

1936 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

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

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



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MASON PUBLISHING CO.  
SAINT PAUL, MINNESOTA  
1936

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

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

## RELIGIOUS EDUCATIONAL CORPORATIONS

### 3156. Manner of calling special meetings.

#### Local and special legislation.

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

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

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

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

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

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

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

## CHAPTER 15

# Relief of the Poor

## GENERAL PROVISIONS

### 3157. Support of poor.

174M227, 218NW882.

175M39, 220NW156.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

175M39, 220NW156.

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

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

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

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

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

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

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

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

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

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

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

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

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

A showing that applicant for relief has none of the relatives named in sec. 3157, or that they are not of sufficient ability or refuse or fail to support her is a pre-

requisite to obtaining municipal relief. Op. Atty. Gen., Apr. 8, 1933.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 3150-1. Liability of estate of poor person.

175M39, 220NW156.

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

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

**3150-3. Powers of governing body of town, city or village.**—In addition to all other powers now or hereafter by law conferred upon the governing body of any town, city or village, authority is hereby given to receive and accept for their town, city or village real or personal property, encumbered or unencumbered by gift, devise, conveyance or otherwise, from any person whose care, support, treatment or maintenance in whole or in part, under the laws relating to poor relief, is or may be chargeable to, furnished or provided by such town, city or village, and to hold or dispose of the same the benefit of such town, city or village, as provided by law in the case of other property belonging to such town, city or village, and the payment and discharge of any lien or encumbrances upon any such property is authorized when such governing body determines that such payment is advisable and for the best interests of such town, city or village. (Act Apr. 16, 1929, c. 199, §1.)

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

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

### 3161. Legal settlement for poor relief purposes.—

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

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

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

179M251, 228NW929.

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

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

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

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

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

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

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

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

Provision that time during which poor person "has received relief from poor fund of any county or municipality" shall be excluded in determining settlement, cannot be construed to include also payments of mother's pension. *In Re Skog., 186M349, 243NW384. See Dun. Dig. 7430.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The settlement of a 15 year old girl in the Home School for Girls at Sauk Centre, to which she was committed

while living with her mother, is in the county in which her mother enjoys settlement. *Op. Atty. Gen., Mar. 29, 1933.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Expense of burial of a pauper is imposed on county in which death occurs. Op. Atty. Gen. (339c1), Apr. 26, 1934.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Where a person committed to some state institution, like a state asylum for insane or other state institution,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A poor person who for many years has lived in one township and has moved into a city in the same county and has resided there seven months before applying for poor relief has settlement in the city and not in the township, county being under town system. Op. Atty. Gen. (339o-2), Feb. 7, 1935.

Year referred to in statute is year immediately preceding application for relief. Op. Atty. Gen. (339o), Feb. 11, 1935.

State relief fee paid out of federal funds is not poor relief within meaning of this section. Op. Atty. Gen. (330o), Mar. 4, 1935.

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

Person may not acquire settlement while residing in transient camp. Op. Atty. Gen. (339o-6), Mar. 9, 1935.

Right of a man to fix place of settlement of wife and family continues only so long as he maintains the family relationship and discharges duties thereof. Op. Atty. Gen. (339o-2), Mar. 14, 1935.

Month or months during which person received relief is to be deducted in determining place of settlement. Op. Atty. Gen. (339o-2), Mar. 16, 1935.

Month during which person receives relief is to be excluded in determining settlement. Op. Atty. Gen. (339o-4), Mar. 18, 1935.

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

Willful absence from state for 30 days terminates settlement for poor relief purposes. Op. Atty. Gen. (339o-2), Mar. 26, 1935.

Month during which indigent person receives federal relief is not excluded. Op. Atty. Gen. (339o-2), Apr. 8, 1935.

Time during which a person receives relief of poor fund of another municipality is to be excluded in de-

termining time of residence. Op. Atty. Gen. (339e-2), Apr. 16, 1935.

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

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

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

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

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

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

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

**3161-1. Settlement of poor persons—Disputes.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

It is not necessary for poor person to make an application for poor relief or for municipality to grant such poor relief in order to have a proceeding instituted for a determination of settlement. Op. Atty. Gen., Jan. 11, 1934.

Adjudication of district court as to settlement does not prevent poor person from obtaining settlement in county adjudged not to be his settlement, where noth-

ing is done about removing him to the county of his settlement and the poor person was self-sustaining during time he remained in county. Op. Atty. Gen. (339o-1), Jan. 16, 1935.

**3161-4. Same—County of residence of poor person charged with support of.**  
179M251, 228NW929.

**3162. Removal of poor person.**

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

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

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

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

This section was not repealed by Laws 1925, c. 378, (§§3161-1 to 3161-5). Op. Atty. Gen., Nov. 28, 1933.

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

Application for relief from a federal agency does not authorize removal of recipient of such relief. Op. Atty. Gen. (339o-3), Feb. 27, 1935.

**3164. Change of system.**

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

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

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

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

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

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

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

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

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

**3164-2. Municipalities may borrow funds for poor relief.—Each political subdivision of the state charged by law with responsibility for the support or relief of poor persons having a legal settlement there-**

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

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

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

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

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

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

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

**3164-4. To be expended for poor relief only.**—All moneys borrowed hereunder shall be expended only for the support or relief of the poor, through direct relief, work relief, placement service, or other service contributing to the support or relief of the poor, including the expense of administration and supervision. (Act Mar. 27, 1933, c. 120, §4.)

**3164-5. Serial bonds may be issued—tax levy.**—Upon authorization and approval of the issuance of bonds as in this act provided, the governing body or other proper bodies of any such political subdivision may proceed to issue and sell its bonds or other evidence of indebtedness covering such loans, in the manner prescribed by Section 1943, Mason's Minnesota Statutes, 1927. Such bonds or evidences of indebtedness shall be issued to mature serially, the first installment of which shall become due in not more than three years and the last of which shall become due and payable in not more than ten years from the date of their issue.

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

**3164-6. Inconsistent acts repealed.**—All laws or parts of laws inconsistent herewith are hereby suspended during the operation of this act; provided, however, that this action shall not be construed as repealing or suspending any other law authorizing municipalities coming within the provisions of this act to issue bonds for poor relief purposes. (Act Mar. 27, 1933, c. 120, §6.)

**3164-7. Acts validated.**—All bonds heretofore issued by any of the subdivisions of the character embraced in the provisions of this statute, and all proceedings heretofore taken for the issuance of such bonds as hereby authorized, are hereby and in all respects ratified, validated and confirmed, and such bonds are hereby declared to be valid and legally binding obligations of the issuing subdivisions of this State. (Act Mar. 27, 1933, c. 120, §7.)

**3164-8. Effective till April 1, 1937.**—This act shall be in force and effect until April 1, 1937. (Act Mar. 27, 1933, c. 120, §8; Mar. 15, 1935, c. 48.)

**3164-9. Tax levy for poor relief in certain counties.**—Each city of the first class responsible by statute or by charter provision for administering poor relief therein, and each county containing a city of the first class, which county is responsible by statute for administering poor relief therein either alone or jointly with any such city of the first class and whether administering such relief through a poor commission or a board of public welfare, is hereby authorized to levy a tax at a rate of not to exceed three (3) mills for each dollar of the assessed valuation of real estate and personal property therein in excess of and in addition to any levy which might otherwise be made by such city or such county to provide funds for poor relief. (Act Apr. 13, 1933, c. 239, §1.)

**3164-10. Levies to be subject to same laws as other levies.**—Any such additional levy shall be sub-

ject to the same limitations and restrictions as to authorization as are required in case of levies for other purposes in such city or such county, and shall be authorized and levied by the same authorities and in the same manner as other levies for poor relief. (Act Apr. 13, 1933, c. 239, §2.)

**3164-11. Funds to be expended by Board of Public Welfare.**—The funds provided by any such additional levy shall be appropriated and made available for the use of the board of public welfare or poor relief commission or other body, by whatever name known, authorized and empowered with the duty and responsibility of administering and providing for the care of the poor and needy in such city or such county. (Act Apr. 13, 1933, c. 239, §3.)

**3164-12. Effective till April 1, 1935, only.**—This Act shall be in force and effect until April 1, 1935, only. (Act Apr. 13, 1933, c. 239, §3.)

**3164-13. Appropriation for poor relief in certain cases.**—That the governing body of any city of the fourth class, operating under a home rule charter, and now or hereafter having an assessed valuation in excess of \$10,000,000 and a population of less than 9,000 inhabitants, may appropriate out of any money available, during the calendar year 1933 and thereafter, for the support of poor persons of the city, an amount not exceeding \$20,000 annually. (Act Apr. 17, 1933, c. 288, §1.)

