1944 Supplement

To

Mason's Minnesota Statutes, 1927

and

Mason's 1940 Supplement

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

Edited by
the
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child of whom he has legal charge or control, and who is required by law to attend school, when notified so to do by a truant officer, or other official as hereinbefore provided, or any person who induces or attempts to induce any such child unlawfully to absent himself from school, or who knowingly harbors or employs, while school is in session, any child unlawfully absent from school, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed $50.00, or by imprisonment in the county jail for not more than 30 days. All such fines, when collected shall be paid into the county treasury for the benefit of the school district in which such offense is committed. (Act Apr. 10, 1941, c. 169, Art. XII, §14.)
[132.14]

Reenactment of §3089.

ARTICLE XIII
SAVING PROVISIONS

ANALYSIS

3156-13(1). Repealed and reenacted statutes deemed continuation of preexisting laws.

3156-13(1). Repealed and reenacted statutes deemed continuation of pre-existing laws.—Any and all portions of existing statutes hereby repealed, which are reenacted by this act, shall be deemed to be a continuation of laws heretofore existing, and all present boards, board members, officers, positions and employees, shall continue to hold their respective offices and positions for the balance of their present terms, or until otherwise succeeded or removed by law. (Act Apr. 10, 1941, c. 169, Art. XIII, §1.)

ARTICLE XIV
REPEALS

ANALYSIS

3156-14(1). Statutes repealed.

3156-14(1). Statutes repealed.—Except as provided in Article XIII of this act, Mason's Minnesota Statutes of 1927, Sections 958 to 962, 2741 to 2747, 2748-1, 2750, 2754 to 2780, 2781 to 2800, 2801-1 to 2802-11, 2803, 2804, 2810 to 2818, 2819 to 2843, 2846 to 2848, 2850 to 2865a, 2868 to 2883, 2884 to 2935-14, 2951 to 2953, 2954 to 2980, 2983 to 3014, 3022 to 3036-5, 3063-1 to 3063-6, 3074 to 3076, 3080 to 3103, 5656 to 5660 and 7899, all section numbers inclusive; Mason's Supplement 1940, Sections 960, 2748, 2753 to 2780-15, 2780-17a to 2793-1, 2802 to 2802-4j, 2803-1 to 2807-1, 2814 to 2816-10, 2822 to 2839-2, 2844, 2849-1 to 2866-½, 2867 to 2883-7, 2900-1 to 2903-1, 2962-1 to 2962-5, 2991-1 to 3013, 3014-6, 3021-11 to 3021-14, 3023 to 3047-5, 3073, and 3086, all section numbers inclusive; General Statutes 1913, Sections 2719 to 2724, 2891 and 2892, all section numbers inclusive; Laws 1915, Chapter 111; Laws 1917, Chapter 306; Laws 1917, Chapter 387; Laws 1921, Chapter 414, and Laws 1935, Chapter 209, are hereby repealed. (Act Apr. 10, 1941, c. 169, Art. XIV, §1.)

ARTICLE XIVA
SCHOOL BUS SERVICE

3156-14A(1). Equipment of busses. [Repealed.]

Repealed. Laws 1943, c. 447.

Act applies to school busses owned by a school district or board. Op. Atty. Gen. (166a-9), Nov. 4, 1941.

3156-14A(2). Attendants to have first aid training. [Repealed.]

Repealed. Laws 1943, c. 447.

3156-14A(3). Permits to operate — Compliance with minimum standards—Fees. [Repealed.]

Repealed. Laws 1943, c. 447.

Fees must be turned into general revenue fund and are not available for expenses of administration. Op. Atty. Gen. (9a-18), June 12, 1941.

3156-14A(4). Gratuitous service; etc. [Repealed.]

Repealed. Laws 1943, c. 447.

Words "certain occasions" refer to occasional and exceptional events such as school picnics and athletic events. Op. Atty. Gen. (166A-9), Sept. 18, 1941.

St. Cloud Bus Lines must first secure a permit, since St. Cloud is not a city of the first class. Op. Atty. Gen. (166A-9), Sept. 26, 1941.

Transportation company operating busses within cities of St. Paul and Minneapolis and transporting school children on a part-time basis is not required to qualify its drivers and busses under this act, being licensed for common carrier service by railroad and warehouse commission. Op. Atty. Gen. (166A-9), Oct. 16, 1941.

3156-14A(5) and 3156-14A(6). [Repealed.]

Repealed. Laws 1943, c. 447.

CHAPTER 15

Relief of the Poor

GENERAL PROVISIONS

3157. Support of poor.

Any county, county welfare board, city, town, village, or other subdivision of the state or any relief or welfare agency, may act as agent of federal, state or local government in furtherance of commodity stamp plans. Laws 1941, c. 98.

Laws 1941, c. 99, validates participation in federal commodity stamp plans.

Notes of Decisions

Humphrey v. T., 208M544, 295NW53; note under §3159.

Evidence held to sustain finding that recipient of aid was a pauper. Galow, 210M267, 297NW743. See Dun. Dig. 7430.

Counterclaim by parents to compel plaintiff child to contribute to support. Fitzke v. Fitzke, 210M430, 298NW 712. See Dun. Dig. 7426.

Under contention that statute creates a presumption of pecuniary loss to a parent from death of a child by wrongful act of another, verdict for $1,650 was not so inadequate as to require new trial. Gamble v. Smith, 211M 457, 1NW(2d)411. See Dun. Dig. 7426.

An action by administrator for death should not have been dismissed because surviving spouse was not in fact the wife of decedent, where there was a surviving sister, even though no testimony was offered as to her loss from her brother's death, statute obligating brother and sister to support each other, and plaintiff being entitled to recover funeral expenses in addition to any damages to next of kin. Rogers v. Cordingley, 212M546, 4NW(2d)627. See Dun. Dig. 2608.

A person who can and does support himself is not a poor person and is not chargeable or removable as such, though in the past he had been receiving relief which has been terminated. Lucht v. Bell, 214M318, 8NW(2d)26. See Dun. Dig. 7425a.

A poor person is one who for any reason is unable to earn a livelihood. Id. See Dun. Dig. 7425a.

One cannot be considered to be a poor person simply because he might at some unascertained future time become chargeable. Id. See Dun. Dig. 7425a.

To dwell peacefully within the state and to move at will from place to place therein is a constitutional right. Id. See Dun. Dig. 7431.

An annulment decree destroyed marriage relation so that former husband was no longer a "husband" within meaning of Pennsylvania statute placing liability for maintenance on husband of an inmate in an institution maintained in whole or in part by the commonwealth, though the decree provided that the former husband should maintain the former wife during her lifetime at the Pennsylvania hospital or some other suitable place, following which the former husband paid all bills presented by the county hospital and had no knowledge that commonwealth was making weekly contribution to such county hospital on certified indigents. Commonwealth of Pennsylvania v. Tappan, 215M22, 9NW(2d)18. See Dun. Dig. 7426.

A Pennsylvania statute placing liability for maintenance on husband and other relatives of inmates in institutions maintained in whole or in part by the commonwealth of Pennsylvania is to be strictly construed. Id. See Dun. Dig. 7426.

Welfare board may consider earnings of National Guardsmen on same basis as other earned income in determining eligibility for public relief, and computing

the same, and cannot pass a rule absolutely disregarding such earnings. Op. Atty. Gen. (339i), April 19, 1940.

If patient in state sanatorium is a poor person who for any reason is unable to earn a livelihood, law requires his parents to support him, if his poverty is not caused by intemperance or other bad conduct, and if parents fail or neglect after being directed to furnish him with such support, county may bring action in any court having jurisdiction and recover not to exceed $25 per month, if parents are financially able to pay and if physical condition of patient requires sanatorium treatment. Op. Atty. Gen. (556A-2), Jan. 7, 1942.

Step-father held not liable for support of children. Op. Atty. Gen. (339o-4), Mar. 5, 1942.

County is not liable for hospitalization of a poor person in a hospital in which his brother, a physician, was interested, brother's obligation to support poor person being greater than obligation of county. Op. Atty. Gen. (339g-2), Apr. 17, 1942.

Relative who takes patient to hospital is liable for expense. Op. Atty. Gen. (339n), July 3, 1942.

Where one not responsible for support of a ward of the state in a school for feebleminded made a bequest to the state in trust for the ward, to be expended in a certain way, none of the money could be used for the support of the ward in the institution. Op. Atty. Gen. (88a-4), July 20, 1942.

It is duty of children to support their parents when they are unable to support themselves even though they receive no money or property from their parents. Op. Atty. Gen. (521p-4), Jan. 15, 1943.

Father of a minor child is liable for support though custody has been awarded to mother in divorce case, and county liable for emergency operation and paying it may bring suit against father. Op. Atty. Gen. (147c), Jan. 20, 1943.

Parents are responsible for support of children. Op. Atty. Gen. (840a-7), July 1, 1943.

When land subject to drainage ditch lien was conveyed to county by poor person and thereafter county board extended time of payment of unpaid installments, drainage lien was not extinguished when land was subsequently resold by the county. Op. Atty. Gen. (921j), Aug. 23, 1943.

3158. Failure to support—Recovery for.

Village may not buy a membership in a burial association for funeral services for deceased relief clients. Op. Atty. Gen. (339c), Dec. 11, 1941.

3159. Liability of county, town, etc.

Surgeon cannot recover from town for emergency operation upon a minor in absence of refusal of father charged with his support to pay therefor, though father is a poor tenant farmer. Humphrey v. T., 208M544, 295NW 53. See Dun. Dig. 7433.

A place of settlement is where a person is entitled to relief should he ever become a public charge and his relatives cannot or will not support. City of Minneapolis v. Village of Hanover, 209M466, 297NW27. See Dun. Dig. 7430.

Suit by an individual against a municipality for value of support furnished a pauper having a settlement for poor relief in municipality cannot be maintained in absence of allegations that support was furnished in an emergency, pauper being in immediate need of aid, before application for relief in his behalf could be made to municipality. Jorgenson v. City of Northfield, 211M377, 1NW(2d)364. See Dun. Dig. 7427.

Fact that child has been adjudged feeble-minded and committed to guardianship of state board of control does not impose on guardian duty to support, because unless placed in some state institution or otherwise cared for, municipality in which child has a settlement for poor relief is liable for its support. Id.

Promise by city to pay individual $15 per month if he would marry mother of feeble-minded pauper child and take child into his household does not appear to be authorized by any statute. Id.

Where poor person resident in county under township system is injured in auto accident in county other than that of his settlement, hospital should look to township of settlement for compensation. Op. Atty. Gen., (339G-2), Oct. 27, 1939.

Absolute duty to adequately provide for the poor and needy prevents a limitation on levy for poor purposes, and townships, especially under township system, should levy sufficient for their needs, and county auditor should permit such assessment to stand. Op. Atty. Gen., (519i), March 5, 1940.

Where young girl was found delinquent by juvenile court of Rice County and committed to guardianship and custody of House of Good Shepherd at St. Paul in Ramsey County and she was treated for venereal disease by Ancker Hospital after refusal by University Hospital to accept her, township of girl's legal settlement is liable for cost of her treatment. Op. Atty. Gen., (840a-5), March 20, 1940.

In case of emergency operation upon a person residing in another county, but not in state long enough to acquire a legal settlement, county where operation is performed must pay the expense. Op. Atty. Gen. (339g-3), April 25, 1940.

Decision on application for poor relief should be made on an individual basis having regard to needs of applicant and his family and to surrounding circumstances, and the granting of relief may not be avoided by means of arbitrary rules and regulations. Op. Atty. Gen. (339), June 10, 1940, July 16, 1940.

A village charged with support of a poor family may support it in the county, or if this is unfeasible because of housing shortage it may be possible to arrange to support the family elsewhere. Op. Atty. Gen. (339), Oct. 21, 1940.

Where private hospital received a pauper for emergency treatment, brought by her physician, and immediately notified welfare board, which refused hospitalization because patient was eligible for free hospitalization in an adjoining county under a contract, and such board was requested to send an ambulance and failed to do so, county was liable for necessary emergency treatment furnished by the hospital. Op. Atty. Gen. (339g-2), Apr. 15, 1942.

When a pauper does not have a settlement in the state, duty of furnishing hospital care and treatment rests upon municipality wherein such poor person is found when he becomes in need of medical care and hospitalization, and expense incurred in furnishing the same becomes a charge against county. Id.

If facilities of rest home are furnished upon advice of a physician, are necessary to restore hospitalized pauper to health, and are furnished with knowledge and consent of county, and without notice from county that such treatment would not be paid for, county should ultimately pay for such treatment furnished by a township to a pauper not having a settlement in the state. Id.

County is not liable for medical or hospital treatment outside of county except in an emergency whether medical and hospital treatment is rendered either before or after notice. Op. Atty. Gen. (339g-2), Apr. 17, 1942.

Where a poor person was adjudged to be feebleminded and probate court issued a warrant of commitment, which was not executed because state institution was filled with patients, city of his settlement must pay cost of maintaining him in a boarding home, since a municipality charged with support of poor persons must give them such care as their physical and mental condition may require, in addition to merely furnishing food and shelter. Op. Atty. Gen. (679c), Apr. 19, 1943.

3159-1. Liability of estate of poor person.

County may accept a conveyance of real estate from an indigent person though title must be perfected by court action. Op. Atty. Gen. (399h), Nov. 27, 1941.

3161. Legal settlement of paupers.

1. In general.

A municipality is not estopped to deny that it is a pauper's settlement because he received poor relief while he was in such municipality. Town of Iona, 212M331, 3 NW(2d)490. See Dun. Dig. 7430.

Fact that county welfare board gave relief to a person living in another county and thus caused certain month to be deducted from period in which such person could gain settlement in the other county, resulting in person being moved back to county, did not throw burden of supporting such poor person on county instead of township which was his legal place of settlement. Op. Atty. Gen., (339o-4), Nov. 29, 1939.

Laws 1935, c. 68, is not to be given a retroactive application. Op. Atty. Gen. (339d-2), June 5, 1941.

It is unnecessary for a person to be adjudged to be a pauper in order to have a settlement for poor relief purposes. Op. Atty. Gen. (679k), July 14, 1943.

2. Husband and wife.

Notwithstanding amendment by Laws 1939, c. 398, legal settlement of wife who has abandoned her husband and entered into a bigamous marriage elsewhere is that of her husband, and settlement of illegitimate minor child of wife, begotten after her wrongful desertion of husband, and which has continuously lived with mother, is that of mother. Baalson, 211M961, 300NW204. See Dun. Dig. 7430.

Legal settlement of wife is that of her husband. Id.

Where a husband, with no settlement within the state, abandons his wife, who had a settlement within the state before marriage, she may be removed to that settlement. Rutland, 215M361, 10NW(2d)365. See Dun. Dig. 7430.

Where at the time of marriage the husband is unsettled and wife is settled, wife retains maiden settlement until her husband acquires one which can devolve upon her by derivation. Id.

A husband is under no disqualification from acquiring a new settlement where his family is temporarily residing elsewhere with his parents. Op. Atty. Gen., (339o-2), March 11, 1940.

Upon marriage a woman takes settlement of her husband. Op. Atty. Gen. (339d-3), Oct. 21, 1940.

It is probable that wife and children may have settlement separate from that of husband regardless of cause of separation, but if wife and children rejoin husband their settlement becomes that of the husband immediately. Op. Atty. Gen. (339o-2), Nov. 4, 1940.

Feeble-minded ward who escaped from institution and married a man in another state has settlement of her husband. Op. Atty. Gen. (679k), July 26, 1941.

Receipt of old age assistance by wife constitutes relief to husband. Op. Atty. Gen. (521t-2), Nov. 1, 1941.

Feeble-minded ward who escaped from institution and married a man in Wisconsin did not acquire his settlement, marriage being a nullity under laws of that state.

Op. Atty. Gen. (679K), Jan. 29, 1942, reversing July 26, 1941.

Man moving to another county and marrying a woman with four children and acquiring settlement there and then returning with family to original county while wife receives mother's pension from other county. Op. Atty. Gen. (339o-4), Mar. 5, 1942.

Settlement of a married woman is where her husband has his settlement. Op. Atty. Gen. (339o-4), Mar. 14, 1942.

Settlement of a feeble-minded married woman committed to guardianship of board of control follows that of husband. Op. Atty. Gen. (679k), Apr. 2, 1942.

Wife of an insane person cannot change her settlement while husband is in state hospital at Willmar. Op. Atty. Gen. (339o-2), Aug. 24, 1942.

Settlement of married woman is that of husband, though she has never lived in county of his settlement. Op. Atty. Gen. (339d-4), Feb. 4, 1943.

Married woman's residence is where husband resides, and she cannot acquire a separate residence while residing in one county with her husband while she is receiving old-age assistance from another county. Op. Atty. Gen. (339o-2), Feb. 4, 1943.

Where a woman committed to guardianship of state board of control as feebleminded gets married, her settlement is the settlement of the husband. Op. Atty. Gen. (679k), June 16, 1943.

Rule that residence and settlement of a married woman follows that of her husband applied to a life-long resident of one county who married a resident of another county, but within one week developed a severe case of tuberculosis and was admitted to a sanatorium, though she never lived with her husband in the county of his residence. Op. Atty. Gen. (556a-1), July 6, 1943.

Settlement of a feebleminded person is that of her husband though she has been committed to guardianship of state board of control. Op. Atty. Gen. (679k), July 14, 1943.

3. Parent and child.

Ordinarily, domicile of an infant is same as father's, if living. State v. School Board of Consol. School Dist. No. 3, 206M63, 287NW625. See Dun. Dig. 2813.

Settlement of illegitimate minor child of a married woman, begotten after her wrongful desertion of husband, and which has continuously lived with its mother, is that of mother. Baalson, 211M96, 300NW204. See Dun. Dig. 7430.

