds shall appoint and employ one chief deputy who shall be paid the sum of \$3,600 per annum; two senior principal deputies who shall each be paid the sum of \$3,600 per annum; one junior principal deputy who shall be paid the sum of \$2,520 per annum; two senior department deputies who shall each be paid the sum of \$2,400 per annum; one junior department deputy who shall be paid the sum of \$2,220 per annum; one general deputy who shall be paid

the sum of \$2,100 per annum; three senior principal clerks who shall each be paid the sum of \$1,980 per annum; four junior principal clerks who shall each be paid the sum of \$1,920 per annum; one supervisor who shall be paid the sum of \$1,860 per annum; three senior department clerks who shall each be paid the sum of \$1,800 per annum; seven junior department clerks who shall each be paid the sum of \$1,650 per annum; one general clerk who shall be paid the sum of \$1,560 per annum; 12 senior recording clerks who shall each be paid the sum of \$1,320 per annum; 20 junior recording clerks who shall each be paid the sum of \$1,200 per annum.

The register of deeds may, during the year, at his discretion and as often and for as long as he sees fit reduce the number of clerks in his office and that the salary amounts which may be saved, together with whatever has been saved, during such year through necessary vacancies, among other deputies, clerks and assistants of said register of deeds office, may, to any extent needful in any case, be used in the same year by hiring extra help at not to exceed the same rate for any of the regular work of his office when the same is greater or more hurried than is common throughout the year. Provided, however, that no such sums or any part thereof as herein provided, shall at any time be used to increase the salaries of any of the employees provided for in this act. (As amended Act Apr. 28, 1941, c. 519, §1.)

COMPENSATION OF REGISTER OF DEEDS IN PARTICULAR COUNTIES

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

Laws 1933, c. 76, as amended by Laws 1935, chs. 70 and 273 as amended by Laws 1939, c. 286. Amended. Laws 1941, c. 208.

Laws 1933, c. 143. Amended. Laws 1943, c. 52. Laws 1933, c. 166. Repealed. Laws 1941, c. 295. Laws 1937, c. 204. Repealed. Laws 1941, c. 209.

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

Laws 1943, c. 15, §9, provides that in counties with 46 to 49 full or fractional congressional townships and population of 20,000 to 27,500, that register of deeds shall receive a salary of \$2,200 to \$2,600 annually. Section 12 repeals Laws 1941, c. 311.

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

Laws 1943, c. 52, amends Laws 1933, c. 143, to provide register of deeds shall receive salary of \$3,000.

Laws 1943, c. 97, amends c. 337, Laws 1941, which amended c. 491, Laws 1937, in respect to salary and clerk hire register of deeds in counties having 44 to 45 congressional townships and an assessed valuation of \$8,000,000 to \$14,000,000.

Laws 1943, c. 139, provides that "in counties having not less than 35 nor more than 55 full and fractional congressional townships and an assessed valuation of not more than \$2,000,000, and a population of 5,000 to 7,000, the register of deeds shall receive a salary of \$1,650 per annum, in addition to fees.

Laws 1943, c. 217, provides that in counties having assessed valuation of \$1,000,000 to \$1,500,000, a population of 8,000 to 10,000, 15 to 17 full or fractional congressional townships, a land area of 350,000 to 400,000 acres, that if fees received by register of deeds in preceding calendar year is less than \$1,700, the county board shall pay him from county revenue fund the difference between fees received and \$1,700.00 for preceding year.

Laws 1943, c. 219, authorizes county board in counties with population of 60,000 to 75,000, and 35 to 49 congressional townships to fix by resolution the salary of the register of deeds and clerk hire in the office of the register of deeds.

Laws 1943, c. 465, amends Laws 1911, c. 382, §1, as amended by Laws 1917, c. 83, §1, and by Laws 1927, c. 207, §1, as amended by Laws 1931, c. 139.

Laws 1943, c. 531, amends Laws 1943, c. 411, §1, to read as follows: Counties containing not less than 19 nor more than 21 organized townships, and having a population of not less than 35,000 nor more than 42,000 inhabitants, according to the last federal census, and having an assessed valuation of not less than \$32,000,000 and not more than \$45,000,000.

Notes of Decisions

Monies and credits are to be included in determining classification of counties for salary purposes where assessed valuation is a factor in such determination. Op. Atty. Gen. (104a-9), Dec. 31, 1942.

Laws 1943, c. 15, is constitutional and must be put into effect at once. Op. Atty. Gen. (104a-9), Mar. 22, 1943.

Where county is not interested in fee collected and register of deeds receives his compensation from fees, he may charge less than statute permits him to charge for the filing of a satisfaction, but if he has compensation under the statute in addition to his fees collected for such services, in the computation of the amount which he receives for filing satisfactions of chattel mortgages, he will be required to compute the full amount which the law provides and enter the amount that he charged less than the law provides, when using this as a basis for additional compensation. Op. Atty. Gen. (373b-10-c), Apr. 28, 1943.

Construing Laws 1943, c. 411, and Laws 1943, c. 531, together, officers of Mower County were not entitled to increased salaries between the approval dates of the two acts, in view of Laws 1941, c. 492, §31. Op. Atty. Gen. (104a-9), June 7, 1943.

SHERIFF

905. Bond and oath.

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

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

907. Powers and duties.—The sheriff shall keep and preserve the peace of his county, for which purpose he may call to his aid such persons or power of his county as he deems necessary. He shall also pursue and apprehend all felons, execute all processes, writs, precepts, and orders issued or made by lawful authority and to him delivered, attend upon the terms of the district court, and perform all of the duties pertaining to his office, including searching and dragging for drowned bodies and searching and looking for lost persons. (As amended Apr. 7, 1943, c. 330, §1.)

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

Sheriff as chief peace officer of his county is responsible both by common and statutory law to keep and conserve peace and good order within his county, and may be removed from office for closing his eyes to operation of gambling devices in municipality in his county, and it is no excuse that he would serve any warrants issued. Removal of Mesenbrink, 211M114, 300NW398. See Dun. Dig. 8740.

A sheriff had authority to engage an aid to accompany him to another state to get a prisoner charged with crime in sheriff's county, and county, having paid aid for services so rendered, is not in a position to question employment and liability for workmen's compensation, even though aid employed was judge of municipal court, and insurer is in no better position than employer to question legality of employment. *Sexton v. County of Waseca*, 211M422, 1NW(2d)394. See Dun. Dig. 8740.

Sheriff and members of county board of welfare were not guilty of any conspiracy in connection with removal of poor person from county under order of court, where the only combination between them was exercise of statutory duties as required by statute, and there was, consequently, no agreement to commit any unlawful act or to commit any lawful act in an unlawful manner, though order of court was erroneous because poor person was a freeholder. *Robinette v. Price*, 214M521, 8NW(2d) 800. See Dun. Dig. 8743.

Fact that order for removal of poor person was subsequently reversed does not deprive sheriff of protection in executing it before the reversal was had. *Id.* See Dun. Dig. 8743.

It is not necessary that the process under which a sheriff acts should show jurisdiction of the person to afford him protection and justification for his acts in executing it. *Id.* See Dun. Dig. 8743.

All that is required to make process fair on its face is that it must proceed from a court having jurisdiction of the subject matter and that it contain nothing which ought reasonably to apprise the officer that it was issued without authority. *Id.* See Dun. Dig. 8743.

A sheriff is protected and justified for acts done in executing the process and orders of a court having jurisdiction of the subject matter when the process is regular on its face, and order of district court for removal of a pauper was regular on its face. *Id.* See Dun. Dig. 8743.

Duty of sheriff to execute all writs and orders is not limited to orders of district court, but includes orders of juvenile court. Op. Atty. Gen. (840A-6), Feb. 26, 1942.

Sheriff may not be supplied with a boat but may be supplied with a rope or other like necessary equipment, at the expense of the county. Op. Atty. Gen. (107b-1), Aug. 26, 1943.

913. Powers after expiration of term.

Where sheriff who levied execution on crop remained alive, new sheriff could not sell the crop under the original execution, especially after expiration of thirty days from maturity of crop. Op. Atty. Gen. (390a-19), Apr. 10, 1943.

916. Disabilities.

Offices of deputy sheriff compensated solely by fees and president of village council are incompatible. Op. Atty. Gen. (358a-5), Nov. 29, 1941.

917. Deputies.

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

Laws 1941, c. 385, §§1-5, is repealed by Laws 1943, c. 428, §1.

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

Employees of sheriff's office in Hennepin County may make campaign contributions under laws 1941, c. 385. Op. Atty. Gen. (627e), July 15, 1942.

Fee to be charged for filing appointment and oath of deputy sheriff is ten cents. Op. Atty. Gen. (373b-10-1), Aug. 31, 1942.

Statute requires oath of deputy sheriff to be filed, and does not require that it be recorded. Op. Atty. Gen. (373b-10-1), Aug. 31, 1942.

County is to pay fee for filing with register of deeds appointment and oath of deputy sheriff. Op. Atty. Gen. (373b-10-1), Aug. 31, 1942.

Deputy sheriffs on salary may be paid just compensation during illness. Op. Atty. Gen. (390b-2), July 21, 1943.