**3164-14. Tax levy.**—That in every such city at the time of making the annual tax levy in the year 1933 and annually thereafter, the governing body of any such city may include therein a tax of one mill on all taxable property in such city, not exceeding \$20,000 for each year, however, for use by the city in giving relief to poor persons having a settlement in such city, but such levy shall be within the limitations now provided by law and shall not authorize any levy in addition to the per capita or any millage limitation; provided that no money shall be paid to any such poor person. (Act Apr. 17, 1933, c. 288, §2.)

**3164-15. Application of act.**—This Act shall not relieve any relative from liability now imposed by law for the support of any poor person having a settlement in any such city. (Act Apr. 17, 1933, c. 288, §3.)

**3164-16. County board may contract with hospitals for care of poor. [Repealed.]**

Repealed Apr. 29, 1935, c. 359, §4.  
Though certain counties may contract with certain hospitals for care of indigent persons, ordinarily counties may not pay for care of indigent persons sent to hospitals other than state hospitals by a township. Op. Atty. Gen. (1001d), July 12, 1934.

Repealed. Laws 1935, c. 359, §4. §§1 to 3 authorize county boards to hospitalize indigent of certain counties. This act is supplementary to §§4577 to 4587 and this section is not mandatory upon county board relative to entering into contract with hospital in county. Op. Atty. Gen. (1001d), Jan. 24, 1935.

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

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

Repealed Apr. 29, 1935, c. 359, §4.  
It is not lawful for judge of probate to act under this section when county board has not entered into a contract with county hospital, but board may ratify act of probate court and pay for services received. Op. Atty. Gen. (1001d), Jan. 24, 1935.

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

Repealed Apr. 29, 1935, c. 359, §4.  
Cost of care, treatment and hospitalization of an indigent person is imposed upon county of legal residence of such person, and state has no authority to reimburse county for half of expenses when patients are placed in Class "A" hospitals other than Minnesota general hospital. Op. Atty. Gen., Dec. 19, 1933.  
Preliminary medical examination should be paid by county of legal residence of indigent person. Op. Atty. Gen. (1001d), May 21, 1934.

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

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

**3164-20. Application to be filed.**—Whenever the existence of a case described in section 1 of this act shall come to the notice of the sheriff, town clerk, health officer, public health nurse, peace officer, public official, or physician or surgeon it shall be his duty to, and any other person may, file with the county auditor of the county of the legal residence of such indigent person requiring care an application for the hospitalization of such indigent person. Such application shall be made in such form as the county board of such county may prescribe, and shall contain the name, age, residence, and physical condition of the person sought to be hospitalized and shall contain also a full statement of his financial situation and of the persons, if any, legally charged with his care and support, and such application shall be verified. The county board shall make a careful investigation of the matter in such manner as it shall deem advisable and expedient, and it shall be the duty of any public official of any county, city, village, or town of the residents of the person sought to be hospitalized to supply the county board on a request therefor all the information within his knowledge relative to the financial condition of the person sought to be hospitalized and of all persons, if any there be, who are legally liable for the support of such person. If after such investigation the county board shall be satisfied that the person on whose behalf the application is made is not financially able to provide himself with such hospitalization or in case of a minor, his parents, guardians, trustee, or other person having legal custody over him or legally responsible for his support and maintenance is not financially able to provide such hospitalization, then said county board shall direct the county physician or some other physician, to make an examination of the person on whose behalf such application was made. Such physician shall make and file with the county board a verified report in writing setting forth the nature and history of the case and such other information as will likely aid in the medical and surgical treatment of the disease, malady, deformity, or ailment affecting such person, and shall state in such report his opinion whether or not the condition of such person can probably be remedied at a hospital. Such report shall be made in duplicate, one copy of which shall be filed with the county auditor and the other shall be transmitted to the hospital at which such afflicted person is hospitalized; such report shall also give any information the examining physician shall have or acquire relative to the financial ability of the afflicted person to pay for the hospitalization and treatment of his disease, malady, deformity, or ailment, together with any other information such physician may deem helpful to the county board or the physician attending him.

If upon filing of such report and a full investigation of the application the county board shall be satisfied that the case is one which could be remedied by hospital treatment and that such afflicted person is financially unable to secure or provide the same for himself, and that the persons legally charged with the



support and maintenance of such person, if any there be, are financially unable to provide such hospitalization, the county board may grant or approve said application. If the county board is not so satisfied, it may take additional testimony or make such further investigation as it shall deem proper and shall reject any application if it finds that the facts do not merit the expenditure of public money for the relief of such afflicted person. Upon the approving and granting such application and the relief therein prayed for the chairman of such county board shall arrange for the hospitalization of such afflicted person. If the county board shall find that the applicant or the person legally responsible for his support and maintenance is not able to pay in full but is able to pay in part for such hospitalization at such hospital the county board may approve such application of such afflicted person on such terms of division of hospital charges and costs as it may deem equitable and just. The county board shall provide for taking such afflicted person to the hospital. Provided, however, that when a physician certifies that an emergency exists in any case, and that he believes that the person suffering is unable to pay for hospitalization, such person shall be admitted to any such hospital upon the order of the chairman of the county board or upon the order of the county commissioner of the district in which such alleged indigent person resides; and thereafter an investigation shall be made in the manner hereinbefore provided. (Act Apr. 29, 1935, c. 359, §2.)

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

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

#### ACTS RELATING TO PARTICULAR COUNTIES

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

#### COUNTY SYSTEM

**3165. County board supervisors of the poor—overseer of poor may grant relief—county poor relief agent—poorhouses.**—In counties having the county system, the members of the county board shall be supervisors of the poor; provided that in counties where the board has employed and appointed an overseer of poor, the county board may by resolution confer full authority for granting temporary relief to the poor on the overseer of the poor or such other person as may be appointed by them, and in such cases the overseer or such other person so appointed shall be the only authorized agent of the county to incur expenses for relief of the poor. In case a person other than the overseer of the poor is appointed for said purpose, he shall be designated as the county poor relief agent and shall hold his office during the pleasure of the county board and his compensation shall be fixed by the board annually. The board may establish and maintain a poorhouse for the reception and support of poor persons chargeable on the county, and also, if it shall deem best, a poor farm or work house, or both, for the employment of the poor therein. If, in the opinion of the board the number of poor persons does not warrant the purchase or

lease of a poorhouse, it may provide for their support in any other way which it may deem proper. The expense of providing the necessary land and buildings shall be defrayed by a special tax, to be assessed, levied, and collected like other county taxes. (R. L. '05, §1492; G. S. '13, §3075; Laws 1933, c. 198; Ex. Ses., Dec. 23, 1933, c. 10, §1.)

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

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

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

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

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

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

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

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

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

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

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

Failure of poor overseer to furnish bond does not render his work illegal, but is ground for his removal. Op. Atty. Gen., Feb. 28, 1933.

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

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

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

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

#### **3170. Commitment by member.**

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

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

#### **3171. Temporary relief.**

175M39, 220NW156.

A county operating under the county system of caring for the poor may not purchase provisions at wholesale

and dole the same out to such persons as may be entitled to temporary relief. Op. Atty. Gen., Mar. 20, 1931.

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

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

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

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

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

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

**3172. Conveyance of poor persons.**

Matter of authority of sheriff to forcibly remove a poor person from a house to county poor house is a county matter and attorney general will not pass thereon on application of city attorney. Op. Atty. Gen. (3390-3), Feb 6, 1935.

**3173. Settlement in another county.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Poor person receiving assistance cannot be removed to place of settlement where he has never applied for it. Op. Atty. Gen. (3390-3), May 21, 1935.

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

**3174. Board to appoint physician.**

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

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

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

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

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

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

**3175. Minors, how provided for.**

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

**3176. Burial at expense of county.**

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

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

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

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

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

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

**3177. Tax for support of poor.**

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

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

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

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

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

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

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

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

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

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

**3183-1. Old age pensions established.**—There is hereby established in each county in this state a system of old age pensions. Provided that whenever this act shall have been in force for more than one year in any county, the county board shall upon a petition signed by at least 25 per cent of the voters therein, according to the last general election, adopt a resolution submitting the question of continuing such old age pension in said county to the voters at the next general election thereafter; if a majority of the voters voting upon such proposition shall vote in favor thereof, said old age pension shall be continued in effect in said county, but if a majority of the voters voting upon such proposition shall vote against continuing such old age pension in said county, then, and in that event the county board will thereupon adopt a resolution discontinuing such old age pension within said county. (Act Mar. 1, 1929, c. 47, §1; Apr. 9, 1931, c. 138, §1; Apr. 19, 1933, c. 348, §1.) Sections 3183-1, 3183-2, 3183-3, 3183-4, 3183-7, 3183-8, 3183-9, 3183-10, 3183-18, 3183-19, 3183-20, 3183-21 were amended by Laws 1935, c. 357, but that act was repealed by Laws Ex. Sess. 1935-36, c. 95, §32 [§3199-42, post], and was declared unconstitutional by an opinion of the attorney general. This would seem to leave the sections above enumerated as they existed prior to such amendment.