If pauper settlement of parent changes during child's minority, that of child likewise changes, by operation of law, and regardless of consent or desire of parties. Upon emancipation, child takes his parent's pauper settlement, and retains it until he himself acquires a new one. City of Minneapolis v. Town of Orono, 212M7, 2NW(2d)149. See Dun. Dig. 7430.

Evidence held to sustain finding that child was not emancipated by widowed mother though he was permitted to work for farmers for his room and board. Id.

A minor child has the same settlement as the parent with whom he has resided and may be removed with such parent thereto. Rutland, 215M361, 10NW(2d)365. See Dun. Dig. 7430.

Legal settlement of infant was in county where he was left under care of a family by his widower father and remained there after his death, never having lived more than a year any other place with his foster parents. Op. Atty. Gen., (339o-2), Oct. 30, 1939.

An illegitimate child takes the settlement of his mother and when mother marries and retains custody of child, settlement of child is that of husband. Op. Atty. Gen. (339d-3), Oct. 21, 1940.

Upon emancipation of a minor by marriage he takes settlement of his father and retains it until he had acquired a new one. Op. Atty. Gen. (339d-4), Jan. 27, 1941.

After Apr. 22, 1939, a change of settlement by parents will not change legal settlement of a minor who is under guardianship of State Board of Control or Director of Social Welfare or one of its institutions as a feebleminded delinquent, or dependent person. Op. Atty. Gen. (679K), Feb. 5, 1941.

Settlement of children in custody of mother under divorce decree is settlement of mother, and that settlement remains the same though she has abandoned her children, unless it appears that she has left the state for a period of one year with an intent to abandon residence. Op. Atty. Gen. (339d-4), Feb. 26, 1941.

Since settlement of married woman committed to guardianship of board of control follows that of husband, settlement of her illegitimate children also follows. Op. Atty. Gen. (679k), Apr. 2, 1942.

Settlement of a minor orphan child was at place where she was supported by private family for more than two years. Op. Atty. Gen. (339d-4), Sept. 17, 1942.

Settlement of child of divorced woman is settlement of mother, awarded custody in divorce, and settlement of mother is settlement of later husband, though neither mother nor child ever lived in county of settlement of new husband, as affecting settlement of child following death of mother and stepfather. Op. Atty. Gen. (339d-4), Feb. 4, 1943.

A dependent child committed to guardianship of state board of control acquired settlement in county in which she thereafter resided with relatives to furnish her support, though father resided and had setlement in another county at all times. Op. Atty. Gen. (840a-6), Apr. 13, 1943.

Where feeble-minded person was committed to guardianship of State Board of Control but resided with his parents and their place of residence was his place of residence, upon death of parents county of parents' residence was liable for support. Op. Atty. Gen. (679k), Aug. 10, 1943.

4. Computation of time of residence.

Where county system of the relief distribution is in effect, one year's continuous residence in a county (now two years) is required to establish a settlement, but where county administers poor relief through town system, one-year residence is not a prerequisite to acquisition of a settlement in a particular town. City of Minneapolis v. Village of Hanover, 209M466, 297NW27. See Dun. Dig. 7430.

Prior to amendment a pauper residing in a county having town system of poor relief had his settlement for poor relief purposes in town, city, or village therein in which he resided longest during year immediately preceding date of his application for poor relief. Town of Iona, 212M331, 3NW(2d)490. See Dun. Dig. 7430.

Laws 1939, c. 398, §1, making period of residence two years instead of one year was prospective and not retroactive in operation. Id.

Laws 1939, chapter 398, amending this section, is not retroactive, but applies to one who moved into township prior to its effective date and resided there for less than one year. Op. Atty. Gen., (339o-2), Oct. 26, 1939.

Settlement of wife and children becomes that of the husband immediately upon their removal to his abode following a separation and separate settlement. Op. Atty. Gen. (339o-2), Nov. 4, 1940.

Two periods of less than a year each separated by four weeks in another county, even on work of a temporary nature, cannot be combined so as to comply with statutory requirements of a residence for one year. Op. Atty. Gen. (339o-2), Nov. 14, 1940.

A period of residence prior to a return following a warning to depart may not be tacked to a subsequent resident in same city in order to fill out balance of 2-year period. Op. Atty. Gen. (339O-2), Feb. 6, 1941.

A pauper having a settlement in one township retains it until he has acquired a new settlement by living a greater portion of two years in some other township within same county or a period of two years in some other county. Op. Atty. Gen. (339O-5), Mar. 12, 1941.

Where one moved to another county under county system and resided there thirteen months and moved to a third county under township system and lived there fifteen months, his settlement remained in county of original settlement. Op. Atty. Gen., June 11, 1941.

Settlement is in that township in which the greatest time is spent during the year immediately preceding application for relief. Op. Atty. Gen. (339g-1), July 29, 1941.

As to a person residing in different townships within same county, settlement is in that township in which the greatest time is spent during the year (after April 22, 1939, two years) preceding application for release. Op. Atty. Gen. (339G-2), July 31, 1941.

If settlement in a town was established prior to April 23, 1939, and eleven months residence thereafter from May 5, 1939, to April 3, 1940, would not cause settlement to change as between townships. Id.

"Residence" is prime element in establishing settlement, and there is no loss of settlement of a person spending weekends at home while temporarily employed by a farmer in another township. Op. Atty. Gen. (339O-2), Aug. 19, 1941.

Laws 1935, c. 68, was not retroactive. Op. Atty. Gen. (339O-2), Aug. 27, 1941.

Computation of time for purposes of settlement in county and township system. Op. Atty. Gen. (339o-2), Feb. 11, 1942.

In determining place of settlement of an applicant for relief in county having town system, words "within two years" mean two calendar years, including months in which applicant has received aid, settlement being determined from balance of 24 months remaining after excluding months in which aid was received. Op. Atty. Gen. (339o-2), Feb. 24, 1942.

If poor person has resided in county under town system of poor relief for more than two years, town in which he resided longest in past two years, disregarding each month in which he received aid, is town of his settlement. Op. Atty. Gen. (339o-2), Mar. 30, 1942.

Where a person removes from a county which administers poor relief under the township system, and in which he has a settlement, his settlement continues in township in which it was at time of his departure until he has acquired a new settlement. Op. Atty. Gen. (339o-4), Apr. 1, 1942.

In a county under town system of poor relief, place where applicant for relief resided longest without relief in past two years is place of settlement, notwithstanding that in twelve of the months of that period applicant was employed on WPA, which is excluded in the computation but included within the two-year period. Op. Atty. Gen. (339o-2), June 11, 1942.

Two years continuous residence is required in state before pauper acquires settlement for relief purposes. Op. Atty. Gen. (339g-2), June 17, 1942.

Two-years residence must be continuous, but this does not mean that person must never go beyond the county boundaries during two-year period. Op. Atty. Gen. (339o-2), Aug. 5, 1942.

Presence in a county for the purpose of attending a school does not constitute "residence" in the absence of an intent to change residence. Op. Atty. Gen. (339o-4), July 19, 1943.

5. ——**Receipt of relief in general.**
Months to be tolled in ascertaining settlement for poor relief purposes are those during which relief was actually received by poor person rather than those in which parties supplying goods and services at request of a township were paid. City of Minneapolis v. C., 206M371, 288NW706. See Dun. Dig. 7430.

Where crops of farmer were destroyed by hail and he received aid from federal resettlement administration for purpose of buying feed for his stock, and he then had enough to supply wants of himself and family without assistance, such aid received in 1938 did not render farmer a pauper and months in which received should not be excluded from year in which farmer gained a residence or settlement. Marshall County v. Anoka County, 212M127, 2NW(2d)816. See Dun. Dig. 7430.

Receipt of surplus commodities constitutes relief. Op. Atty. Gen., (339o-4), Sept. 18, 1939.

Receipt of surplus commodities constitutes relief under present set up. Op. Atty. Gen., (339s), Oct. 3, 1939.

Laws 1939, chapter 398, amending this section, is not to be given a retroactive effect, but applies to resident who had not established settlement under old law before April 23, 1939, except that receipt of old age assistance or aid to dependent children before that date would not extend time required for acquisition of settlement, though if any such assistance was received at any time from April 23 to April 30, 1939, entire month should be excluded. Op. Atty. Gen., (339o-2), Oct. 25, 1939.

Months in which subsistence grants from federal Farm Security Administration are made must be excluded in determining legal settlement, if there is no obligation to repay the same. Op. Atty. Gen., (339o-2), Nov. 8, 1939.

Employment by National Youth Administration does not amount to a grant of federal or state funds for relief, and time should not be excluded in determining legal settlement. Op. Atty. Gen., (339o-2), Nov. 20, 1939.

Distribution of federal surplus commodities under direction of state relief agency to meet actual need of destitute persons whose eligibility for relief has been officially determined, constitutes receipt of relief. Op. Atty. Gen., (339s), Feb. 7, 1940.

An employee of the Emergency Relief Administration may acquire settlement. Op. Atty. Gen. (339o-2), July 9, 1940.

Soldiers' welfare relief is poor relief. Op. Atty. Gen. (339q), Nov. 25, 1941, reversing June 14, 1937, and Nov. 17, 1941.

One who merely calls at a hospital for treatment is not an "inmate", but constitutes receiving relief if such call obligates a city or county to pay therefor, though payment is not made until a later date. Op. Atty. Gen. (339o-4), June 22, 1942.

6. ——**Old age assistance.**
Where recipient of old age assistance and his wife moved to another county in March, 1938, and moved back in Oct., 1939, wife acquired legal settlement for poor relief purposes in other county prior to effective date of Laws 1939, c. 398, settlement being quite different for poor relief purposes than for purposes of old age assistance. Op. Atty. Gen., (521t-2), Feb. 28, 1940.

Prior to April 23, 1939, settlement could be acquired by one receiving old age assistance, and one year residence fixed such settlement, and Laws 1939, c. 398, was not retroactive. Op. Atty. Gen. (339o-2), Oct. 7, 1940.

Receipt of old age assistance by wife constitutes relief to husband. Op. Atty. Gen. (521t-2), Nov. 1, 1941.

Where pauper resided in township in county under township system until August 13, 1938, and then moved into a village in such township and lived there three years while receiving old-age assistance, and then moved to another county, where he applied for further relief in addition to assistance, his settlement remained in the village, where he had lived for eight months prior to effective date of Laws 1939, c. 398. Op. Atty. Gen. (339o-4), Apr. 1, 1942.

Time when applicant for relief has received old-age assistance has been excluded since April 22, 1939, in determining time of residence. Op. Atty. Gen. (339o-4), Apr. 2, 1942.

Married woman's residence is where husband resides, and she cannot acquire a separate residence while residing in one county with her husband while she is receiving old-age assistance from another county. Op. Atty. Gen. (339o-2), **Feb. 4, 1943.**

7. ——**Dependent child aid and mother's pensions.**
Prior to 1939 amendment receipt of mother's aid and aid to dependent children did not prevent acquisition of settlement. Op. Atty. Gen. (339g-1), July 29, 1941.

Man moving to another county and marrying a woman with four children and acquiring settlement there and then returning with family to original county while wife receives mother's pension from other county. Op. Atty. Gen. (339o-4), Mar. 5, 1942.

8. ——**Inmates of hospitals and homes.**
In determining settlement as between towns in same county time spent by poor person as a patient in city hospital must be eliminated from computation. City of Minneapolis v. Village of Hanover, 209M466, 297NW27. See Dun. Dig. 7430.

The time during which a person has been an inmate of a hospital, old age home, or nursing home for the care of the invalid or aged, whether public or private, is excluded in determining whether person has acquired a settlement in the county for poor relief purposes. Op. Atty. Gen. (339o-4), June 27, 1941.

One who merely calls at a hospital for treatment is not an "inmate", but constitutes receiving relief if such call obligates a city or county to pay therefor, though payment is not made until a later date. Op. Atty. Gen. (339o-4), June 22, 1942.

9. ——**Persons committed but at large.**
Where a person committed as a feebleminded person to the guardianship of the state board of control went to another county and married, she gained a new legal settlement, as did an illegitimate daughter who accompanied her. Op. Atty. Gen., (679k), Sept. 22, 1939.

After Apr. 22, 1939, a change of settlement by parents will not change legal settlement of a minor who is under guardianship of State Board of Control or Director of Social Welfare or one of its institutions as a feebleminded delinquent, or dependent person. Op. Atty. Gen. (679K), Feb. 5, 1941.

Feeble-minded ward who escaped from institution and married a man in Wisconsin did not acquire his settlement, marriage being a nullity under laws of that state. Op. Atty. Gen. (679K), Jan. 29, 1942, reversing July 26, 1941.

A person coming from another state and committed to state hospital as an insane person may acquire settlement while on parol and not supported by the state. Op. Atty. Gen. (248b-4), June 10, 1942.

Where feeble-minded person was committed to guardianship of State Board of Control but resided with his parents and their place of residence was his place of residence, upon death of parents county of parents' residence was liable for support. Op. Atty. Gen. (679k), Aug. 10, 1943.

10. ——**Inmates of public institutions.**
Insane person discharged from institution in care of son, but not restored to capacity, may acquire a settlement, depending upon capacity to have an intent and nature of legal restraint of liberty. Op. Atty. Gen., (248B-7), Jan. 29, 1940.

Settlement of a person who is not dependent or a pauper cannot be changed from one county to another in less than 2 years, as affecting liability of county for expenses of commitment for an insane person. Op. Atty. Gen. (248B-3), Jan. 10, 1941.

Where lifelong resident of one county spent six years in sanatorium at Walker and was discharged from sanatorium for the summer and married a resident of another county, she lost her residence in original county and county of residence of her husband must pay any charges for subsequent treatments at hospital. Op. Atty. Gen. (556a-1), Oct. 1, 1942, Oct. 28, 1942.

A person who has attended a National Youth Administration school has not been an inmate of a public institution. Op. Atty. Gen. (339o-4), July 19, 1943.

11. ——**Federal work or conservation projects.**
Work received on W.P.A. by minor son held to constitute as to his family work on a relief basis and in lieu of direct relief. City of Minneapolis v. C., 206M371, 288 NW706. See Dun. Dig. 7430.

WPA relief received during latter part of 1935 and in January 1936 did not count against settlement. Galow, 210M267, 297NW743. See Dun. Dig. 7430.

Months in which relief was received through the WPA are excluded in determining residence. Op. Atty. Gen., (339o-4), Oct. 5, 1939.

Where wife and child acquired settlement separate from that of husband and lived with wife's father who was on WPA relief, whether such relief would toll time for acquisition of settlement of woman and child, would depend upon whether certifying authorities considered family group as a unit. Op. Atty. Gen. (339o-2), Oct. 1, 1940.

Employment as a SERA investigator or an ERA adult education teacher, or on WPA prior to January 24, 1936, should not be excluded in determining settlement, but any such relief after that date should be excluded for purposes of determining residence. Op. Atty. Gen., (339o-4), May 21, 1941.

After January 1936, every month during which PWA aid was received would be excluded providing employment was on a relief basis, and the same is true of receipt of surplus commodities. Op. Atty. Gen. (339O-2), Aug. 27, 1941.

12. ——**State or municipal work projects.**
Since January 24, 1936, time during which a person has been supplied as direct relief or in providing work on a relief basis in lieu of direct relief, is to be excluded in determining time of residence. Op. Atty. Gen. (339o-4), Apr. 2, 1942.

14. **Loss of settlement.**
Rule that once acquired, a settlement for relief purposes cannot be terminated except by gaining a new one, applies to town system of relief, and where one having settlement in particular town resided in another town in same county for eleven months, such town became settlement where residence was never thereafter had in any other town or county for more than six months. City of Minneapolis v. Village of Hanover, 209M 466, 297NW27. See Dun. Dig. 7430.

Where at time of marriage the husband is unsettled, and wife is settled, and husband does not acquire a settlement and abandons wife, wife does not lose her original settlement and she and her children may be re-

moved thereto, regardless of number of years that expired following marriage. Rutland, 215M361, 10NW(2d) 365. See Dun. Dig. 7430.

A resident of county in state who went to another state with intent not to return and lived there for more than one year and then returned to a different county in Minnesota and resided there for 16 months, had no settlement in any county within the state. Op. Atty. Gen., (339o-2), Nov. 14, 1939.

One leaving township and residing in other counties for more than 2 years but less than 2 years in any one county retains settlement in original township. Op. Atty. Gen. (339o-1), Jan. 22, 1941.

A settlement, once acquired, can be lost only by acquiring a new settlement elsewhere. Op. Atty. Gen. (339O-2), Aug. 19, 1941.

3161-1. Judge of district court to decide dispute; etc.

Where there is no "dispute" as to settlement and right to remove pauper, proceeding should be dismissed. Robinette, 211M223, 300NW798. See Dun. Dig. 7430.

A person who can and does support himself is not a poor person and is not chargeable or removable as such, though in the past he has been receiving relief which has been terminated. Lucht v. Bell, 214M318, 8NW (2d)26. See Dun. Dig. 7431.

By making the poor person a party to proceedings to determine settlement as between municipalities, not only are his rights protected, but the adjudication is res judicata as to him also. Robinette v. Price, 214M521, 8NW (2d)800. See Dun. Dig. 7429, 7431.

Though statute does not require that the poor person be made a party, rule is that a pauper ought to have notice, and to be heard before he is removed. Id. See Dun. Dig. 7429, 7431.

Procedure for payment of bill of doctor treating and controlling a communicable disease in a family receiving direct relief from another county where it has settlement. Op. Atty. Gen. (611A-6), Feb. 13, 1942.

Laws provide no method of determining settlement as between states. Op. Atty. Gen. (339o-3), July 7, 1943.

3161-2. Same—May provide for removal of paupers.

Question whether a pauper may be removed from his freehold to place of his settlement for relief purposes can be raised only by the pauper. Cegon, 212M75, 2NW(2d) 433. See Dun. Dig. 7431.

A person who can and does support himself is not a poor person and is not chargeable or removable as such, though in the past he has been receiving relief which has been terminated. Lucht v. Bell, 214M318, 8NW (2d)26. See Dun. Dig. 7431.