Sheriff may not appoint deputy residing in another county. Op. Atty. Gen. (390b-1), Aug. 10, 1943.

Under Laws 1917, c. 312, no deputy sheriffs, except those appointed with the approval of the district judge, are entitled to charge any fees or receive any compensation from the county for performing services which the sheriff is under obligation to perform for the county without extra compensation, and a deputy hired by the sheriff without approval of the court to perform duties of a deputy who left was not entitled to compensation. Op. Atty. Gen. (390b-2), Nov. 3, 1943.

Under Laws 1917, c. 312, one employed by sheriff as an office man or clerk is either a personal employee of the sheriff or a deputy sheriff, and his services cannot be paid for by the county where he was appointed without prior approval of district judge. Op. Atty. Gen. (390b-2), Nov. 17, 1943.

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

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

Sheriff's compensation in Rice County is controlled by sheriff's general salary law and the general mileage statute, and sheriff's salary is in full for his services in serving an insane warrant and conveying patient to state institution, and this applies to insane, feeble-minded and inebriate cases, and sheriff receives mileage at seven cents per mile and actual disbursement for travel, board and lodging of himself and patient and his authorized assistants paid on order of probate court, and sheriff is not entitled to any fees because his services for the county in juvenile cases are covered by general salary act, and sheriff's mileage rate for services rendered upon order of juvenile court is five cents per mile. Op. Atty. Gen. (390a-11), Oct. 21, 1942.

920-2. Division of counties in classes.

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

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

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

Sheriff conveying an insane patient to state hospital, with no attendant or assistant, is not entitled to any per diem. Op. Atty. Gen. (390c-6), Sept. 9, 1943.

920-7. Payment of deputy sheriff.

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

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

923. Compensation of jailers.

Laws 1943, c. 192, provides that in counties with population of more than 150,000, an area of more than 5,000 square miles, sheriff shall receive salary of \$6,000.

Notes of Decisions

Statutes are silent as to expense of employing a matron to care for female prisoners sent from other counties, but it seems that committing judge may require sending county to pay such expense. Op. Atty. Gen. (127a), Nov. 6, 1941.

Under Laws 1917, c. 312, no deputy sheriffs, except those appointed with the approval of the district judge, are entitled to charge any fees or receive any compensation from the county for performing services which the sheriff is under obligation to perform for the county without extra compensation, and a deputy hired by the sheriff without approval of the court to perform duties of a deputy who left was not entitled to compensation. Op. Atty. Gen. (390b-2), Nov. 3, 1943.

Under Laws 1917, c. 312, one employed by sheriff as an office man or clerk is either a personal employee of the sheriff or a deputy sheriff, and his services cannot be paid for by the county where he was appointed without prior approval of district judge. Op. Atty. Gen. (390b-2), Nov. 17, 1943.

Order of judge for payment of fee by one county to another. Op. Atty. Gen. (127a), Dec. 6, 1943.

923-4. Salaries of employees in the Sheriff's office in certain counties.—In any county of the state containing 500,000 or more inhabitants, the sheriff shall appoint and employ one chief deputy who shall be paid the sum of \$3,270 per annum; one tavern inspector deputy who shall be paid the sum of \$2,400 per annum to inspect licenses and the operation of taverns, road-houses, and places where non-intoxicating beverages or intoxicating liquors are sold; one assistant chief deputy and auditor who shall be paid the sum of \$2,350 per annum; one assistant bookkeeper who shall be paid the sum of \$1,987 per annum; one special deputy who shall be paid the sum of \$1,762 per annum; one deputy for tax collection, who shall be paid the sum of \$1,987 per annum; four outside deputies who shall each be paid the sum of \$2,350 per annum; one deputy for the care of the insane, who shall be paid the sum of \$2,015 per annum; two outside deputies to attend to the service of criminal and other processes, who shall each be paid the sum of \$2,015 per annum; one deputy to attend to mortgage notices, who shall be paid the sum of \$2,400 per annum; one jailer who shall be paid the sum of \$1,911 per annum; one chief criminal deputy who shall be paid the sum of \$3,600 per annum; three outside criminal deputies who shall each be paid the sum of \$2,400 per annum; one uniformed deputy in charge of motor patrol deputies, who shall be paid the sum of \$2,490 per annum; two uniformed assistants who shall each be paid the sum of \$2,400 per annum; 21 uniformed motor patrol deputies each deputy to receive a salary of not less than \$150.00 per month and an annual raise of \$5.00 per month for each succeeding year of employment, to be computed from the time of commencement of the employment of such individual deputy, except that the salary of such uniformed motor patrol deputy shall not exceed \$180.00 per month at any time, each deputy to furnish his uniform, the county to furnish equipment and maintain radio cars; two assistant jailers who shall each be paid the sum of \$1,762 per annum; one matron who shall be paid the sum of \$1,147 per annum; five night watchmen who shall each be paid the sum of \$1,622 per annum; one cook who shall be paid the sum of \$1,590 per annum; two deputies in charge of juries who shall each be paid the sum of \$1,790 per annum; seven general deputies who shall each be paid the sum of \$1,852 per annum; two outside patrol deputies who shall each be paid the sum of \$1,852 per annum; three general deputies who shall each be paid the sum of \$2,070 per annum; one stenographer who shall be paid the sum of \$1,752 per annum; one deputy chief radio engineer, first class, who shall be paid the sum of \$2,400 per annum; three deputy assistant radio engineers, second class, who shall each be paid the sum of \$2,100 per annum. The sheriff shall appoint and employ as many court room deputies as there are district court judges in and for said county. Said deputies shall attend the court of said judges and perform such duties pertaining to the sheriff's office as the sheriff

may require; the compensation of each of said deputies shall be \$1,762 per annum.

One female deputy or bailiff to attend on mixed juries, who shall be paid the sum of \$1,455 per annum.

An expense fund of \$2,000 shall be set aside out of the first moneys received as fees from and after the passage of this act to be used by the sheriff to meet the current monthly expenses of the office, the money so used to be replaced in said fund at the end of each month when such expense is allowed by the county board.

Any additional salaries provided for in this act, unless otherwise provided for, shall be paid out of the money in the county treasury not otherwise appropriated. (As amended Act Apr. 18, 1943, c. 304, §1; Apr. 13, 1943, c. 425, §1.)

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

Laws 1917, c. 156, §3. Amended. Laws 1943, c. 527.
Laws 1931, c. 258, §1. Amended. Laws 1941, c. 506.
Laws 1933, c. 76, as amended by Laws 1935, chs. 70 and 278 as amended by Laws 1939, c. 286. Amended. Laws 1941, c. 208.

Laws 1933, c. 143. Amended. Laws 1943, c. 52.
Laws 1933, c. 166. Repealed. Laws 1941, c. 295.
Laws 1939, c. 274. Repealed. Laws 1941, c. 295.
Act Apr. 18, 1941, c. 311, §6, authorizes salaries for sheriffs of from \$2,000 to \$2,400, in certain counties having populations of from 20,000 to 22,500.

Laws 1941, c. 311. Repealed. Laws 1943, c. 15, §12.
Act Apr. 21, 1941, c. 347, §1 authorizes county boards of counties in which a training camp for military or naval forces is established, and adjoining counties, to fix and pay salaries of additional deputy sheriffs.
Act Apr. 28, 1941, c. 506, §1, amends Laws 1931, c. 258, §1.

Laws 1943, c. 15, §7, provides that in counties with 46 to 49 full or fractional congressional townships, and population of 20,000 to 27,500, that the sheriff of such county shall receive a salary of \$2,000 to \$2,400 annually. Section 12 of the above act repeals Laws 1941, c. 311.

Laws of 1943, c. 52, amends Laws 1933, c. 143, to provide sheriff shall receive salary of \$3,000 and sheriff's residence suitably maintained.

Laws 1943, c. 97, amends c. 337. Laws 1941, which amended c. 491, Laws 1937, in respect to salary and clerk hire of sheriffs in counties having 44 to 45 congressional townships and an assessed valuation of \$8,000,000 to \$14,000,000.

Laws 1943, c. 186, provides that in counties having 18 to 20 congressional townships, with an area of 362,000 to 364,000 acres, an assessed valuation of \$2,000,000 to \$10,000,000, the salary of sheriff shall be \$1,800.

Laws 1943, c. 219, provides that in counties having population of 60,000 to 75,000 and 35 to 49 congressional townships county board shall fix by resolution salary of sheriff at not more than \$4,000 per year.

Laws 1943, c. 527, amends Laws 1917, c. 156, §3.

Notes of Decisions

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

Federal census does not become effective in determining salaries of county officers until a certified copy thereof is filed with the Secretary of State. Op. Atty. Gen. (124i), Dec. 26, 1941.

Moneys and credits are to be included in determining classification of counties for salary purposes where assessed valuation is a factor in such determination. Op. Atty. Gen. (104a-9), Dec. 31, 1942.

Laws 1943, c. 15, is constitutional and must be put into effect at once. Op. Atty. Gen. (104a-9), Mar. 22, 1943.