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

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

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

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

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

This act is unconstitutional because of material change in bill after passage by legislature in enrollment and before approval by the governor as enrolled. Op. Atty. Gen. (82r), May 3, 1935.

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

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

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

**3183-2. Who entitled to pension.**—Any person who shall comply with these provisions, shall be entitled to a pension, while continuing to reside in the county in which such pension is granted. The amount of such pension shall be fixed with due regard to the conditions in each case, but in no case shall it be an amount, which, when added to the income of the applicant, including income from property, as computed under the terms of this act, shall exceed a total of one dollar per day. (Act Mar. 1, 1929, c. 47, §2; Mar. 18, 1931, c. 72, §1; Apr. 9, 1931, c. 138, §2; Apr. 19, 1933, c. 348, §2.)

Operative effect suspended. See notes under §3183-1. Time for which person receives old age pension is not to be excluded in determining settlement for poor relief. Op. Atty. Gen. (339o-2), Jan. 10, 1935.

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

See notes under §3183-1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**3183-4. Restrictions.**—No old age pension shall be granted or paid to a person:

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

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

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

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

**3183-5. Computation of income.**—The annual income of any property which is not so utilized as to produce a reasonable income, shall be computed at five per cent of its value. (Act Mar. 1, 1929, c. 47, §5.)

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

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

**3183-6. Estate to pay pension in certain cases.**—

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

See notes under §3183-1.

**3183-7. County board may require property to be used for county.**—(1) If the board of county commissioners deems it necessary, it may require as a condition to the grant of a pension certificate, that all or any part of the property of an applicant for a pension be transferred to the county. Such property shall be managed by the board of county commissioners, which shall pay the net income to the person or persons entitled thereto. The board shall have power to sell, lease or transfer such property or defend and prosecute all suits concerning it and to pay all just claims against it and do all other things necessary for the protection, preservation, and management of the property, provided that the property acquired by the county under the provisions hereof shall be sold, leased or transferred only in the manner provided by Section 638, General Statutes 1923.

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

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

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

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

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

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

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

**3183-8. Applications.**—An applicant for a pension shall file his application in writing with the county auditor of the county in which he resides in such manner and form as shall be prescribed by the county attorney. All statements in the application shall be sworn to or affirmed by the applicant, setting forth that all facts are true in every material point. Upon the filing of such an application, the board of county commissioners shall make an order fixing a time and place for the hearing thereon, which hearing shall be not sooner than thirty days after the making of such order. The county auditor shall forthwith upon the making of such order mail a copy of the same and of the application to the clerk or recording officer of the city, town or village of which the applicant is a resident; a like copy of such order shall be mailed to the applicant. (Laws 1929, c. 47, §8; Mar. 18, 1931, c. 72, §2; Apr. 9, 1931, c. 138, §4.)

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

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

**3183-9. County board to direct investigations.**—

The board of county commissioners shall promptly make or cause to be made such investigation as it may deem necessary. The board of county commissioners shall decide upon the application, and fix the amount of the pension, if any, and such decisions shall be final. Provided, however, that in a county having a board of public welfare as authorized by Chapter 371, Laws of 1929, the board of county commissioners may delegate to such board of public welfare, subject to the supervision of the board of county commissioners, such investigation, decisions upon the applications and fixing of the amounts of the pensions, if any. Provided, that in any county having a Poor Commission authorized to administer poor relief with all the powers of the county board in counties having the county system of administering such poor relief, the said Poor Commission shall make or cause to be made by competent authority, such investigations, decisions upon applications for pension, and the fixing of the amounts of pension, if any, to be awarded hereunder; all subject to the final approval of said Poor Commission by resolution and order duly entered in its records, before any such pension shall be paid by the County Auditor. In any such county where such poor relief is administered by and under the supervision of said Poor Commission, it shall be the duty of said Poor Commission and its secretary or clerk, to carry out the provisions of this act with the same powers, duties and obligations as are here-in vested in the Board of County Commissioners and the County Auditor respectively, and for the purpose said Poor Commission shall have authority to employ such additional assistance as shall be found necessary. Provided further that in any county having a poor commission, it shall be the duty of the poor commission to designate the deputy clerks of court at such places where regular terms of court are held in said county as clerks for the purpose of accepting applications for such pension. It shall be the duty

of such clerks of court to aid and assist the applicant in making out his application for such pension. Provided, further, that in a county having an official investigator appointed as provided in Section 8676, General Statutes 1923, the board of county commissioners may delegate such investigation to such official investigator subject to the supervision of the board of county commissioners. An applicant whose application for pension has been rejected, may not again apply for a pension until the expiration of twelve months from the date of his previous application. (Laws 1929, c. 47, §9; Mar. 18, 1931, c. 72, §3; Apr. 9, 1931, c. 138, §5.)

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

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

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

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

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

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

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

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

Operative effect suspended. See notes under §3183-1. County commissioners may modify amount of pension at any time. Op. Atty. Gen. (335c-1), May 21, 1934.

**3183-11. Funeral expenses.**—On the death of pensioner such reasonable funeral expenses for burial shall be paid to such person as the board of county commissioners may decide; provided that these expenses do not exceed one hundred dollars, and provided further that the estate of the deceased is insufficient to pay these expenses. (Laws 1929, c. 47, §11; Apr. 9, 1931, c. 138, §7.)

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

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

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

Operative effect suspended. See notes under §3183-1. A person receiving old age pension might also receive relief from federal government. Op. Atty. Gen. (335c-1), Aug. 22, 1934.

**3183-13. Pensions exempt from tax or process.**—All pensions shall be exempt from any tax levy by the state or by any subdivision thereof, and exempt from levy and sale, garnishment, attachment, or any

other process whatsoever, and shall be inalienable in any form. (Act Mar. 1, 1929, c. 47, §13.)

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

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

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

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

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

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

(3) Payment of any forfeited installment grant;

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

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

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

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

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

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

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

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

**3183-18. County board to provide funds.**—(1) The county board of each county shall annually appropriate a sum of money sufficient to carry out the provisions of this act. Upon the orders of the board of county commissioners, the county auditor shall draw his warrant on the proper fund in accordance with said order of said board and the county treasurer shall pay out the amounts ordered to be paid as pensions, under the provisions of this act.

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

paid as pensions under the law shall be paid out of the revenue fund of said county. (Act Mar. 1, 1929, c. 47, §18; Mar. 18, 1931, c. 72, §4; Apr. 9, 1931, c. 138, §11.)

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

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

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

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

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

(1).

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

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

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

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

(2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### TOWN SYSTEM

**3184. Towns board and councils to be superintendents—Relief.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 3186. Relief and transportation.

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

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

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

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

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

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

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

The fact that a poor person may be able to provide the ordinary necessities of life without public assistance does not render him less entitled to medical care or treatment in case he is in need thereof and unable to

provide the same for himself. *Op. Atty. Gen.*, Mar. 16, 1932.

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

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

If poor person has no settlement within the state, the ultimate liability rests upon the county without right of recovery. *Op. Atty. Gen.* (339o), Apr. 12, 1934.

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

Poor person may not be removed to place of settlement unless he has made application for relief, and having been removed to his place of settlement he cannot be again removed on his return unless he makes another application for relief. *Op. Atty. Gen.* (390a-15), May 16, 1935.

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

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

It is only when a person has a settlement in this state that public officers are authorized to direct an applicant's removal from municipality. *Op. Atty. Gen.* (339o-2), May 3, 1934.

Where person applying for relief has no settlement within the state, local authorities have power to remove him against his will to another state or to another county or municipality. *Op. Atty. Gen.* (339o), Dec. 18, 1934.

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

### 3188. Taxes, how levied.

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

### 3190. Change from county system.

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

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

Where change from county to town system is voted tax for the year levied by county for poor relief purposes, to extent of 80% thereof, must be paid over to the towns and municipalities, and cannot be used by county to pay overdrafts from county poor fund in previous years. *Op. Atty. Gen.* (339o-5), Mar. 30, 1935.

### 3194. Duty of auditor—Poor fund.

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

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

*Litchfield v. M.*, 182M150, 233NW804; note under §3186. *Op. Atty. Gen.*, Apr. 4, 1932; note under §994. *Op. Atty. Gen.*, Feb. 8, 1934; note under §3190.