Administration of public assistance by county welfare board involves duties formerly performed by county and town officials such as warning out poor persons and ordering them to depart to their place of settlement, and in cases of dispute with other political subdivisions, instituting proceedings for determination of settlement and for removal of poor person, and such duties are governmental, and, since they involve inquiry of fact and the exercise of judgment based on such inquiry, they are not ministerial, but quasi judicial in nature, and members of the board are not liable to poor person injured by the honest exercise of their judgment in removing a poor person though it subsequently appeared that such poor person was a freeholder. Robinette v. Price, 214M 521, 8NW(2d)800. See Dun. Dig. 7429, 7431.

A freeholder's right of irremovability as a pauper from his freehold is a personal right or privilege and does not go to court's jurisdiction to determine his removability, being a matter for assertion by the poor person as a defense where he is a party to the proceeding and has been given notice. Id. See Dun. Dig. 7431.

By making the poor person a party to proceedings to determine settlement as between municipalities, not only are his rights protected, but the adjudication is res judicata as to him also. Id. See Dun. Dig. 7429, 7431.

District court has jurisdiction to provide in the order for the removal of the poor person to his place of settlement as determined by the order, and sheriff is protected thereby in removing a person to place of settlement determined, though order is erroneous in that poor person is a freeholder. Id. See Dun. Dig. 2351, 2759, 7431.

Mere fact that party is a pauper or has applied for relief does not authorize poor relief officials to treat his application for relief as a consent to an order for removal or to such action as they might think necessary to procure him relief. Id. See Dun. Dig. 7431.

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

Notice to the pauper is necessary to bring him before the court. Id. See Dun. Dig. 7431.

Question of removability touches an alleged pauper's right to select freely his place of residence without interference by others. Id. See Dun. Dig. 7431.

Sheriff and members of county board of welfare were not guilty of any conspiracy in connection with removal of poor person from county under order of court, where the only combination between them was exercise of statutory duties as required by statute, and there was, consequently, no agreement to commit any unlawful act or to commit any lawful act in an unlawful manner, though order of court was erroneous because poor person was a freeholder. Id. See Dun. Dig. 7431.

Statutes providing for the removal of a poor person do not authorize the removal of a person from his freehold estate, even where the freeholder has not acquired a place of settlement in the district seeking his removal. Id. See Dun. Dig. 7431.

Though statute does not require that the poor person be made a party, rule is that a pauper ought to have notice, and to be heard before he is removed. Id. See Dun. Dig. 7429, 7431.

Act relates to machinery for determination of settlement of a poor person and not to recovery of money paid out for support of poor. Op. Atty. Gen. (339m), Apr. 20, 1942.

3162. Removal of poor person.

Where a husband, with no settlement within the state abandons his wife, who had a settlement within the state before marriage, she may be removed to that settlement. Rutland, 215M361, 10NW(2d)365. See Dun. Dig. 7431.

A minor child has the same settlement as the parent with whom he has resided and may be removed with such parent thereto. Id.

A poor person who has purchased a house on land contract owns a freehold equity and cannot be removed to county of legal settlement. Op. Atty. Gen. (339o-3), July 24, 1940.

County cannot remove female to county from which she came where she has married another poor person who came from a third county. Id.

State control of interstate migration of indigents. 40 Mich. Law Rev. 711.

3163. Bringing poor person into state.

California act making it a misdemeanor to knowingly bring or assist in bringing into the state any indigent person was declared unconstitutional by the United States Supreme Court. Edwards v. California, 314US160, 62SCR164.

3164. Change of system.

Part of village situated within county having a township system of relief is governed by laws pertaining thereto, and portion of village situated in another county which operates under a county system is governed by laws applicable to county system, and each county auditor should make his own levy for that portion of the village within his county. Op. Atty. Gen., (519J), Dec. 16, 1939.

3164-2. Municipalities may borrow funds for poor relief.

In determining amount of warrants to be issued for poor relief, county auditor may anticipate aid from the state, but of $10,000.00 levied for direct relief he may only issue such warrants as are limited by §1938-21, being average collections in county for past three years plus 10 per cent, and where such limitations have been exhausted county may issue bonds or other evidence of indebtedness. Op. Atty. Gen., (107a-10), Dec. 4, 1939.

City constructing houses for poor people may issue certificates of indebtedness. Op. Atty. Gen. (339), Apr. 30, 1941.

Bonds may be issued by County of Ramsey for purpose of securing funds for payment of salaries at Ancker Hospital and the Ramsey County Home, but not for purpose of paying salaries in division of Old Age Assistance and Department of Aid to Dependent Children, and whether or not bonds may be issued for paying salaries in Administration and Child Welfare Departments of County Welfare Board is a question of fact. Op. Atty. Gen. (37B-6), Sept. 17, 1941.

3164-3. Bonds may be issued.

Reenacted Laws 1941, c. 403, §3, and amended Laws 1943, c. 377, §1.

Amount of bonds for 1944 not to exceed $600,000.

Effective date extended to December 31, 1944, by Laws 1943, c. 377, §2.

3164-8. Effective date.

Act Apr. 24, 1941, c. 403 is a reenactment of Laws 1933, c. 120 [Mason's 1940 Supplement §§3164-1 to 3164-8] and provides that the act shall be in force until Dec. 31, 1943.

Laws 1943, c. 377, amends Laws 1941, c. 403, §§3, 8, and extends effective date of act to December 31, 1944.

City availing itself of benefits under Laws 1941, c. 403, may pay cash to persons on relief for purchase of necessities. Op. Atty. Gen. (125a-64), Feb. 3, 1943.

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, injury, deformity, or ailment of a nature which can probably be remedied by hospitalization and who are unable, financially, to secure any 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. (As amended Act Apr. 26, 1941, c. 473, §1.)

Op. Atty. Gen., (339g-2), March (May) 20, 1940; note under §3164-21.

Laws 1935, c. 359, was passed as a supplemental measure to §§4577 to 4585, and does not amend §4579, and gives option of sending its patients to Minnesota General Hospital or to some other hospital. Op. Atty. Gen., (1001c), March 8, 1940.

Probate court jurisdiction in proceeding under §§4577 to 4585 is transferred to county board and if proceeding is under Laws 1935, c. 359 (§§3164-19 to 3164-22), county board has jurisdiction. Id. But see §4590.

In counties operating under township system of relief, expense of medical attendance given to indigents and not provided in a hospital pursuant to §§3164-19 and 4580, must be paid by local governmental unit, subject to any right of reimbursement from county under §3195. Op. Atty. Gen. (1001d), June 17, 1940.

Total expense is charge upon county, and no local governmental unit of a county operating under township system may be compelled to pay any portion of hospitalization expense. Id.

"Hospitalization" includes drugs, laboratory, X-rays, board and room of special nurses and professional services of the doctor. Op. Atty. Gen. (339g-2), July 5, 1940.

Birth of a child is not a malady, deformity or ailment, *though hospitalization may be granted if complications* are anticipated. Op. Atty. Gen. (1001d), July 10, 1940.

Law is not mandatory. It applies to persons residing in county even though they do not have settlement therein. Op. Atty. Gen. (339g-2), Dec. 23, 1941.

Where poor person was in need of immediate hospital treatment and attending physician recommended that she go to University hospital or to a certain hospital in the county, but she declined stating that she wished to go to a hospital in another city, where she was taken without authorization from county welfare board, it would appear there was no emergency or liability, but county upon proper application and investigation might pay a reasonable value of service. Op. Atty. Gen. (339g-2), Apr. 18, 1942.

Village in Hennepin County is not interested in those cases requiring hospitalization, and it carries no part of the expense, but care and treatment outside a hospital is to be provided by village, power of decision in hospital cases being with county board and not with social workers. Op. Atty. Gen. (339g-2), May 15, 1942.

Act is not mandatory and county board has wide discretion. Op. Atty. Gen. (1001d), June 27, 1942.

3164-20. Application to be filed.—

Subdivision 1. Whenever the existence of a case described in section 1 of this act (§3164-19) 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 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 residence 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, injury, 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, injury, deformity, or ailment, together with any other information such physician may deem helpful to the county board or the physician attending him.

Subdivision 2. 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. Provided further, that when a physician certifies in a case of an injury (or an emergency) that immediate surgical or medical treatment is necessary, the patient shall forthwith be admitted to any such hospital upon said certificate for a period not to exceed seventy-two (72) hours; and thereafter an investigation shall be certified and made in the manner hereinbefore provided. (As amended Act Apr. 26, 1941, c. 473, §2; Act Feb. 15, 1943, c. 31, §4.)

The $5.00 fee to be paid an examining doctor under Laws 1921, c. 41, §3, is applicable to Laws 1935, c. 355, §2, and examination under the 1935 law entitles doctor to flat fee of $5.00, providing examining doctor was appointed by judge of probate court. Op. Atty. Gen., (1001c), Dec. 11, 1939.

Municipality of legal settlement still remains liable for total cost of emergency relief furnished to a pauper by county of present residence, including necessary hospitalization. Op. Atty. Gen. (339G-2), Feb. 18, 1942.

Certificate of physician is only prima facie evidence of emergency. Op. Atty. Gen. (1001d), June 27, 1942.

Where indigent patient was admitted to a rest home or rest hospital on written order of chairman of relief committee of a village council, instead of on order of county officers, neither village nor county is liable. Op. Atty. Gen. (1001d), July 24, 1942.

3164-21. Costs—Counties Liable—Reimbursement. —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 Mason's Minnesota Statutes of 1927, Sections 4577 to 4586, inclusive, 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 residence of such indigent persons at such times as may be provided for in such contract; and in case of an injury or emergency requiring immediate surgical or medical treatment, for a period not to exceed 72 hours, the cost shall be paid by the county from which such patient, if indigent, is certified. Provided, however, that if the county of residence of the patient is not the county in which the patient has legal settlement for the purposes of poor relief, then the county of residence may seek reimbursement from the county in which the patient has settlement for the purposes of poor relief for all costs it has necessarily incurred and paid in connection with the hospitalization of said patient. (As amended Act Apr. 26, 1941, c. 473, §3; Act Feb. 15, 1943, c. 31, §5.)

State has no authority to reimburse county for charges to patients referred to Minnesota General Hospital, which was unable to receive them, necessitating treatment in other hospitals. Op. Atty. Gen., (1001c), Dec. 9, 1939.

Cost of hospitalization locally must not exceed rate of Minnesota General Hospital. Op. Atty. Gen., (339g-2), March (May) 20, 1940.

Where poor person residing in one county was subjected to an emergency appendectomy and hospitalized, and proper local authorities of county of settlement ratified hospitalization and medical care, county in which operation and hospitalization were had could pay the bill and recover from county of settlement, notwithstanding that it had an arrangement whereby cases taken care of in the hospital were in lieu of hospitalization in University Hospital. Op. Atty. Gen., (339g-2), May 31, 1940.

Cost of hospitalization is paid by county of residence rather than county of settlement, so in proper case reimbursement may be had from county of legal settlement. Op. Atty. Gen. (339-G-2), July 19, 1940.

Question whether charges of hospital for X-Rays, laboratory fees, and other extras are included within term "hospitalization" is not a question of law but one of fact under rules of custom or practice. Op. Atty. Gen. (1001d), June 27, 1942.

Act does not authorize county operating under township system to pay for medical or surgical treatment, but only for hospitalization. Id.

Except in emergency, board has discretion in decision as to hospital, and charges may not exceed those of Minnesota General Hospital. Op. Atty. Gen. (339g-2), March 25, 1943.

When patients are sent to the Minnesota general hospital, the cost of the hospitalization is to be paid by the county and not by the town in which he has settlement. Op. Atty. Gen. (1001c), Apr. 30, 1943.

3164-22. County board powers and duties to welfare.—The county board of any county in this state is hereby authorized to delegate to the county welfare board of such county all the rights, powers, and duties conferred upon it by Laws 1941, Chapter 473 [3164-19 to 3164-21] with reference to the hospitalization of indigent persons. (Act Feb. 15, 1943, c. 31, §7.) [261.231]

STATE RELIEF ACTS

Act Apr. 28, 1941, c. 525.

COUNTY SYSTEM

3165. County board supervisors of the poor—overseer of poor may grant relief—County poor relief agent—Poorhouses.

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

Welfare board in its discretion may pay cash to person instead of furnishing goods. Op. Atty. Gen. (339i-1), Feb. 20, 1943.

Board of poor and hospital commissioners of Itasca County may pay cash to poor persons. Op. Atty. Gen. (339i-1), Apr. 3, 1943.

When old age assistance recipient has allowance increased in order to take care of doctor's bills and does not pay them, there is no liability on the part of the county unless a member of the county board has given written direction to the doctor to attend the patient. Op. Atty. Gen. (521v), July 14, 1943.

3170. Commitment by member.

Emergency medical treatment to transient drug addict. Op. Atty. Gen. (339g), Aug. 5, 1942.

3171. Temporary relief.

(1).

Welfare board in its discretion may pay cash to person instead of furnishing goods. Op. Aty. Gen. (339i-1), Feb. 20, 1943.

3173. Settlement in another county.

Where there is no "dispute" as to settlement or removal of pauper, proceeding should be had under this section, and not by proceedings in court. Robinette, 211 M223, 300NW798. See Dun. Dig. 7431.

In a poor settlement proceeding under Mason's St. 1940 Supp., §§3161-1, 3161-2, question whether a pauper may be removed from his freehold to place of his settlement for relief purposes can be raised only by the pauper. Cegon, 212M75, 2NW(2d)433. See Dun. Dig. 7431.

Administration of public assistance by county welfare board involves duties formerly performed by county and town officials such as warning out poor persons and ordering them to depart to their place of settlement, and in cases of dispute with other political subdivisions, instituting proceedings for determination of settlement and for removal of poor person, and such duties are governmental, and, since they involve inquiry of fact and the exercise of judgment based on such inquiry, they are not ministerial, but quasi judicial in nature, and members of the board are not liable to poor person injured by the honest exercise of their judgment in removing a poor person, though it subsequently appeared that such poor person was a freeholder. Robinette v. Price, 214M521, 8NW(2d)800. See Dun. Dig. 7429, 7431.

A freeholder's right of irremovability as a pauper from his freehold is a personal right or privilege and does not go to court's jurisdiction to determine his removability, being a matter for assertion by the poor person as a defense where he is a party to the proceeding and has been given notice. Id. See Dun. Dig. 7431.

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

Question of removability touches an alleged pauper's right to select freely his place of residence without interference by others. Id. See Dun. Dig. 7431.

Statutes providing for the removal of a poor person do not authorize the removal of a person from his freehold estate, even where the freeholder has not acquired a place of settlement in the district seeking his removal. Id. See Dun. Dig. 7431.

Though statute does not require that the poor person be made a party, rule is that a pauper ought to have notice, and to be heard before he is removed. Id. See Dun. Dig. 7429, 7431.

Where poor person residing in one county was subjected to an emergency appendectomy and hospitalized, and proper local authorities of county of settlement ratified hospitalization and medical care, county in which operation and hospitalization were had could pay the bill and recover from county of settlement, notwithstanding that it had an arrangement whereby cases taken care of in the hospital were in lieu of hospitalization in University Hospital. Op. Atty. Gen., (339g-2), May 31, 1940.

Cost of hospitalization is paid by county of residence rather than county of settlement so in proper case reimbursement may be had from county of legal settlement. Op. Atty. Gen. (339-G-2), July 19, 1940.

A period of residence prior to a return following a warning to depart may not be tacked to a subsequent resident in same city in order to fill out balance of 2-year period. Op. Atty. Gen. (339O-2), Feb. 6, 1941.

A county hospitalizing one unable to pay can only recover from that person's county of settlement if he is a pauper. Op. Atty. Gen. (339g-2), May 1, 1941.

Municipality of legal settlement still remains liable for total cost of emergency relief furnished to a pauper by county of present residence, including necessary hospitalization. Op. Atty. Gen. (339G-2), Feb. 18, 1942.

A pauper owning a house on land legal title to which is in his parents may be removed, unless there is an arrangement under which he is entitled to a conveyance of the legal title upon performance of conditions agreed upon. Op. Atty. Gen. (339e-2), May 14, 1942.

It is not intent of law that a county may furnish relief to poor person for five years or any other considerable period of time when no emergency is involved and then look to county of settlement of poor person for reimbursement. Op. Atty. Gen. (339e-5), May 16, 1942.

Emergency medical treatment to transient drug addict. Op. Atty. Gen. (339g), Aug. 5, 1942.

Fifteen-day appeal period which applies to claims allowed or disallowed by the county board do not apply to claims allowed or disallowed by county welfare board or by county board performing duties that should be performed by welfare board, as where one county presents claim against another county for hospitalization of one having settlement in latter county. Op. Atty. Gen. (107b-4), Sept. 14, 1942.

Wife of one in service in the army, with two children, should not be removed from county. Op. Atty. Gen. (339*o*-3), May 6, 1943.

3174. Board to appoint physician.

Where services of doctor and nurse are rendered for a pauper family ill with scarlet fever, any part thereof that could reasonably be necessary to protection of public from contagion should be paid for in accordance with §5352, but any portion inuring solely to benefit and care of patients would be chargeable to poor relief. Op. Atty. Gen., (611a-6), Feb. 29, 1940.

Emergency medical treatment to transient drug addict. Op. Atty. Gen. (339g), Aug. 5, 1942.

When old age assistance recipient has allowance increased in order to take care of doctor's bills and does not pay them, there is no liability on the part of the county unless a member of the county board has given written direction to the doctor to attend the patient. Op. Atty. Gen. (521v), July 14, 1943.

An injured person who is unable to work and has no assets except wages owed to him by a person who is unable to pay may be considered a poor person and the county is liable for his medical expense. Op. Atty. Gen. 339G-(1), Dec. 14, 1943.