COUNTY ATTORNEY

924. Election—term—bond.—There shall be elected in each county a county attorney, whose term of office shall be four years and until his successor qualifies. Before entering upon his duties he shall give bond to the county in the penal sum of \$1,000, to be approved by the county board, conditioned that he will faithfully and impartially discharge the duties of his office and pay over without delay to the county treasurer all moneys which come into his hands by virtue thereof, which bond and his oath shall be filed for record with the register of deeds and when so recorded for-

warded by the register of deeds to the secretary of state. (As amended Apr. 9, 1943, c. 355, §1.)

A layman may hold office of county attorney. Op. Atty. Gen. (358a-1), Aug. 13, 1943.

925-1. Office of county attorney and member of conservation commission not incompatible.

Act is constitutional and applies to judge of probate, and must be put into effect at once. Op. Atty. Gen. (104a-9), Mar. 22, 1943.

926. Duties.

Appearance by county attorney in automobile accident case for defendant whom he had prosecuted for criminal negligence in killing plaintiff's decedent is not looked upon with favor, but plaintiffs are in no position to challenge his conduct where he consulted and got the consent of counsel for plaintiff before making his appearance. Lee v. Zaske, 213M244, 6NW(2d)793. See Dun. Dig. 2307.

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

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

County attorney is legal advisor to county welfare board, and on request it is his duty to give advice as to legality of claims presented to board. Op. Atty. Gen. (121a), Apr. 18, 1941.

County attorney need not be present during all of times that county welfare board is in session, but should be where he can be reached in case board desires his advice. Op. Atty. Gen. (121b), Apr. 18, 1941.

It would be unethical for county attorney to appear for a person who seeks reinstatement of driver's license where same county attorney has appeared in criminal proceeding or inebriety proceeding. Op. Atty. Gen. (121A-7), Mar. 4, 1942.

County attorney has no duty in reference to law violations until an officer or a private citizen presents sufficient evidence to furnish reasonable ground for a conviction and offers to sign a complaint to initiate such criminal prosecution, except in certain specified instances. Op. Atty. Gen. (121b-7), Nov. 10, 1942.

It is the duty of county attorney to bring an action for foreclosure of an old age assistance lien when the foreclosure has been directed by competent authority. Op. Atty. Gen. (521p-4), Apr. 28, 1943.

County attorney representing doctors in private practice should not take claim against villages, cities and townships for treatment for transient poor, when if paid the county will be asked to reimburse the municipality. Op. Atty. Gen. (121a-7), May 19, 1943.

County attorney may act as attorney for a plaintiff in a suit to quiet title where plaintiff's title is based upon a deed from the state but in which the state is not a party defendant. Op. Atty. Gen. (121a-7), Aug. 30, 1943.

County attorney is not required to defend actions against public officers. Op. Atty. Gen. (121b), Sept. 24, 1943.

City attorney has no official duty before juvenile court, but county attorney shall assist when directed by juvenile court judge. Op. Atty. Gen. (59a-5), Nov. 2, 1943.

927. Register of criminal actions.

Municipal court of Little Falls is not required to make reports of criminal prosecutions to county attorney. Op. Atty. Gen. (121B-17), Jan. 21, 1942.

929. Not to receive fees—Prohibitions.

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

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

County attorney representing doctors in private practice should not take claim against villages, cities and townships for treatment for transient poor, when if paid the county will be asked to reimburse the municipality. Op. Atty. Gen. (121a-7), May 19, 1943.

930. Other attorney, when.

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

Where county attorney went into military service without making an effectual appointment of an assistant, county board had power either to appoint an attorney for county, or to appoint an acting county attorney to

serve during absence of regular county attorney in military service, if such action was necessary in public interest. Op. Atty. Gen. (121a-1), Aug. 22, 1942.

Section contemplates appointment of an attorney temporarily for some special purpose, not the appointment of a substitute to perform generally the functions of the county attorney. Op. Atty. Gen. (121a-1), Aug. 22, 1942.

It is possible that a city attorney may act for the county in some specific matter without engaging in an incompatible activity. Op. Atty. Gen. (358a-1), Aug. 13, 1943.

Expense of employment of an attorney to secure information necessary to make application for payment of debts of a dissolved distressed township is a lawful charge. Op. Atty. Gen. (928e), Oct. 19, 1943.

930-1/2. County attorney may appoint assistant—Bond—Compensation.—The county attorney of any county in this state, who has no assistant, is hereby authorized to appoint, with the consent of the county board of said county, an attorney to assist him in the performance of his duties. Such assistant shall have the same duties and be subject to the same liabilities as the county attorney, and shall hold his office during the pleasure of the county attorney. Such assistant shall be appointed in writing and before entering upon the duties of his office, shall give bond to the county in the penal sum of \$500.00, to be approved by the county board, conditioned in the same manner as the bond required of the county attorney, which bond, with his oath and appointment, shall be filed for record with the register of deeds. Such assistant county attorney shall receive no compensation from the county, but shall be paid for his services by the county attorney appointing him; provided, however, that in all counties in this state having a population of not less than 28,100 and not more than 30,600 and in which there is a city of the third class or of larger size, and in all counties in this state having a population of not less than 38,500 nor more than 41,000 according to the last federal census, and containing not less than 24 nor more than 25 full and fractional congressional townships, the county board of such county may fix the salary of the assistant county attorney appointed pursuant to the provisions of this act, and the salary when so fixed by such county board shall thereafter be paid by the county in equal monthly installments upon the warrant of the county auditor, during the period for which such salary is so fixed or during such portion thereof as the assistant county attorney shall continue in office. (As amended Mar. 28, 1941, c. 96, §1.)

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

Where county attorney is inducted into military service and appoints an assistant who becomes too ill to attend to his duties, it is duty of county board to communicate with county attorney with respect to appointment of an assistant, but if county attorney decides to take a leave of absence under Laws 1941, c. 120, county board should appoint a substitute to act until county attorney returns. Op. Atty. Gen. (121a-1), Aug. 13, 1942.

County attorney called into war service may either take a leave of absence without pay, or, with consent and approval of county board, appoint an assistant county attorney and pay him out of his official salary. Op. Atty. Gen. (121a-1), Jan. 30, 1943.

County attorney may appoint assistant before entering military service, subject to approval of county board. Op. Atty. Gen. (121a-1), Feb. 11, 1943.

County surveyor and county attorney absent in military service and having made their own financial arrangement with assistant or deputies selected by them are entitled to receive salary and to pay their assistant, and county board should not pay such assistant directly. Op. Atty. Gen. (121a-1), July 14, 1943.

932. Attorney to assist.

Authority of district court is limited to appointment of an attorney to act as or in place of or to assist county attorney before the court or grand jury at a particular term of court. Op. Atty. Gen. (121a-1), Aug. 22, 1942.

934. Contingent fund—Expenses.

In action against sheriff and chairman and secretary of county welfare board for wrongful removal of paupers to county of settlement, expenses of county attorney representing such officers at trial may be paid as provided for in this section, and not from county welfare fund. Op. Atty. Gen. (125-A-64), July 1, 1941.

County attorney may use his contingent fund to pay investigators in liquor cases as well as in other criminal cases, but he should arrange with such investigators in advance as to terms of employment and consult district judge, as warrants for disbursements must be countersigned by him. Op. Atty. Gen. (121C-2), Feb. 11, 1942.

935. Compensation in certain counties.

Federal census does not become effective in determining salaries of county officers until a certified copy thereof is filed with the Secretary of State. Op. Atty. Gen. (124i), Dec. 26, 1941.

935-2. Clerk hire in counties with population under 150,000.—The county board may annually appropriate a sum not to exceed \$720.00 to be used for providing clerk hire for the county attorney. The amount to be allowed for such purpose shall be determined by the county board but shall not exceed the sum of \$60.00 per month. All disbursements from such funds shall be made in the manner provided by law. This act shall not apply in any county now or hereafter having a population of 150,000 or more inhabitants or in any county wherein clerk hire for the county attorney is provided for by any other law. (Act Apr. 28, 1941, c. 483, §1.) [388.105]

County board should by resolution appropriate whatever amount they determine proper for clerk hire for county attorney and direct that same shall be paid in twelve equal monthly payments in same manner as other similar county employees are paid. Op. Atty. Gen. (121A-4), Aug. 5, 1941.

COMPENSATION OF COUNTY ATTORNEY AND APPOINTMENT OF ASSISTANTS IN PARTICULAR COUNTIES

Laws 1921, c. 133, §10 amended by Laws 1923, c. 419, Laws 1927, c. 184, Laws 1929, c. 187, Laws 1937, c. 291 and Laws 1941, c. 509 is amended by Laws 1943, c. 453, §1.

Laws 1927, c. 121, §1, is amended by Laws 1943, c. 427, §1.

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

Laws 1933, c. 143. Repealed. Laws 1943, c. 52.

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

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

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

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

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

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

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

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

Laws 1943, c. 15, §6, provides that in counties with 46 to 49 full or fractional congressional townships, and population of 20,000 to 27,500, that county attorney shall receive salary of \$1,500 to \$2,200 annually.

Laws 1943, c. 15, §12, repeals Laws 1941, c. 311.

Laws 1943, c. 52, amends Laws 1933, c. 143, to provide sheriff shall receive salary of \$3,000.

Laws 1943, c. 139, provides that "in counties having not less than 35 nor more than 55 full and fractional congressional townships and an assessed valuation of not more than \$2,000,000, and a population of 5,000 to 7,000, the county attorney shall receive a salary of \$1,350 per annum".