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

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

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

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

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

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

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

Op. Atty. Gen., Apr. 4, 1932; note under §994.

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

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

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

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

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

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

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

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

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

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

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

Where a tubercular person is placed in a sanatorium at the request of the municipality of his settlement, municipality is acting under its legal poor obligation and is entitled to a refund from the county under §3195, but if the municipality is proceeding under §5351 and expends money thereunder, it is entitled to a refund of ½ of its expenditures from the county, but the half assumed by the municipality cannot be included as poor relief for purpose of securing a further reimbursement under §3195. Op. Atty. Gen. (339f-3), June 15, 1934.

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

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

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

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

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

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

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

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

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

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

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

#### COUNTIES EXCEEDING 75,000

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

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

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

#### COUNTIES WITH 400,000 POPULATION OR OVER

##### 3199-3. Same—Tax levy.

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

#### STATE WIDE SYSTEM OF OLD AGE ASSISTANCE

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

See note under §3183-1.

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

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

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

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

(d) "County agency" or "county agencies" shall mean the board of county commissioners, or such other board as may be hereinafter authorized to administer this act in any county; provided, however, in any county having a poor commission authorized to administer poor relief with all the powers of the



county board in counties having the county system of administering such poor relief, and where such poor relief is administered by and under the supervision of said poor commission, the term "county agency" shall mean said poor commission and said poor commission shall have all the powers, rights and duties vested in the board of county commissioners and the county auditor, respectively, and for these purposes said poor commission shall have authority to employ such additional assistance as shall be found necessary.

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

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

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

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

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

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

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

(f) Prepare and release a summary statement monthly showing by counties the amount paid under this act, the total number of persons assisted, and the total administrative cost of the state agency.

(g) Furnish information to acquaint aged persons and the public generally with the old age assistance plan of this state. (Jan. 27, 1936, Ex. Ses., c. 95, §3.)

**3199-14. County agencies—duties.**—(a) The county agencies shall administer the old age assistance system in their respective counties under the supervision of the state agency, and shall make such reports, prepare such statistics, and keep such records and accounts in relation to old age assistance as the state agency may require.

(b) In a county having a board of public welfare as authorized by Laws 1929, Chapter 371, the board

of county commissioners may delegate to such board of public welfare, subject to the supervision of the board of county commissioners, the investigation of applications and recipients, decisions upon applications and the fixing of the amount of old age assistance, if any.

(c) In any county having a poor commission, it shall be the duty of the poor commission to designate the deputy clerks of court at such places where regular terms of court are held in said county as clerks for the purpose of accepting applications for such old age assistance. It shall be the duty of such clerks of court to aid and assist the applicant in making out his application for such old age assistance.

(d) In a county having an official investigator appointed as provided in Mason's Minnesota Statutes of 1927, Section 8676, the board of county commissioners may delegate such investigation to such official investigator subject to the supervision of the board of county commissioners.

(e) The county agency may appoint some person or other agency to investigate applications and recipients and assist applicants in making out of applications, always, however, subject to the supervision of the county agency; provided, that decisions upon applications and fixing of amount of old age assistance shall be made by the county agency. (Jan. 27, 1936, Ex. Ses., c. 95, §4.)

**3199-15. Qualifications of pensioners—amount of pension—Other assistance.**—(a) Any resident of this state who shall comply with the provisions of this act shall be eligible for old age assistance while continuing to reside in this state. Temporary absences from the state may be allowed by recipient by permission from the county agency in accordance with the regulations of the state agency, and may be continued where the recipient can receive from a relative, or otherwise, a substantial amount of gratis service or subsistence not available in the state.

(b) The amount and the manner of payment of old age assistance shall be fixed with due regard to the conditions in each case and shall be an amount which, when added to the net income of the applicant, including subsistence or service reasonably available to him, does not exceed a maximum of \$30.00 per month, subject, however, to the following:

(1) The annual income of any property which is not so utilized as to produce reasonable returns shall be deemed to be the net income which would be available if the property were suitably used. Due consideration shall be given to the current or prevailing conditions affecting the use of such property.

(2) Irregular or casual earnings, and gifts, when such do not exceed \$100 in any calendar year, may be excluded in calculating income.

(c) While a recipient is receiving old age assistance, he shall not receive any other relief from the state or from any political subdivision thereof, except for medical, dental, surgical or hospital assistance, or nursing care. (Jan. 27, 1936, Ex. Ses., c. 95, §5.)

**3199-16. Same—age—citizenship—residence—institutional care.**—Old age assistance may be granted to an applicant who:

(a) Has attained the age of 65 years;

(b) Is a United States citizen, or has resided continuously in the United States for over 25 years;

(c) Has been a resident of the state for five years or more within the nine years immediately preceding application, at least one year of which shall have been continuous and immediately precede such application; provided, that whenever a person has been a resident of the state at least two years continuously and immediately preceding application, but has not resided therein five years within the above mentioned nine-year period, there may be added to the years of actual residence within said nine-year period a credit for years of actual residence in the state preceding said nine-year period on the following basis:

(1) 40 per cent of actual residence in the six years immediately preceding the above mentioned nine-years; and

(2) 20 per cent of actual residence in the five years immediately preceding the above mentioned six years; and

(3) Ten per cent of actual residence in the ten years immediately preceding the above mentioned five years; and

(4) Five per cent of actual residence in any time preceding the above mentioned ten years; and

(d) Is not, because of physical or mental condition, in need of continued institutional care, and such care is reasonably available to him. (Jan. 27, 1936, Ex. Ses., c. 95, §6.)

**3199-17. Absence in state or federal service.**—For all purposes of this act absence in the service of the State of Minnesota or the United States shall not be deemed to interrupt residence in the state if domicile be not acquired outside of the state. (Jan. 27, 1936, Ex. Ses., c. 95, §7.)

**3199-18. Disqualification of pensioners.**—No old age assistance shall be paid to a person:

(a) While or during the time he is an inmate of, and receives gratuitously all the necessities of life from any public charitable, custodial or correctional institution maintained by the United States, or any state or any of the political subdivisions of the state; provided, in the case of temporary medical or surgical care in a hospital or infirmary, part or all of any old age assistance may be paid at the discretion of the county agency subject to rules and regulations made by the state agency;

(b) If the net value of his property or the net value of the combined property of husband and wife exceeds \$3,500; provided, however, that household goods and furniture in use in the home, wearing apparel and a lot in a burial ground may be owned in addition to the property limitation provided in this subsection;

(c) Who has after the passage of this act or within two years prior thereto deprived himself, directly or indirectly, of any property for the purpose of qualifying for old age assistance;

(d) Whose spouse, living with said person, has made an assignment or transfer, directly or indirectly, of any property for the purpose of qualifying either person for old age assistance under this act. (Jan. 27, 1936, Ex. Ses., c. 95, §8.)

**3199-19. Legal settlement—Application to county agency—Verification—Hearing appeal.**—(a) For the purposes of this act every person who has resided one year continuously in any county shall have a legal settlement therein, and such legal settlement shall not be deemed lost or terminated until a new settlement shall have been acquired in another county of this state or acquired in another state. The time during which a person has been an inmate of a hospital, poor house, jail, prison or other public institution shall be excluded in determining the time of residence hereunder.

(b) An applicant for old age assistance shall file his application in writing with the county agency of the county in which he has a legal settlement, in such manner and form as shall be prescribed by the state agency. Provided, however, that as to a person otherwise qualified who has no legal settlement in any county of the state, his legal settlement for the purpose of making application hereunder shall be deemed to be the county in which he has longest resided during the year immediately preceding the filing of such application.

(c) All statements in the application shall be sworn to or affirmed by the applicant, setting forth that all facts are true in every material point. Upon the filing of such application, the county agency shall make an order fixing a time and place for the hearing thereon. The county agency shall forthwith upon the making of such order mail a copy of the same to

the applicant. Any applicant or recipient shall have the right to produce any evidence that he desires and be represented by a friend or counsel.

(d) Whenever an application is rejected or denied by a county agency upon the sole ground that the same was not filed in the county of applicant's legal settlement, an appeal may be taken to the state agency in the same manner as other appeals, and the state agency shall thereupon determine the question of legal settlement and refer the application to the county agency of the proper county for further action. (Jan. 27, 1936, Ex. Ses., c. 95, §9.)