3175. Minors, how provided for.

A minor child of a poor family hospitalized for sickness or injury may be cared for in county home. Op. Atty. Gen. (1001b), May 14, 1942.

3176. Burial at expense of county.

Obligation is on county and not on town to bury pauper dead, even though county is operating under township system. Op. Atty. Gen., (339c), Jan. 22, 1940.

Amount to be spent for burial rests in discretion of county board. Id.

Expense of burial of pauper having settlement in state is to be paid by county or town of settlement. Op. Atty. Gen., (339c), March 6, 1940.

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

Where a person without legal settlement in state dies and leaves insufficient means to defray expense of burial, law imposes obligation to pay upon county, though operating under township system. Op. Atty. Gen. (339c-1), June 6, 1940.

Expense of burial of paupers having settlement in state are to be paid by township of settlement in county operating under township system. Id.

County cannot legally be compelled to defray expense of exhumation, transfer, and reburial of a poor patient who dies in a state insane hospital and has had a decent burial. Op. Atty. Gen. (339C), Sept. 20, 1941.

3177. Tax for support of poor.

Part of village situated within county having a township system of relief is governed by laws pertaining thereto, and portion of village situated in another county which operates under a county system is governed by laws applicable to county system, and each county auditor should make his own levy for that portion of the village within his county. Op. Atty. Gen., (519J), Dec. 16, 1939.

Following change from town to county system, county auditor may spread a levy for poor relief on tax lists of village to retire outstanding warrants, though warrants should not have been issued without levy having first been made by town. Op. Atty. Gen. (476C-5), Oct. 10, 1941.

County board may not pay office rent for Federal Farm Security Administration under guise of poor relief. Op. Atty. Gen. (107b-1), May 25, 1942.

Statute still requires that a distressed county in the forest area class must certify the amount of delinquency that will exist in the old age assistance fund, and such a county must make some levy on account of old age assistance and for aid to dependent children. Op. Atty. Gen. (521w), Oct. 5, 1942.

3177-1. Tax levy for social security measures, etc.

County board should levy only its share of total budget, anticipating reimbursement. Op. Atty. Gen. (521o), Feb. 5, 1942.

It is the duty of county board to levy annually a sufficient tax to meet county's share of cost of old age assistance and other social security measures for ensuing year plus amount of overdraft remaining unpaid, though in computing amount regular amount payable from state and federal fund and reasonably certain of payment may be deducted, but no deduction can be made on account of expected distress county aid, and Indian county aid may be deducted if reasonably certain of payment. Op. Atty. Gen. (521w), Nov. 28, 1942.

3177-2. Supplemental aid to old age assistance in distressed counties; etc.

Same procedure as outlined for disbursements of supplemental funds for old age assistance should also be followed in supplemental aid to dependent children funds to distressed counties. Op. Atty. Gen. (840A-6), Aug. 15, 1941.

Statute still requires that a distressed county in the forest area class must certify the amount of delinquency that will exist in the old age assistance fund, and such a county must make some levy on account of old age assistance and for aid to dependent children. Op. Atty. Gen. (521w), Oct. 5, 1942.

3177-3. Same; fund; distribution.

Legislature intended to limit supplemental aid to distressed counties to sum of $250,000 each year, and when such fund was exhausted supplemental aid terminated. Op. Atty. Gen., (521z), Nov. 29, 1939.

Division of social welfare may not after end of year out of original appropriation reimburse a county, because no money remains for that purpose, but if funds were encumbered during year for which appropriated, such division may pay a claim after expiration of year. Op. Atty. Gen. (521o), Feb. 5, 1942.

3177-4. Same; certification of distress; payment.

County may not be reimbursed where $250,000 set aside for supplemental aid has been exhausted. Op. Atty Gen., (521z), Nov. 29, 1939.

Aid granted to county based upon anticipated tax delinquencies should be adjusted when actual tax delinquencies are known, and if county in good faith levied an amount which, if collected, would have been sufficient to pay old age assistance according to reasonable estimates available at the time, law is satisfied. Op. Atty. Gen. (521W), Nov. 14, 1940.

Statute still requires that a distressed county in the forest area class must certify the amount of delinquency that will exist in the old age assistance fund, and such a county must make some levy on account of old age assistance and for aid to dependent children. Op. Atty. Gen. (521w), Oct. 5, 1942.

It is the duty of county board to levy annually a sufficient tax to meet county's share of cost of old age assistance and other social security measures for ensuing year plus amount of overdraft remaining unpaid, though in computing amount regular amount payable from state and federal fund and reasonably certain of payment may be deducted, but no deduction can be made on account of expected distress county aid, and Indian county aid may be deducted if reasonably certain of payment. Op. Atty. Gen. (521w), Nov. 28, 1942.

In distressed counties Director of Social Welfare may order payment by state to county an amount in excess of delinquency in tax payments. Op. Atty. Gen. (521w) Oct. 5, 1943.

3177-5. Same; certification as to levy of tax excused in certain cases.

County having assessed value of $3,250,000, more than 95 townships, and population of 15,000 to 18,000 excused from certifying for year 1939.

3177-6. Same; certification as to tax levy unnecessary in certain counties.

Statute still requires that a distressed county in the forest area class must certify the amount of delinquency that will exist in the old age assistance fund, and such a county must make some levy on account of old age assistance and for aid to dependent children. Op. Atty. Gen. (521w), Oct. 5, 1942.

In distressed counties Director of Social Welfare may order payment by state to county an amount in excess of delinquency in tax payments. Op. Atty. Gen. (521w), Oct. 5, 1943.

Duty is mandatory on county board to levy for old age assistance. Id.

3183-7. County board may require property to be deeded to county.

A deed to county must be treated as a mortgage and must be foreclosed as such though pension paid has exceeded the value of the property, and the right of redemption remains until cut off. Op. Atty. Gen. (521p-4), May 10, 1943.

TOWN SYSTEM

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

Conduct of one purporting to act for township board may be ratified in which case his authority so to act relates back and is equivalent to prior authority. City of Minneapolis v. C., 288NW706. See Dun. Dig. 191(72).

Expense of burial of pauper having settlement in state is to be paid by county or town of settlement. Op. Atty. Gen., (339c), March 6, 1940.

Expense of burial of paupers having settlement in state are to be paid by township of settlement in county operating under township system. Op. Atty. Gen. (339c-1), June 6, 1940.

Where a person without legal settlement in state dies and leaves insufficient means to defray expense of burial, law imposes obligation to pay upon county, though operating under township system. Id.

Board of public welfare may avail itself of surplus commodities food stamps and is not required to certify to good quality and reasonable prices of food received by clients. Op. Atty. Gen. (339), June 28, 1940.

This section would not authorize expenditure from poor fund for work project. Op. Atty. Gen. (339m), July 10, 1940.

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

Township may not enter into a contract with a firm of physicians for medical needs of a poor family for a term of one year payable in advance. Op. Atty. Gen. (339g-1), Jan. 14, 1941.

Authority of town board to delegate investigation of relief cases to a county relief board composed of officials from villages and towns is doubtful. Op. Atty. Gen. (125a-64), Mar. 13, 1941.

City may build houses for poor persons. Op. Atty. Gen. (339), Apr. 30, 1941.

3186. Relief and transportation.

A resident of county in state who went to another state with intent not to return and lived there for more than one year and then returned to a different county in Minnesota and resided there for 16 months, had no settlement in any county within the state. Op. Atty. Gen., (339o-2), Nov. 14, 1939.

In counties operating under township system of relief, expense of medical attendance given to indigents and not provided in a hospital pursuant to §§3164-19 and 4580, must be paid by local governmental unit, subject to any right of reimbursement from county under §3195. Op. Atty. Gen. (1001d), June 17, 1940.

Cost of hospitalization is paid by county of residence rather than county of settlement so in proper case reimbursement may be had from county of legal settlement. Op. Atty. Gen. (339g-2), July 19, 1940.

Municipality of legal settlement still remains liable for total cost of emergency relief furnished to a pauper by county of present residence, including necessary hospitalization. Op. Atty. Gen. (339G-2), Feb. 18, 1942.

County has no right to warn a family to move if no application for aid has been made, and if an application for aid was made and notice to depart was given and family voluntarily moved, after being supplied with funds for making trip, and then returned in four days, another notice to depart would be required in order to invoke benefits to county provided by statute if removal and return were in good faith, but if there was bad faith a removal order could be obtained without further notice to depart. Op. Atty. Gen. (339E-5), Mar. 17, 1942.

State control of interstate migration of indigents. 40 Mich. Law Rev. 711.

(2).

Where poor person residing in one county was subjected to an emergency appendectomy and hospitalized, and proper local authorities of county of settlement ratified hospitalization and medical care, county in which operation and hospitalization were had could pay the bill and recover from county of settlement, notwithstanding that it had an arrangement whereby cases taken care of in the hospital were in lieu of hospitalization in University Hospital. Op. Atty. Gen., (339g-2), May 31, 1940.

It would be well for undertaker to secure authority for burial from political subdivision of proper settlement, but if such authority cannot be obtained it is still duty of local subdivision in which person dies to bury him. Op. Atty. Gen. (339c), Sept. 11, 1940.

Where non-resident pauper was injured on a county line highway and was taken into a hospital in a third county as an emergency case, place of accident was not controlling as to which county should pay the expense, county wherein pauper is "found" being liable. Op. Atty. Gen. (339G-2), Nov. 1, 1940.

Where private hospital received a pauper for emergency treatment, brought by her physician, and immediately notified welfare board, which refused hospitalization because patient was eligible for free hospitalization in an adjoining county under a contract, and such board was requested to send an ambulance and failed to do so, county was liable for necessary emergency treatment furnished by the hospital. Op. Atty. Gen. (339g-2), Apr. 15, 1942.

Municipality in county under township system should pay for emergency care of a non-resident pauper, one not having settlement in the state, and secure reimbursement from county, including necessary rest home facilities, and county should not be relieved of liability for excusable failure to give notice within five days. Id.

(4).

Application for relief within 90 days is necessary to render one guilty of misdemeanor. Op. Atty. Gen., (339o-3), Feb. 8, 1940.

3187. Poorhouse.

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

3188. Taxes, how levied.

Part of village situated within county having a township system of relief is governed by laws pertaining thereto, and portion of village situated in another county which operates under a county system is governed by laws applicable to county system, and each county auditor should make his own levy for that portion of the village within his county. Op. Atty. Gen., (519J), Dec. 16, 1939.

Following change from town to county system, county auditor may spread a levy for poor relief on tax lists of village to retire outstanding warrants, though warrants should not have been issued without levy having first been made by town. Op. Atty. Gen. (476C-5), Oct. 10, 1941.

3195. Counties to pay portion, etc.

This section was not continued in effect as to claimed rights of reimbursement by Laws 1937 c. 286, which entirely superseded and by implication repealed it, though it already had been invalidated and nullified. City of Jackson v. Jackson County, 214M244, 7NW(2d)753. See Dun. Dig. 7427.

In Village of Robbinsdale v. County Hennepin, 199M203, 271NW491, supreme court held this section unconstitutional in its entirety, and it can have no valid application in any county. Id.

As soon as city has exhausted amount raised by one mill levy county becomes liable for amount of reimbursement and may after that time reimburse city to extent of 75 per cent on each month's relief payments without waiting until expiration of calendar year. Op. Atty. Gen. (339m), Oct. 11, 1940.

In a county in which there are no cities or towns of first or second class reimbursement may be made for expenditures by city for year 1935 under this section. Op. Atty. Gen. (339M), Oct. 2, 1941.

Since Laws 1937, c. 286, went into effect on April 19, 1937, this section was not superseded for the year 1936. Op. Atty. Gen. (339M), Oct. 20, 1941.

This section is unconstitutional in its entirety. Op. Atty. Gen. (339m), June 24, 1943.

3195-1. Liability of counties for care of poor by towns.

This act entirely superseded and by implication repealed Mason Stat. 1927, §3195, Minn. Stat. 1941, §263.09, although it already had been invalidated and nullified, and that section did not continue in effect as to claimed rights of reimbursement thereunder. City of Jackson v. Jackson County, 214M244, 7NW(2d)753. See Dun. Dig. 7427.

Laws 1937, chapter 286, reenacting §3195, which was held unconstitutional, was not retroactive, and a village cannot file a claim against county for reimbursement. Op. Atty. Gen., (339m), Oct. 10, 1939.

Act to provide for reimbursement for expenditures authorized by §3184, which would not authorize expenditure from poor fund for work project. Op. Atty. Gen. (339m), July 10, 1940.

City constructing houses for the poor under a NYA work project could not certify entire construction cost as expense incurred by city in care of a named poor person for year then past. Op. Atty. Gen. (339), Apr. 30, 1941.

This act went into effect on April 19, 1937, and consequently §3195 was not superseded for the year 1936. Op. Atty. Gen. (339M), Oct. 20, 1941.

Reimbursement by county to town for poor relief, cost of hospitalizaton, plus doctors' bills. Op. Atty. Gen. (339M), Jan. 20, 1942.

A reasonable rental is an expense which may be reimbursed where municipality owns a building which it devotes to housing of the poor, ordinarily legalities and court costs in poor relief cases cannot be included, costs of supplies used are eligible expenses, charge for use of city equipment and labor, such as in delivery of fuel to relief clients, is not expense subject to reimbursement. Op. Atty. Gen. (339m), May 1, 1942.

Where city issued bonds for poor relief and retired them out of its sinking fund, upon being reimbursed by county city may credit sum to sinking fund, in absence of any charter provision forbidding such course. Op. Atty. Gen. (339m), June 25, 1942.

If accounting system of municipality shows the administrative cost in caring for the poor such cost may be included in "expense incurred". Op. Atty. Gen. (339m), June 25, 1942.

Failure to present a similar claim each year does not affect right of city to reimbursement, nor does fact that there is no amount due under provision of law for a period of two years during six year period in question, and where city has been deeded a homestead by a poor person and his keep has exceeded value of property, difference in excess may be included in arriving at reimbursement amount. Op. Atty. Gen. (339m), Dec. 1, 1942.

City is not entitled to reimbursement for administration expense not actually incurred in administration of poor laws. Op. Atty. Gen. (339m), Feb. 8, 1943.

3195-3. Same—Municipal authorities to certify levies.

After it has been definitely ascertained that a city in a single calendar year has spent one mill of taxable value of property, it is proper practice to immediately bill the county for 75% of the amount in excess of one mill on the taxable value of property in the city. Op. Atty. Gen. (339m), June 24, 1943.

COUNTIES EXCEEDING 75,000

3196. Board of poor commissioners—How constituted.—In counties having a population of over 75,000, and an area of over 5,000 square miles, the county welfare board shall consist of three members appointed by the board of county commissioners of such county, with the approval of the judges of the district court of the judicial district in which such county is located. The successor to the member whose term expires on the first Monday in January, 1944, shall be appointed for a term of six years. The term of the member whose term would otherwise expire on the first Monday of January, 1945, shall be extended until the first Monday in January, 1946, at which time his successor shall be appointed for a period of six years. The term of the member whose term would otherwise expire on the first Monday in January, 1946, shall be extended to the first Monday of January, 1948, at which time his successor shall be appointed for a term of six years. Thereafter members shall be appointed for a term of six years beginning on the first Monday in January of each even numbered year and vacancies shall be filled by like appointment for the unexpired terms. Annually on the first Monday in January, the board shall elect from its number a chairman, and vice-chairman to serve for one year, and until their successors qualify. It shall make rules for the government of its proceedings, and fixing the time for holding its meetings, and may amend the same at any time; provided, however, that all of its meetings shall be public. The members shall receive $10 per day but not to exceed $250 in any one year, and each shall be repaid out of the county welfare fund his necessary expenses, a verified and itemized statement of which shall be filed with and approved by the board. It shall be provided with a suitable office, the expenses whereof shall be paid out of the county welfare fund. (As amended Act Apr. 16, 1943, c. 473, §2.)

3197. Powers and duties of board.—Such welfare board created by Section 3196 shall have all the powers and duties enumerated for county welfare boards in Mason's Supplement 1940, Section 974-17, and the powers and duties relative to the care of the poor previously appertaining to the board of poor commissioners or county welfare board of any such county, or which in counties having the county system, appertain to the county board. All moneys arising from the labor of poor persons in its care, or from the produce of the poor farm, shall be paid into the county treasury to the credit of the welfare fund. No money shall be paid from such fund, except on vouchers of the board, signed by its executive secretary, and audited and certified by the county auditor as provided by Laws 1941, Chapter 118. (As amended Act Apr. 16, 1943, c. 473, §3.)

Section is applicable to St. Louis County, and "voucher" is not in itself the instrument by which payment is made, but serves merely as the authority for the auditor to draw his warrant on the treasurer in conformity with facts certified upon the voucher, and the warrant is the instrument of payment of the claim or payroll item whose payment is authorized by welfare board and certified by the auditor upon the voucher pursuant to Laws 1941, c. 118. Op. Atty. Gen. (125a-64), Dec. 7, 1943.

3198. Clerk—How paid—Salary.—Such welfare board created by Section 3196 shall appoint as by law provided an executive secretary to serve during its pleasure and fix his compensation which shall be paid out of the county welfare fund and shall not exceed $5,000. He shall be the chief executive officer and the administrative head of the welfare department, and keep a record of all the doings of the board; preserve in its office all documents relating to its business; and record the name and address of each person by or for whom relief has been granted with the amount and date thereof. He shall investigate the condition and needs of all persons by or for whom application is made for relief, and report to the board thereon. Subject to the provisions of Laws 1941, Chapter 423, and subject to the approval of the board he shall appoint and remove such assistants and clerical help as he may deem necessary to perform the duties of the welfare department. (As amended Act Apr. 16, 1943, c. 473, §4.)