Laws 1943, c. 219, provides that in counties having population of 60,000 to 75,000 and 35 to 49 congressional townships, county board shall fix by resolution salary of county attorney at not more than \$4,000 per year.

Laws 1943, c. 453, §1, amends Laws 1921, c. 133, §10, as amended by Laws 1923, c. 419, by Laws 1927, c. 184, by Laws 1929, c. 187, by Laws 1937, c. 291, and by Laws 1941, c. 509.

Laws 1943, c. 531, amends Laws 1943, c. 411, §1, to read: Counties containing not less than 19 nor more than 21 organized townships, and having a population of not less than 35,000 nor more than 42,000 inhabitants, according to the last federal census, and having an assessed valuation of not less than \$32,000,000, and not more than \$45,000,000.

Notes of Decisions

Laws 1937, c. 329, does not apply to clerk hire in office of county attorney in Kanabec County since the 1940 federal census. Op. Atty. Gen. (121A-4), Oct. 17, 1941.

Monies and credits are to be included in determining classification of counties for salary purposes where assessed valuation is a factor in such determination. Op. Atty. Gen. (104A-9), Dec. 31, 1942.

Construing Laws 1943, c. 411, and Laws 1943, c. 531, together, officers of Mower County were not entitled to increased salaries between the approval dates of the two acts, in view of Laws 1941, c. 492, §31. Op. Atty. Gen. (104A-9), June 7, 1943.

COUNTY SURVEYOR**937. Deputies—Surveys, records, etc.**

Duties of office of county surveyor may be performed by deputy while county surveyor is in military service. Op. Atty. Gen. (123), Feb. 11, 1943.

938. Compensation.—Except as hereinafter provided, the compensation of county surveyors or their deputies shall be fixed by the Board of County Commissioners at an amount not in excess of \$15.00 per day while employed in the performance of their respective duties, including the time necessarily spent in traveling to and from the field of their labor, together with all their necessary expenses, payable by the party or parties who employs the surveyor. The surveyor shall receive \$2.00 for platting each survey in each section over which his survey extends in the county record book of survey, and fifteen cents per folio for recording and indexing of the surveyor's descriptive field notes; but in no case shall he receive or charge to exceed \$3.00 for platting and recording the plats and records of the survey of any one section, and the surveyor's fees for platting and recording the surveys shall be paid by the county in which the respective lands are situated, and the surveys of the same are kept. Such records shall be public records and open at all reasonable times to inspection by any person. The county board shall, at the expense of the county, provide for the county surveyor all proper and necessary books for keeping such records. Such county record book of survey shall be kept in the office of the register of the deeds of the county, and in event an office for the county surveyor is maintained in the court house then in that event duplicate records shall be kept in the office of the county surveyor. (As amended Apr. 5, 1943, c. 296, §1.)

941. Lost posts.**COMPENSATION OF SURVEYOR AND ASSISTANTS, APPOINTMENTS IN PARTICULAR COUNTIES**

Laws 1917, c. 456, §1, as amended by Laws 1919, c. 426, §1, is amended by Laws 1943, c. 426, §1.
Laws 1919, c. 426, §1. Amended. Laws 1943, c. 426.

Notes of Decisions

Members of county welfare board may under Laws 1939, c. 99, §16, receive seven cents per mile for use of an automobile in performance of their duties as members. Op. Atty. Gen. (104A-8), Sept. 29, 1941.

Unders Laws 1939, chapter 99, §§10, 18, any excess of total compensation of clerk of district court over \$3,600 would be deducted from the salary of \$12,081, and if his fees alone exceeded \$3,600, he would receive no salary but would retain all fees collected. Op. Atty. Gen. (144A-4), Jan. 5, 1943.

Salary fixed by Laws 1939, c. 99, §13, for county highway engineers was not superseded or repealed by Laws 1941, c. 462, relating to appointment of such engineers. Op. Atty. Gen. (122b-6), Aug. 10, 1943.

CORONER**943. Shall act as sheriff, when.**

Coroner is entitled not only to the general fees prescribed by statute, but also to any statutory compensation allowed to sheriff for the performance of specific duties, and may be compensated for services rendered, but is not entitled to the sheriff's salary. Op. Atty. Gen. (103a), Sept. 1, 1943.

946. Inquest.

This section and §950 Minnesota Statutes 1927 determine the power of the coroner to investigate train accidents resulting in the death of one or more persons. Op. Atty. Gen. (103-d), July 7, 1941.

Coroner has no authority outside of this section to detain a railway train and its crew for the purpose of

questioning members of crew relative to circumstances surrounding a death in a train accident. Op. Atty. Gen. (103-d), July 7, 1941.

An inquest is only necessary where coroner supposes or feels that death came by violence, but matter is entirely discretionary with him, and if he order an autopsy, county will be liable for whatever expense he incurs. Op. Atty. Gen. (103A), Aug. 15, 1941.

Outside the three large counties, there is no statute which would make it unlawful for police officers to move cars and bodies following an accident and before arrival of coroner. Op. Atty. Gen. (103d), Aug. 24, 1942.

Expenses incident to an inquest should not be filed as a claim in probate court against estate of deceased. Op. Atty. Gen. (103f), March 25, 1943.

It is not proper to coroner to charge county for the expense of photographs of a dead body or of person killed in an automobile accident and surroundings, no inquest being held in the first case and never being finished in the second, but such expense might be paid from county attorney's contingent fund if the county attorney thought it necessary and the approval of the district court where obtained, or might be paid by sheriff if he considers it necessary in performance of his duty in the apprehension of criminals and enforcement of the law. Op. Atty. Gen. (103f), May 22, 1943.

956. Burial.

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

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

957-½. Salary of morgue keeper and assistant in certain counties.—In addition to such deputies, secretary and clerk as are authorized by law, the county coroner of any county now having or which may hereafter have a population of 400,000 inhabitants or over shall appoint and employ one morgue keeper, who shall be paid the sum of \$2,400.00 per annum and who shall also be furnished free light, heat, gas and water necessary therefor and with the free use of suitable heated and lighted living quarters for himself and his family in the morgue building; two assistant morgue keepers who shall be paid the sum of \$1,800.00 per annum; and the coroner may also employ such further assistance to the said morgue keeper as he may deem necessary at an aggregate expense of not exceeding \$1,500.00 per annum. The said morgue keeper, assistant morgue keeper, assistance and upkeep of living quarters shall be paid out of any moneys in the county treasury not otherwise appropriated, except the upkeep of living quarters, semi-monthly in the same manner as county officials are now paid, and the same shall be in full compensation for all services rendered by said officers respectively in their several capacities. The said upkeep of living quarters and such light, heat, gas and water shall be paid for in such manner as the upkeep of other county buildings is paid for. (As amended Act Apr. 22, 1943, c. 577, §1.)

957-1. Duties of coroner in counties with population of over 150,000; etc.

Coroner may sign an order directing that a body of a person killed by a train may be removed from the track before the coroner arrives in order to permit the train to proceed. Op. Atty. Gen. (103d), July 20, 1942.

957-3. Same—Expenses.**CORONERS IN PARTICULAR COUNTIES**

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

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

Where fees of coroner are fixed by statute, county board may not allow any sum in excess thereof. Op. Atty. Gen. (103a), July 23, 1943.

SUPERINTENDENT OF SCHOOLS**958. Salary—Certain counties excepted. (Repealed.)**

Repealed, Laws 1941, c. 169 except as provided therein. Reenacted as 3156-2(9).
See notes under §§3156-2(9) and 3156-2(11).

959. Same—Certain expenses. [Repealed.]

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

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

This section does not allow purchase of books for office of superintendent of schools, but county may pay for any books necessary in connection with duties of his office under §664. Op. Atty. Gen., (125B-27), Oct. 6, 1939.

960. Assistants and clerks for county superintendent of schools in certain counties—Appointment, qualifications, and compensation.—In counties containing not less than 45 nor more than 74 schools the county superintendent may be allowed annually, such sum for clerk hire as the county board shall determine, not exceeding the sum of \$500.00. In counties containing not less than 75 nor more than 124 schools the county superintendent may be allowed annually such sum for clerk hire as the county board may determine not exceeding the sum of \$600.00. In counties having 125 schools, but less than 240, the county superintendent may be allowed annually such sum for clerk hire as the county board shall determine, and shall appoint one assistant, and in counties having 240 schools or more, he shall appoint two assistants, and the assistant or assistants shall give their entire time to their duties as such assistant superintendents, and shall serve during the pleasure of the superintendent. The salaries of assistants appointed to serve for full time shall be fixed by the county board. Assistants so appointed to serve for full time shall have had at least 18 months' experience in public schools, and be the holders of teachers' certificates equivalent to diplomas from a Minnesota normal school, except that in counties having two assistants, it shall be sufficient if one of them possesses the teaching experience and the certificate herein referred to. Any assistant at the time of his appointment may or may not be a resident of the county for which he is appointed. In each case the assistant county superintendent shall assist the superintendent in the performance of his general duties, as directed, and report to him. Clerk hire shall be paid to the persons actually rendering such clerical services, out of the county treasury, upon the order of the county auditor accompanied by a certificate of the county superintendent that the service has been rendered, and no allowance for such clerk hire shall be made or received in any case except for services actually rendered. (As amended Act Feb. 25, 1941, c. 22, §1.)