**3199-20. Investigations—determination—renewal of application.**—The county agency shall promptly make or cause to be made such investigation as it may deem necessary; the object of such investigation shall be to ascertain the facts supporting the application made under this act and such other information as may be required by the rules of the state agency. Upon the completion of such investigation, the county agency shall promptly decide upon the application, and fix the amount of old age assistance, if any, and issue to each applicant to whom old age assistance is allowed, a certificate stating the date upon which old age assistance payments shall commence and the amount of each installment, which shall be paid monthly. An applicant whose application for old age assistance has been rejected by the county agency or to whom old age assistance was denied on appeal, as hereinafter provided, may not again apply for old age assistance until the expiration of 12 months from the date of his previous application, unless said refusal was on the sole ground that applicant had not complied with the residence requirements. (Jan. 27, 1936, Ex. Ses., c. 95, §10.)

**3199-21. Appeal to state agency—notice—new hearing by county agency—review—appeal to district court—review of rules and regulations—appeal to supreme court—Taxpayer's objections.**—(a) Any applicant or recipient aggrieved by any order or determination by the county agency may appeal from such order or determination to the state agency. Before making such appeal to the state agency the applicant or recipient shall give written notice to the county agency that he is not satisfied with the decision made. The county agency shall, within 30 days thereafter, grant a new hearing. The county agency may adhere to the decision already made, or may modify its order. If the applicant or recipient is then dissatisfied he may, within 30 days after receiving notice of such order, appeal to the state agency as herein provided. The state agency shall upon receipt of such an appeal notify the county agency and review the case, giving the applicant or recipient an opportunity for a fair hearing before such state agency. The state agency may also, upon its own motion, review any decision made by the county agency. The state agency may make such additional investigation as it may deem necessary, and shall make such decision as to the granting of assistance and the amount and nature of assistance to be granted the applicant or recipient as in its opinion is justified and in conformity with the provisions of this act. All decisions of the state agency shall be binding upon the county involved and the applicant or recipient and shall be complied with by the county agency unless modified or reversed on appeal as hereinafter provided.

(b) If a decision or determination by the state agency is not, in the opinion of the county agency or applicant or recipient, in conformity with this act, either may within 30 days after such decision appeal from the decision or determination of the state agency to the district court of the county in which the application was filed, by serving a copy of a written notice of such appeal upon the state agency and adverse party and filing the original of such written notice, together with proof of service, with the clerk of the district court of the said county. Such appeal may be brought on for hearing by either party by mailing ten days' written notice stating the time and place of such

hearing. Upon serving of such notice, the state agency shall, if demanded, furnish the county agency and applicant a summary of the applicant's claims on appeal, a copy of all supporting papers, a transcript of any testimony and a copy of its decision. The court shall summarily hear and determine said application on its merits. The court may either affirm or reverse the decision of the state agency appealed from, and shall enter and file with the clerk of the district court such order as may be proper in the premises; and said order and judgment of the district court shall be final; subject, however, to the power of the court to amend or modify its order from time to time as changing circumstances may require.

(c) The county agency may question the validity of any rule or regulation of the state agency, and the district court where said county agency is located shall have power to determine the validity of any such rule or regulation by original proceedings in said court. Either the state agency or the county agency may appeal from such decision to the supreme court of the State of Minnesota in the same manner as other appeals in civil actions.

(d) Any taxpayer of the State of Minnesota, resident therein, may appear at any time before the county agency of the county wherein he resides, and protest the granting or continuance of any individual old age assistance, or any portion thereof, with the same right to appeal to the state agency as granted an applicant or recipient. (Jan. 27, 1936, Ex. Ses., c. 95, §11.)

**3199-22. Attorney general and county attorney to act for state and county agencies respectively.**—The attorney general shall be the attorney for the state agency in all matters pertaining to this act. The county attorney of each county shall be the attorney for the county agency in all matters pertaining to this act. (Jan. 27, 1936, Ex. Ses., c. 95, §12.)

**3199-23. Subpoenas—administration of oaths.**—The county agency and the state agency shall have the power to issue subpoenas for the witnesses and compel their attendance and the production of papers and writing; and officers and employees designated by the county agency or the state agency may administer oaths and examine witnesses under oath in connection with any application or proceeding under this act. (Jan. 27, 1936, Ex. Ses., c. 95, §13.)

**3199-24. Death of recipient—funeral expenses—claim against estate.**—On the death of a recipient, the county agency may pay an amount for reasonable funeral expenses, not exceeding \$100. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses, or if the children, or spouse, who were legally responsible for the support of the deceased during his lifetime, are able to pay such expenses. In determining the sufficiency of such estate due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant funeral expenses where the sale would cause undue loss to the estate. Any amount paid by the county as funeral expenses shall be a prior claim against the estate, as provided in Laws 1935, Chapter 72, Section 108 [§8992-108], and any amount recovered shall be paid to the treasury of the county which paid said expenses and be deposited in the county old age assistance fund, and 50 per cent thereof shall be paid to the state agency. (Jan. 27, 1936, Ex. Ses., c. 95, §14.)

**3199-25. Same—claim against estate—limitations.**—On the death of any person who receives any old age assistance under this or any previous old age assistance law of this state, or on the death of the survivor of a married couple, either or both of whom received such old age assistance, the total amount paid as old age assistance to either or both, without interest, shall be allowed as a claim against the estate of such person or persons by the court having jurisdiction to probate the estate. The statute of limitations which limits the county agency or the state agen-

cy, or both, to recover only for assistance granted within six years shall not apply to any claim made under this act or reimbursement for any assistance granted hereunder. (Jan. 27, 1936, Ex. Ses., c. 95, §15.)

**3199-26. Liability of children or spouse of recipient—enforcement.**—If at any time during the continuance of any assistance granted under this act the state agency or the county agency finds that any child or the spouse of any recipient is reasonably able to contribute to the necessary care and support of such recipient without undue hardship to himself or his immediate family, and such person so able to contribute to the care and support of such recipient fails or refuses to contribute according to his ability to the care and support of such recipient, then, after notice to such person or persons, there shall exist a cause of action against said person or persons for such amount of assistance furnished under this act subsequent to such notice, or such part thereof as such person or persons are reasonably able to pay. Said action may be ordered by the state agency, or county agency, and shall be brought in the name of the county by the county attorney of the county in which such assistance was granted and shall be brought against said person or persons for the recovery of such amount of assistance granted after such notice, as hereinbefore provided, together with a cost and disbursements of such action. (Jan. 27, 1936, Ex. Ses., c. 95, §16.)

**3199-27. Reimbursement of United States out of amounts collected.**—Whenever any amount shall be recovered from any source for assistance furnished under the provisions of this act, there shall be paid to the United States the amount which shall be due under the terms of the Social Security Act and the balance thereof shall be paid into the treasuries of the state, county, town, village, borough or city in the proportion in which they respectively contributed toward the total assistance paid. (Jan. 27, 1936, Ex. Ses., c. 95, §17.)

**3199-28. Payment to trustee of recipient.**—If a person receiving old age assistance is, on the testimony of reputable witnesses, found incapable of taking care of himself or his money, the county agency may direct the payment of the old age assistance to any responsible person in trust for such recipient. (Jan. 27, 1936, Ex. Ses., c. 95, §18.)

**3199-29. Assignability of pension—exemption.**—No old age assistance given under this act shall be transferable or assignable at law or in equity except as provided in Section 18 hereof; and no money paid or payable under this act shall be subject to execution; levy, attachment, garnishment or other legal process, or to the operation of any bankruptcy or insolvency law. (Jan. 27, 1936, Ex. Ses., c. 95, §19.)

**3199-30. Reports by recipients—modification, suspension or revocation of assistance—excessive payments.**—Each recipient shall file such reports with the county agency as the county agency or the state agency may from time to time require. If it appears at any time that the recipient's circumstances have materially changed or that a certificate was improperly obtained by any recipient, or if the recipient has failed to comply with the provisions of Section 26 [§3199-36], the county agent may modify, suspend or revoke any old age assistance certificate issued to such recipient, and may suspend payment of any installment pending any inquiry. If on inquiry it appears that the certificate was improperly obtained, it shall be cancelled, but if it appears that the certificate was properly obtained, the suspended installments shall be payable in due course. Any old age assistance paid in excess of the amount due shall be returned to the county and may be recoverable as a debt due the county. (Jan. 27, 1936, Ex. Ses., c. 95, §20.)

**3199-31. Unlawful obtainment of assistance gross misdemeanor.**—Any person who has obtained or who by means of a willfully false statement or represen-

tation, or by impersonation, or other fraudulent device, hereafter obtains, or attempts to obtain, or aids or abets any person to obtain:

(a) An old age assistance certificate to which he is not entitled;

(b) More old age assistance than that to which he is justly entitled;

(c) Payment of any forfeited installment grant;

(d) Or aids or abets in buying or in any way disposing of the property of the recipient without the consent of the county agency;

(e) Or aids or abets in buying or in any way disposing of the property of any person for the purpose of qualifying any person or his spouse for old age assistance; shall be guilty of a gross misdemeanor. (Jan. 27, 1936, Ex. Ses., c. 95, §21.)