3199. Tax levy for poor relief.—On or before October 1, in each year, such welfare board created by Section 3196 shall, prepare and present to the board of county commissioners a detailed budget request for the expenditures for welfare purposes deemed necessary for the ensuing year, together with the estimated income for the welfare fund from sources other than the current tax levy and the amount which it shall be necessary to levy to provide a total fund equal to the proposed expenditures, as provided by Laws 1941, Chapter 118. Provided that the total tax levy for such welfare purposes, except for the erection or repair of buildings, shall not exceed an amount equal to six mills on each dollar of assessed valuation. If at any time during any year such welfare board shall determine that the amount previously levied will be inadequate to meet the minimum requirements of any activity for the balance of the year, it shall present such information to the board of county commissioners. Whereupon the said board of county commissioners may authorize the expenditure of additional sums in specific itemized amounts and when so authorized such welfare board may appropriate and expend such additional amounts, and all acts or parts of acts prohibiting or placing a penalty on such expenditures shall be of no effect in such cases. Immediately upon authorizing such additional expenditures, the board of county commissioners shall provide for the financing of such expenditures and for such purpose it shall first transfer any amounts remaining unencumbered in any county fund levied for specific items, which in the judgment of the board of county commissioners can be diverted therefrom without serious detriment to the efficiency of county government or to the public health and safety; second, if the amounts so available for transfer shall be less than the contemplated deficit, the board of county commissioners shall levy a tax to finance the remaining deficiency of not to exceed two mills on each dollar of assessed valuation, to be spread by the county auditor for the ensuing year, which levy may be in addition to any authorized tax levy for the county welfare fund for such ensuing year; third, if the amounts transferred and the amount calculated to be received from the maximum deficiency tax levy hereby authorized shall not be sufficient to finance such contemplated deficit, then any remaining deficiency may, upon resolution adopted by a five-sevenths vote of the board of county commissioners, be financed by the issuance and sale of county welfare deficiency bonds, said bonds to be issued and sold subject to the provisions of Laws 1927, Chapter 131, as amended, except that a vote of the people shall not be required and the last maturity of said bonds shall not be later than three years from the date of issue. (As amended Act Apr. 15, 1941, c. 227, §1; Apr. 16, 1943, c. 473, §5.)

A deficit occurring in county welfare fund in 1939 as a result of inadequacy of 1938 tax levy and authorization of additional expenditures by St. Louis county board under §3199, as amended, may be regarded as a deficit carried over from a previous year within meaning of §813, and county board may issue certificates of indebtedness in 1939 in anticipation of proceeds of a deficiency tax levy which will be collected in 1940. Op. Atty. Gen., (107a-1), Sept. 30, 1949.

Board of Poor and Hospital Commissioners, created by Laws 1917, c. 187, as amended by Laws 1931, c. 60, may not hire an attorney to take care of the business. Op. Atty. Gen. (125a-64), Aug. 22, 1940.

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

Under Laws 1917, c. 187, as amended by Laws 1931, c. 60, board of poor and hospital commissioners of Itasca County are authorized to pay cash to poor people. Op. Atty. Gen. (339i-1), Apr. 3, 1943.

STATE WIDE SYSTEM OF OLD AGE ASSISTANCE

3199-11. System established; etc.

Laws 1941, c. 2, appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

West Virginia Income Tax Act allowing deduction from gross income of "ordinary and necessary" expenses of business, does not authorize deduction as such expenses, of taxes paid by taxpayer on account of either (1) old age benefits and unemployment compensation under Social Security Act, (2) the Bituminous Coal Act, (3) state unemployment insurance, (4) state gross sales. Christopher v. J., 12SE(2d)(WVaApp)813.

Homesteads up to $4000 through and full value are exempt from 3 tax levy items imposed by Laws 1939, cc. 238, 245 and 436, relating to old age assistance, aid to dependent children, and relief. Op. Atty. Gen. (519), Nov. 22, 1940.

3199-12. Definitions.

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

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 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 be made by the Director of the Division of Social Welfare, with the approval of the Attorney General as to form and legality, and shall be furnished immediately to all county agencies and shall be binding on such county agencies.

(c) Prescribed 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) Co-operate 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, 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.

(h) Co-operate with other state agencies in establishing reciprocal agreements to provide for payment of old age assistance to recipients who have moved from Minnesota to another state, consistent with the provisions of this act. (As amended Act Apr. 26, 1941, c. 466, §1.)

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

It is not legal duty of county attorney to handle any legal proceedings in connection with a guardian for a recipient of old age assistance, required by state regulations on demand of federal authorities, but he may voluntarily assist in securing appointment of a guardian, provided he makes no charge for his services and does not act as attorney for recipient or guardian in any capacity which might conflict with his duties as attorney for the county welfare board. Op. Atty. Gen., (521J-4), Oct. 20, 1939.

Merit system rules of division of social welfare remain in full force and effect, notwithstanding passage of Laws 1943, c. 230, so far as they do not conflict with the Veteran's Preference Laws, and if any person entitled to benefits of Veteran's Preference Law obtains a passing mark under grading providing by the merit system rules, such person is entitled to preference in appointment and to tenure, and the position of executive secretary of a county welfare board does not come within exceptions to the Veteran's Preference Act. Op. Atty. Gen. (85g), July 6, 1943.

(b).

Howe, 211M427, 1NW(2d)396; note under §3199-18(b).

3199-14. County agencies—Duties.

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

A county welfare board, subject to supervisory regulations by state agency, may compromise its claim against estate of a deceased old age assistance recipient if circumstances warrant a compromise. Op. Atty. Gen., (521g), Oct. 2, 1939.

Merit system rules of division of social welfare remain in full force and effect, notwithstanding passage of Laws 1943, c. 230, so far as they do not conflict with the Veteran's Preference Laws, and if any person entitled to benefits of Veteran's Preference Law obtains a passing mark under grading providing by the merit system rules, such person is entitled to preference in appointment and to tenure, and the position of executive secretary of a county welfare board does not come within exceptions to the Veteran's Preference Act. Op. Atty. Gen. (85g), July 6, 1943.

3199-15. Pensioners—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 a recipient in accordance with the regulations established by the state agency.

(b) The amount and manner of payment of old age assistance shall be fixed with due regard to the condition of 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, less such portion of the applicant's income as is reasonably necessary for the support of needy dependents of such applicant, which deduction shall not exceed an allowance as such dependents would otherwise be entitled to receive for direct relief, does not exceed a maximum of $40.00 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) An amount not to exceed $100.00 received during a calendar year as gifts or as a result of personal labor, may be excluded in the discretion of the county agency in determining the amount of such old age assistance.

(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. (As amended Act Apr. 26, 1941, c. 466, §2; Apr. 15, 1943, c. 456, §1.)

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

Evidence held insufficient to show that applicant was entitled to old age assistance. Johns v. S., 143SW(2d)(MoApp)161; Clay v. S., 143SW(2d)(MoApp)165; Clay v. S., 143SW(2d)(MoApp)167; Redmon v. S., 143SW(2d)(Mo App)168.

Missouri social security act fixes rule for determining whether applicant for old age assistance has sufficient earnings to prevent assistance, but this rule should not be applied to question of whether son is financially able to support father. Howlett v. S., 146SW(2d)(MoApp)94.

Under Missouri old age assistance law if child is able to, and is, supporting parent, parent cannot get assistance from state. Id.

Missouri old age assistance act does not place upon son unqualified duty to support indigent father. Id.

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

Medical, dental, surgical, hospital and nursing care may be given by municipalities in addition to old age assistance. Op. Atty. Gen. (521v), March 17, 1943.

Municipality of recipients' settlement is liable for medical, dental, surgical, hospital, nursing, care. Op. Atty. Gen. (521v), March 29, 1943.

Welfare board may adopt a rule that it consider that an applicant received as income 40% of income earned by children residing with applicant, but this rule may not be applied in all cases. Op. Atty. Gen. (521m), Mar. 30, 1943.

An amendment which would eliminate from the consideration of the state agency income of applicant less than $100 would render act inconsistent with federal act. Op. Atty. Gen. (521m), Apr. 1, 1943.

(b).

Howe, 211M427, 1NW(2d)396; note under §3199-18(b).

Action of state agency in disallowing application for old age assistance was not arbitrary or unreasonable where there had been no attempt to repudiate or avoid an agreement entered into by applicant and a private charitable corporation whereby he turned over proceeds of his property to institution and it promised to care for applicant for remainder of his life, and no indication that charitable corporation was either unwilling or unable to continue supporting applicant in future. Application of Rasmussen, 207M28, 289NW773.

(b)(2).

Fact that a son-in-law is voluntarily providing poor person with subsistence of character described by South Dakota Social Security Act, foreclosed claim for assistance. Wood v. W., 293NW(SD)188.

Discretion of county agency is subject to rules and regulations of state agency. Op. Atty. Gen. (521p-1), June 20, 1941.

(c).

Welfare board paying old age assistance in amount of $30.00 per month cannot legally supplement the recipient with clothing from general relief fund. Op. Atty. Gen. (521v), Dec. 5, 1942.

3199-16 and 3199-17.

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

Time spent in residence in private rest home operated for profit should not be excluded in determining time of residence. Op. Atty. Gen. (521f-3), Oct. 28, 1943.

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 $5,000; or if the net value of his assets convertible into cash exceeds $300 or the combined convertible assets of husband and wife exceed $450. The county agency in its discretion may permit eligibility of an applicant having liquid assets in excess of this amount when the liquidation of the assets would cause undue loss; provided, however, that household goods and furniture in use in the home, wearing apparel and a lot in the 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. (As amended Act Apr. 26, 1941, c. 466, §3.)

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

(b).

Determination by county agency that applicants were not in need of old age assistance was properly set aside by state agency where no disqualification under provisions of the act was shown and reliance by county agency upon a regulation of state agency contrary to law was of no avail. Howe, 211M427, 1NW(2d)396. See Dun. Dig. 7426c.

3199-19. Legal settlement—Application to county agency—Verification—Hearing appeal.

(a) **Legal settlement — Requirements.** — 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, or an inmate of a private charitable institution or home for the aged, either by voluntarily becoming an inmate thereof, or if placed there and maintained by any governmental unit of the state or by his children or relatives, or under commitment to the guardianship of the director of social welfare or one of the state institutions, shall be excluded in determining the time of residence hereunder. (As amended Mar. 27, 1943, c. 203, §1.)

(b) to (d) * * * * *.

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

Application must be made with county welfare board of county in which applicant has his legal settlement for old age assistance purposes. Op. Atty. Gen. (521f-2), Nov. 19, 1941.

Receipt of poor relief does not toll statute. Id.

(a).

Amended. Laws 1943, c. 203. See above text.

To acquire a settlement for old age assistance purposes, there must be both residence and domicile continued for one year. Whether periodic absences during the year effect a change of domicile or prevent a person from acquiring a settlement depends largely upon intention, which is to be determined from a consideration of all the facts. Quale, 213M421, 7NW(2d)153. See Dun. Dig. 7426c.

"Residence" and "domicile" are not always identical terms, since "residence" may simply require bodily presence in a place, while "domicile" requires bodily presence in the place coupled with an intention to make it one's home. Id.

Insane person discharged from institution in care of son, but not restored to capacity, may acquire a settlement, depending upon capacity to have an intent and nature of legal restraint of liberty. Op. Atty. Gen., (248B-7), Jan. 29, 1940.

Where recipient of old age assistance and his wife moved to another county in March, 1938, and moved back in Oct., 1939, wife acquired legal settlement for poor relief purposes in other county prior to effective date of Laws 1939, c. 398, settlement being quite different for poor relief purposes than for purposes of old age assistance. Op. Atty. Gen., (521t-2), Feb. 28, 1940.

(b).

Despite fact that recipients of old age assistance moved to another county, responsibility for them remained with county originally granting assistance and latter's expedient of revoking grant, where unauthorized, was not effective to start period toward new settlement running against county where they were residents at time of revocation. Howe, 211M427, 1NW(2d)396. See Dun. Dig. 7426c.

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. (As amended Act Apr. 26, 1941, c. 466, §4.)

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

3199-21. Appeal to state agency—Notice—New hearing by county agency—Review—Etc.

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

Decision whether particular applicants are entitled to old age assistance rests with county agency, but where state agency hears case de novo upon appeal and reverses, its decision is binding upon county agency unless district court upon further appeal finds that decision fraudulent, arbitrary or unreasonable. Howe, 211M427, 1NW(2d)396. See Dun. Dig. 7426c.

While permitted to hear new or additional evidence if in its opinion such is necessary to a more equitable disposition of the appeal, district court may go no further than to find whether state agency's decision is fraudulent, arbitrary, or unreasonable. Quale, 213M421, 7NW(2d)153. See Dun. Dig. 7426c.

Where person whose social security assistance had been discontinued had failed to pursue administrative appeal required by state act, it was error to issue mandamus to compel commission to resume payments. Oklahoma Public Welfare Comm. v. S., 105Pac(2d)(Okl)547. (b).

Action of state agency in disallowing application for old age assistance was not arbitrary or unreasonable where there had been no attempt to repudiate or avoid an agreement entered into by applicant and a private charitable corporation whereby he turned over proceeds of his property to institution and it promised to care for applicant for remainder of his life, and no indication that charitable corporation was either unwilling or unable to continue supporting applicant in future. Application of Rasmussen, 289NW773.

While district court is permitted to hear new or additional evidence if necessary to a more equitable disposition of appeal, its scope of review is limited to a determination of whether or not decision of state agency was fraudulent, arbitrary, or unreasonable. Id. See Dun. Dig. 397b.

3199-22. Attorney general and county attorney to act for state and county agencies respectively.

Laws 1941, c. 2, appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

It is not legal duty of county attorney to handle any legal proceedings in connection with a guardian for a recipient of old age assistance, required by state regulations on demand of federal authorities, but he may voluntarily assist in securing appointment of a guardian, provided he makes no charge for his services and does not act as attorney for recipient or guardian in any capacity which might conflict with his duties as attorney for the county welfare board. Op. Atty. Gen., (521J-4), Oct. 20, 1939.

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

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

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

3199-23. Subpoenas—Administration of oaths.

Laws 1941, c. 2, appropriates, $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

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 state 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, provided that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which deceased resided, shall not limit payment by the county agency as herein authorized. Provided, further, that freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the burial of any such deceased recipient. 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, 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. (As amended Apr. 1, 1941, c. 112, §1.)

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

Action cannot be maintained against old age assistance recipient who has come into an inheritance, during his lifetime, unless old age certificate was improperly obtained. Op. Atty. Gen. (521g), Dec. 3, 1940.

3199-25. Same—Claim against estate; etc.

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

Op. Atty. Gen. (521g), Dec. 3, 1940; note under §3199-24.

Claim against estate should be for full amount of assistance received, including share of state and federal government. Op. Atty. Gen. (521g), Apr. 4, 1941.

Until probate court is petitioned for probate or administration of estate of old age assistance recipient, clerk of probate court is not required to accept for filing claims against the estate. Op. Atty. Gen. (521g), June 5, 1941.

A county may disregard its claim in probate court and foreclose its lien in an action in district court, but may not enforce the lien against the homestead of lienor while it is occupied by surviving spouse or minor children. Op. Atty. Gen. (521g), July 9, 1941.

Where man and wife received old age assistance and wife died leaving no estate and thereafter man died, claim should be filed and allowed against estate of husband for old age assistance furnished to wife. Op. Atty. Gen. (521g), Aug. 18, 1942.

Claims for old age assistance against funds recovered under statute relating to death by wrongful act. Op. Atty. Gen. (521g), Jan. 12, 1943.

Where husband and wife both received old age assistance and both died and only wife left property, section permits allowance of claims against wife's estate for total amount of old age assistance paid to both husband and wife. Op. Atty. Gen. (521g), July 1, 1943.

Section makes old age assistance paid a claim against the estate of the recipient. Op. Atty. Gen. (521g), July 27, 1943.

Statute of limitations does not run against any part of claim until termination of assistance. Op. Atty. Gen. (521g), Oct. 22, 1943.

Claim against estate of pensioner furnished in 1935 is not barred by limitations following death in 1943. Op. Atty. Gen. (521g), Nov. 22, 1943.

3199-26. Liability of recipient or his child or spouse—Sale of land outside state—Lien on property within state—Certificate of county agency—Filing lien—Priority.—

(1). * * * * *

(9) Whenever the county agency of the county granting assistance to a recipient is satisfied that the collection of the amount paid him as old age assistance will not be jeopardized or that the release of the lien against his property in whole, or in part, is necessary for the maintenance or support of the recipient, his spouse, minor or incapacitated children, or whenever the county agency is satisfied by competent evidence that the major portion of the investment in the recipient's homestead was made by the children of the recipient by personal services in the home or otherwise and that substantial justice can only be done by the release of said lien, it may, with the approval of the state agency, release such lien with respect to all or part of the real property of the recipient, and such release, or a certified copy thereof, shall be filed with the register of deeds of each county where the lien

certificate is filed. (As amended Act Apr. 25, 1941, c. 453, §1.)

(10). * * * * *

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

Laws 1939, c. 315, §1, amending this section so as to provide for a lien upon real estate of old age assistance recipients, is constitutional. Dimke v. F., 295NW75.

Op. Atty. Gen. (521g), Dec. 3, 1940; note under §3199-24.

State statute relinquishing liens previously given to county by statute upon property of old age assistance recipients, is not impairment of contract where return by recipient of amount of lien is condition precedent to relinquishment, the state having right to change contractual rights of its political subdivisions. Alameda County v. J., 106Pac(2d)(Cal)11.

A county welfare board, subject to supervisory regulations by state agency, may compromise its claim against estate of a deceased old age assistance recipient if circumstances warrant a compromise. Op. Atty. Gen., (521g), Oct. 2, 1939.

Purchasers of Torrens titles are not bound by record of lien statements for old age assistance filed with register of deeds. Op. Atty. Gen., (521p-4), Dec. 11, 1939.

No lien will arise against property owned by recipient spouse. Op. Atty. Gen., (521p-4), Dec. 26, 1939.