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

Laws 1941, c. 169, repealed Laws 1941, c. 22. Op. Atty. Gen. (160g), Dec. 18, 1942.

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

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

961. Delivery of records etc. [Repealed.]

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

962. Traveling expenses. [Repealed.]

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

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

Repealed. Laws 1925, c. 110, §6.

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

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

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

Act Apr. 18, 1941, c. 310, fixes salaries of superintendents

of schools in certain counties having populations of between 32,000 and 35,500, at \$2,500 per annum.

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

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

COUNTY PURCHASING AGENT

969-11. County purchasing agent in certain counties.—In any county now or hereafter having a population of not less than 50,000 nor more than 70,000 inhabitants according to the last federal census, and consisting of not less than 35 nor more than 49 congressional townships, the county board may by resolution duly adopted at a meeting of said board, appoint a county purchasing agent who shall act during the pleasure of the board and who shall have supervision under the direction of said county board, of the purchase and distribution of all merchandise and supplies used by any department of said county, up to the amount of \$500.00. The county board may allow such clerical help to such county purchasing agent as it shall deem necessary. The said county board may provide in the county court house a suitable storeroom in which to store and from which to distribute said supplies and may prescribe such rules and regulations for the management of the work of said purchasing agent as it shall deem necessary. (As amended Mar. 26, 1943, c. 182, §1.)

969-11 ½. Act validated.—Any services and acts heretofore rendered and performed in any such county in good faith are hereby in all things validated and approved. (Act Mar. 26, 1943, c. 182, §2.)

969-14. Office of purchasing agent established in certain county.—The County Board in each county in this state with a population of more than 75,000 and less than 225,000 shall establish the office of purchasing agent and, in accordance with any civil service regulations which may be in effect in such county, shall appoint a qualified person to fill such office. Prior to his appointment the purchasing agent shall have had at least two years' experience in an executive capacity in the purchasing office of a private or public corporation of representative size. He shall give bond in such amount as shall be prescribed by the county board, which shall also fix his annual salary at not less than \$4,200.00 per yer. He shall hold office until his successor is appointed or until his resignation or his removal in the manner provided by civil service regulations which may be in effect in such county. The county purchasing agent shall have power, in accordance with such civil service regulations as may be in effect in such county, to appoint and to remove his assistants, to prescribe their duties, and to fix their salaries within the limits of the appropriation and schedule therefor. (Act Apr. 1, 1943, c. 237, §1.)

969-15. Duties and authority of purchasing agent.—The county purchasing agent of any such county shall have authority, and it shall be his duty:

(a) To purchase or contract for all supplies, materials, equipment and contractual services required by any department, board, commission, or agency of the county government except the county tuberculosis sanatorium, subject to the provisions set forth in this act;

(b) To enforce standard specifications established in accordance with section 10 of this act and which shall apply to all supplies, materials and equipment purchased for the use of the county government.

(c) To negotiate leases for all grounds, buildings, office or other space required by all county departments, boards, commissions, or agencies;

(d) To have charge of all central storerooms now operated by, or hereafter established by the county

government or any department, board, commission, or agency thereof.

(e) To transfer to or between county departments, boards, commissions, and agencies, or to sell supplies, materials and equipment which are surplus, obsolete, or unused; and

(f) To establish and operate a central duplicating and mailing room for the county departments, boards, commissions, and agencies at the county seat. (Act Apr. 1, 1943, c. 237, §2.)

969-16. Definitions.—The terms “supplies,” “materials,” and “equipment” as used throughout this act shall be construed to mean any and all articles or things which shall be furnished to or used by any partment, institution, office, board, commission, or other agency of the county government including any and all printing, binding and publication of stationery, forms, laws, journals and reports. The term “contractual services” shall be construed to mean any and all telephone, gas, water, electric light and power service; towel and cleaning service, insurance; and the rental repair or maintenance of equipment, machinery, and other county-owned personal property. Except as otherwise provided in this act, any and all supplies, materials, equipment or contractual services needed by one or more departments or agencies of the county government shall be directly purchased or contracted for by the county purchasing agent, in accordance with rules and regulations adopted pursuant to section 4 of this act. (Act Apr. 1, 1943, c. 237, §3.)

969-17. Agent to promulgate rules and regulations.—The county purchasing agent of any such county, subject to the approval of the county board, shall adopt, promulgate, and from time to time amend, rules and regulations for the following purposes:

(a) Authorizing in writing, any department, board, commission, or agency of the county government to purchase directly, without the intervention of the county purchasing agent, certain specified supplies, materials, equipment or contractual services, and describing the manner in which such purchases shall be made;

(b) Authorizing, in writing, any department, board, commission, or agency of the county government to purchase any supplies, materials, equipment or contractual services in the open market for immediate delivery in emergencies, defining such emergencies, and describing the manner in which such purchases shall be made and afterwards reported to the county purchasing agent;

(c) Prescribing the manner in which supplies, materials and equipment shall be purchased, delivered, stored, and distributed;

(d) Prescribing the dates for submitting requisitions and estimates, the future period which they are to cover, the form in which they shall be submitted, the manner of their authentication, and their revision by the county purchasing agent;

(e) Prescribing the manner of inspecting all deliveries of supplies, materials, and equipment, and of making chemical and physical tests of samples submitted with bids and samples of deliveries to determine compliance with specifications;

(f) Requiring monthly reports by county departments, boards, commissions, and agencies of stocks of surplus, obsolete, or unusable supplies, materials, and equipment on hand and prescribing the form of such reports;

(g) Providing for the transfer to or between county departments, boards, commissions, and agencies of supplies, materials, and equipment which are surplus with one department, board, commission, or agency but which may be needed by another or others, and for the disposal by sale, after receipt of competitive bids, of supplies, materials and equipment which are obsolete and unusable;

(h) Determining whether a deposit or bond is to be submitted with a bid on a purchase contract or sale, and if required, prescribing the amount and form thereof and providing that such surety shall be forfeited if the successful bidder refuses to enter into contract within ten days after the award;

(i) Prescribing the procedure and the form for securing from bidders and prospective bidders the data necessary to determine whether or not they are responsible;

(j) Prescribing the manner in which invoices for supplies, materials, equipment and contractual services delivered to any and all departments, boards, commissions, and agencies of the county shall be submitted, examined, and approved; and

(k) Providing for such other matters as may be necessary to give effect to the foregoing rules and the provisions of this act. (Act Apr. 1, 1943, c. 237, §4.)

969-18. Contracts—limitations.—All purchases of, and contracts for, supplies, materials, equipment or contractual services, and all sales of personal property which has become obsolete and unusable, shall be based wherever possible on competitive bids. If the amount of the expenditure or sale is estimated to exceed \$500.00, sealed bids shall be solicited by public notice inserted at least once in a newspaper of general circulation and at least five calendar days before the final date of submitting bids. Such notice shall include a general description of the commodities or contractual services to be purchased, or personal property to be sold, and shall state where bid blanks and specifications may be obtained and the time and place for the opening of bids. The county purchasing agent shall also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notice on a public bulletin board in his office.

All purchases or sales of less than \$500.00 in amount shall be made in the open market without newspaper notice, but shall wherever possible be based on at least three competitive bids.

Sales shall be made to the highest responsible bidder.

Bids on purchases shall in all cases be based on such standard specifications as may be adopted by the board of standardization in accordance with the provisions of section 10 of this act. All contracts or open market purchase orders made by the county purchasing agent or by any county department, board, commission, or agency shall be awarded to the lowest responsible bidder. All bids may be rejected and new bids solicited if the public interest shall be served thereby. If all bids received on a pending contract are for the same unit price or total amount, the county purchasing agent shall have authority to award the contract to one of the tie bidders by drawing lots in public, or to reject all bids and to purchase the required supplies, materials, equipment or contractual services in the open market, provided the price paid in the open market shall not exceed the lowest responsible bid. It shall be the duty of the purchasing agent to discourage uniform bidding and to endeavor to obtain as full and open competition as possible on all purchases and sales. Each bid, with the name of the bidder, shall be entered on a record, and each record with the successful bid indicated thereon, shall, after the award of the order or contract, be open to public inspection.

All contracts shall be approved as to form by the county attorney and a copy of each contract shall be filed with the county auditor of any such county. (Act Apr. 1, 1943, c. 237, §5.)

969-19. Not to issue orders without funds.—Except in emergency, no valid order for delivery on a contract or open market purchase shall be issued until the county auditor of any such county shall have certified in conformity with law that the unencum-

bered balance in the appropriation or appropriations concerned in excess of all unpaid obligations, is sufficient to defray the amount of such order. (Act Apr. 1, 1943, c. 237, §6.)

969-20. May authorize purchase in open market.—The county purchasing agent may authorize, in writing any department, board, commission, or agency of any such county government to purchase in the open market, without filing requisition or estimate, any supplies, materials, or equipment for immediate delivery to meet actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work. A full written account of the circumstances necessitating any such emergency purchase, together with a requisition and a record of the competitive bids upon which the emergency delivery was secured, shall be submitted at once to the county purchasing agent by the head of the using agency concerned. The records of such transaction shall be open to public inspection. (Act Apr. 1, 1943, c. 237, §7.)