**3199-32. Same—cancellation of certificate.—**

Where a recipient or applicant is convicted of an offense under Section 21 [§3199-31], the county agency may cancel the certificate or refuse to issue same. (Jan. 27, 1936, Ex. Ses., c. 95, §22.)

**3199-33. Payment by county—reimbursement by state—expenses, apportionment.—**Each old age assistance granted under this act shall in the first instance be paid by the county in which an old age assistance certificate is issued and while the same is in effect. The state shall reimburse each county as follows:

(a) For 33 1/2 per cent of the total amount of old age assistance paid by such county, from state funds.

(b) For 50 per cent of the total amount of old age assistance paid by such county, from federal funds; provided that in the event federal funds shall be inadequate to pay in full 50 per cent of all old age assistance paid by each county, then the available federal funds shall be paid ratably and proportionately to the several counties in the proportion which the total amount of old age assistance paid by each county bears to the total amount of old age assistance paid by all counties of the state.

(c) Not exceeding one-fourth of any funds available for administrative purposes shall be used to defray necessary expenses of the state agency in the supervision of the old age assistance laws of this state, and the balance shall be used to repay the counties pro rata in the proportion the total number of recipients in the county bears to the total number of recipients in the state for the period in question, for actual administrative expenses. (Jan. 27, 1936, Ex. Ses., c. 95, §23.)

**3199-34. County budget—levy of tax—transfer from other funds—warrants—overdrafts—claims for reimbursement—payment.—**The providing of funds necessary to carry out the provisions of this act on the part of the counties and the manner of administering and disbursing funds of the counties and the state shall be as follows:

(a) The board of county commissioners of each county shall annually set up in its budget an item designated as the county old age assistance fund, and shall levy taxes and fix a tax rate for old age assistance sufficient to produce the full amount of such item, in addition to all other tax levies and tax rates, however fixed or determined, sufficient to carry out the provisions of this act and to pay in full the county share of old age assistance and administrative expenses for the ensuing year; and shall annually, on or before October 10th, certify the same to the county auditor to be extended by him on the tax rolls. Such tax levy and tax rate shall make proper allowance and provision for shortage in tax collections.

(b) Any county may transfer surplus funds from any county fund, except the sinking or ditch fund, to the general fund or to the county old age assistance fund in order to provide moneys necessary to pay old age assistance awarded under this act. The money so transferred shall be used for no other purpose, but any portion thereof no longer needed for such purpose, shall be transferred back to the fund from which taken.

(c) Upon the orders of the county agency the county auditor shall draw his warrant on the proper fund in accordance with said orders and the county treasurer shall pay out the amounts ordered to be paid out as old age assistance under the provisions of this act. When necessary by reason of failure to levy sufficient taxes for the payment of said old age assistance in the county, the county board shall nevertheless authorize payment of said old age assistance and the county auditor shall carry any such payments as an overdraft on the old age assistance fund of said county until sufficient tax funds shall be provided for said old age assistance payments. The board of county commissioners shall include in the tax levy and tax rate in the year following the year in which such overdraft occurred an amount sufficient to liquidate such overdraft in full.

(d) Claims for reimbursement shall be presented to the state agency by the respective counties in such manner as the state agency shall prescribe not later than ten days after the close of the month in which the expenditures were made. The state agency shall audit such claims and certify to the state auditor the amounts due the respective counties without delay. The amounts so certified shall be paid within ten days after such certification, from the state treasury upon warrant of the state auditor from any moneys available therefor. The moneys available to the state agency to carry out the provisions of this act, including all federal funds available to the state, shall be kept and deposited by the state treasurer in the revenue fund and shall be disbursed upon warrants in the same manner as other state funds except that such warrants shall be countersigned by a member of the state agency or some other person thereunto duly authorized by resolution thereof. (Jan. 27, 1936, Ex. Ses., c. 95, §24.)

**3199-35. Mandamus to compel compliance.—**In the event that the county agency or the county auditor, or both, of any county fails to comply with the provisions of this act, mandamus proceedings may be instituted against such county agency or county auditor, or both, by the state agency or any interested party to compel such county agency or county auditor, or both, to comply therewith. (Jan. 27, 1936, Ex. Ses., c. 95, §25.)

**3199-36. Change of residence by recipient.—**Whenever a recipient changes his place of dwelling he shall notify the county agency in which his old age assistance certificate is in effect. If he removes to another county he shall declare whether such absence is temporary or for the purpose of taking up regular domicile. The county originally granting old age assistance shall continue to pay the same regardless of change of residence within the state by a recipient. (Jan. 27, 1936, Ex. Ses., c. 95, §26.)

**3199-37. Funeral expenses paid by county—reimbursement by state.—**All funeral expenses paid under this act shall, in the first instance, be paid by the county in which the deceased received his old age assistance certificate; and the state shall reimburse said county for 50 per cent of the payments made for reasonable funeral expenses from state funds. (Jan. 27, 1936, Ex. Ses., c. 95, §27.)

**3199-38. Assistance granted under prior law—modification or revocation.—**The claim of any person to any old age assistance existing on the effective date of this act, which claim has been granted under any old age assistance law of this state, shall continue as a valid order for old age assistance under this act for the amount previously approved; provided, however, that such old age assistance may be modified, suspended, or revoked by the county agency or the state agency, in the same manner as though said old age assistance was originally granted under this act. (Jan. 27, 1936, Ex. Ses., c. 95, §28.)

**3199-39. Modification by groups.—**Neither the county agency nor the state agency shall have the

power to modify any old age assistance as a group, but must consider each application, each modification, and each old age assistance, individually, upon its merits. (Jan. 27, 1936, Ex. Ses., c. 95, §29.)

**3199-40. Separability of provisions.**—The various provisions of this act shall be severable. If any section or part of this act or the application of such provision to any person, board or circumstance shall be declared unconstitutional or invalid for any reason, the remainder of this act shall not be affected thereby. (Jan. 27, 1936, Ex. Ses., c. 95, §30.)

**3199-41. Limitation of state agency expense.**—The total administrative and supervisory expense of the state agency for the period ending June 30, 1937, shall not exceed \$75,000. (Jan. 27, 1936, Ex. Ses., c. 95, §31.)

**3199-42. Repeal—suspension of prior laws—validation—act inoperative in event of repeal or invalidity of federal law—instruments, how signed.**—Upon the effective date of this act, Laws 1935, Chapter 357 [ §§3183-1 to 3183-4, 3183-7 to 3183-10, 3183-18 to 3183-21, 3183-23 to 3183-28 ], are hereby expressly repealed; provided, however, that all tax levies, agreements, mortgages and liens made pursuant to Laws 1935, Chapter 357, are hereby in all respects validated and confirmed, and all funds received, or to be received, are hereby made available to the respective county agencies for the purpose of paying old age assistance and administrative costs authorized in this act. During the period that this act is in effect Mason's Minnesota Statutes of 1927 (1934 Supplement), Sections 3183-1 to 3183-22, inclusive, and all acts or parts of acts, general and special, inconsistent with the provisions of this act and not expressly repealed hereby are hereby suspended, except all tax levies, and reimbursements due counties from local units of government, made pursuant to these laws, which are hereby in all respects validated and confirmed and shall remain in full force and effect for the periods for which made; and all funds received or to be received are hereby made available to the respective county agencies for the purpose of paying old age assistance and administrative costs authorized in this act and shall be subject to this act. In the event that Title I of the Social Security Act, same being Public No. 271, of the 74th Congress [Mason's U. S. Code, Anno., title 42, ch. 7], shall at any time be repealed or become void by final decision of the supreme court of the United States, then this act shall become and be suspended and inoperative, and all laws and parts of laws hereby suspended shall again become operative and be in full force and effect. All instruments necessary to accomplish the intent of this section shall be signed by a majority of the members of the county agency in office on the date of such instrument, and when so executed shall be effective to accomplish the results herein provided for. (Jan. 27, 1936, Ex. Ses., c. 95, §32.)

**3199-43. Reservation of right to amend repeal or suspend law.**—Anything in this act to the contrary notwithstanding, the legislature reserves the right to alter, amend, repeal or suspend at any time the whole or any part or portion of this act. (Jan. 27, 1936, Ex. Ses., c. 195, §33.)