County agency, with approval of state agency, may compromise claims, notwithstanding amendment of 1939. Op. Atty. Gen., (521G), May 13, 1940.

County welfare board is given broad discretion with respect to release of lien after death of recipient, and county has power of election as between foreclosing lien and filing a claim in probate court. Op. Atty. Gen. (521P-4), Sept. 23, 1941.

Lien of all taxes levied on property of a rceipient of old age assistance while property remains in private ownership will be superior to any liens which may accrue for old age assistance, and old age assistance liens are extinguished upon forfeiture of property for delinquent taxes, subject to possible revival in case of repurchase of property by former owner or someone claiming under him. Op. Atty. Gen. (425C-13), Oct. 7, 1941.

Old age assistance lien is revived by repurchase of tax forfeited land by owner, but effect of repurchase by mortgagee would depend on relative priority of respective liens. Op. Atty. Gen. (425C-13), Oct. 9, 1941.

State fire marshal may condemn buildings on property against which old age assistance lien has been filed. Op. Atty. Gen. (197c), Oct. 27, 1941.

Where there is no surviving spouse or minor or incapacitated children, there is no legal impediment to enforcement of lien on land. Op. Atty. Gen. (521g), Nov. 6, 1941.

Heirs may discharge lien by paying amount thereof to county treasurer. Id.

Old-age assistance lien is enforceable as against an estate in land for life of recipient after recipient vacates property, and upon sale of land by such life tenant and remainderman, interest acquired by purchaser is subject to lien for old-age assistance, and proceeds of such sale are not exempt. Op. Atty. Gen. (521p-4), Apr. 18, 1942.

On foreclosure of lien county might bid amount of lien, plus costs and expenses of foreclosure, and receive title to the property subject to a tax lien. Op. Atty. Gen (521p-4), Sept. 4, 1942.

County attorney is not entitled to make a charge against county or welfare board for services in foreclosing an old agè assistance lien. Op. Atty. Gen. (521p-4), Sept. 4, 1942.

Effect of delivery of unrecorded deed to a child by one subsequently receiving old age assistance. Op. Atty. Gen. (521p-4), Jan. 15, 1943. See Dun. Dig. 2664.

Whether valid or not, a properly witnessed and acknowledged trust mortgage to a county in another state for the benefit of public welfare board of that state, federal government and county in providing old age assistance, is entitled to record, but is not exempt from mortgage registry tax, amount of which is to be determined upon such information as is available. Op. Atty. Gen. (373b-11), Feb. 9, 1943.

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

Old age assistance lien, junior to a mortgage, is transferred from the land to the surplus of the proceeds of sale after satisfying the first mortgage, following foreclosure of first mortgage. Op. Atty. Gen. (521p-4), Apr. 28, 1943.

Liens may be enforced after holder of life interest to which lien applies conveys such interest and vacates the property. Op. Atty. Gen. (521p-4), June 11, 1943.

Payments made on mortgage by daughter of recipient before and after old age assistance lien was filed have priority. Op. Atty. Gen. (521p-4), Nov. 13, 1943.

Lien for old age assistance has priority over claim filed in probate court for hospitalization in state hospital for insane. Op. Atty. Gen. 521p-4), Dec. 21, 1943.

(4).

Section 893 is applicable so as to require recording of old age lien certificates in Hennepin County. Op. Atty. Gen., (521p-4), Dec. 9, 1939.

Registrar of titles need not memorialize lien certificates upon owner's duplicate certificate of title. Op. Atty. Gen., (521p-4), Jan. 8, 1940.

"Homestead Statement-Old Age Assistance Act Lien statement" presented by welfare board of another state was not entitled to record. Op. Atty. Gen. (373b-11), Jan. 20, 1943.

(5).

Daughter of recipient furnishing money for purchase of homestead is entitled to a prior lien. Op. Atty. Gen., (521p-4), Nov. 16, 1939.

Claims of children for taxes and improvements take priority whether paid before or after Jan. 1, 1940. Op. Atty. Gen., (521p-4), Nov. 24, 1939.

If child can prove that he actually paid taxes, fact that recipient of assistance had been given money by county for purpose of paying taxes, but used money for other purposes, would not defeat priority unless child connived with recipient in such diversion, or knew of the diversion and took no steps to prevent it. Id.

Claims of children for taxes and improvements may be supported by any evidence properly admissible in a court of law. Id.

Effect of mortgage subsequent to filing of state's lien. Op. Atty. Gen., (521p-4), March 30, 1940.

Where land is purchased by the state for taxes, and state has lien on land for old age assistance, notice of expiration of redemption should be served upon the state through the attorney general. Op. Atty. Gen., (419f), May 4, 1940.

Where land standing in name of married woman was sold for taxes to her daughter who paid subsequent taxes, and old age assistance was thereafter furnished surviving husband of owner and lien filed, on expiration of period of redemption taxpayer acquires title free from any claim on part of state, and further old age recipient has only a life estate which will terminate upon his death and render lien of state unenforcible. Op. Atty. Gen., (521p-4), May 10, 1940.

Lien of state may not be enforced in property held in joint tenancy where old age assistance recipient dies prior to co-tenant, unless there has been some act working a severance. Op. Atty. Gen., (521p-4), May 20, 1940.

Where recipient of old age assistance became sole heir at law of a one-half interest in common in land and such interest was sold for $300 by order of probate court, purchaser took land free and clear from any lien of the state, and lien of state was transferred to recipient's interest in proceeds of sale, but where inherited interest in real estate was homestead of recipient who made his home on it with minor children, liens should be released so that proceeds might be used for support of dependents. Op. Atty. Gen., (521p-4), May 1, 1940, June 7, 1940.

State's lien for taxes is paramount, and upon sale for delinquent taxes state as holder of old age assistance lien, as distinguished from state as trustee for itself and various taxing subdivisions, has same interest in property as any other lienholder whose lien is junior to tax lien. Op. Atty. Gen. Jan. 15, 1941.

Claim against estate should be for full amount of assistance received, including share of state and federal government. Op. Atty. Gen. (521g), Apr. 4, 1941.

A county may disregard its claim in probate court and foreclose its lien in an action in district court, but may not enforce the lien against the homestead of lienor while it is occupied by surviving spouse or minor children. Op. Atty. Gen. (521g), July 9, 1941.

County has no express authority to pay up back taxes in order to protect its lien. Op. Atty. Gen. (521p-4), June 4, 1942.

A tax lien is superior to lien under old-age assistance law. Id.

Lien continues notwithstanding conveyance of land by old-age assistance recipient and is security for any assistance furnished after conveyance. Op. Atty. Gen. (521p-4), June 5, 1942.

County cannot protect its lien when there is a prior mortgage about to be foreclosed, or foreclosed and the year of redemption has not expired. Op. Atty. Gen. (521p-4), June 18, 1942.

Priority of lien upon foreclosure unaffected by order of payment when claim before court. Op. Atty. Gen. (521p-4), Nov. 2, 1943.

Provisions determining priority of claims in probate court are inapplicable to foreclosure proceedings in the district court. Op. Atty. Gen. (521p-4), Nov. 9, 1943.

(6).

Notwithstanding §893, register of deeds of St. Louis County may not charge a fee for filing certificates for old age lien law. Op. Atty. Gen., (521p-4), Jan. 29, 1940.

Notwithstanding section 8328(4) register of deeds paid only on a fee basis is entitled to a fee of only 25 cents, though certificate necessitates entry of a memorial on register or a cancellation thereof in connection with registered land. Op. Atty. Gen., (521p-4), Jan. 31, 1930.

No fee shall be charged for filing of releases of liens, except in counties where register of deeds is compensated otherwise than by a salary, and in such counties a fee of 25 cents shall be paid. Op. Atty. Gen., (521p-4), March 20, 1940.

Certificates and release or satisfactions are to be permanently filed. Op. Atty. Gen., (521p-4), May 29, 1940.

Liens on joint tenancy interest. Op. Atty. Gen. (521p-4), Sept. 22, 1942.

Lien on homestead for ald age assistance has priority over expenses of administration, burial and last sickness, and where claim for old age assistance is filed against estate and homestead is sold under license of court for a price equal to expenses of administration, funeral, and last illness, without purchaser obtaining a release of the lien, county may foreclose lien and disregard of proceedings in probate court. Op. Atty. Gen. (521p-4), Feb. 15, 1943.

Duties of executor after death of testator who was old age assistance recipient and whose wife survived him and has received assistance. Op. Atty. Gen. (521p-4), Feb. 24, 1943.

Where during lifetime of both, a husband and wife received old age assistance, and wife owned real property including homestead, and she died testate leaving husband a life estate in the property, and after his wife's death he continued to receive old age assistance until he died, and assuming certificate was filed with register of deed at time when husband and wife first began to receive assistance, then it is a lien for all assistance furnished to the wife thereafter, but such lien furnishes no security for assistance furnished to the husband, and though lien attached to life estate it could not be enforced during lifetime of husband, and estate of husband was extinguished by his death, but a claim could be filed in wife's estate because of her statutory liability to support her husband. Op. Atty. Gen. (521p-4), March 10, 1943.

This subsection does not relate to claims in the probate court but relates to the priority of the lien only, and if any court has power to determine the priority of liens it is the district court, and statute of limitations has no application to matter of priority of lien of a child of a recipient of assistance who advanced money to pay taxes to prevent loss of land at tax sale. Op. Atty. Gen. (521g-521p-4), Apr. 5, 1943.

When mortgage or other lien is on land at time of grant of assistance and new mortgages made to third party, proceeds of which are used to pay the mortgage in existence, new mortgagee by right of subrogation becomes equitable assignee of the prior mortgage and to that extent the lien of new mortgage is paramount. Op. Atty. Gen. (521p-4), July 26, 1943.

(9).

Amended. Laws 1941, c. 453 set out above.

Op. Atty. Gen., (521p-4), May 1, 1940, June 7, 1940; note under subsec. (5).

Lien may be released in favor of a mortgage given to refinance a mortgage prior to state's lien. Op. Atty. Gen. (521p-4), July 16, 1940.

(11).

Recipient of assistance executing mortgage running to daughter in an amount equal to money furnished by her for purchase of homestead would not disqualify mortgagor from receipt of assistance. Op. Atty. Gen., (521p-4), Nov. 16, 1939.

3199-27. Reimbursement of United States out of amounts collected.

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

State is under no obligation to pay money to United States until money is received, not when lien is foreclosed. Op. Atty. Gen. (521p-4), Feb. 20, 1943.

Proceedings for sale of lands acquired under foreclosure of lien for old age assistance are had under §6442 et seq. but proceeds are disposed of as provided in §3199-27. Op. Atty. Gen. (521p-4), Aug. 21, 1943.

If foreclosure is brought in the name of state as plaintiff, state should pay disbursements incident to the litigation, but not disbursements of defendant, and if foreclosure is brought in the name of the state and the county, they should each contribute their share. Op. Atty. Gen. (521p-4), Aug. 23, 1943.

Care and management of property acquired by county through forecolsure of old age assistance lien is with the commissioner of conservation until the sale of the land, and he has authority to lease the same and is charged with all of the responsibilities. Op. Atty. Gen. (521p-4), Aug. 26, 1943.

3199-28. Payment to guardian of recipient.—All payments of old age assistance must be issued to the recipient except in those instances in which a legal guardian has been appointed by the court having jurisdiction to make such appointments. (As amended Act Apr. 26, 1941, c. 466, §5.)

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

It is not legal duty of county attorney to handle any legal proceedings in connection with a guardian for a recipient of old age assistance, required by state regulations on demand of federal authorities, but he may voluntarily assist in securing appointment of a guardian, provided he makes no charge for his services and does not act as attorney for recipient or guardian in any capacity which might conflict with his duties as attorney for the county welfare board. Op. Atty. Gen., (521J-4), Oct. 20, 1939.

Guardians for persons receiving old age assistance must file a bond, and one of employees of county might not act as guardian for a number of these persons and have a single corporate blanket surety bond. Op. Atty. Gen. (521J-4), Mar. 16, 1942.

What items are chargeable as expenses of guardian is a question of fact. Op. Atty. Gen. (521j-4), Aug. 5, 1942.

3199-29. Assignability of pension—Exemption.

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

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. The county agency may modify, suspend or cancel any old age assistance certificate issued to any recipient, on the basis of findings obtained during investigations by a representative of such county agency. If on inquiry it appears that a certificate which was suspended pending inquiry, was properly obtained, the suspended installment 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. (As amended Act Apr. 26, 1941, c. 466, §6.)

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

Laws 1943, c. 481, provides:

"Section 1. **Declaration.**—The Legislature of the State of Minnesota hereby recognizes: that manpower in the State of Minnesota, as elsewhere, is one of the gravest problems with which we are confronted; that there are in Minnesota today many able-bodied and patriotic citizens who through no fault of their own have been forced to accept assistance from the Federal Government, the State and its counties cooperating, in order to gain subsistence; that many of these aged people now receiving old age assistance are capable of and most anxious to perform such services as they may to aid the war effort and are ready and willing to render much needed services on the farm and in industry; that the employment of such men on our farms and in our industries would greatly alleviate the present labor problems, give those cooperating a feeling of deep and abiding satisfaction and at the same time conserve in great measure social security funds,

"Therefore, the Legislature of the State of Minnesota declares that the general welfare of the State will be benefited by the fulfillment of the provisions hereinafter contained:

"Sec. 2. Subd. (1) **Persons receiving old age assistance may engage in useful occupation.**—Any person receiving old age assistance may, during the duration of this act, by giving written notice to the Welfare Board in the county in which he resides, engage in farm or industrial labor under the conditions herein provided.

"Subd. (2) **Recipient to notify board, when beginning work.**—Upon notifying such board in writing of his desire to engage in such needed temporary employment, such old age assistance recipient shall notify the board as to the wages or compensation in money which he is to receive. If such wages or compensation in money are equal to or greater than the amount allotted as old age assistance by the local welfare board, then such old age assistance recipient shall not receive any compensation from the old age assistance funds until he shall be restored to such old age assistance rolls as herein provided. If the amount received as such wages or compensation in money is less than the amount of the old age assistance granted, then the amount of the old age assistance grant shall be reduced by the local welfare board to the extent of his wages or compensation in money so received.

"Subd. (3) **Recipient to notify board when completing work.**—When such old age assistance recipient shall notify the local welfare board that his employment is terminated, then such local welfare board shall forthwith reinstate the full amount of the old age assistance grant if it shall be found that such old age assistance recipient is otherwise qualified under the law.

"Sec. 3. **To be in force for duration.**—This act shall be in force and effect from and after its passage, but shall expire and be of no further force and effect six months after the end of hostilities in World War Number Two. Approved Apr. 16, 1943."

Howe, 211M427, 1NW(2d)396; note under §3199-18(b).

A certificate directing payments, issued because of a mistaken interpretation of law, was "improperly obtained". Application of Rasmussen, 207M28, 289NW773.

Provision of Missouri Social Security Act providing for cancellation of benefits subsequent to death of bene-

ficiary construed to mean that benefits prior to beneficiary's death were not to be cancelled. Hughes v. S., 142SW(2d)(Mo)672.

Action cannot be maintained against old age assistance recipient who has come into an inheritance, during his lifetime, unless old age certificate was improperly obtained. Op. Atty. Gen. (521g), Dec. 3, 1940.

3199-31. Unlawful obtainment of assistance gross misdemeanor.

See note under §3199-32.

Word "entitled" is equivalent of word "eligible", as applied to age. State v. Jansen, 207M250, 290NW557.

An amendment of an indictment which alleges that old age assistance was obtained "by means of a false representation" in language of statute, so as to amplify and state in detail nature of false representations and reliance thereon, does not allege a new offense, but merely restates with particularity original one. Id.

Evidence held to sustain a conviction. Id.

3199-32. Same—Cancellation of certificate.

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

3199-33. Payment by county—Cost, how distributed; etc.

Laws 1941, c. 2 appropriates $1,200,000 for old age assistance and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

Names of all persons receiving old age assistance or other payments from county welfare funds and amounts paid to each must be published in annual county financial statement. State v. Heffelfinger, 209M343, 296NW181. See Dun. Dig. 2280b.

State may pay its share irrespective of payments by U. S.—State may not advance money for U. S.—County may not advance money for state or U. S. Op. Atty. Gen. (88a-24), June 16, 1942.

Where federal appropriation or payment is merely delayed, county may and state may not advance funds to pay share of federal government. Op. Atty. Gen. (88a-24), June 30, 1942.

3199-34. County budget—Levy of tax—Transfer from other funds—Etc.

Appropriating money for old age assistance, providing for a tax levy therefor and the issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes. Act Jan. 17, 1941, c. 2, §§1-4.

Where federal appropriation or payment is merely delayed, county may and state may not advance funds to pay share of federal government. Op. Atty. Gen. (88a-24), June 30, 1942.

It is the duty of county board to levy annually a sufficient tax to meet county's share of cost of old age assistance and other social security measures for ensuing year plus amount of overdraft remaining unpaid, though in computing amount regular amount payable from state and federal fund and reasonably certain of payment may be deducted, but no deduction can be made on account of expected distress county aid, and Indian county aid may be deducted if reasonably certain of payment. Op. Atty. Gen. (521w), Nov. 28, 1942.

Statute still requires that a distressed county in the forest area class must certify the amount of delinquency that will exist in the old age assistance fund, and such a county must make some levy on account of old age assistance, and for aid to dependent children. Op. Atty. Gen. (521w), Oct. 5, 1942.

(b).

It is legal to revise welfare fund budget so that more money can be allocated to old age assistance and less to poor account. Op. Atty. Gen., (521*l*-2), Oct. 11, 1939.

3199-35 to 3199-47.

Laws 1941, c 2, appropriates $1,200,000 for old age assistance, and provides for a tax levy therefor and issuance and sale of certificates of indebtedness in anticipation of the collection of such taxes.