969-21. Purchases and contracts void when.—Whenever any department, board, commission or agency of any such county government shall purchase or contract for any supplies, materials, equipment or contractual services contrary to the provisions of this act or the rules and regulations made thereunder, such order or contract shall be void and of no effect. The head of such department, board, commission or agency shall be personally liable for the costs of such order or contract, and, if already paid for out of county funds, the amount thereof may be recovered in the name of the county in an appropriate action instituted therefor. (Act Apr. 1, 1943, c. 237, §8.)

969-22. Purchasing agent and employees not to be interested in contracts.—Neither the county purchasing agent, nor any member of his office staff, nor any member of the board of standardization created by this act, shall be financially interested, or have any personal beneficial interest, either directly or indirectly, in any contract or purchase order for any supplies, materials, equipment or contractual services furnished to or used by any department, board, commission or agency of the county government. Nor shall such purchasing agent, member of his staff, or member of the board of standardization accept or receive, directly or indirectly, from any person, firm, or corporation to which any contract or purchase order may be awarded, by rebate, gifts, or otherwise, any money or anything of value whatsoever, or any promise, obligation, or contract for future reward or compensation. Any violation of this section shall be deemed a felony and shall be punishable by fine or imprisonment, or both. (Act Apr. 1, 1943, c. 237, §9.)

969-23. Board of Standardization.—There shall be in each such county a board of standardization which shall be composed of the chairman of the board of county commissioners, the county highway engineer, the chief administrative officer of each county activity which is placed by law under the control of any board or commission other than the county board, and the county purchasing agent who shall be chairman of such board. The members of this board shall serve without additional compensation.

It shall be the duty of the board of standardization to classify the requirements of the county government for supplies, materials, and equipment; to adopt as standards the smallest number of qualities, sizes, and varieties of such supplies, materials, and equipment consistent with the efficient operation of the county government; and to prepare, adopt and promulgate written specifications describing such standards.

In the preparation and revision of any such standard specification, the board of standardization shall seek the advice, assistance and cooperation of the county departments, boards, commissions and agencies concerned, to ascertain their requirements. The board of standardization shall have power to make use of the laboratory and engineering facilities of the county government and the technical staffs thereof in connection with its function of preparing and adopting standards and written specifications. Each specification adopted for any commodity shall, insofar as possible, satisfy the requirements of the majority of the county departments, boards, commissions and agencies which use the same. All specifications must be definite and certain and permit of competition. After its adoption, each standard specification shall, until revised or rescinded, apply alike in terms and effect to every future purchase and contract for the commodity described in such specification. (Act Apr. 1, 1943, c. 237, §10.)

969-24. Shall make annual report.—The county purchasing agent shall submit to, and at the time prescribed by the county board, an annual report on the work of his office, and may, from time to time, suggest changes in this act which he deems necessary. (Act Apr. 1, 1943, c. 237, §11.)

969-25. Inconsistent acts repealed.—All acts and parts of acts, and all administrative rules and regulations inconsistent with the provisions of this act are hereby repealed. (Act Apr. 1, 1943, c. 237, §12.)

COUNTY WELFARE BOARD

974-11. County Welfare Board established—Poor and Hospital Commission to be county welfare board in certain counties.—There shall be established in each county of the state a County Welfare Board which shall consist of the number of members, as hereinafter provided, to be chosen as follows:

(a) Except in Counties which contain a city of the first class and Counties having a Poor and Hospital Commission, said County Welfare Board shall consist of seven members, including the Board of County Commissioners to be selected as herein provided: Two members, one of whom shall be a woman, shall be appointed by the Director of Social Welfare from a list of residents, five men and five women, submitted by the Board of County Commissioners. One member shall hold office for the term of one year, and one for the term of two years, and thereafter as each term expires or a vacancy occurs by reason of death or resignation a successor shall be appointed by the Director of Social Welfare for the full term of two years from a list of five residents submitted by the Board of County Commissioners—(provided however, that the Board of County Commissioners may by resolution adopted by a majority of said board, determine that only three of their members shall be members of the County Welfare Board, in which event said County Welfare Board shall consist of five members instead of seven.) When a vacancy occurs on the County Welfare Board by reason of the death, resignation or expiration of the term of office of a member of the Board of County Commissioners, the unexpired term of such member shall be filled by appointment by the County Commissioners. Except to fill a vacancy and for the first year of its existence the term of office of each member of the County Welfare Board shall commence on the first Thursday after the first Monday in July, and shall continue until the expiration of the term for which such member was appointed or until a successor is appointed and qualifies. Provided, however, that if the Board of County Commissioners shall refuse, fail, omit or neglect to submit the list of residents to the director of Social Welfare for appointment to the County Welfare Board by the Direc-

tor of Social Welfare, as herein provided, or to appoint the three members to the County Welfare Board, as herein provided, by the time when the terms of such members commence, or, in the event of vacancies, for a period of thirty days thereafter, the Director of Social Welfare is hereby empowered to and shall forthwith appoint residents of said county to the County Welfare Board. Before the Director of Social Welfare shall fill any vacancy hereunder resulting from the failure or refusal of the Board of County Commissioners of any county to act as required herein, the Director of Social Welfare shall mail fifteen days' written notice to the Board of County Commissioners of its intention to fill such vacancy or vacancies unless the Board of County Commissioners shall act before the expiration of said fifteen day period. (As amended, Act Apr. 17, 1941, c. 284, §1.)

(b) In any county containing a city of the first class operating under a home rule charter, wherein there is established in such city a board of public welfare for administration of poor relief in such city only, the board of county commissioners shall be the county welfare board. In such counties the members shall be reimbursed by the county for expenses actually incurred in the performance of their official duties under the provisions of this act. In such counties the county auditor shall be ex officio secretary of said board, but shall have no voice in its proceedings. In such counties the system of caring for the poor in effect at the time of the passage of this act shall be continued, subject to all provisions of law relating thereto, except that, if such county is operating under the township system of caring for the poor, such towns, villages and cities of the third and fourth class therein may by resolution of its governing body, agree with the county welfare board that the latter shall supervise and administer the poor relief fund in such town, village or city, or contract with any one or more of the public subdivisions of the county for the purpose of jointly supervising and administering the poor relief funds in such towns, villages or cities. In any such county the powers and duties of such board of public welfare shall not be affected by the provisions of this act. Such board of public welfare in administering poor relief funds, granted by any state agency authorized so to do by law, shall comply with all standards of administration and procedure prescribed by such agency.

(c) In any county and any city of the first class within such county, which such city shall contain taxable property having an assessed valuation of more than 95 per cent of the assessed valuation for taxation purposes of all property in such county, the board of public welfare shall be continued as the county welfare board and shall be appointed or elected as provided by Laws 1929, Chapter 371, as amended. The said board shall receive such compensation and shall have and exercise all the powers as provided by the said act of 1929, as amended, in addition to any other and further powers granted herein and shall have and perform all of the additional duties referred to in Mason's Supplement 1940, Section 974-17, except that the executive secretary of such board shall be appointed and his salary shall be fixed pursuant to Mason's Supplement 1940, Section 974-14.

(d) In any county in this state having a population of more than 75,000 and an area of over 5,000 square miles, the board of poor commissioners shall be continued as the county welfare board and shall be appointed or elected as provided by Mason's Minnesota Statutes of 1927, Sections 3196, 3197, and 3198, and Mason's Supplement 1940, Section 3199. The said board shall receive such compensation and shall have and exercise all the powers as provided by the Mason's Minnesota Statutes of 1927, Sections 3196, 3197, and 3198, and Mason's Supplement 1940, Section 3199, in addition to any other and further powers granted herein and shall have and perform all the additional duties referred to in Mason's Supplement 1940, Sec-

tion 974-17. (As amended Apr. 16, 1943, c. 473, §1.)

(e) In any county now having a Board of Poor and Hospital Commissioners, said Board of Poor and Hospital Commissioners shall have the same powers and duties as the County Welfare Board in other counties, and shall be the County Welfare Board, and shall also retain and exercise the powers and duties conferred upon such Board by Chapter 187, of the Laws of 1917, as amended by Chapter 60 of the Laws of 1931, in counties in which said 1917 law as amended is applicable. (As amended Act Apr. 16, 1941, c. 261, §1; Apr. 13, 1943, c. 417, §1; Apr. 16, 1943, c. 473, §1.)

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

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

County auditor may pay claims allowed by welfare board without waiting fifteen days. Op. Atty. Gen. (125A-64), Oct. 16, 1941.

Old age assistance recipient may assign life insurance to county, but not to county welfare board which is not a corporate entity, but eligibility of an old person for old age assistance should not be based upon any such transfer. Op. Atty. Gen. (521a), Feb. 13, 1943.

(a) Where term of office of member of county board, who is also member of county welfare board, expires, he may not be legally appointed by county board as a lay member of county welfare board to fill the vacancy, but he might be appointed at expiration of term. Op. Atty. Gen. (125A-64), Dec. 26, 1940.

Laws 1941, c. 284, necessitates creation of a new county welfare board, and old members of board are not continued in office. Op. Atty. Gen. (125A-64), May 22, 1941.

(d) Amended. Laws 1943, c. 473, §1. See above text.

(e) Amended. Laws 1943, c. 417. See above text.

974-13. Per diem of members.

Members of county welfare board may under Laws 1939, c. 99, §16, receive seven cents per mile for use of an automobile in performance of their duties as members. Op. Atty. Gen. (104A-8), Sept. 29, 1941.

County welfare board member may not be paid for services rendered as a case worker. Op. Atty. Gen. (125A-64), March 4, 1943.

974-14. Election of officers.—The County Welfare Board shall at its first meeting, and thereafter at its annual meeting on the first Thursday after the first Monday in July of each year, meet and organize by electing a Chairman, a Vice-Chairman and a Secretary, except as provided in Section 1, Subdivision (b) (974-11 (b)), each of whom shall perform the customary duties of his office. Said Board shall appoint an Executive Secretary and such assistants and clerical help as it may deem necessary to perform the work of the Board. The appointment of said Executive Secretary shall be made in accordance with rules and regulations to be adopted by the Director of Social Welfare and shall be chosen upon the basis of his experience, training and general qualifications for the work. His salary shall be fixed by the County Welfare Board except the salary of the Executive Secretary of the County Welfare Board appointed pursuant to Section 1, Subdivision (c) hereof (Sec. 974-11 (c)), which salary shall be approved by the Board of County Commissioners of any such county and the City Council of any city of the first class located within such county, and said County Welfare Board shall fix the salary of such other employes as it may hire.

Said welfare board shall require its executive secretary and such other of its employes as it may determine, to execute and file with it a bond conditioned as are other official bonds, to the state, with corporate sureties to be approved by it, in such amount as it may fix, not less than \$1,000.00, and the premium thereon shall be paid by said board. (As amended Act Apr. 17, 1941, c. 284, §2.)

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

Hatch Act precludes employee of county welfare board becoming candidate for office of township clerk or village recorder. Op. Atty. Gen. (125A-64), Oct. 21, 1942.

Executive secretary of county welfare board and other employes of county welfare board are included in bene-

fits authorized by salary increase act, Laws 1943, c. 597. Op. Atty. Gen. (104a-9), May 8, 1943.

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

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

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

Membership fees and expenses of persons attending unofficial state organization may not be paid by county board. Op. Atty. Gen. (125A-64), Mar. 27, 1942.

Public welfare money may not be used to purchase automobile for investigators. Op. Atty. Gen. (125a-64), Jan. 20, 1943.

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

(a) After its establishment the County Welfare Board shall forthwith assume the powers, duties and responsibilities of the County Child Welfare Board, if any, existing in the county, and shall perform such duties as may be required of the County Child Welfare Board or by law or by the Director of Social Welfare with regard to the enforcement of all laws for the protection of defective, illegitimate, dependent, neglected and delinquent children.

(b) The County Welfare Board, except as provided in Section 1, Subdivision (b), shall be charged with the duties of administration of all forms of public assistance and public welfare, both of children and adults, and shall supervise, in co-operation with the Director of Social Welfare, the administration of all forms of public assistance which now are or hereafter may be imposed on the Director of Social Welfare by law, including aid to dependent children, old age assistance, veterans aid, aid to the blind, and other public assistance or public welfare purposes. The duties of the County Welfare Board shall be performed in accordance with the standards, rules and regulations which may be promulgated by the Director of Social Welfare in order to comply with the requirements of the Federal Social Security Act and to obtain grants-in-aid available under said act.

(c) The County Welfare Board provided for in Section 1, Subdivision (b) shall be charged with the duties of administration of all forms of public assistance and public welfare within the purview of the Federal Social Security Act and which now are, or hereafter may be, imposed on the Director of Social Welfare by law, of both children and adults, including aid to dependent children, old age assistance and aid to the blind. The duties of such County Welfare Board shall be performed in accordance with the standards, rules and regulations which may be promulgated by the Director of Social Welfare in order to comply with the requirements of the Federal Social Security Act and to obtain grants-in-aid available under said act.

(d) The Director of Social Welfare shall be the authority to adopt and enforce rules and regulations concerning the use and publication of lists of public assistance recipients and governing the custody, use and preservation of public assistance records, files and communications. The Director of Social Welfare shall adopt such rules and regulations as may be necessary to comply with the requirements of the Federal Social Security Board; but in any event shall provide for the annual publication of a summary financial statement giving total expenditures for each of the several programs of public assistance; and shall make all finance records available for such examinations and audits as are required by law. No use or publication of the lists, records, files and communications herein referred to shall be made until such rules and regulations are adopted, and then only in the manner and form therein provided. All other acts or parts of acts now in effect inconsistent with the provisions of this act are hereby repealed, superseded, modified or

amended so far as necessary to conform to and give full force and effect to the provisions of this act. The provisions of this act will not be construed to apply to poor relief or direct relief. (As amended, Act Apr. 22, 1941, c. 370 §2.)

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

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

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

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

Board may reverse previous disallowance of a claim for hospital service furnished a poor person, or disallowed claim may be submitted to county board and direct action brought after lapse of reasonable time. Op. Atty. Gen. (125a-64), June 25, 1941.

County welfare board has no authority to shift to county commissioners final exercise of discretion vested in it. Id.

If its budget permits county welfare board may enter into an agreement with a National Youth Administration and sponsor a sewing project and agree to pay monthly sum. Op. Atty. Gen. (125A-64), Oct. 7, 1941.

County welfare boards need not advertise for bids for purchase of supplies even though their value exceeds \$500. Op. Atty. Gen. (707A-7), Jan. 8, 1942.

As to money paid out for poor relief by welfare board, it is not now required that an itemized account of amounts paid out, to whom and for what purchase, be published, but a summary financial statement giving total expenditures for each of several programs of public assistance shall be published and no more. Op. Atty. Gen. (277C-1), Jan. 15, 1942.

Construing Laws 1941, c. 370, and Laws 1941, c. 476, together, it was not intention of legislature to return all poor relief and direct relief to county commissioners, and welfare board has power to appoint and remove poor farm overseer. Op. Atty. Gen. (125A-64), Jan. 22, 1942.

It is very doubtful whether public welfare board has power to make permanent improvements to a county poor farm. Id.

Veterans' relief to be administered includes relief to honorably discharged soldiers, sailors or marines, who have rendered service in the present war, and this relief extends to their families and dependents. Op. Atty. Gen. (310M), Mar. 10, 1942.

Authority of county welfare board to pay membership dues for a member or its executive secretary in Minnesota State Conference of Social Workers, a voluntary organization, and expenses of executive secretary and members of board and investigators to attend a conference of such voluntary organization, is dependent upon whether it is duty of such persons to attend such meeting, duty being the test of authority. Op. Atty. Gen. (125a-64), Apr. 7, 1942.

Board has no authority to establish an historical project and set up a budget to pay a curator a salary, incident to his sole support of an indigent mother. Op. Atty. Gen. (125a-64), June 16, 1942.

Though with respect to assistance rendered as old age assistance, aid to dependent children and aid to the blind, financial statements should be published giving only total expenditures for each of the three several programs, the account of disbursements for poor relief and direct relief must be itemized in publication of county's financial statements. Op. Atty. Gen. (277c-1), Aug. 21, 1942.

Authority of board to pay 5% interest on unpaid bills as of 20th of month following purchase under marketing rules and regulations established by U. S. Dept. of Interior. Op. Atty. Gen. (107a-5), Aug. 29, 1942.

Fifteen-day appeal period which applies to claims allowed or disallowed by the county board do not apply to claims allowed or disallowed by county welfare board or by county board performing duties that should be performed by welfare board, as where one county presents claim against another county for hospitalization of one having settlement in latter county. Op. Atty. Gen. (107b-4), Sept. 14, 1942.

Discussion of benefits conferred upon veterans, their widows and wives by social welfare rules as compared with Soldiers Preference Act and the State Civil Service Act. Op. Atty. Gen. (125a-64), Sept. 28, 1942.

If county has presented a claim for hospitalization to county welfare board of neighboring county, and neighboring county has refused to allow it, an action can be brought on the claim against the county, and there need not be an appeal to district court. Op. Atty. Gen. (125a-64), Oct. 16, 1942.

(b). Administration of public assistance by county welfare board involves duties formerly performed by county and town officials such as warning out poor persons and ordering them to depart to their place of settlement, and in cases of dispute with other political subdivisions, instituting proceedings for determination of settlement and for removal of poor person, and such duties are governmental, and, since they involve inquiry of fact and the exercise of judgment based on such inquiry, they are not ministerial, but quasi judicial in nature, and members of the board are not liable to poor person injured by the honest exercise of their judgment in removing a poor person, though it subsequently appeared that such poor person was a freeholder. *Robinette v. Price*, 214M521, 8 NW(2d)800. See Dun. Dig. 7431, 8002a.

Sheriff and members of county board of welfare were not guilty of any conspiracy in connection with removal of poor person from county under order of court, where the only combination between them was exercise of statutory duties as required by statute, and there was, consequently, no agreement to commit any unlawful act or to commit any lawful act in an unlawful manner, though order of court was erroneous because poor person was a freeholder. *Id.* See Dun. Dig. 7431.

County board may refer all claims against county for medical or hospital services rendered poor persons to the county welfare board. Op. Atty. Gen. (339), May 26, 1941.

No appeal may be taken from disallowance of poor relief claim. *Id.*

Responsibility for administration of funds granted pursuant to Laws 1941, c. 525, rests with county welfare board and not with board of county commissioners. Op. Atty. Gen. (3391-3), June 20, 1941.

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

(e). Subdivision authorizes director of social welfare to specify methods relating to establishment and maintenance of personnel standards on a merit basis as concerns all employees of county welfare board with exception noted, but does not permit him to affect selection, tenure of office, or compensation of individuals employed in accordance with methods director has established. Op. Atty. Gen. (125a-64), June 20, 1941.

County welfare board appoints welfare workers employed by that board, subject to power of director of social welfare to establish personnel standards. Op. Atty. Gen. (125a-64), May 18, 1942.

974-18. To furnish estimates to county board.

It is necessary for county board of commissioners to pass a resolution establishing and creating a food stamp fund. Op. Atty. Gen. (339s), May 17, 1941.

County welfare board has no authority to expend any county money except from tax levied by county commissioners, and if budget approved does not contain an item for permanent improvements to poor farm, welfare board has no authority to make such an improvement out of any county fund. Op. Atty. Gen. (125A-64), Jan. 22, 1942.

Appropriation by county board to county welfare board and charges for service, water, light, etc., by county board against welfare board. Op. Atty. Gen. (125a-64), March 24, 1943.

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

Repealed. Laws 1941, c. 370.

Names of all persons receiving old age assistance or other payments from county welfare funds and amounts paid to each must be published in annual county financial statement. *State v. Heffelfinger*, 209M343, 296NW181. See Dun. Dig. 2280b.

State agency may adopt and enforce a regulation binding upon county welfare board whereby local board shall monthly publish in summary form for old age assistance and aid to dependent children all expenditures, not to be

itemized by name of recipient, and requiring protection from public of list of recipients and their confidential communications. Op. Atty. Gen., (277c-1), Oct. 10, 1939.

MISCELLANEOUS PROVISIONS

976. To report fees.

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

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

979. Recording fees paid by county.

County is to pay fee for filing with register of deeds appointment and oath of deputy sheriff. Op. Atty. Gen. (373b-10-i), Aug. 31, 1942.

990. Officials not to be interested in contracts.

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

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

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

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

All county officials who have any part in tax sales, their deputies and employees, may not lawfully purchase land at such sale, and it is very doubtful whether any other county official or his deputies and employees may buy at such sales. Op. Atty. Gen. (90B), Sept. 3, 1941.

County treasurer acting as stamp-issuing officer pursuant to federal commodity act is not entitled to extra compensation therefor. Op. Atty. Gen. (339s), May 20, 1942.

Member of county welfare board engaged in insurance business may not contract with county board in behalf of county for insurance purchased by county. Op. Atty. Gen. (90b-4), Nov. 27, 1942.

County welfare board member may not be paid for services rendered as a case worker. Op. Atty. Gen. (125a-64), March 4, 1943.

County commissioner may not accept work from county engineer on county road, even though there is a manpower shortage. Op. Atty. Gen. (90b-7), July 21, 1943.

District court judge is not a county officer and may contract with county. Op. Atty. Gen. (90f), Sept. 13, 1943.

991. Contracts in certain counties.

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

Purchase of a patented machine for a price in excess of \$500 could be enjoined where the vendor was not the only manufacturer making nor the only store selling machines equipped, designed and intended to be used and used for the same purpose. *Barnard v. Kandlyohl County*, 213M100, 5NW(2d)317. See Dun. Dig. 2287a.

Where contract exceeding \$500 is for personal service, as, for instance, the employment of an attorney, or an agent, or for the publication of official proceedings, or for the services of an architect, section does not apply. *Id.*

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

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

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

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

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

Existence of an emergency which would justify dispensing with requirement to advertise for bids is a question of fact for county board, but they should be prepared to defend themselves in court by facts sufficient to show that there was an emergency, and county board could and should have foreseen requirements and necessity for snow fence delivered in 6 parts between Dec. 17 and Dec. 28, totaling more than \$1000, but each separate bill being less than \$500. Op. Atty. Gen. (707a-8), Jan. 21, 1941.

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

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

Plans and specifications may not provide what contractor must pay haulers of gravel, nor require that trucks should be owned or operated by residents of the county. Op. Atty. Gen. (707b-7), Oct. 29, 1941; Nov. 7, 1941.

Where federal regulations require specified sum be paid for doing certain work on projects using federal money, they may be inserted. Id.

County welfare boards need not advertise for bids for purchase of supplies even though their value exceeds \$500. Op. Atty. Gen. (707A-7), Jan. 8, 1942.

It is not necessary that county board advertise for bids in purchasing a particular tract of land for use of the county. Op. Atty. Gen. (125a-41), Sept. 21, 1942.

County board must take its chances if it buys without bids on theory that an emergency exists. Op. Atty. Gen. (707a-8), Feb. 9, 1943.

Statute requires advertisement for bids before purchase of snow removal equipment, though War Production Board has released one piece of equipment and the county may purchase from one dealer and does not desire that advertisement be made for bids because it will create a demand upon its office. Op. Atty. Gen. (707a-7), Apr. 26, 1943.

Purchase of planks involving more than \$500 needed to repair bridges destroyed by flood may be purchased without calling for bids, if an emergency exists. Op. Atty. Gen. (707a-8), May 25, 1943.

Fact that purchase is to be made from the United States government is not an exception to the rule. Op. Atty. Gen. (707a-7), Dec. 2, 1943.

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

In determining who is lowest responsible bidder for sale of trucks and heavy equipment, board may take into consideration cost of upkeep as well as experience of county in cost of operating such equipment. Op. Atty. Gen. (707A-7), Feb. 24, 1942.

Statutes do not prohibit specification of a patented article and do not prohibit specification of equipment which may be manufactured only by one factory. Id.

993-1. Purchasing contracts in certain counties.

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

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

994. Actions against counties.

Where plaintiff by written assignment acquired a claim against county and it was audited and allowed, but through mistake or oversight on part of county officers warrant issued in payment was made payable to original claimant, who cashed it, plaintiff may recover from county as against defendants' claim that statute prevents suit by a claimant to enforce a money demand and that appeal from board's disallowance in whole or in

part is only remedy. *Leuthold v. R.*, 206M199, 288NW165. See Dun. Dig. 2295.

Board of welfare may reverse previous disallowance of a claim for hospital service furnished a poor person, or disallowed claim may be submitted to county board and direct action brought after lapse of reasonable time. Op. Atty. Gen. (125a-64), June 25, 1941.

997-4. Salary of county officers.

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

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

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

Laws 1941, c. 295, §§2, 3, 8, 9. Amended. Laws 1943, c. 124.

Laws 1943, c. 124, amends Laws 1941, c. 295, fixing salaries of various county officers in counties having 76 to 80 congressional townships and assessed valuation of \$2,000,000 to \$5,000,000.

Laws 1943, c. 531, amending Laws 1943, c. 411, §1, relating to salaries and clerk hire of certain county officials.

Notes of Decisions

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

Clerk of school board of Cass County cannot be paid a salary in excess of that allowed by Laws 1941, c. 295, §9, by reason of grants to state of federal money for Indian education. Op. Atty. Gen. (768d-4), Nov. 21, 1941.

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

Repealed. Laws 1941, c. 295.

997-4m. Clerk hire in county offices including that of probate judge.

Section does not apply to Carlton County or to act of probate judge of that county fixing clerk hire for his office. Op. Atty. Gen. (348a) July 21, 1941.

This section is amended by Laws 1941, c. 169, art. 2, §11, in counties where applicable. Op. Atty. Gen. (399c), Jan. 21, 1943.

County board in its discretion may increase clerk hire for clerk or district court above the amount specified in Laws 1917, c. 476, relating to particular counties. Op. Atty. Gen. (144a-1), Feb. 9, 1943.

If clerk hire in a county for office of clerk of court is provided by law, this section is applicable, and a resolution authorized. Op. Atty. Gen. (144a-1), March 25, 1943.

CHAPTER 8

Towns and Town Officers

POWERS—DUTIES—LIABILITIES

1002. Powers of town meetings.

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

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

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

Any funds, not presently needed, may be invested in War Savings Bonds. Laws 1943, c. 193.

Where supreme court held attempted incorporation of a village invalid, town in which village is situated has no right to liquidate unpaid warrants of village on theory of quasi contract or otherwise. Op. Atty. Gen. (442a-18), Apr. 9, 1942.

A town has no authority to assist a school district financially by supplying members of school patrol with a uniform, rain coats and equipment. Op. Atty. Gen. (442a-20), Apr. 9, 1942.

No statute is found authorizing investment of township general revenue funds in government defense bonds. Op. Atty. Gen. (551), Sept. 17, 1942.

Towns are not authorized to contribute out of public funds expenses of rationing. Op. Atty. Gen. (835), Dec. 22, 1942. This seems to have been changed by Laws 1943, c. 168.

(3).

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

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

(6).

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

(9).

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