**3199-44. Act dependent on federal aid—reduction of assistance.**—This act in its various terms and provisions, including the amount of old age assistance paid to an individual hereunder, is intended to comply with and give effect to the Social Security Act above referred to. In the event federal funds shall not be available or shall be inadequate to pay in full one-half of all old age assistance grants contemplated by this act, then and in such case, and until federal funds are available in full, the county board of each county may reduce each old age assistance grant by an amount equal to such deficiency. (Jan. 27, 1936, Ex. Ses., c. 95, §34.)

**3199-45. Appropriation.**—For the purpose of carrying out the provisions of this act, there is hereby

appropriated out of the general revenue fund, from moneys not otherwise appropriated, the sum of \$2,750,000, or so much thereof as may be necessary, the same to be made available for the period commencing with the effective date of this act, and ending June 30, 1937; provided, that an amount not to exceed \$10,000 of the above appropriation may be used by the state agency to supplement reimbursements to those counties where the total assessed valuation, exclusive of moneys and credits, does not now or hereafter exceed \$1,000,000, as shown by the annual report of the state tax commission. All federal funds made available for the purposes of this act are hereby appropriated to the state agency to be disbursed and paid out in accordance with the provisions of this act. (Jan. 27, 1936, Ex. Ses., c. 95, §35.)

**3199-46. Anticipation of effective date.**—The state agency is hereby empowered to anticipate the effective date of this act, and until the effective date may expend not to exceed \$10,000 of the sum authorized in Section 31 [§3199-41], hereof. (Jan. 27, 1936, Ex. Ses., c. 95, §36.)

**3199-47. Effective date.**—This act shall take effect March 1, 1936, and said day shall be the effective date of this act. (Jan. 27, 1936, Ex. Ses., c. 95, §37.)

#### PENSIONS FOR THE NEEDY ADULT BLIND

**3199-51. Definitions.**—The following words, terms, and phrases shall, for the purpose of this act, have the following meaning:

(a) A "blind" person shall be one who, with the help of eye glasses or other resources, has not sufficient ocular powers for the ordinary affairs of life, or for the performance of tasks for which eye sight is essential, and who has been found and determined to be blind according to this definition by the state board of control.

(b) The term "adult" shall mean a male or female person of the age of 21 years or over.

(c) The term "needy" shall mean a person whose actual net income from all sources, for the year immediately preceding the date of his application for relief as hereinafter provided, and for each year during which he shall receive the monetary benefits provided by this act, shall be less than the sum of \$365, except when the joint annual income of a blind person and his or her sighted spouse is less than the sum of \$600 per year.

(d) The term "pensioner" shall mean a needy adult blind person, as herein defined, who shall have been determined to be entitled to the benefits of this act and receiving the pension provided for herein. (Jan. 27, 1936, Ex. Ses., c. 93, §1.)

**3199-52. Amount of pension—how payable.**—Any person who shall have been found and determined to be a needy adult blind person, as herein defined, and eligible therefor as required in Section 3 [§3199-53], hereof, shall, in the manner hereinafter set forth, receive a pension in the sum of \$360 per year, payable in equal monthly installments, except as the same is qualified in Section 10 [§3199-60], hereof. (Jan. 27, 1936, Ex. Ses., c. 93, §2.)

**3199-53. Qualifications of pensioners.**—In order that any person may receive the pension provided for by this act, he must, at the time of making application:

(a) Be a citizen of the United States, a resident of the state of Minnesota for more than five years during the nine years immediately preceding the date of his application, and a resident of the state of Minnesota continuously for one year immediately preceding the date of such application. If, however, such person was blinded or became blind in this state, and has resided continuously in the state of Minnesota, since the time of becoming blind, such person shall be eligible for a pension even though he has not resided for five years within the state.

(b) Not be an inmate of any state, county, or municipally owned charitable, reformatory, or penal in-

stitution in this state, or in attendance at any state, county, or municipally owned school for the blind wherein instruction, room, and board, and other incidentals are furnished free of charge, excepting the Minnesota summer school for the blind at Faribault, Minnesota.

(c) Must not be soliciting money, alms, or other benefits as an individual from the general public. (Jan. 27, 1936, Ex. Ses., c. 93, §3.)

**3199-54. Application to state board of control—affidavits, medical certificate—Hearing and determination.**—(a) Any person seeking the benefits of this act shall make written and verified application to the state board of control on forms to be prepared and furnished by it, setting forth therein information showing the applicant to be entitled to receive the pension under this act, and in addition, such applicant shall submit a certificate as to his blindness from a duly licensed ophthalmologist, and he shall also submit an affidavit setting forth the net income for the year immediately preceding the date of this application, together with the affidavits of two freeholders of the county in which he resides showing that they are familiar with the affairs of the applicant and that they believe the contents of the applicant's affidavit are true.

(b) The state board of control shall, within 45 days after the filing of the application, consider the claim made by the applicant together with the evidence submitted and within said 45 days determine whether or not the applicant is entitled to receive the pension provided for by this act and notify him of their decision. Failure of the state board of control to allow the pension within said 45 days shall be considered a rejection of the claim. (Jan. 27, 1936, Ex. Ses., c. 93, §4.)

**3199-55. Pension roll—removal of names—examination of pensioners.**—(a) The state board of control upon allowance of the application of any blind person seeking the benefits of this act shall place his name upon the blind pension roll to be kept and maintained in its office.

(b) The name of any blind person which has been placed on the blind pension roll shall not be removed therefrom or his pension discontinued except upon proof to the state board of control of (1) fraud, (2) determination by said board that the pensioner's income exceeds \$365 annually or that the joint annual income of such pensioner and his or her sighted spouse exceeds \$600, (3) removal from the state, (4) cure of blindness, as defined herein, (5) eligibility for old age pension, and (6) death. Any pensioner shall at any time when requested by said board submit to an examination as to blindness and furnish such other information respecting his right to continue to receive a pension pursuant to this act as said board may require. No name shall be removed from said blind pension roll upon any ground excepting death without giving to the pensioner notice and a reasonable opportunity to be heard in defense of his claim. (Jan. 27, 1936, Ex. Ses., c. 93, §5.)

**3199-56. Payment.**—From the sums appropriated therefor and from the monies furnished to the State of Minnesota by the treasurer of the United States by virtue of Section 1003-a of the Social Security Act of 1935 [Mason's U. S. Code Anno., title 42, ch. 7], the state treasurer shall pay on the first day of each calendar month to each of the persons whose name shall appear upon the blind pension roll herein referred to, the sum of \$30.00 per month, except as the same is qualified in Section 10 [§3199-60], hereof. The names of those persons eligible for the pension shall be certified to the state auditor by the state board of control in each month so as to enable the payment of the pension as above provided. (Jan. 27, 1936, Ex. Ses., c. 93, §6.)

**3199-57. Appeals.**—(a) Any interested person aggrieved may within 30 days after notice of any order of the state board of control or within 30 days

after rejection of a claim by failure of the state board of control to act upon it within the time limited by Section 4 (b) [§3199-54], of this act appeal therefrom to the district court of the county in which such aggrieved person resides. On such appeal all issues shall be determined by the court without a jury, either in term time or in chambers and the matter may be brought to trial in any county within the same judicial district.

(b) Notices of appeal must be filed by the appellant with the clerk of district court to which such appeal is taken within 60 days after the entry of the order or determination appealed from, and the applicant shall by registered mail send a copy of such notice of appeal to the state board of control and to the attorney general of the state of Minnesota.

(c) The papers and proofs filed with the state board of control and all other records in the proceedings before the state board of control shall, within ten days after receipt by him of the copy of the notice of appeal as above provided be certified by the secretary of the state board of control to the clerk of the district court to which the appeal is taken.

(d) The district court shall determine said appeal after and upon a hearing, notice of which shall be given to the state board of control and the attorney general, and to the appellant, all in such manner as the court shall determine. If the court shall determine the appeal favorably to the appellant it shall in its order state the date from which such pension payments should have commenced and the amount of arrears.

(e) The district court shall file its written order determining said appeal with the clerk thereof, and said clerk shall cause a certified copy of the same to be personally served on the state board of control and the appellant. Registered mail shall constitute personal service. If the order of the court provides for the payment of the pension provided herein, the state board of control shall place the name of such blind person upon the blind pension roll and certify his name to the state auditor for the current payment then due and for all arrears, if so provided in said court order.

(f) Appeal from the order or determination of the court may be taken to the supreme court in the manner provided by statute for the appeal of civil actions. Such appeal, however, if taken by the respondents shall not stay or suspend the pension payments to the applicant or pensioner as provided in the order of said district court. (Jan. 27, 1936, Ex. Ses., c. 93, §7.)