Despite fact that recipients of old age assistance moved to another county, responsibility for them remained with county originally granting assistance and latter's expedient of revoking grant, where unauthorized, was not effective to start period toward new settlement running against county where they were residents at *time of revocation.* Howe, 211M427, 1NW(2d)396. See Dun. Dig. 7426c.

Where federal appropriation or payment is merely delayed, county may and state may not advance funds to pay share of federal government. Op. Atty. Gen. (88a-24), June 30, 1942.

PENSIONS FOR THE NEEDY ADULT BLIND

3199-66. Public assistance.—Assistance shall be given under this act to any person who;

(a) Is an adult blind person found, by the state agency, to be in need of financial assistance to enable him to pay for his maintenance or for other purposes;

(b) Has lost his eyesight while a resident of the state, or shall have resided in the state for a period of five years during the nine years immediately preceding the filing of the application for assistance, the last year of which shall be continuous and immediately precede such application;

(c) Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health;

(d) Is not an inmate of, or being maintained by any municipal, county, state, or national, or institution at the time of receiving assistance. An inmate of an institution may, however, make application for such assistance, but the assistance, if granted, shall not begin until after he ceases to be an inmate of such institution;

(e) Has not made an assignment or transfer of property so as to render himself eligible for assistance under this act, at any time within two years immediately prior to the filing of application for assistance pursuant to the provisions of this act;

(f) Is not, because of his physical or mental condition in need of continuing institutional care;

(g) Is not, while receiving assistance under this act, soliciting alms;

(h) Is not, while receiving assistance under this act, receiving old age assistance. (As amended, Act Apr. 21, 1941, c. 352, §1.)

3199-68. Amount of assistance—Where other public relief is received.—The amount of assistance which any recipient shall receive shall be determined by the State Agency, with due regard to the resources and necessary expenditures of the individual and the conditions existing in each case and in accordance with the rules and regulations made by the State Agency, and shall be sufficient, when added to all other income and support of the recipient to provide him with a reasonable subsistence compatible with decency and health.

In the event the family or dependents of a needy blind person receive any other form of public relief, the State or any instrumentality or political subdivision thereof shall exclude in determining the amount of assistance to be allotted such family or dependents the amount of $16.00 per month from any sums granted to a needy blind person hereunder, but if such grant to a needy blind person hereunder is less than $25.00 per month the whole amount shall be so excluded. (As amended, Act Apr. 28, 1941, c. 486, §1.)

3199-75. Appeals—Payment while pending.—If an application is not acted upon within 60 days after the filing thereof, the applicant may appeal to the state agency in the manner and form prescribed herein. Any applicant who is aggrieved by any order or determination of the state agency may request a reconsideration of his application and shall be entitled to a fair and impartial hearing before the state agency. All requests for reconsideration by the state agency shall be made in writing.

The state agency may make such additional investigation as it may deem necessary, and shall make such decision as to the granting of assistance and the amount of assistance to be granted the applicant as, in its opinion, is justified and in conformity with the provisions of this act.

If any final decision or determination by the state agency is not, in the opinion of the applicant or recipient, in conformity with this act, either may within 30 days after such decision appeal from the decision or determination of the state agency to the district court of the county in which the application was filed or in which the applicant resides, by serving a copy of a written notice of such appeal upon the state agency and filing the original of such written notice, together with proof of service, with the clerk of the district court of the said county. Such ap-

peal may upon not less than ten days' written notice, be brought on for hearing by either party before said district court at any general or special term, out of term, or in chambers; and in judicial districts having more than one judge, the senior or presiding judge shall hear the same or, if unable, shall refer the matter to some other judge in said district. Upon serving of such notice, the state agency shall furnish all parties in interest a concise statement of the issues involved copies of all supporting papers, a transcript of the testimony taken at the hearing before the state agency and a copy of its decision. The court shall summarily, upon 10 days' written notice, try and determine the said appeal upon the record of the state agency as certified to it and in said determination shall be limited to the issue as to whether the order of the state agency is fraudulent, arbitrary or unreasonable. No new or additional evidence shall be taken on such appeal or introduced by any party to such hearing on appeal in the district court, unless such new or additional evidence, in the opinion of the court, is necessary to a more equitable disposition of the appeal. If the court shall find the order of the state agency fraudulent, arbitrary or unreasonable, the court shall make an order declaring the order of the state agency null and void, giving its reasons therefor, and shall order the state agency to take further action in said matter not inconsistent with the determination of the court.

During the pendency of said appeal, if the state agency has awarded assistance to a recipient, said assistance shall be paid to him pending the determination of said appeal. The state agency and the district court shall construe the act liberally in favor of the blind applicant to the end that the applicant shall be awarded sufficient assistance compatible with decency and health. (As amended, Act Apr. 21, 1941, c. 352, §2.)

New evidence taken by court may be employed only in determining whether order of state agency is fraudulent, arbitrary or unreasonable. Op. Atty. Gen. (482a), June 20, 1941.

3199-76. Reconsideration of assistance grants.—All assistance grants made under this act shall be reconsidered as frequently as may be required by the rules of the state agency. After such reconsideration, the grant of assistance may be modified, suspended or revoked, as indicated by a reinvestigation of the recipient's financial circumstances as determined upon his living needs. (As amended, Act Apr. 21, 1941, c. 352, §3.)

DEPARTMENT OF SOCIAL SECURITY

3199-101. Qualifications—Salary, etc.

Op. Atty. Gen. (88A-4), Jan. 5, 1942; note under §3199-102.

3199-102. Powers and duties—Director of social welfare—As "state agency" within federal act—

(a) All the powers and duties now vested in or imposed upon the state board of control by the laws of this state or by any law of the United States are hereby transferred to, vested in, and imposed upon the director of social welfare, except the powers and duties herein otherwise specifically transferred to other agencies. The director of social welfare is hereby constituted the "state agency" as defined by the social security act of the United States and the laws of this state.

The Director of Social Welfare shall:

(1) Administer and supervise all forms of public assistance in the state including general relief, relief to transients and state homeless, relief to veterans, old age assistance, aid to dependent children, aid to the blind and otherwise handicapped persons and such other welfare activities or services as may from time to time be vested in the director. Provided, that nothing herein shall transfer from the Soldiers' Home Board any of its present rights, powers, or duties, all of which shall continue to be exercised by said board.

(2) Administer and supervise all child welfare activities; promote the enforcement of laws protecting defective, illegitimate, dependent, neglected and delinquent children; license and supervise private child-caring and child-placing agncies and institutions; supervise the care of children in boarding and foster homes or in private institutions and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(3) Administer and supervise all mental hygiene work involving persons not in a state institution. The authority and power conferred by this subsection does not extend to administration or supervision of state institutions of mental hygiene nor to patients therein during the period of actual confinement, nor to mental testing, or to persons feeble-minded, epileptic, or mentally ill on parole from state institutions. (As amended Apr. 24, 1943, c. 612, §1.)

(4) Administer and supervise all non-institutional services to the handicapped persons, including the blind, the deaf, the tubercular, the crippled, and otherwise handicapped persons. The authority and power conferred by this subsection shall include such noninstitutional servcies to the handicapped as are now authorized to be performed by the state board of control and by the division of the deaf of the state industrial commission.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state and Federal by performing services in conformity with the purposes of this act, including the establishment of an efficient working relationship with the director of institutions relating to the care and supervision of individuals both prior to and after departure from institutions under the supervision of said director of institutions.

(6) Act as the agent of and cooperate with the Federal government in matters of mutual concern relative to and in conformity with the provisions of this act, including the administration of any Federal funds granted to the state to aid in the performance of any functions of the director as specified in this act.

(7) Establish and maintain such administrative units as may reasonably be necessary for the performance of administrative functions common to all divisions of the department.

(8) Administer and supervise such additional welfare activities and services as may, from time to time, hereafter be vested by law in the state department.

(9) Establish within his division a Bureau of Old Age Assistance, of Aid to Dependent Children, and a Bureau of Child Welfare.

(10) The director is hereby specifically constituted as guardian of both the estate and the person of all of the wards of the state of Minnesota and other persons the guardianship of whom has been heretofore vseted in the state board of control, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as feebleminded or epileptic. All of said guardianships, and the funds and property of the same, are hereby transferred to and vested in said director, and said director is hereby constituted a legal entity and is hereby empowered to act as guardian under any laws of this state heretofore conferring such powers upon the state board of control. (As amended Apr. 24, 1943, c. 612, §2.)

(11) All the powers and duties vested in or imposed upon the director of public institutions with reference to the State Sanatorium for Consumptives are hereby transferred to, vested in, and imposed upon the Director of Social Welfare.

(12) The specific enumeration of powers and duties are hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained. (As amended Mar. 25, 1943, c. 177, §1; Apr. 22, 1943, c. 570, §1; Apr. 24, 1943, c. 612, §§1, 2.)

(b) to (d) * * * * *.

Powers and duties respecting children committed to state training school for boys and Minnesota home school for girls vested in state director of public institutions, state board of parole, director of social welfare, or any other state agency are transferred to the director of public institutions. Laws 1941, c. 356.

Responsibility for selecting proper persons to examine patients, for causing sterilization operation upon the feeble-minded, and for consenting thereto is imposed upon director of social welfare. Op. Atty. Gen., (679l), Dec. 22, 1939.

Services of notices of restoration to capacity of five classes of mentally defective patients following reorganization act of 1939 stated. Op. Atty. Gen. (640), July 17, 1940.

Laws 1941, c. 356, as far as it goes, supersedes Laws 1941, c. 159, and functions of public guardianship and other custodial authority over children committed either to training school for boys or to home school for girls are vested in director of public institution, including money belonging to them. Op. Atty. Gen. (88A-4), Jan. 2, 1942.

A check for $2,000, payable to state board of control, from estate of a deceased person, for benefit of an inmate of state school for feeble-minded, pursuant to a will, should be deposited with state treasurer for acceptance as a gift or bequest and for administration of proceeds as provided by Mason's St. 1927, §§89-92, as amended, and expenditures authorized by will should be made under direction of director of social welfare, and remainder upon death of feeble-minded person, left to state board of control to be used "for its general corporate purposes" should be handled as might be agreed between director of social welfare and director of public institutions, and in absence of agreement between them should be divided equally between division of social welfare and division of public institutions. Op. Atty. Gen. (88A-4), Jan. 5, 1942.

State Board for Vocational Education and Director of Social Welfare should unite in approval of plan for administration of money appropriated by Congress for vocational rehabilitation of person disabled in industry or otherwise and their return to civil employment, but administration of aid to non-institutionalized blind is under Director of Social Welfare, and all other administration is under the State Board for Vocational Education. Op. Atty. Gen. (170h), Sept. 15, 1943.

(a).

Amended. Laws 1943, c. 570, §1. See above text.

Veteran's relief may be handled on a cash grant basis instead of the prevailing relief order base, in a discretion of the commissioner of veteran's affairs. Op. Atty. Gen. (310s), June 29, 1943.

(a)(2).

Child born to prisoner at Women's State Reformatory may not be placed in a private charity or boarding home by director of public institution or superintendent of reformatory, but case should be referred to director of social welfare, who should institute a proceeding in juvenile court for commitment if child is a dependent. Op. Atty. Gen. (840a-6), July 13, 1940.

(a)(3).

Amended. Laws 1943, c. 612, §1. See above text.

(a)(4).

Bureau of crippled children may comply with request of local club for names and addresses of crippled children in community so that they may be notified that club will furnish necessary transportation. Op. Atty. Gen. (851r), Aug. 19, 1940.

Bureau of Crippled Children may furnish to commissioner of education name, address, and diagnosis of each crippled child in state for purposes of statistical information and preparation of courses of teaching in physical education department of university, identity of crippled children not appearing in final form. Id.

(a)(6).

Amended. Laws 1943, c. 177. See above text.

(a)(10).

Amended. Laws 1943, c. 612, §2. See above text.

Guardian of person and estate of a married insane woman committed to a state institution has no legal authority to dictate a policy of administration to director of division of public institutions as affecting temporary releases of patient. Op. Atty. Gen. (248a-2), Apr. 29, 1942.

Director of social welfare is not guardian of estate and person of an inmate of Home School for Girls to the extent that he should represent her for injuries received in an automobile accident while on parole. Op. Atty. Gen. (629), Aug. 17, 1942.

3199-103. Powers and duties vested in Board of Control transferred to Director of Public Institutions.—The director of public institutions is hereby specifically constituted the guardian of both the state and person of all feeble-minded and epileptic persons, the guardianship of whom has heretofore been vested in the State Board of Control or in the Director of Social Welfare whether by operation of law or by an order of court without any further act or proceeding whatever, and all the powers and duties vested in or imposed upon the State Board of Control or the Director of Social Welfare, with reference to mental testing or persons feeble-minded, epileptic or mentally ill on parole from state institutions, and with reference to the institutions of the State of Minnesota are hereby transferred to, vested in, and imposed upon the Director of Public Institutions, and in relation thereto said Director is hereby charged with and shall have the exclusive power of administration and management of all of the following State institutions: The State Prison, the State Reformatory for Men, the State Training School for Boys, the School for the Feeble-Minded, State Hospitals and Asylums for the Insane, the State School for the Blind, the State School for the Deaf, the State Public School for Dependent Children, the State Epileptic Colony, the State Hospital for Indigent, Crippled and Deformed Children, the State Hospital for Inebriates, the State Sanatorium for Consumptives, the Home School for Girls, and the State Reformatory for Women. The Director shall have power and authority to determine all matters relating to the unified and continuous development of all of the foregoing institutions and of such other institutions, the supervision of which may, from time to time, be vested in the Director. It is the intent of this Act that there be vested in the Director all of the powers, functions, and authority now vested in the State Board of Control relative to State institutions.

It shall be the duty of the several directors to actively cooperate, each with the other, in establishing an efficient working relationship relative to the care and supervision of individuals both prior to and after departure from institutions herein above mentioned. (As amended Apr. 22, 1943, c. 570, §2; Apr. 24, 1943, c. 612, §3.)

Act Apr. 1, 1941, c. 358, appropriates money for the Division of public institutions and activities under its control and authorizes the Commissioner of administration to transfer certain funds.

Op. Atty. Gen. (88A-4), Jan. 5, 1942; note under §3199-102.

In proceeding for restoration to capacity of a man committed to state hospital as insane notice should be given both to director of social welfare and to director of public institutions if patient is on parole, but only upon director of public institutions if patient is an actual inmate of state hospital. Op. Atty. Gen., (248B-8), May 9, 1940.

Child born to prisoner at Women's State Reformatory may not be placed in a private charity or boarding home by director of public institution or superintendent of reformatory, but case should be referred to director of social welfare, who should institute a proceeding in juvenile court for commitment if child is a dependent. Op. Atty. Gen. (840a-6), July 13, 1940.

Services of notices of restoration to capacity of five classes of mentally defective patients following reorganization act of 1939 stated. Op. Atty. Gen. (640), July 17, 1940.

Licensing of maternity hospitals is one of functions transferred to department of health, and it is no longer necessary for division of social welfare to issue license. Op. Atty. Gen. (840a-8), June 24, 1941.

Rules of admission to Gillette State Hospital for Crippled Children is a subject for proper regulation by Director of Public Institutions, but they cannot extend to administration of other governmental subdivisions and that department. Op. Atty. Gen. (840A-4), Aug. 23, 1941.

An unused balance of appropriation made in Laws 1939, c. 365, §7, "addition to Dairy Barn", should be transferred to appropriation made by Laws 1941, c. 529, §1(5B), and should not be cancelled out, and might be used to increase appropriation of $1500 for machine shed despite wording of Laws 1941, c. 358, §21. Op. Atty. Gen. (9A-39), Jan. 13, 1942.

Appropriation by Laws 1941, c. 358, §3, for piggery and slaughterhouse at Moose Lake State Hospital, is available until June 30, 1943. Op. Atty. Gen. (640A), Mar. 6, 1942.

Operation of state owned farms by the State Reformatory at St. Cloud—Use of inmate labor thereon—Payment of expenses of operation—Funds available. Op. Atty. Gen. (270j), May 1, 1942.

Personal injuries sustained by ward of state in automobile accident are personal and not state business. Op. Atty. Gen. (844g), July 10, 1942.

State as guardian of girls committed to home school for girls has no authority to give consent to blood donation to blood bank by such girls, except to determine whether it would be prejudicial to proper administration of institution, but such consent must be given by the girl or her parent or personal guardian. Op. Atty. Gen. (835), Nov. 5, 1942.

Powers of Board of Control in relation to supervision of jails and lockups have been transferred to the Director of Public Institutions. Op. Atty. Gen. (127b), Feb. 16, 1943.

3199-105. Social Security Board.

Op. Atty. Gen. (88A-4), Jan. 5, 1942; note under §3199-102.

3199-106. State Board of Parole continued—Limitations.

Powers and duties respecting children committed to state training school for boys and Minnesota home school for girls vested in state director of public institutions, state board of parole, director of social welfare, or any other state agency are transferred to the director of public institutions. Laws 1941, c. 356.

Section transfers to board of parole, in addition to its previous functions with respect to the prison and reformatory, all functions formerly assigned to state board of control with respect to supervising persons on parole from the state training school for boys and the state home school for girls, state hospitals for the insane, and state school for feeble-minded and the colony for epileptics, but the authority of the board of parole does not extend to dependent children placed out from state public school at Owatonna, authority to place children out from that school being vested entirely in director of social welfare as guardian. Op. Atty. Gen., (640), Dec. 5, 1939.

Supervisory powers transferred to board of parole include all powers formerly vested in State Board of Control to appoint agents, whether state or local to supervise persons on parole, but qualifications for such agents are governed by existing statutes. Id.

Transfer of functions to board of parole "in respect to supervising persons on parole" gave board no greater power to grant paroles than it already had, though power to revoke paroles is impliedly vested in board as a necessary incident of power of supervision, subject to certain exceptions and qualifications arising under laws relating to various classes of persons. Id.