**3199-58. Reports to and requirements of federal board.**—The state board of control shall make reports in such form and containing such information as the Social Security Board of the United States may from time to time require and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correction and verification of such reports. (Jan. 27, 1936, Ex. Ses., c. 93, §8.)

**3199-59. Transfer to old age pension roll.**—Any pensioner who becomes eligible for the benefits of any old age pension law shall at the time of eligibility be removed from the blind pension roll and shall be paid the benefits of such old age pension law in lieu thereof. (Jan. 27, 1936, Ex. Ses., c. 93, §9.)

**3199-60. Appropriation.**—The monies heretofore appropriated for the care, relief and support of the blind under jurisdiction of the state board of control are hereby made available for the purpose of this act, except that the board of control may set aside, out of such funds, a sum necessary for the administration of this act, and for other services required by Laws 1923, Chapter 336, Sections 1 and 2 [§§4616, 4617]; provided, that in the event the appropriation therefor is insufficient to pay the pension in full to such qualified pensioners, the state board of control shall prorate the said appropriation. (Jan. 27, 1936, Ex. Ses., c. 93, §10.)

**3199-61. Effective date.**—This act shall take effect July 1, 1936. (Jan. 27, 1936, Ex. Ses., c. 93, §11.)

**3199-62. Suspension of other laws and of this act.**—The operation of Laws 1923, Chapter 336, Section 3 [§4617-1], and all other acts and parts of acts inconsistent herewith are hereby suspended, during the time payments shall be made to the state of Minnesota, as aid to the blind under the Federal Social Security Act; but if at any time after payments have been commenced by the United States Government in accordance with Title X of the Social Security Act, same being Public number 271, 74th Congress [Mason's U. S. Code Anno., title 42, ch. 7], or any act

amendatory thereto, such payments shall be permanently discontinued, because of the repeal or amendment of Title X of said Social Security Act, or because of the failure of Congress to provide the necessary revenue, or because Title X of said Social Security Act shall have been declared unconstitutional by final decision of the Supreme Court of the United States, then this act shall become suspended and inoperative and relief to blind persons shall be paid as provided in Laws 1923, Chapter 336, Section 3 [§4617-1], until the United States Government shall resume such payments to the state of Minnesota as aid to the blind under said Social Security Act. (Jan. 27, 1936, Ex. Ses., c. 93, §12.)

## CHAPTER 16

## Intoxicating Liquors

Act Apr. 13, 1933, c. 214, provides for convention to consider repeal of 18th amendment to federal constitution. It is temporary and specific, and is omitted from this compilation.

## PROHIBITORY LAW

**3200. [Repealed].**

Repealed. Laws 1933, c. 130.

**1. In general.**

It would be unlawful for grocer to possess or to sell wort knowing that it was designed or intended for use in the manufacture of beer. Op. Atty. Gen., May 25, 1932.

**4. City ordinances.**

A complaint charging one only with possession of intoxicating liquor was insufficient under an ordinance prohibiting the maintaining of a liquor nuisance. State v. Tremont, 185M101, 240NW118. See Dun. Dig. 4938a.

**5. Indictment.**

Complaint held not sufficient to sustain conviction for manufacture of beer. Op. Atty. Gen., May 25, 1932.

174M457, 219NW770.

Indictment charging maintenance of a liquor nuisance, held sufficient. 177M278, 225NW20.

**6. Evidence.**

Evidence held to warrant conviction for maintenance of a liquor nuisance. 177M278, 225NW20.

Judicial notice is taken that moonshine is an intoxicating beverage. The word "potable" means drinkable. 177M500, 225NW431.

**3200-1 to 3200-4. [Repealed].**

This act (Mar. 27, 1933, c. 115) prohibited the manufacture, sale or transportation and the possession of liquor containing more than 3.2% of alcohol by weight. It was repealed by Act Jan. 6, 1934, Ex. Ses., c. 46, §58, post, §3200-58.

**Annotations under Act Mar. 27, 1933, c. 115.**

In view of Laws 1933, c. 115, a city may require from licensee a bond conditioned upon observance of city ordinance but not upon observance of state or federal law. Op. Atty. Gen., May 13, 1933.

This act repeals Mason's Stats., §3230. Op. Atty. Gen., Aug. 19, 1933.

**1.**

Wine of less than 3.2% of alcohol may be sold without restriction. Op. Atty. Gen., Apr. 20, 1933.

Any ordinance defining intoxicating liquor to mean any liquid containing more than ½ of 1 per centum of alcohol is in conflict with this act. Op. Atty. Gen., July 10, 1933.

Liquor or persons seen drinking intoxicating liquor in an automobile is not admissible for prosecution under this act, but would be admissible in prosecution for drunken driving or other criminal proceeding. Op. Atty. Gen., Sept. 18, 1933.

**2.**

Search warrants may not be issued under authority of this act. Op. Atty. Gen., Apr. 27, 1933.

There is now no law authorizing issuance of search warrant to discover evidence of violation of liquor laws. Op. Atty. Gen., June 27, 1933.

City of St. James under its home rule charter may authorize search warrants by city ordinance. Op. Atty. Gen., June 28, 1933.

There is now no law authorizing officers to make search for intoxicating liquors and only method of enforcing such laws is to hire detectives for purpose of making purchases. Op. Atty. Gen., June 21, 1933.

A sheriff has legal right to seize alcohol being transported in automobile, but he may not seize the vehicle. Id.

City, as condition of granting of beer license, may require applicant to sign waiver of rights as to searches and seizures. Op. Atty. Gen. July 20, 1933.

After repeal of 18th amendment and prior to action by legislature, it was lawful to transport non-beverage alcohol into state. Op. Atty. Gen., Oct. 31, 1933.

Advertisements for agents to sell hard liquor after it should become legal to sell it were not unlawful advertisements soliciting orders for intoxicating liquors. Op. Atty. Gen., Nov. 15, 1933.

Intoxicating wines and liquors could be manufactured, sold and transported into state between repeal of 18th amendment and time laws were passed on subject by state legislature, if such be used for chemical, mechanical, medicinal, pharmaceutical, scientific, industrial or sacramental purposes, without regard to provisions of federal law. Op. Atty. Gen., Dec. 7, 1933.

**3.**

This act does not take jurisdiction from justice or municipal courts. Op. Atty. Gen., Apr. 12, 1933.

**4.**

Enforcement provisions of licensed public drinking places and local option laws are not now effective. Op. Atty. Gen., May 18, 1933.

This act repeals all local and county option laws. Op. Atty. Gen., Dec. 8, 1933.

## BEER BILL

**3200-5. Municipalities may issue licenses for sale of non-intoxicating beverages.**—There is hereby conferred upon the governing body of each county, city, village and borough in the state, the authority to license and regulate the business of vendors at retail and/or wholesale of non-intoxicating malt liquors within their respective jurisdictions, to impose a license fee therefor, and to provide for the punishment of any violation of any such regulations according to the provisions of law. Provided, that no such business may be licensed by the County Board to be located in any town, unless the consent of the governing body of such town, if organized, is filed with the application for such license. (Act Mar. 27, 1933, c. 116, §1.)

Sale of nonintoxicating malt liquors is subject to regulation under police power of state; and delegating to village and city councils authority to license and regulate is a valid exercise of police power. Bernick v. C., 191M128, 253NW369. See Dun. Dig. 4913.

Bond given to city by retailer of non-intoxicating liquor gave city no right to face of bond as penalty on violation of law, but only such damages as city could show it had suffered from such a violation. City of St. Cloud v. W., 261NW585. See Dun. Dig. 4918.

No license can be issued for sale of non-intoxicating malt liquor by county board unless consent of township in which it is to be sold is filed with the application for license. Op. Atty. Gen., Apr. 1, 1933.

Wholesaler may not sell and deliver non-intoxicating malt liquors direct to consumers in their homes in municipalities not granting licenses for the sale of such liquor. Op. Atty. Gen., Apr. 4, 1933.

Licenses or permits cannot be granted until the ordinance is in full force and effect. Op. Atty. Gen., Apr. 4, 1933.

County boards have authority to license non-intoxicating malt liquor sales and to provide penalties for violations of regulations imposed. Op. Atty. Gen., Apr. 6, 1933.

County board has exclusive right to license and regulate sale, the only duty resting on township board being to approve or disapprove applications for license, and town is not entitled to share in license money. Op. Atty. Gen., Apr. 6, 1933.

Where Home Rule city charter contains a method of enacting ordinances city council has power to license vendors of non-intoxicating malt liquor and regulate the sale thereof by ordinance enacted in the manner provided by the charter. Op. Atty. Gen., Apr. 7, 1933.

Only duty and authority imposed upon boards of township supervisors by this act is that of either approving or disapproving applications for licenses, the determina-