In proceeding for restoration to capacity of a man committed to state hospital as insane notice should be given both to director of social welfare and to director of public institutions if patient is on parole, but only upon director of public institutions if patient is an actual inmate of state hospital. Op. Atty. Gen., (248B-8), May 9, 1940.

Services of notices of restoration to capacity of five classes of mentally defective patients following reorganization act of 1939 stated. Op. Atty. Gen. (640), July 17, 1940.

Guardian of person and estate of a married insane woman committed to a state institution has no legal authority to dictate a policy of administration to director of division of public institutions as affecting temporary releases of patient. Op. Atty. Gen. (248a-2), Apr. 29, 1942.

3199-106a. Further powers and duties transferred to director of public institutions.—All powers and duties respecting children committed to the state training school for boys and the Minnesota home school for girls heretofore vested in or imposed upon the state director of public institutions, the state board of parole, the director of social welfare, or any other agency of the state except the director of public institutions, under Mason's Minnesota Statutes of 1927, Sections 4472, 4473 and 8648, and Mason's Supplement 1940, Sections 3199-102 and 3199-106, and acts amendatory thereof or supplementary thereto, are hereby transferred to, vested in, and imposed upon the director of public institutions. (Act Apr. 21, 1941, c. 356, §1.)
[249.12]

Laws 1941, c. 356, as far as it goes, supersedes Laws 1941, c. 159, and functions of public guardianship and other custodial authority over children committed either to training school for boys or to home school for girls are vested in director of public institution, including money belonging to them. Op. Atty. Gen. (88A-4), Jan. 2, 1942.

One committed to state home school for girls is a ward of state until she becomes 21 years of age, and director of division of public institutions is her guardian though she is out on parole and may consent to operation of tonsillectomy by doctor at institution, over objections of parents of ward, providing the ward also consents and has an understanding of nature and consequences of operation by doctor in institution. Op. Atty. Gen. (88A-27e), Jan. 16, 1942.

Delinquent child who escaped from girls school at Sauk Center is not subject to extradition, but director of social welfare as guardian has right to custody of his ward and may obtain it in courts of the other states. Op. Atty. Gen. (193b-15), July 14, 1943.

3199-106b. Unexpended appropriations, records, etc., transferred.—All unexpended appropriations made to any agency of the state except the director of public institutions for any of the purposes mentioned in Section 1, together with all records, equipment, and other property pertaining to such purposes in the hands of such other agency, are hereby transferred to the director of public institutions. (Act Apr. 21, 1941, c. 356, §2.)
[249.12]

Sec. 3, Act Apr. 21, 1941, c. 356, provides that the act shall take effect from July 1, 1941.

FEDERAL COMMODITY STAMP PLANS

3199-108. Public assistance and co-operation.—Any county, county welfare board, city, town, village, borough, or other subdivision of the State of Minnesota or any public relief or social welfare agency or representative of any one of them may, in the furtherance of any federal commodity or commodity stamp plan or program, assist, actively co-operate with and act as agent of the federal, state or local governments or any agency of any one of them. (Act Mar. 28, 1941, c. 98, §1.)
[261.201]

Act does not apply to soldiers' relief fund. Op. Atty. Gen., June 17, 1941.

3199-109. Boards of public welfare—Commodity stamp fund—Contracts—Agencies to dispense relief.—(a) Any county, county welfare board, city, town, village, borough or other subdivision of the State of Minnesota or any agency of any one of them authorized to expend public moneys for the direct relief of the poor is hereby empowered to acquire and distribute to its poor, federal commodities and commodity stamps in lieu of other relief for the same needs, to transfer or deposit therefor cash in advance and to defray administrative expenses incurred in such acquisition and distribution including bond and insurance premiums from moneys available for direct relief and social welfare purposes.

(b) In any county operating under the township system of caring for the poor, and containing a city of the first class operating under a home rule charter, wherein there is established in such city a Board of Public Welfare for the administration of poor relief in such city, such Board of Public Welfare shall be the exclusive agency to acquire and dispose of such federal commodities and commodity stamps in such city. Such city of the first class is hereby empowered to create and establish a commodity stamp fund. Moneys for said fund shall be made available from the poor fund of such city and by contributions from federal and state funds, if any, made available for direct relief purposes. Said commodity stamp fund shall not exceed the sum of $150,000. In such counties the township system of caring for the poor shall be continued, and the towns, villages and cities of the third and fourth class therein desiring to participate in said federal commodities and commodity stamp plans, are hereby empowered to contract with each other and with the federal government or any agency thereof to create and establish a central representative agency to be designated as the suburban agency. Said suburban agency shall be empowered to acquire and dispose of federal commodities and commodity stamps in the manner provided for in Section 2, subdivision (a), and Section 3 of this act, and to perform all other acts, obligations and duties undertaken by the terms of any agreement authorized in this section. The participating towns and municipalities are hereby empowered to create and establish a commodity stamp fund, and to establish a fund to defray administration expenses of said suburban agency, and to transfer said funds to the exclusive custody of said agency. Cost of administration and other expenses of said agency, including bond and insurance premiums, shall be paid on a pro rata basis. Moneys for the commodity stamp fund established by such participating towns and municipalities shall be made available by contributions from their respective poor funds, and

from contributions from federal and state funds, if any, made available for direct relief purposes. Said stamp fund shall not exceed the sum of $30,000. The suburban agency shall quarterly give a full and complete accounting and report to the participating towns and municipalities in the manner and form as prescribed by the public examiner and approved by the attorney general. Both the commodity stamp fund of said city of the first class and the commodity stamp fund for said suburban agency shall consist of the original moneys transferred to it, the stamps acquired and the proceeds of disposition. Such commodity stamp funds shall remain inviolate during the operation of said stamp plan program, and that no part thereof shall be used to defray administration or any other expenses whatsoever. The Board of Public Welfare and the suburban agency, or their respective designees, may act as stamp issuing officer and shall have the power to do all other acts necessary to the proper administration of their respective stamp funds. In such counties neither the Board of County Commissioners nor the County Welfare Board shall levy, contribute or expend any moneys in the furtherance of any stamp plan program, however operating in said county. In such counties the provisions contained in Section 4, subdivisions (a), (b), (d), (e), and (f) of this act shall not apply. (Act Mar. 28, 1941, c. 98, §2.)
[261.202]

Rural Hennepin County Surplus Commodity Committee, agency of county, may register truck as tax exempt. Op. Atty. Gen. (632e-12), Nov. 21, 1941, modifying Feb. 19, 1940.

3199-110. Same—Acquiring federal commodity stamps.—Any county welfare board within the State of Minnesota, any city of the first class and any suburban agency referred to in Section 2, subdivision (b) is hereby authorized to acquire federal commodity stamps by means of the commodity stamp fund hereinafter established, to dispose of them to persons and governmental subdivisions qualified to acquire them under state and federal law and regulations and to receive cash and deposits therefor in advance. No commodity stamps so acquired may be disposed of except upon the receipt of cash upon delivery or cash transferred or deposited in advance in accordance with Section 2 of this act. Any contribution to the principal of the commodity stamp fund by a governmental subdivision of the State of Minnesota as authorized by this act shall not constitute a transfer or deposit. (Act Mar. 28, 1941, c. 98, §3.)
[261.203]

3199-111. Commodity stamp fund in certain cities and counties—Contributions—Borrowing—Stamp issuing officers — Expenses — Accounting.—(a) Any county within the State of Minnesota, regardless of the system under which provision is made for the relief and support of its poor, and any city of the first class, is hereby authorized to create and establish a commodity stamp fund, hereinafter referred to as the fund, for the acquisition under Section 3 of this act of federal commodity stamps, which fund shall not exceed the minimum necessary to qualify under federal rules, regulations and law and in no event shall exceed $150,000 for cities of the first class and $150,000 for counties in which they are located, and in all other counties $50,000. The fund shall consist of the original moneys transferred to it, the stamps acquired and the proceeds of disposition. It shall always remain inviolate.

(b) Moneys may, in addition to such other methods as may exist, be made available for the fund in any one or more of the following ways:

(1) By the same method as moneys are made available for defraying expenses of the county welfare board under Sections 974-11 to 974-22 of Mason's Supplement 1940, or as such sections may be amended or supplemented.

(2) By contribution from the federal, state or governmental subdivisions thereof of moneys available for direct relief or social welfare purposes.

(3) By borrowing and transferring to the fund. In counties operating under the county system of poor relief, borrowing shall be in the manner provided by law for direct relief or social welfare purposes or both. In counties operating under the township system of poor relief in the manner provided in Sections 1938-3 through 1938-13 of Mason's Minnesota Statutes of 1927, as heretofore or hereafter amended. Provided, however, that for the purpose of computing statutory debt limits, the money borrowed under the authority of this subdivision for the purpose of contribution to the fund shall not be considered to constitute indebtedness, bonded or otherwise.

(c) No moneys shall be transferred to the fund until after all bonds have been posted and insurance acquired.

(d) The county welfare board, its executive secretary or other designee may act as stamp issuing officer and shall have power to do all other acts necessary to the proper administration of the fund.

(e) Expenses incident to the creation and administration of the fund, including bond and insurance premiums may be defrayed in the same manner as other expenses of the county welfare board under Sections 974-11 to 974-22 of Mason's Supplement 1940, or as such sections may be amended or supplemented.

(f) Accounting shall be as follows:

(1) With respect to the fund, by such method or methods as the public examiner by regulations, duly approved as to legality by the attorney general, may direct. Semi-annually or at such other times as the board of county commissioners may designate the county welfare board shall give an accounting and report to the county auditor.

(2) With respect to any transfer or deposit made in advance by a governmental subdivision of the State of Minnesota to any county welfare board or its stamp issuing officer, by accounts and reports to the transferring or depositing subdivision made monthly or at such times and in such manner as the public examiner, by regulations duly approved as to legality by the attorney general, may direct. The duly approved regulations of the public examiner under this subsection (f) shall be sent to all county welfare boards within the state.

(g) At the termination of any plan all commodity stamps shall be disposed of and the fund in cash shall be returned to the contributors thereto. (Act Mar. 28, 1941, c. 98, §4.)
[261.204]

County treasurer acting as stamp-issuing officer pursuant to federal commodity act is not entitled to extra compensation therefor. Op. Atty. Gen. (339s), May 20, 1942.

(a).
It is necessary for county board of commissioners to pass a resolution establishing and creating a food stamp fund. Op. Atty. Gen. (339s), May 17, 1941.

(b).
There is no authorization in act which permits transfer of moneys from one fund to another, but if this is permitted under existing statute for direct relief or social welfare purposes or both, it would also be available for food stamp purposes. Op. Atty. Gen. (339s), May 1, 1941.

(b)(3).
Revolving fund for financing food stamp plan. Op. Atty. Gen. (339s), May 23, 1941.

(d).
County treasurer may be designated as stamp issuing officer. Op. Atty. Gen. (339s), May 23, 1941.

3199-112. Borrowing money.—The government subdivisions named in Section 2 of this act may, for the purposes of that section, borrow money in the manner provided by law for direct relief or social welfare purposes or both. (Act Mar. 28, 1941, c. 98, §5.)
[261.205]

Law does not authorize borrowing of funds by discount of a county warrant. Op. Atty. Gen. (339s), Mar. 28, 1941.

3199-113. Same — Contributions.—Any governmental subdivision of the State of Minnesota authorized to expend public moneys for the direct relief of its poor is hereby empowered to contribute to the fund and, for such purpose may borrow money in the manner provided by law for direct relief or social welfare purposes or both. (Act Mar. 28, 1941, c. 98, §6.)
[261.206]

3199-114. Custodians—Surety bonds — Insurance against loss.—Any person or persons into whose care and custody there comes any cash, stamps or other property used in any federal commodity or commodity stamp plan or program shall post a bond running to the State of Minnesota approved by and in such sum as the board of county commissioners or other governing body of the responsible governmental subdivision or authorized representative agency shall deem adequate protection for all stamps, cash and property in such person's or persons' care and custody. All stamps, cash and property in the possession of any governmental subdivision of the state or any agency thereof shall be insured against loss or deposited with a depository of public funds in the manner provided by law. (Act Mar. 28, 1941, c. 98, §7.)
[261.207]

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

Depositories for commodity stamp funds are to be selected by county welfare boards and approved and bonded in accordance with other statutes dealing with depositories of public funds. Op. Atty. Gen. (140a-7), Dec. 22, 1941.

Officer is not liable to county for loss to county through no fault of officer. Op. Atty. Gen. 45(D), Dec. 21, 1943.

3199-115. Construction of act.—This act shall be construed so as to further its purpose which is to enable governmental subdivisions of the State of Minnesota to participate in federal commodity and commodity stamp plans and programs. (Act Mar. 28, 1941, c. 98, §8.)
[261.208]

3199-116. Federal Commodity Stamp Plans—Validating act.—In all cases in which any county within the State of Minnesota or any agency thereof has created or caused to be created a revolving fund for the acquisition and disposition of federal commodity stamps pursuant to arrangements with the United States Department of Agriculture or any agency thereof and in all cases in which any county, town, city, village or other subdivision of the State of Minnesota or any agency of any one of them has obtained or caused to be obtained commodity stamps for distribution, in lieu of other relief, to the poor, such expenditures, distributions, acquisitions and dispositions and all acts incident and necessary to participation in any such commodity stamp plan are hereby legalized and declared to be valid. (Act Mar. 28, 1941, c. 99, §1.)
[647.49]

CHAPTER 16

Intoxicating Liquors

BEER BILL

3200-5. Municipalities may issue licenses for sale of non-intoxicating beverages.

Sale of nonintoxicating malt liquors is subject to regulation under police power of state, and delegation to municipal councils of authority to license and regulate sales thereof, is a valid exercise of such power. State v. Ives, 210M141, 297NW563. See Dun. Dig. 1610, 4905.

Ordinance of city of Minneapolis fixing punishment for sale of nonintoxicating malt liquor without a license at a definite term of imprisonment of 90 days in the workhouse is valid. Id. See Dun. Dig. 1661(2).

Where nonintoxicating liquor licensee appeared pursuant to notice before city council without objection and contested proceeding for revocation of license on its merits, he could not question sufficiency of notice or form of charges made against him. State v. City of Alexandria, 210M260, 297NW723. See Dun. Dig. 4919.

Municipal ordinances are not criminal statutes and violations thereof are not crimes, nor governed by rules of criminal law, save in certain specified exceptional particulars. State v. Jamieson, 211M262, 300NW809. See Dun. Dig. 4913.

Permit to drug store in dry territory to sell liquor on prescription is authorized, and does not prevent issuance of 3.2 beer license. Op. Atty. Gen., (218J-3), Sept. 28, 1939.

There is no state law which prohibits a gift of intoxicating liquor or nonintoxicating malt beverages, but it may be argued that a gift of liquor or beer with a meal by a hotel or restaurant would be a mere subterfuge. Op. Atty. Gen., (217), Nov. 4, 1939.

There is no state statute prohibiting granting of license near a public school. Op. Atty. Gen., (217f-1), Dec. 14, 1939.

Town board may limit number of 3.2 beer licenses, but has no right to refuse to approve all applications for licenses without cause. Op. Atty. Gen., (217B-8), Jan. 10, 1940.

Electors of a township do not have right to vote on question of issuing license. Op. Atty. Gen., (218g-9), April 18, 1940.

In absence of any provision requiring mayor to approve or affix his signature to a 3.2 non-intoxicating malt liquor license, it is duty of city clerk to issue license when granted by city council. Op. Atty. Gen. (217-B-4), July 18, 1940.

Town board's authority is limited to approval or disapproval of application, and town board has no right to regulate conduct of licensee's business after a license has been issued by county board, nor can it require county board to regulate establishment. Op. Atty. Gen. (217B-8), Nov. 22, 1940.

An ordinance regulating sale of nonintoxicating malt liquors may prohibit sales of carbonated beverage or soft drink, excepting therefrom ice cream sodas and malted milk, during hours of sale of malt liquors, and make it a misdemeanor to permit bottles or containers of malt liquors to remain on bars or tables or shelves or fixtures during closing hours, and may make it a misdemeanor for a person to drink malt liquors in a licensed place during closing hours. Op. Atty. Gen. (217C), Nov. 26, 1940.

Authority of city to "regulate" authorizes city to require a $1000 bond. Op. Atty. Gen. (217C), Jan. 9, 1941.

County board may revoke license after a hearing on a showing that assaults and disorderly conduct have been frequent, though there has been no criminal conviction. Op. Atty. Gen. (217B-9), Oct. 21, 1941.

Distilled, fermented, spirituous or vinous beverages having up to and including 3.2% of alcohol by weight are not regulated by the beer law or the intoxicating liquor law, and may be regulated by municipalities as soft drinks. Op. Atty. Gen. (217), Aug. 6, 1942.

City ordinance prohibiting employment of any person under age of 21 years in places licensed to sell non-intoxicating malt beverages is valid. Op. Atty. Gen. (217F-3), June 30, 1943.

An ordinance providing that a license shall not be issued to a chain store is discriminatory and invalid. Op. Atty. Gen. (217c), July 6, 1943.

County board may not grant a license for a business in an organized township unless the town board had given its consent, and when the town board has given its consent, the determination of whether or not the license is to be granted rests exclusively with the county board. Op. Atty. Gen. (217b-2), July 21, 1943.

A city ordinance prohibiting the serving of beer to a minor under 18 years of age, even though the sale is made to a person over 21 years of age, would be valid. Op. Atty. Gen. (217f-3), July 21, 1943.

County board or governing body of a city or village may require that an on-sale place be closed during prohibited hours. Op. Atty. Gen. (218j-8), Sept. 9, 1943.

Revocation of unintoxicating liquor license and reconsideration of order of revocation. Op. Atty. Gen. (217b-9), Sept. 24, 1943.

3200-6. Unlawful to sell unless licensed.—It shall be unlawful to sell non-intoxicating malt liquors, at retail, or wholesale, except when licensed as hereinafter provided. There shall be two kinds of licenses, viz: