

RURAL LOCAL GOVERNMENT IN MINNESOTA

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by

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Introduction:

The ~~by~~ local governments that existed in the American colonies are usually grouped into three principal classes. In the first of these classes are placed those colonies in which the town was the more important unit of local government; in the second class, the county is the only important unit; and in the third, the functions of local government are shared between the County and Town. While this classification possesses the merit of simplicity and is perhaps sufficient for a cursory view of the subject, the difference between the three types is merely one of degree and the mere statement that a certain colony belongs to a certain type gives one very little definite knowledge in regard to its actual organization. It must be analyzed a little closer.

Even in New England where the town predominated, the County was of more importance than is generally supposed. To the County in Massachusetts before 1691 was entrusted the administration of Justice and the organization of the militia and to the County Court, before the

close of the Colonial period, were given many of the powers possessed by the County Commissioners of the present time, such as the power to lay out and construct highways, to license liquor-dealers, to appoint surveyors and gaugors in seaport towns, to abate nuisances, to prevent the landing of diseased persons, to compel relatives to care for their sick poor, and to civilize the Indians. There was also a sheriff appointed by the governor, a county treasurer and register of deeds elected by the people and a County Board of Equalization in each County. The County possessed considerable supervision over the towns with power through the County Court to disapprove its laws, fine its officers for neglect of duty, and<sup>1</sup> compel it to pay its minister and school master.

Even among colonies of the same general type, such as<sup>1</sup> Virginia and South Carolina marked differences existed. 2

Whatever may be said of the possibility of classifying local governments of colonial times, such a task would seem to be almost an impossibility at the present time. No two states have systems of local government alike in

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1. Howard, "Local Constitutional History of the United States," Ch. VIII.
  2. Compare Howard Chapter IX with Schaper "Review of Fairlie's Local Government in Counties, Towns, and Villages", in Am. Political Science Review, v. 1 pp. 314-6



all respects. States similar in some respects differ greatly in others. States may be similar or differ with reference to the manner in which the functions of local government are divided between the town and county; with reference to the corporate capacity or the existence of an assembly in the town; with reference to the composition of the County Board. Likewise the degree of State Supervision varies greatly.

So many different factors enter into present day local government that any adequate classification would probably result in placing each state in a class by itself.

In view of the difficulty of classifying states upon the basis of type of local government prevailing in each, and of the futility of comparing a few features of the government of each states, it has seemed best to devote this paper to a discussion of only one state, Minnesota, referring only to the government of other states for aid in tracing the history of local government in Minnesota or for suggested changes.

The subjects discussed in this paper fall into

three great divisions: (1) the Historical Development, (2) the Structure, and (3) the Functions of Local Government. In the first of these divisions will be traced the development of local government in Minnesota as shown in legislation with especial reference to the origin and development of the powers, duties, organization, and functions of the various units of local government at the present time. In the second great division, the structure of the county and township will be discussed considering with reference to each, the mode of creation and change, its legal status, its officers, the transaction of corporate business and its financial organization.

The third principal division of this paper will be devoted to the principal functions performed by units of local government, such as the construction and maintenance of highways, drainage, relief of the poor, health, justice and police, education, and taxation. This paper will conclude with a summary of such changes as may seem desirable and expedient for the improvement of local government.

Chapter I. - History of Rural Local Government in Minnesota.

A comparison of the local government of neighboring states would show striking similarities in certain features and wide differences in others. Thus Minnesota and Wisconsin, although similar in many respects, differ in the composition of the County Board, the former having a small commission, the latter a large body composed of the Town Chairmen. In such a comparison it would also be noted that in Iowa, alone of this North Central Group of states, the town meeting is unknown. In Illinois two types of local government prevail; whereas in the remaining states of this group, Rural Local Government is fairly uniform. The explanation of similarities and differences of this character is generally to be found in the history of the local government in each particular state.

To explain the origin of many of the institutions of Local Government in Minnesota one need go back only as far as the organization of Wisconsin Territory. True, these institutions did not originate in Wisconsin, but, if time permitted, many of them could be traced back to

Michigan Territory and from thence back to their colonial origins. The scope of this paper does not make this necessary.

Section 1. As a part of Wisconsin Territory.

Local government was first instituted within the present limits of Minnesota by an act passed by the Wisconsin Territorial Assembly in 1839 which established the County of St. Croix, which had for its eastern boundary a line drawn from a point on the east shore of Lake Pepin, at the mouth of the Porcupine (now Chippewa) river, up the west fork of that river to the Red Cedar river, to Long Lake, from thence to Lac Court Oreilles, from thence to the Montreal River and to Lake Superior. It included all that part of Wisconsin Territory west of this line.<sup>1</sup>

In general this county was given the same organization that the other Wisconsin counties possessed under laws previously enacted.

By act Number Twelve of the First Territorial Assembly of Wisconsin in 1836 every county created by Michigan Territory, then existing within the Territory of Wisconsin, was declared to be a township within the

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 1. Acts of Wisconsin Territory Assembly 1839-40, No. 20.  
 This act did not go into effect until August 1, 1840.

meaning of the Michigan law relating to townships. Every county-township was authorized to elect three supervisors at a town meeting to be held in such county-township. These supervisors were given the duties and powers of both the county board and town board under the law of Michigan territory.<sup>1</sup>

One year later (in 1837) a comprehensive act known as "The County Organization Act" was passed. This created a county board of three members, thus continuing the small board originally found in the county-township. This board was to meet regularly four times a year. At the April meeting, it was required to receive and inspect the assessors' books, levy a county tax; and at its January session to make out a financial statement of the county. This board had a clerk appointed by it to keep the records, and to "copy the reports of the Treasurer". The Sheriff was required to attend the meetings of the county board and to carry out its orders.

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1. Acts of Wisconsin Territory Assembly, 1836, No. 16.

2. Ibid, 1837, No. 7.

By acts of the following year the county board was placed in charge of the relief and care of the poor,<sup>1</sup> and also of roads, ~~with power~~ to appoint viewers in laying out roads, and road supervisors to care for roads within districts assigned to them by the county board. Later in the same session<sup>2</sup> an act relating to taxation was passed which changed the date for levy of county taxes to the July meeting of the board; provided for an assessor elected by the voters of the county at the general election and fixed the date for the completion of the assessment at July first. After the completion of this assessment the Clerk of the County Board and the Assessor at a joint meeting were required to hear all complaints and report the same to the County Board as corrected. It was made the duty of the Sheriff to collect taxes, with power to distrain property if the taxes were not paid by November first. The next year another act required the County Board<sup>3</sup> to furnish an abstract of all taxes to the Territorial Treasurer.<sup>4</sup>

In 1839 an act was passed similar to that of 1836 previously noted, which provided that each county

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1. Acts of Wisconsin Terr. 1838, Jan. 3.
  2. Ibid, act of Jan. 15, 1838.
  3. Ibid act of Jan 18, 1838; no. 68.
  4. Ibid: 1839, act No. 4.

in which there were no towns should constitute a town-  
ship.<sup>1</sup>

The foregoing were the principal laws relating to local government in force when the first county was organized on Minnesota soil.

St. Croix County, as it has been said, was established by an act of the Assembly in 1839-40 (Jan. 9) to take effect August 1, 1840. The act providing for its organization contained the usual provisions of special laws relating to the organization of counties. It fixed the places for the first election, authorized the county commissioners of a neighboring county to canvass the returns; provided for a vote by the inhabitants on the location of a county seat; authorized the county board after taking office, to "Pre-empt seats of justice" and levy a tax on personal property. At first the county was made a part<sup>2</sup> of the second judicial district; then attached to Crawford County for judicial purposes for a term of years and finally completely organized for judicial and all other purposes in 1847.

Between 1840 and 1849 special laws were passed.<sup>3</sup>

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1. Acts of Wis. Terr., 1839, Act No. 57.

2. Ibid, 1839-40, No. 20.

3. Ibid ~~Sec. Four~~, repealed 1841-2; Act of Feb. 10, 1847.

by one of which, in 1846, Stillwater was designated as the county seat and St. Paul as an election precinct, and by another in 1844 the Clerk of the County Board was given<sup>1</sup> the duties possessed by the sheriff in the other counties of the Territory with reference to elections.<sup>2</sup>

In 1845 the original county of St. Croix was divided into two counties<sup>3</sup> named, respectively, La Pointe, and St. Croix. Each of these counties lay partly within the present limits of the state of Minnesota, and each continued to have substantially the same form of government as the former County of St. Croix.

Among the more important general acts relating to Local Government passed by the Wisconsin Territorial Assembly between 1839 and 1849 were the following:

In 1840 the county board was required to divide the county into assessment districts and road districts and to appoint a road supervisor for each district. An act passed in 1841 provided for the modern system of township<sup>4</sup> government now in use in Wisconsin, in which the town meeting conducts the affairs of the town, with the town board as its agents, and the chairman

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1. Acts Wis. Terr. Assembly: Act of Feb. 2, 1846.
2. Ibid Act of 1844, Apr. 26.
3. Acts 1845, p. 5.
4. Acts 1840, No. 4.



of each town board represents that town on the county board, thereby substituting for a county board of a few commissioners a county board composed of the representatives of the townships of the county. The adoption of this act, however, was made optional with the counties and the adoption of its provisions apparently needed the consent of the Territorial Assembly. A law of the next year transferred to the Boards of Supervisors, created under this act, in six counties specified by that act (which did not include St. Croix) the powers formerly possessed by the board of county commissioners of their respective counties. Between 1843 and <sup>2</sup> 1848 there are numerous acts relating to one or more counties declaring that certain counties have adopted the new system of government by a Board of County Supervisors. Instances also occur in which it is declared by special law that certain counties have abandoned this new system and reverted to the commissioner form.

There is no evidence that either St. Croix or La Pointe county adopted this new form of County

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1. Acts of Wisc. Terr. Assembly: 1841 (This law, though frequently referred to in later amendments, is not included in the laws of Wisconsin. The writer is responsible for his information as to its contents to later amendments)
  2. Ibid 1 1842, p. 65.

Supervisor Government. Hence it must be presumed that they retained the form of government by a board of three commissioners chosen at large from the county throughout the period during which they were a part of the Territory of Wisconsin. It should also be noted that the law of 1839 constituting every county without towns a township still continued to apply to St. Croix and La Pointe Counties up to the close of the Wisconsin Territorial Period.

In 1848, the state of Wisconsin was admitted to the Union with boundaries which excluded the greater part of La Pointe and St. Croix Counties from its borders. It is significant that the Constitution of Wisconsin, then adopted, contained a provision prohibiting the existence of more than one type of local government in Wisconsin.<sup>1</sup> The first act of the State Legislature to carry out this provision of the Constitution was to repeal the act of 1841 giving counties an option as to the type, and to require all counties to adopt the type of county government known as the "County Supervisor type".<sup>2</sup> Thus

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1. Wis. Const. Art. IV, sec. 23.

2. Wis. R. S. 1849, chs. 10, 157.

Wisconsin chose the type of local government in which the County Board represents the townships, in preference to the simpler commission form.

Section 2. - Local Government in Minnesota Territory.

In Minnesota Territory, which was then organized from the remainder of Wisconsin Territory, extending West to the Missouri River, a different type of Local Government was adopted.

The Organic Act of Minnesota Territory, passed by Congress March 3, 1849, provided that the "inhabitants of the Territory shall be entitled to all the rights, privileges and immunities heretofore granted and secured to the Territory of Wisconsin and to its inhabitants; and the laws in force in the Territory of Wisconsin at the date of the admission of the State of Wisconsin shall continue to be valid and operative therein, so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed by the governor and legislative assembly of the said Territory of Minnesota....." 1

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1. Minnesota Organic Act, Sec. 12.

A subsequent provision of this act provided for the transfer of suits then pending in the courts of Wisconsin Territory to those of Minnesota and for the continuance in office of all justices of the peace, constables, sheriffs, and all other judicial and ministerial officers, who were in office within the limits of the Territory when this act took effect until their successors should be provided for by the legislative assembly of Minnesota.

The First Legislative Assembly of the Territory of Minnesota met in 1849. This assembly passed a few laws relating to local government, by which it provided for the organization of three counties and for the establishment of six others. The distinction between established and organized counties is that in the case of the former the territory was set apart for future organization, while the latter were given the full corporate rights and powers of a county.

By general laws of the same year, the county was made a body politic<sup>2</sup> and corporate with power to sue and be sued, hold real estate, etc., practically the same as the present time. The County Commissioner

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1. Organic Act of Minnesota, Sec. 15,16.

2. Territorial Laws of Minnesota, 1849-50.

system of organization for the county board,<sup>1</sup> which had prevailed in St. Croix and La Pointe counties, during the Wisconsin Territorial period, was continued. To this board was given the general management of county business, including the power to bring suit in the name of the county, to provide for public buildings, the duty of settling all accounts, of levying all taxes, of establishing assessment districts, and assigning an assessor to each, and certain other powers and duties. In addition to these laws enacted as laws of Minnesota, certain of the laws of Wisconsin Territory are expressly stated by legislative act to be in force in Minnesota.<sup>2</sup> The most important of these were those which gave to the County Board the care of the poor and the power to grant certain licenses.

The following elective officers were provided for by the first assembly:<sup>3</sup> a county board of three members, a sheriff, register of deeds, Judge of Probate, Coroner, Treasurer, three Assessors from the county at large, two Justices of the Peace, and two Constables.<sup>4</sup> The duties of these officers differed little from those of the present time. The Register of Deeds acted as clerk of

1. Territorial Laws of Minn., 1849-50, ch. 19.

2. Ibid., ch. 19.

3. Ibid., ch. 60, 64.

4. Ibid., ch. 3.; The Justices and Constables were chosen by election precincts established by the County Board.

the County Board and to him was entrusted the duties of canvassing the votes, and making out the tax lists, much the same as the Auditor of the present day. The Sheriff had the additional duty of collecting taxes by visiting personally each resident of the County and upon refusal to pay distraining sufficient property for the purpose.<sup>1</sup> The powers, duties and jurisdiction of judicial officers were carefully defined.

In 1851, the first Code of Statutes was adopted. This code contained the acts above noted for 1849 with certain additional laws. By these statutes the county board was given the power to license ferries, grant liquor licenses throughout the county, grant grocery licenses, divide the county into school districts, license theaters, inspect the assessment rolls, and lay out county roads.<sup>2</sup>

All taxes were levied by the county board. The assessors elected from the county at large were assigned by the board to districts and reported to the board when the assessment was finished. In July the County Board met as a Board of Equalization and levied all taxes. Taxes were collected by the Sheriff by calling at the homes of the taxpayers.

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1. Laws 1849, chs. 6, 21, 23.

2. Statutes, 1851, ch. 8, Art. I; ch. 20, 23, 29.

All roads were laid out by the County Board. Road districts were fixed by the County Board and a road supervisor assigned to each. All road taxes were assessed by the County Board and road labor was enforced by the Road Supervisor of each district.<sup>1</sup>

By the statutes of 1851 provision was made for a Clerk of Court, to be appointed by the Judge of the District Court, and also for a District Attorney elected for each county, and to the County Board was given the duty of selecting jurors.<sup>2</sup>

In 1851 the Local Board of Health consisted of all the Justices of Peace in the county.<sup>3</sup>

The incorporation of villages was given to the District Court. It is surprising to note that each village was given not only the power to levy taxes for village purposes but that assessment was made by the Village Clerk, taxes were collected by the Village Marshal, and paid to the Village Treasurer, thus taking taxes for village purposes completely out of the control of the county.<sup>4</sup>

Practically no changes of importance occurred during the Territorial Period after 1851.

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1. Statutes 1851, ch. 8, Arts. IX, X.

2. Ibid, Ch. 8, Art. XI, I.

3. Ibid, Ch. 18.

4. Ibid, Ch. 41

Section 3. - General Legislation During the Early Years of Statehood,  
1858-1866.

In 1858 Minnesota was admitted to the Union as a State. The constitution then adopted provided for the establishment of new counties of a minimum of 400 square miles (unless the boundaries were those of a city of 20,000 population), and for the submission to a popular vote in the county or counties affected, of all proposals to change the county seat or boundaries of any county.<sup>1</sup> But little is contained in the constitution with reference to the actual organization of Local Government. General provisions are contained therein, authorizing the Legislature to provide for the organization of townships, with the proviso that a fractional part containing less than 100 inhabitants may be attached to another township. The Constitution requires that provision be made by law for the election of town and county officers, authorizes local taxation, and provides that no money be drawn from the county or township treasury without authority of law. The Legislature is required to provide for the election of a Clerk of Court, Judge of Probate, for such number of Justices of the Peace as may be necessary, and it is

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 1. Minn. Const. Art. XI.



given the choice of providing for a Court Commissioner or of conferring the duties of that office upon the Judge of Probate.<sup>1</sup>

Immediately after the admission of Minnesota to the Union a comprehensive act, known as the "Township Organization Act of 1858" was passed by the first State Legislature.<sup>2</sup> This act provided for the first time for the organization of townships in Minnesota. The governor was required to appoint commissioners to divide the existing counties into townships, in accordance with the provision of the constitution above noted. Each town so organized was to have a board of three supervisors, a clerk, an assessor, collector, overseer of the poor, and as many overseers as there were road districts (to be established by the Town Board); also as many poundmasters as the first town meeting should determine. Two justices of the peace and two constables were also to be elected in each township.

The power of the town as a body corporate and politic and of the town board in relation to the town were, with certain exceptions, the same as those of the town and town board, respectively, at the present time. The duties of the treasurer were, however, given to the town chairman.

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1. Minn. Const. Art. XI; Art. VI, sec. 7, 8, 13.

2. Statutes 1858, Ch. 8, Twp. Org. Act.

Following the example of Wisconsin, in 1849, the County Board was organized upon the Supervisor plan, that is, it was composed of the chairmen of the respective town boards in the county. Provision was also made for the appointment by the county board of supervisors of a Clerk of the County Board, to be known as the "County Auditor", to perform those duties formerly given to the Register of Deeds in that capacity, and in addition to keep accounts current with the County Treasurer; Payments were to be made only upon the warrant of the "County Auditor". However, the appointment of such an official was left to the discretion of the Board;. If none was appointed, the Register of Deeds was to continue to act as Clerk of the Board.

It is obvious that certain changes in the powers of the County Board must follow such a change in organization. Its power to establish assessment, road, and election districts was restricted to those counties which were not yet completely organized into towns; its power to grant liquor licenses was limited by requiring the question to be submitted first to the voters of the township; its

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1. Laws 1858, Twp. Org. Act., Art. XV.

power to levy taxes was limited to those for county purposes, and its power over highways was limited to county roads.<sup>1</sup>

Property was now assessed by Town Assessors within each township. A conference of assessors in July acted as a Board of Equalization; with a subsequent review by the County Board in September. Taxes were levied by the town meeting for town purposes, by the school meeting for school purposes, and by the county board for county purposes. Taxes for all purposes were collected by the Town Tax Collector, and after deducting three per cent for his own compensation, this collector was required to pay over to the Town Chairman the road and bridge and town tax, and to the county treasurer the remainder. He followed the practice of the sheriff of the previous decade by calling at the residences of the tax-payers, and upon refusal to pay levying by distress for the amount of taxes due. The Supervisor of each town was required to report to the County Board (of which he was a member) the amount of taxes collected. Provision was also made for an audit of the accounts of town officers by the County Board of Supervisors as well as an audit by a Town Board of Audit composed of the

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1. Laws 1858, IV, X, IX, XXI.

2. Twp. Org. Act. 1858, Art XIX.

3. Ibid Art. IV.

Justices of the Peace and the Clerk.

The supervision of roads and bridges was given to the Town Boards of Supervisors. It was made their duty to lay out town roads and call out highway labor. The Town Boards were authorized to divide the town into as many road districts as they thought necessary. The Road Overseer, chosen in each of these districts, was required to keep all roads in repair, and to call out highway labor for this purpose, to the amount of road taxes assessed by the Town Board. The jurisdiction of the County Board was restricted to county roads, which it might still establish and care for.<sup>1</sup>

The supervision of the poor was retained in the hands of the County Board, but the actual care of the poor was entrusted to Town Overseers of the Poor, acting under the direction of the County Board.<sup>2</sup>

No change was made in the organization of Local Boards of Health.

The only change in the judicial organization was the combination of the offices of Judge of Probate, and Court Commissioner.<sup>3</sup>

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1. Twp. Org. Act. 1858, Art. XXI.

2. Ibid, Art. XIX, XX.

3. Statutes, 1858, p. 166.

This plan of organization of the County Board upon the Supervisor plan lasted for only two years in Minnesota. Whether it was found so cumbersome as to be unworkable, it is hard to say because of lack of evidence.

By act of the Legislature of 1860 so much of the Township Organization Act of 1858 as related to the organization of the County Board was repealed and in place thereof provision was made for a County Board to consist of five members in counties having more than 800 voters, and of three members in counties having less than that number. Provision was made for the election of this Board by districts bounded by ward or town lines, or by districts fixed by the County Board where no towns existed.<sup>1</sup>

Surprisingly few changes in the distribution of functions followed this change in organization. The care of highways was left to the Town Board. The County Board was authorized to establish County Roads, which ran through more than one town. The function of poor relief was left to the County exclusively. The machinery of taxation, with the exception of the elimination of the town tax collector, was but little changed. In general it may be said that by

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1. Laws 1860, ch. 15.

1866 the system of local government in force at the<sup>1</sup> present time, both with respect to organization and division of functions, prevailed in Minnesota.

Section 4. - Special Legislation and the Classification of Counties.

Any history of local government which confined itself to laws of general application throughout the state and disregarded laws of local and special application would be very incomplete. Special legislation has played a very important part in local government.

These special laws related to many subjects, but it is necessary to consider here only those which relate to rural local government. These laws relating to rural local government may perhaps be divided into three principal classes: (1) those which provide for the creation, change in the boundaries, or change in the seat of government of local units of government; (2) those which authorize specified local authorities to perform certain acts; (3) those which seek to adjust the general system of local government provided by law to counties which have special problems to meet. Examples of the first type are those special laws which designate the boundaries of specified counties,

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1. Laws 1860, ch. 4; 1862 ch. 68; 1864 ch. 16.

or attach one county to another for judicial purposes; provide for school districts with certain defined boundaries; or change county seats. Examples of the second type are those which authorize the County Board of a county named in the act to build a bridge over a designated creek, to issue bonds for the construction of a ditch designated in the law, to improve a designated road, and similar instances in which the power is not continuing but ceases when the work authorized is accomplished. Examples of the third type are those special laws which create special Poor Boards and Court House and City Hall Commissions, in certain of the more populous counties, or which grant to certain County Boards more extensive powers over navigable lakes and streams, over roads or over other subjects than they would possess under the general law. The distinguishing characteristic of this class of laws is that the authority granted is continuing and is not for a specific act.

Legislation of this character was prohibited by an amendment to the Minnesota constitution adopted in 1892. This amendment in so far as it applies to county and township

government is as follows:

"In all cases when a general law can be made applicable, no special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such, shall be judicially determined without regard to any legislative assertion on that subject. The legislature shall pass no local or special law (1) regulating the affairs of, or incorporating, erecting, or changing the lines of, any county, city, village, township, ward, or school district, or (2) creating the offices, or prescribing the powers and duties of the officers of, or fixing or relating to the compensation, salary, or fees of the same, or the mode of election or appointment thereto; (3) Authorizing the laying out, opening, altering, vacating, or maintaining roads, highways, streets or alleys;..... (4) regulating the duties, powers, and practice of justices of the peace; (5) Locating or changing county seats; (6) Regulating the management of public schools, the building or repairing of school houses and the raising of money for such purposes;..... (7) Authorizing public taxation for a private purpose..... The legislature may repeal any existing special or local law, but shall not amend, extend, or modify any of the same."

Since the adoption of this **amendment, various** 1  
 expedients have been adopted to secure the results formerly secured by local or special laws.

Legislation of the first class named had practically been taken care of by general laws before the passage of this amendment. As early as 1860 provision had been made for the creation of townships by the county board upon petition of twenty five voters. Two years earlier 2

1. Minn. Const. Art. IV, Sec. 33.

2. Laws 1860, Ch. 14.



provision had been made for changing the county seat of a county upon a petition to the County Board by fifty per cent of the electors of the county, and the submission of the question to a referendum, but the provision was repealed in 1866 and not reenacted until 1889. Provision for the division of the County into school districts was by a town superintendent was made as early as 1860. Incorporation of villages by the district court was provided for in 1851, and this power was given to the County Board in 1887, But no general law was passed for the organization of counties until 1893.<sup>1</sup>

The second class of special laws pertain more especially to Highway Legislation and will be discussed in connection therewith.

The third class of special laws have been replaced by laws, general in form, but so worded as to apply to a limited number of counties. Counties have been classified in many ways for the purposes of legislation. Perhaps the oldest and most common way is on the basis of population. Laws are passed at every session of the legislature relating to counties over 292,000, over 275,000,

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 1. Laws 1860, ch. 46; 1858 ch. 18,41; 1851, ch. 41; 1889 c.174;  
 1893 ch.193

of less than 200,000, of less than 250,000 and more than 200,000, or more than 150,000 and less than 200,000, of more than 75,000, of less than 50,000, of more than 27,000, of 10,000 or more, etc. Classification on the basis of assessed valuation is also adopted to a limited extent for the purpose of fixing salaries. In a few instances, to make a law apply to a single county, the expedient of specifying both area and population, valuation and population, or even area and valuation has been resorted to. Most of these classifications have been used for fixing salaries and will be referred to again in more detail in a subsequent chapter. When used for this purpose, the Supreme Court considers them constitutional.<sup>1</sup> But there are other purposes for which the Supreme Court does not regard such classification as constitutional. To take a single example: In 1907 a law was passed applying only to counties under 200,000, which created in such counties a County Superintendent of Highways, whose duty it should be to supervise the construction and maintenance<sup>2</sup> of all roads with general direction over Town Highway inspectors also created by this act. This law the

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1. See Ch. III Sec. 5 of this paper.

2. Laws 1907, ch. 458.

Supreme Court held unconstitutional under a rule previously laid down by the court<sup>1</sup> that:

2 "If it is clear that there is **no** natural relation or connection between the population of counties of a particular class and the subject matter of statutes, the Court ought unhesitatingly to hold them unconstitutional."

In the case of this law the Court<sup>1</sup> held that there was no such relation. According to the court, no logical reason existed why such a law as this should be restricted to counties<sup>1</sup> under 200,000 instead of applying to all the counties of the state alike. It is a curious commentary upon their reasoning that laws of like character had previously been passed, which applied only to counties over 200,000 and over 150,000, respectively, whose constitutionality had never been questioned, and which were in force at that time. Laws establishing a peculiar system of land registration in counties over 75,000 have been sustained by the court upon the ground of relation to population. The most<sup>2</sup> that can be said is that the question of to what extent such classification will be permitted rests wholly with the Courts.

It is important to note that many of the

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1. Hyelin v. Patterson, 105 Minn., 256.

2. State v. Westfall, 85 Minn. 439.

special laws of the third type noted, although passed more than twenty years ago, are still in force in Minnesota. Although the General Statutes say that "Every Board of County Commissioners shall consist of five members, etc.", under a special law passed in 1871, the Ramsey County Board consists of six members, with an additional member, the Mayor of St. Paul as Chairman of the Board. Likewise, although the Statute relating to elections and terms of officers does not mention him, Ramsey County is still required to elect an abstract clerk provided by a special law of 1889. There are other special laws in force in Minnesota which will be noted in the course of this paper. The general rule<sup>1</sup> as laid down by our Supreme Court is that "A special statute providing a particular place, or applicable to a particular locality, is not repealed by a statute general in its terms and application, unless the intention of the legislature to repeal the special law is clear, although the terms of the general act would, taken strictly, and but for the special law include the class of cases provided for by it. The inference of an intention

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 1. Special Laws of Minnesota, 1871, Ch. 73; Sp. Laws, 1889, ch. 355.

to repeal arising from subsequent inconsistent legislation is greatly diminished and of less force when the inconsistency arises between a subsequent general and a prior special statute."

Following this line of reasoning, the Court in this case upheld<sup>1</sup> the special law relating to the Ramsey County Board, stating, as the Courts have likewise done in legislation relating to the classification of counties, that peculiar conditions made such laws necessary and while such conditions remain, these laws must remain in force.

Section 5. General Laws since 1866.

Having now considered the nature of special legislation and legislation applying to the classes of counties, let us return to the general subject of the history of Local Government Legislation since the admission of Minnesota to the Union.

The general subdivisions of the state, as the County, Township, and School District, have not changed either in corporate powers, organization, or functions since 1866. The methods by which each is created has already

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1. St. ex. rel. Seng. v Peter 101, Minn. 462.

been noted. The officers of each have changed slightly. To the County officers previously noted, was added the County Superintendent, <sup>who was</sup> appointed by the County Board from 1869 to 1877 and since that time <sup>has been</sup> elected by the electors of the County at large, both male and female.<sup>1</sup>

The County Auditor was made an elective officer in 1860; and the Court Commissioner was made a separate officer in 1860, with the proviso that such office might be held by the Judge of Probate.<sup>2</sup>

The duties of town treasurer were given to a separate officer in 1861. From that time until 1913 no change was made in the officers of the town.<sup>3</sup>

As to financial legislation, the Town Board of Audit, consisting of the Town Board, was first provided in 1866; the County Board of Audit was not provided for until 1873. Supervision of County finances and accounts was first provided for by the creation of the office of Public Examiner in 1878. The powers of this officer have since been extended to those noted in a succeeding chapter of this paper.<sup>4</sup>

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1. Laws 1869, Ch. 1; 1877 Ch. 74. Under Sp. Laws 1878, Ch. 238, Sp. Laws 1889, Ch. 354, and Laws 1903 Ch. 367, the residents of Duluth, St. Paul, and Minneapolis have no vote for their respective county superintendent.
  2. Laws 1860, Ch. 2; Laws 1860, Ch. 43.
  3. Laws 1861, Ch. 3, 7.; see pp. 47-51
  4. Statutes 1866 Ch. 10; Laws 1873. ch. 38; Laws 1878, ch. 83; See Ch. III. pp. 127-8; 55-56.

The organization of the machinery of taxation has been changed but slightly. An assessors' conference was first provided for in 1878, and in the same year the Town Board was constituted a Town Board of Review with extensive power to equalize town taxes. Previous to this, the State Board of Equalization, consisting of the Governor, Auditor and Attorney General and one member from each Judicial District, was created in 1867. In 1903 this power was transferred to the State Tax Commission, together with many more extensive powers over taxation which will be considered in a later chapter.<sup>1</sup>

To the County system of Poor Relief, there was added in 1889 the Town system of Poor Relief, which had previously been instituted in certain counties by special laws; the adoption of this new system was made optional. Under this system, the details of which will be discussed in a subsequent chapter, the duty of caring for the poor is transferred to the Town Board.<sup>2</sup>

Little change has taken place with reference to Local Health Authorities. The only one of importance is the provision for the creation of a County Board of Health, consisting of two members of the County Board

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1. Laws 1878, Ch. 1, Secs. 29, 29; 1867, p. 82, 1907. Ch. #08  
See pages 254-256, 266-269.

2. Laws 1889, Ch. 170; see pages 224-6.

and a physician chosen by them.

No changes of importance have occurred with reference to the administration of justice.

The principal changes with reference to education have already been noted in other connections.

It is necessary to consider in a little more detail the history of Highway legislation in Minnesota. The conferring of power over town highways upon the Town Board has already been noted. The power of the County Board to establish county roads was clearly defined in 1862,<sup>1</sup> although such roads were more restricted in nature than they are at the present time. State roads were established between villages and cities in different counties by special acts of the legislature commencing in 1858. These acts are the most numerous during the sixties. The number of such special acts seems to be checked somewhat by the passage of a law in 1872, which gave the district court power to establish a road extending into two or more counties of the same judicial district. Such acts, however, did not disappear altogether until this act was extended in 1883 to permit such inter-county roads to be established by

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1. Laws 1862, Ch. 68.



the district court, to a county outside of that judicial district, thus removing entirely the need of special laws.<sup>1</sup>

After the passage of the Special Legislation amendment, previously noted, it seems to have become the custom for the legislature to grant from the Internal Improvement Fund of the State a certain sum to each county every two years, to be expended usually upon certain designated roads or bridges in that county under the direction of the County Board or Town Board. Although this would seem to have had the same effect as authorizing certain improvements and applying to a single county or town, contrary to the spirit, if not to the letter of the Anti-Special Legislation amendment, this never seems to have been questioned upon that ground.

By an amendment adopted in 1898, the State Highway Commission was created and given the duty of providing for the construction of good roads, etc. At the same time the State Road and Bridge Fund was provided by this amendment to include the former Internal Improvement Fund and the proceeds of a state tax of 1/20 mill. The legislature continued to disburse this fund among the counties, more often

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1. Laws 1872, Ch. 10; 1883, Ch. 64.

giving a lump sum and letting the County Board use it as it pleased. A subsequent amendment of 1906 increased this tax to 1/4 mill, and provided for the distribution of the proceeds among the counties of the state in such a way that no county should get less than 1/2 of 1% or more than 3% of the fund. This duty was given by an act of the legislature to the State Highway Commission.<sup>1</sup>

In 1907, the legislature, finding no funds in the Road and Bridge Fund to distribute among the counties of the state, proceeded to appropriate money out of the General Revenue Fund for this purpose. This process was repeated in 1909 with the additional feature that in many cases<sup>2</sup> the distribution of the fund was left to the member of the legislature from the county to which it was given. Upon quo warranto proceeding, the Supreme Court held this last act unconstitutional. The Court, in discussing the subject, makes it clear that the restriction in the Minnesota<sup>3</sup> constitution that the revenue fund of the state shall not be used for permanent improvements, unless specially granted for that purpose, when taken together with the provision that the State Road and Bridge Fund shall be so used, prevents

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1. Minn. Const. Art. IX, Sec. 16, editions of 1905, 1907, 1911, 1913.
2. Laws of 1907, Ch. 219; 1909, Ch. 505.
3. Cooke *versus* Iverson, 108 Minnesota, 389.

the giving of any aid other than through the State Highway Commission from the Road and Bridge Fund. Probably as a result of this decision another amendment was adopted in 1910 which provided for a 1/2 mill tax, and this was followed in 1912 by a provision for a mill tax. The provisions, of the road law of Minnesota, including the laws of 1911 relating to State Roads, are discussed in detail in a succeeding chapter and need no further discussion.<sup>1</sup> here.

In this chapter an attempt has been made to trace briefly the history of local government in Minnesota and to show the development of our present day rural local government both in structure and functions up to its present form.

The remainder of this paper will be devoted to a detailed examination of the structure of the town and county and to the principal functions which they or their officers perform either jointly or separately.

1. See pages 176-200.

Chapter II - Township Government in Minnesota Today.

The administrative districts, exclusive of villages, cities, and boroughs, into which the state of Minnesota is divided for the purposes of local administration are the County and the Town - for general governmental purposes; the school district for the maintenance of schools; and in counties not fully organized into towns, the road<sup>1</sup>, election, and assessment districts for their respective purposes. Judicial districts, consisting of one or more counties are created by the legislature primarily for the administration of justice, but the machinery of these districts is often used to secure cooperation of two or more counties in drainage, roads, and poor relief.

The subjects to be discussed in this chapter are the nature, mode of creation, powers, liabilities, and organization of townships. A township, or town, is created by the County Board upon petition to the County Board of the County by a majority of the male resident freeholders of from one to five Congressional Townships containing in the aggregate not less than 25 legal voters asking to be so organized. The County Board then considers the petition and

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1. Road districts as subdivisions of the town were abolished by Laws 1913, Ch. 235.

having ascertained that it is sufficient, it proceeds to fix and determine the boundaries and name of the town.

The boundaries of a town so established may be changed upon petition<sup>1</sup> to the County Board by twenty freeholders residing in the town or towns affected, asking that the boundaries be altered, or that an existing town be partitioned among other towns, or that a new town be formed out of the territory of existing towns. But no such town shall contain less than thirty-six square miles, unless it contains twenty five voters, an assessed valuation of \$30,000.00 and two thirds of the voters petition for separate organization. After a change has been made, the County Board must apportion the funds of the towns affected<sup>2</sup> according to the territory from which the taxes have been collected. Thereafter taxes levied for bonds of the old town are to be paid over by the County Treasurer to the old town until such bonds be paid; taxes for current<sup>3</sup> expenses to the town in which the land then lies.

The constitution requires that the boundaries of towns follow<sup>3</sup> the lines of Congressional townships but where fractions exist in one county they may either be added

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1. R. L. 1905, Sec. 451 as amended by 1905, Ch. 143.

2. Ibid, Sec. 452.

3. Ibid, Sec. 456, as amended by Laws 1909, Ch. 123.

to the adjoining Congressional Township, or organized into separate towns.

Perhaps in the strict use of terms, the term "Township" should be applied to the territory and "Town" to the political organization, but in our statutes and even in our court decisions, the terms are used interchangeably.

Towns are governmental agencies of the state which it is the duty of the legislature to establish. They are governmental agencies created for the purpose of civil administration.<sup>1</sup> Within constitutional limits the town<sup>2</sup> is under the complete control of the legislature. As a representative<sup>3</sup> of the state, certain duties such as the care and superintendance of highways within its limits are entrusted to the town in its corporate capacity.<sup>4</sup>

In its corporate capacity, the town may (1) Sue and be sued by its corporate name;

(2) Purchase, take, and hold real and personal property for public use and dispose of the same;

(3) Make all contracts necessary for the exercise of its corporate powers;

(4) Make such orders for the disposition, regulation, and use of its property, as its inhabitants may deem expedient.<sup>5</sup>

1. Altnow v. Sibley 30 Minn. 186.

2. Hutchinson v. Filk, 44 Minn. 536.

3. Guildler v. Dayton 22 Minn. 366.

4. Hutchinson v. Filk, 44 Minn. 536. Woodruff v. Glendale,

5. R. L. 1905, Sec. 621.

23 Minn. 536.

It has only those powers which are expressly given or are necessary to the exercise of its express powers.<sup>1</sup>

The liabilities of the town, like its powers, are very limited, for example:

(1) It is not liable in damages to a private individual for an injury resulting from disrepair of a public highway, or for the negligence of its officers in failing to repair such highway; but in the performance of duties which the state has imposed upon the town, it is liable only to the state for any breach of such duty.<sup>2</sup>

(2) Nor is it liable for damage by fire resulting from the negligence of a contractor, with whom it has contracted for the burning of brush and grading of a highway.<sup>3</sup>

But it is liable to adjoining property owners for any injury to their lands resulting from the unlawful and negligent construction of a highway by its officers and the consequent flooding of lands.<sup>4</sup> Its power to contract a debt for any one year is limited to the amount of taxes assessed.<sup>5</sup>

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1. R. L. 1905, Sec. 623.

2. *Alnow v. Sibley*, 23 Minn. 186.

3. *Shute v. Princeton*, 58 Minn. 337.

4. *Gunners v. Spring Prairie*, 91 Minn. 473.

5. *Evans v. Stanton*, 23 Minn. 368.

A town is not liable on an unauthorized contract, but it may be liable for an implied contract for the value of goods received and used for legitimate town purposes.<sup>1</sup>

A person dealing with a town is charged with a knowledge of its limited capacity.<sup>2</sup>

### Town Meeting.

The distinguishing feature of New England local government has always been the town meeting. This feature of local government is still provided for in the law of Minnesota. Under our law the annual town meeting must be held on the second Tuesday in March at the place of the last town meeting, unless another is designated in the call. The Clerk of the Town is required to issue a call ten days previously, stating the business to be transacted and any matters to be voted upon by ballot. Special meetings may be called at any time by the Clerk, Supervisors, Justices of the Peace, and twelve freeholders, or any two of them, upon filing with the clerk a statement that the interests of the town require it.

The procedure in brief is as follows: The meet-

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1. Cover v. Baylow , 23 Minn.368
2. Second Bank v. Middleton, 67 Minnesota 1.



is called to order by the Town Clerk, if he is present. In his absence a chairman is selected by acclamation. The first business of the meeting is to choose a moderator to preside. The moderator states the order of procedure, determines the results of all ballots, and settles all parliamentary questions that may arise. The Town Clerk acts as clerk of the meeting. The first business in order is the election of officers for the ensuing year. For this purpose, the electors must vote by ballot and the town supervisors act as tellers. After the election of officers is concluded, the meeting proceeds to other business.<sup>1</sup>

Among the other powers and duties of the annual town meeting are the following: (1) the power to locate pounds, make regulations<sup>2</sup> as to estrays, etc; (2) to fix penalties for violations of town by-laws; (3) to direct the institution and defence of suits and provide for the payment of the expenses thereof; (4) to authorize the town board to sell real and personal property of the town; (5) to authorize the town board to build a town hall and to determine the amount by ballot:

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1.R. L. 1905, Secs. 633-641.

2.Ibid, Sec. 625.

- (6) to authorize the town board to purchase ground for a cemetery and to vote a tax therefor;
- (7) to vote money for the repair and construction of roads, bridges;
- (8) to vote a tax for town expenses;
- (9) to vote bonds for a town hall, or for the construction of roads or bridges in the town, upon petition of ten freeholders, or petition of the town board;
- (10) to authorize the purchase and care of a town park.<sup>1</sup>

In practice the importance of the town meeting seems to vary in different counties or even at different times in the same town. In most counties of the state its principal function seems to be to vote an appropriation for the construction, repair, and maintenance of roads and bridges. In a few instances, as noted in succeeding chapter, the care of the poor is given to the town but this is hardly a subject for discussion at the town meeting. A comparison of the amounts voted for various town purposes, where such amounts are itemized,<sup>2</sup> seems to indicate that the amount voted for roads and bridges exceeds by far the amounts for all the other purposes combined.

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1. R. L. 1905, Secs. 625, 629; Laws 1905, Chs. 11, 64; Laws 1913, Ch. 14.

2. See tables in Chapter IV, sec. 7 of this paper, pp. 276-277.

Inquiry among residents of various townships in the state seems to show that the town meeting does not have a large attendance unless there is some important issue before them, as for example whether to construct a concrete bridge over a certain stream, or when there is a dispute over the improvements to be made upon roads for the ensuing year. Controversies over matters such as these sometimes cause the inhabitants of the town to split up into factions and even cause hard feelings, for years afterwards. Occasionally other business seems to be transacted, such as voting a bounty for woodchucks, rattlesnakes and gophers, building a town hall, etc. The attendance necessarily varies with the issues before the meeting. In the few instances in which the attendance can be ascertained with any exactness it would seem to be very small. In Nelson Township, Watonwan County, in 1913, for instance, out of a voting population of 181, there were only 27 voters present. But, nevertheless, at this meeting those present, in addition to electing six town officers, voted \$15,000.00 for roads and bridges and transacted certain other business.

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Where a village or hamlet exists within the boundaries of a township, the practice seems to be to hold the town meeting at some hall in that village, even though it may be located at a remote corner of the township. When, as is often the case, many of the inhabitants of the township are nearer to another village and are accustomed to trade there, it is hardly to be expected that they will go a longer distance to attend a town meeting. Where no village exists, the town meetings are often held in a school house centrally located in the township. True, there are instances in which town halls have been built, but they are few and because the voters hesitate to expend money for the erection of a building which will not be used more than once or twice a year for meetings, if another suitable place can be found for that purpose.<sup>1</sup>

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1. In Chapter IV, Section 7 of this paper will be found tables showing the amounts voted for various purposes by town meetings in 1913 in certain counties and also the average expenditures of towns in certain counties in 1912 for various purposes. See pages 275-77.

Town Officers.

The officers of the town and the terms for which each is chosen are as follows: (1) A board of three supervisors, one chosen each year for a term of three years; (2) A Town Clerk, chosen for a term of one year; (3) A Town Treasurer for one year; (4) Two Justices of the Peace, and two Constables, and an Assessor for a term of two years each.<sup>1</sup>

The only appointive officer of the town is the town Road Overseer, appointed by the County Board.<sup>2</sup>

The last four of these officers will be considered in a subsequent chapter. It is necessary to consider the Town Board, the Town Clerk,<sup>3</sup> and the Town Treasurer in detail here.

The Town Board of Supervisors has express powers, defined by statute and a general reserved power to perform all acts and duties given by law to the town and not required of any other officer. The extensive and important powers of the town board with reference to highways,<sup>3</sup> drainage, poor relief and taxation will be considered in a subsequent chapter.<sup>4</sup> In addition to these powers, the town

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1. R. L. 1905, Sec. 668 as amended by Laws 1905, Ch. 243, 1909, Ch. 316.
  2. A single appointive town Road Overseer was substituted by elective district Road Overseers by Laws 1913 (Dunn Road Act)
  3. See Chapter IV, sections on Highways, Taxation, and Justice, Poor Relief and Drainage.
  4. R. L. 190 6 secs. 651, 2402, 653.

board: (1) may license billiard, pool and bowling alleys; (2) it may offer a bounty for gophers; (3) it must prosecute all actions on behalf of the town either on bonds, for trespass or as authorized by the town board; (4) it may transfer the surplus in any fund beyond the needs of a year to another fund to supply a deficiency.<sup>1</sup>

With such extensive powers as these the the Town Board is not a mere figurehead. The powers thus conferred include the authority to perform the incidental acts necessary to accomplish the powers expressly given. By virtue of this implied power, the Supreme Court had held that a town board has authority to purchase a safe, files, books, and other office supplies necessary to the proper conduct of town business.<sup>2</sup>

Town supervisors are not regarded in Minnesota, as they are in Michigan, as a sort of quasi-corporation, but as the agents of the town as the body corporate. Hence it has been held by the Supreme Court that when the power over highways is said to be committed to the town board, it is in reality committed to the town, to be exercised by the town board as its agents.<sup>3</sup>

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1. Laws 1913, Ch. 13, R.L. '05 secs. 631, 653, 2402.

2. State Bank of Barnum v. Town of Goodland, 109 Minn., 28.

3. Woodruff v. Town of Glendale, 23 Minn. 536.

This view of the town supervisors explains to a large extent the law of Minnesota with regard to their liabilities. When the Board assumes to perform duties that are reserved by law to the electors, its acts are voidable until ratified by the electors. Hence an action at law brought by the Town Board without authorization by a town meeting may be ratified later by a town meeting.<sup>1</sup>

Likewise a town may become liable for the illegal act of its board of supervisors, if it ratifies the same; although it would not be liable for the same act, if done by them without legal authority, and not so ratified or authorized. In a case that came before the Supreme Court, the town supervisors under color of office constructed a ditch across private property to drain a road and thereby caused water to flow upon the land of the adjacent owner. Since this act was not authorized by law, nor ratified by the town meeting, the court held that the town was not responsible for the injury done thereby.<sup>2</sup>

In general the town board must act as a board and not as individuals in performing its duties and transacting town business. A member of the town board acting

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1. Partridge, v. King, 99 Minnesota, 286.

2. Kreger v. Bismarck Twp., 59 Minnesota, 3.

individually cannot bind the town by a voluntary contract ( i. e. one entered voluntarily into, not one imposed by law); but an agreement on the part of a member of the town board, in a town acting under the Town System of poor relief, to furnish support to a pauper, as required by Statute, will bind the town. The Town Board ought to appoint a committee to attend to the matter of poor relief, or to call a special meeting of the Board when such a case arises. But since the Town Board cannot be legally compelled to meet more than once a year, nor is it compelled by law to appoint such a committee, a town could escape liability for support of its poor, unless the agreement of a single member were held to bind the board.<sup>1</sup>

Resolutions of the town meeting as to how money appropriated by them should be spent are merely advisory and not binding upon the town board.<sup>2</sup> Contracts involving amounts over \$100.00 and not paid from road tax may be let to the lowest responsible bidder only after ten days posted, or two weeks published notice, except in cases of emergency. No town officer may be interested in any contract or payment made by the town except that in <sup>3</sup>

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1. Tessier v. Town of Lake Pleasant, 57 Minn. 145.

2. Attorney General Opinion, June 17, 1912.; Rep't 1912 p.343

3. R. L. 1905, Sec. 688, as amended 1911, Ch. 351,  
and amended 1913, Ch. 164.



towns having less than twenty-five voters, the town board may be employed in road work at rate per diem fixed by town meeting.

In addition to the powers possessed by the boards of other townships, the board of a town having a platted portion on which 1200 people live has the same powers as a village,<sup>1</sup> with reference to streets, and street sewers, improvements, procedure, fire prevention, licenses, estrays, speed ordinances, cemeteries and parks, amusements, peddlers, jails, health, and water-supply.

The Town Clerk acts as clerk of the Town Board. As such, he has the custody of all records, by-laws, and books of the town. The duty of posting by-laws and other notices is given to him. Certain papers and legal documents such as notices of liens, etc., must be filed with him. He has certain additional duties in connection with Drainage and Vital Statistics<sup>2</sup> which will be considered in a subsequent chapter.

#### Financial Organization.

The duties of the Town Treasurer and the entire financial system<sup>3</sup> of the town may well be considered

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1. 1907, Ch. 193; R. L. 1905, Sec. 727 (1), (7), (8), (9), (11), (12), (16), (17), (18), (27); 729, 735.
  2. R. L. 1905 Sec. 660.
  3. See Chapter IV. sections on health and drainage.

together.

As the name of the office would imply the principal duty of the Town Treasurer is the custody, receipt, and disbursement of the funds of the town. He may pay out money only on order of the town meeting or upon order of the chairman of the Board attested by Clerk. He must keep correct accounts of all moneys received and the manner of disbursement. He must make out and file with the Town Clerk five days before the annual meeting a statement of the moneys received and disbursed, stating the persons to whom or from whom it is received or disbursed, and the source and nature of each item.<sup>1</sup>

As a check upon the Town Treasurer within the town itself, there is the Town Board of Audit. This Board is composed of the supervisors of the town. The duty of this board is to meet on the Tuesday preceding the town meeting for the purpose of auditing and settling all charges against the town and all unpaid accounts of town officers for services rendered since the last annual meeting. Such accounts are required to be specifically stated and itemized. Among other duties this board must examine and audit all accounts separately of each town officer authorized by

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1. R. L. 1905, Sec. 655.

2. Ibid, Sec. 656, 657.

law to receive and disburse money. All claims against the town not in proper form must also be examined by them and a report in detail made to the town meeting. This report must be posted by the Clerk and read at the annual town meeting.

The Town Treasurer must submit his accounts to this Board of Audit with all vouchers at this annual meeting of the Board.

Except in St. Louis County, the county has no direct check upon the finances or accounts of the town as such. This seems to be in accord with the policy of our law as laid down by the Supreme Court in a number of cases that the various local units such as the school district and township, although a part of the territory of the county, are coordinate with and not subordinate to it.

In St. Louis County, however, a special officer is created by law, known as the Auditor's County Examiner, whose duty it is to examine the affairs of every township, village, city, school district, charitable and benevolent institution maintained wholly or in part by public subscription with reference to:

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 1. St. v. Lakeside Co. 70 Minnesota, 283.

- (1) the method of keeping and the accuracy of their books;
- (2) the mode of auditing and paying bills;
- (3) the legality of charges made for services and supplies;
- (4) the character of assets and amount of assets and securities held by officers;
- (5) the character and amount of fees of officers, to determine whether there are charges for services not warranted bylaw;
- (6) the bonded indebtedness - its purpose and use of proceeds;
- (7) the method of keeping funds and books, their safety and places of deposit in;
- (8) in general, any matter or thing which concerns the proper conduct of public business.

This county examiner is required to instruct the officials of these subdivisions in the proper method of conducting public business, with such criticisms and suggestions with reference to these matters as will lead to uniformity of public business in the county. This officer is to be at all times under the supervision of the county auditor, who appoints him, and to whom he must report monthly. He is also required to furnish the County Attorney with duplicates of reports showing criminal acts.<sup>1</sup>

Such an officer as this may be necessary in a county of such extent and complexity as St. Louis, but it would hardly seem advisable to adopt such a scheme

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1. Laws 1909, Ch. 108.

in the other counties of the state. Such work as this could be done better by the State Public Examiner.

Outside of St. Louis County, the county officers have few, if any, duties in relation to the town treasurer, except in the paying over by the County Treasurer of the money collected in taxes for town purposes.

The State Public Examiner or his deputy may examine the accounts of a town only upon the request of the County Board of the county. The Public Examiner in his last biennial report states that in certain school districts<sup>1</sup> and villages, (for an examination of which the law also requires a request by the County Board), taxpayers have been unable to secure a state examination because of a political combination between the local officials involved and the county commissioners. Whether such combinations have existed between county commissioners<sup>2</sup> and town boards, there is no evidence but the very possibility of such a combination defeating the operation of the law shows the need of some other arrangement.

Town books are notoriously in bad shape. In

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1. Laws 1907, Ch. 344.

2. Report of Public Examiner, 1912, pp. 6.

a private conversation, a county commissioner of one of the southern counties of this state, said that, to his knowledge, in many towns no books had ever been kept and in others they were made up but once a year. The town officers seem to think that they could honestly remember the finances of the town without keeping account of them.

The report of the Public Examiner for 1910 says that practically the same condition was shown by the limited examination made at the request of County Boards. He says: "There seems to be an almost universal condition of disorder with neglect of legal requirements, records poorly kept, and quite often none kept at all. In many of these towns, funds have not been properly accounted for, and when reports have been filed with the County Auditor, too often they have been pigeon-holed and put to the sleep that knows no awakening. Unfortunately this department has not the power of forcing action."<sup>1</sup>

It would seem advisable to change this law and make it possible for taxpayers to secure an examination without the intervention of the County Board, if it is not possible to secure an annual examination by the

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1. Report of the Public Examiner, 1910. P. 62

Public Examiner of all local accounts.

All of the town officers receive fees or a per diem compensation for the work they perform. The Supervisors, and Clerk each receive \$2.00, the Assessor \$2.00, for each day's work necessarily performed whether within or outside of the town. The clerk receives, in addition to this per diem, a fee of twenty five cents for every notice posted and ten cents for every paper filed with him, and six cents for every instrument recorded or certified.<sup>1</sup> The Justice of the Peace and the Constable receive fees according to work done, the number of which fees it is not necessary to consider here.

It has been held by the Attorney General that the Clerk is entitled to ten cents for every account filed after audit by the Town Board of Audit and not for every paper placed in his hands. The annual town meeting cannot vote to pay the clerk a monthly salary, but the fee system must be retained in all towns throughout the state.<sup>2</sup>

The Town Treasurer is entitled to two per cent of all moneys paid into the treasury during his term. This does not include two per cent of all moneys turned over to him by his predecessor.<sup>3</sup>

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1. R. L. 1905, Sec. 682, amended by 1907, ch. 682, as amended by 1911, ch. 37, and <sup>912</sup>ch. 558. In Hennepin county, the assessor gets \$5.00, elsewhere \$3.00 and mileage at 5¢ a mile, the Clerk and Supervisors \$2.00 with the maximum of \$25.00 per year. In other counties maximum is \$60.
  2. Opinion <sup>Jan 8,</sup> June 8, 1912, Attorney General Report 1912 p. 341
  3. R. L. 1905, Sec. 667 - maximum in one year not to exceed \$100.

These fees, or per diem compensation is all that a town officer is entitled to while performing duties required by law. A Town Supervisor, however, when acting as judge of election is entitled to \$1.50 per day for such service.<sup>1</sup>

The bond of the Town Treasurer in twotimes the probable amount of money to be received must be approved by the Town Board. The amount of the bond of the Town Clerk is left to the discretion of the Town Board.<sup>2</sup>

This concludes a brief outline of the structure of town government in Minnesota at the present time. The more important functions of local government, in many of which the town or its officers have a part, will be considered in a subsequent chapter.<sup>3</sup>

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1. Opinion June, 1912.; Report of Attonney General 1912 p. 334

2. R. L. 1905, Sections 658, 662.

3. See Chapter IV, Sections on Highways, Drainage, or Relief, Health, Justice, and Taxation.



CHAPTER III. THE COUNTY.

In addition to the towns discussed in the preceding chapter, the entire area of the State of Minnesota is divided into counties, eighty-six in number, all fully organized for general purposes of local government. The structure of the county is more complex and its functions are, in certain respects, more important than those of the town. Hence, it requires a closer examination.

Section 1. Creation of New Counties.

The procedure for organizing new counties is now provided by a general law. Upon the filing of a petition signed by three-fourths of the voters of each county affected by the proposed change, (one copy of which must be filed with the Secretary of State, and another with the Auditor or Auditors of the county or counties affected) stating the proposed changes, the proposed location of the county seat, and the names of the first County Board, the Secretary of State must verify the signatures and if he finds them sufficient, notify the Governor to that effect. The Governor then issues a proclamation stating the proposed change and directing that an election be held on the question in the counties affected.

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This petition is recorded by the Secretary of State whose duty it is to give notice in the counties affected for three weeks before the next general election, at which the question must be submitted. The returns of the election are canvassed first by the County, and later by the State Canvassing Board. If the proposition carries, the Governor must issue a proclamation to that effect within ten days and the Secretary<sup>1</sup> of State must notify within three weeks the County Auditors and Boards of the counties affected.

The creation of new counties or the changing of the boundaries of existing counties is limited by the provision of the Minnesota constitution that "no new county shall contain less than four hundred square miles; nor shall any county be reduced below that amount;.....Counties now established may be enlarged, but not reduced below four hundred square miles"; and by a provision of the laws of 1913 that such~~new~~ county and the remainder of the old county must have 2000 inhabitants and a valuation of \$4,000,000.00.<sup>2</sup>

The change of boundaries or the creation of a new county is effective as soon as the proclamation of the

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1. R. L. 1905, Sections 381-6 as amended 1913, Ch. 422.

2. Laws 1913, Ch. 337, Art. XI, Sec. 1.

governor is issued. The new county, however, remains attached to the old county for judicial purposes until officers are elected. The county commissioners of the new county<sup>1</sup>, whose names were included in the petition for change, upon being served with notice, meet and appoint the county officers. This county board may levy taxes for county<sup>2</sup> purposes within ninety days, and all taxes for current expenses levied upon property in the new county by the county board of the county from which this has been created are void.<sup>3</sup> Taxes collected by the original county must be paid over to the town, school, village and other taxing districts, located in the new county, for which they were collected. The territory of the new county is responsible, however, for<sup>4</sup> its share of the county debt of the old county in excess of the value of county buildings and funds; its share is to be determined by the last assessment and an appraisal of the county buildings by three citizens.<sup>5</sup> Towns, school and road districts, if not divided by the division of the county, remain the same as before the creation of the new county. If these districts are divided by the change, the county board may add the fraction to an adjoining district,

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1. R. L. 1905, Sec. 387.
  2. Ibid, Sec. 388
  3. Laws 1911, Ch. 11
  4. R. L. 1905, Sec. 381
  5. Ibid, Sec. 393.

or organize new districts. Drainage proceedings begun before the division are continued by the new county, or <sup>1</sup> by the counties jointly, each bearing its proportionate share, if the drainage project lies in both.

A county which has completed this process, becomes <sup>2</sup> fully organized for all purposes.

Section 2. The County as a Body Corporate.

The county has been defined as "an involuntary political corporation organized as a subdivision of the state for governmental purposes". It is an agency through which the functions of government are, to a certain extent, exercised within its territorial limits. As in the case of ~~the~~ town, within constitutional limitations, the control of the legislature is absolute. The limitations<sup>3</sup> imposed by the Minnesota constitution upon the legislature in dealing with counties are very few. That relating to the size of <sup>4</sup>the county has been considered in a previous connection. In addition thereto, the constitution provided that the legislature may provide for the organization of any city of 20,000 inhabitants

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1. R. L. 1905, Sec. 389.

2. Laws 1911, Ch. 278.

3. Guilder v. Dayton 22 Minnesota, 366.

4. see page 60.

into a separate county; that laws shall be passed providing for the election of such county officers as may be necessary; that the county shall have such powers of local taxation as may be prescribed by law; and finally, that no money shall be drawn from the county treasury except by authority of law. These are all of the provisions dealing with the county as such. Provisions relating to functions<sup>1</sup> performed by the county<sup>2</sup> will be considered under their respective heads.

The legislature may compel a county to pay an obligation which is not legal, but which it ought in equity to pay. But it cannot divert county money or property to private purposes and the property of the county is free from legislative confiscation. Hence the legislature cannot compel a county to refund money to a purchaser at a tax sale made in compliance with law.<sup>3</sup>

As a body politic and corporate, the county may sue and be sued in its own name, but its liability is very limited. It is not liable for the torts of its officers unless it expressly authorized such acts or adopts and ratifies them and retains the benefits

1. Art. XI, Sections 2 to 6.

2. See Chapter IV.

3. State v. Foley, 30 Minnesota, 350.

thereof. Thus the County of Hennepin was held liable, at the suit of a citizen damaged thereby, for the acts of the County Board in erecting a dam to keep up the water in Lake Minnetonka, when it continued to maintain such dam, thus ratifying <sup>1</sup> an illegal act.

A county is not liable for an injury caused by the negligence of the county board in failing to repair a court house or a sidewalk appurtenant thereto. It is not liable for damages caused by a defect in a county ditch<sup>2</sup>, which causes water to overflow the land of a private owner nor for the failure of a contractor to construct a ditch in accordance with the plans approved by the <sup>3</sup> auditor.

Its powers like its liabilities are very limited and include only such as are expressly granted by statute or are fairly to be implied as necessary to the powers so granted. The maxim "Expressio unius <sup>4</sup> exclusio alterius" has been held applicable to the county.

The county may acquire and hold real estate for public purposes; or it may take it in satisfaction of a claim, or for failure to pay taxes thereon.<sup>5</sup>

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1. Schussler v. Hennepin County, 67 Minnesota, 412.
2. Dodsall v. County of Olmstead, 30 Minnesota, 96.
3. Thompson v. Polk County, 38 Minnesota, 130.
4. Williams v. Lash, 8 Minnesota, 496.
5. R. L. 1905, Sec. 409; Shepard v. Murray, 33 Minnesota, 519.

The county as a body politic may dispose of its real estate, which is not needed for governmental purposes by sale, lease or contract of sale or by any other method, provided that such sale may not be made without thirty days published notice, and by resolution of the county board. The minerals in all the tracts disposed of must be reserved to the county. and The county may require a bond of the <sup>1</sup> person desiring a sale or lease of any land of the County.

The county also has the power to make all contracts necessary to carry out any of its powers. The subject of contracts will be considered later in connection with the powers of the county board. <sup>2</sup>

The county has been held to have implied power to incur necessary expenses, including attorney's fees, in connection with the collection of taxes. <sup>2</sup>

Since the power of the county as a body politic and corporate is generally exercised by the County Board, or in pursuance of resolutions adopted by it, <sup>3</sup> other statutory powers of the county, as well as some of its implied powers, will be considered in connection with the powers of the County Board, in a subsequent section

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1. R. L. 1905, Section 409.

2. Washington County v. Clapp, 83 Minn. 512.

3. R. L. 1905, Sec. 411; see Chapter III, Sec. IV of this paper.

of this chapter.

Section 3. Outline of the Organization of County.

Before considering the exercise of the powers of the county as a body corporate through the county board, the present organization of the county with reference to the officers now provided for by law must be discussed briefly. In tracing out the historical development, attention was called to the effect and importance of special legislation and of legislation applying only to counties of certain classes.<sup>1</sup> In this chapter an attempt will be made to give the more important exceptions with reference to the organization of the county but to any general statement that may be made with reference to the organization of counties in Minnesota, it should be borne in mind that exceptions to those statements may exist in counties in which special laws are in force.

In every county of this state (except Ramsey) there are eleven officials elected by popular vote from the county as a whole, and a county board<sup>2</sup> of five members (except in Ramsey and St. Louis Counties)

1. See pages 23-31 -----

2. Ramsey Co. has also an elective abstract clerk under Special Laws of 1889, Ch. 355.



chosen by the people of their respective districts. These officials are the Board of County Commissioners, the Auditor, Treasurer, Sheriff, Attorney, Court Commissioner, Judge of Probate, Coroner, Superintendent of Schools, County Surveyor, Clerk of Court, Register of Deeds.

The Sheriff acts principally as an officer of the District Court. But he has also certain ~~other~~ powers and duties, such as the duty of keeping the peace of the county and of summoning for that purpose the posse comitatus, as well as the power to collect delinquent taxes by distress and public sale.<sup>1</sup>

The Coroner takes the place of the sheriff when ~~there~~ is a vacancy in the officer of the former, when the sheriff is committed to jail, is a party to an action, or whenever any person files an affidavit with the Clerk of Court stating that the Sheriff by reason of prejudice will not perform his duty. But the principal duty of the Coroner is to inquire into the death of persons ~~thought~~ to have come to their death by violence and not by casualty. For this purpose he may summon a <sup>2</sup>

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1. R. L. 1905, Sec. 549-560, 890-3.

2. Ibid, Sections 583-588.

jury, subpoena witnesses, etc.

The County Attorney serves in a dual capacity. In the first place, in connection with the judicial organization of the county, he acts as the prosecutor on behalf of the state of all persons charged with crime. In the second place, he acts as the counsel for the county. In the latter capacity he must appear for the county in all cases ~~to~~ which it is a party, give advice and opinions to <sup>1</sup> county officers and to the County Board upon all matters in which the county is interested or in relation to their official duties. The Public Examiner in a recent report <sup>2</sup> deplors the lack of cooperation and understanding between County Attorneys and other county officials, and suggests that much better results would be accomplished if the county officials consulted the county attorney more frequently as to the law rather than blindly followed custom in the conduct of county business. The Attorney General has also suggested that many of the questions referred to his office for opinions could better be settled by county attorneys. <sup>2</sup> 3

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1. R. L. 1905, Sections 565-7.

2. Report of the Public Examiner, 1910, p. 114; Selected Opinions of the Attorney General for July, 1912. Report 1912 p.84-5.

3. For further discussion of these officers see Ch. IV, Sec. 3, Justice and Police.

The principal duties of the Clerk of Court are to keep a record of the actions, docket, etc. of the District Court. In addition to these duties, he has the duty of issuing marriage licenses, of recording vital statistics, of filing the inventory of banks, and of filing or recording the licenses or certificates of opticians, osteopaths, dentists, veterinarians, and notaries. <sup>1</sup>

The Register of Deeds, as his title would suggest, keeps a record of the title to and the transfer of land by deeds, liens, or mortgages. He also records the brand marks of stock owners and of the names of farms upon <sup>2</sup> the payment of certain fees. He must furnish an abstract of <sup>3</sup> the title of land upon request and the payment of fees. <sup>4</sup> By a recent act of 1913, the duty of recording chattel mortgages, bills of sale for chattels and conditional sale contracts is transferred from village and town clerks to the Register of Deeds. He also acts as registrar<sup>4</sup> of titles and as such it is his duty under the control and direction of the district court, to record the title to lands, which have been judicially determined. In

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 1. R. L. 1904, Sec. 107-110, ~~5559~~, 2141, 3002, 2310, 2317, 2323, 2352, 2660.

2. Ibid, Secs. 533-7, 541; '09, ch. 55.

3. In Ramsey County, this duty is performed by the Abstract Clerk.

4. Laws 1913 Ch. 143.

In counties over 100,000 the Register of Deeds must also<sup>1</sup> record and index all instruments affecting land grants to railroad companies, condemnation proceedings, and various easements for building lines, poles, etc.<sup>2</sup>

The County Surveyor in a county of less than 150,000 has comparatively few duties. He is required to make all surveys in the county ordered by any court, public board, or officer, or required by any person, to keep a record of each survey, and to replace lost quarter posts. In a county over 150,000 he is given in<sup>3</sup> addition<sup>4</sup> supervision over the roads of the county.

The duties of the County Treasurer are so closely connected with the financial organization of the county and with taxation that discussion of this official will be considered later in that connection.<sup>5</sup>

The principal duties of the Auditor are (1) to keep the accounts of the county and thus act as a check upon the treasurer; (2) to make out the tax lists of the county; and (3) to act as clerk of the Board of County Commissioners. He has, however, certain

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1. R. L. 1905, 3370 as amended by 1909, Ch. 183.

2. Supplement '09(537-) 4

3. R. L. 1905, Sections 576-80

4. Ibid, Sec. 581; See Ch. IV, Sec. 1. pp.184-90

5. See Sec. 5 of this chapter; Sec. 7 of Ch. IV. pp.282-3 .

other powers such as the power to license transient<sup>1</sup> merchants, peddlers, hawkers, and auctioneers upon the payment of certain fees prescribed by law. He also has the responsibility of letting the contract for County or<sup>2</sup> Judicial drains. He also has charge of the election returns<sup>3</sup> sent in and has various other duties in connection with elections.

Judges of the District Court are elected from districts composed of one or more counties and hence cannot be considered as in reality county officers. Court Commissioners may be elected in each county, or the Judge of Probate may be elected or appointed to that office. The Court Commissioner has in general the powers of the district judge at chambers and in certain instances, as in counties over 150,000, he may act for the Probate Judge in the examination of the insane and inebriates.

Judges of Probate have a jurisdiction limited to the estates of deceased persons, the examination of insane<sup>4</sup> and inebriates, the commitment of children to the State Public School, and the jurisdiction of a juvenile court.<sup>5</sup>

Discussion of the office and duties of the County Superintendent of Schools will be postponed to the<sup>6</sup>

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1. Laws 1909, Ch. 249; 1911 Chs. 39, 121.
2. Laws 1905, Ch. 230.
3. R. L. 1905, Secs. 198, 319.
4. R. L. 1905, Secs. 148 as amended by 1909, Ch. 59; Sec. 5239; Laws 1905, Ch. 85; Laws 1911, Ch. 17. ; see pages 210-213.
5. R. L. 1905, Sections 3826, 3852-55, 1942; Laws 1907 Ch. 388 as amended by 1911 Ch. 17, Laws 1909, Ch. 234; Laws 1905, Ch. 88.
6. See Ch. IV, Sec. 4. pp.241-243.

discussion of education in the next chapter.

There are numerous county boards composed of other county officers, some of which must be considered briefly here. A few of these are to be found in every county. These are: (1) The County Board of Audit, (2) The County Board of Health, (3) The County Board of Equalization, and (4) The County Canvassing Board. The first three will be considered in connection with their respective duties.<sup>1</sup> The last board named has the duty of making an official canvass of the returns of elections. For the purpose of canvassing the returns of the primary election it consists of the Chairman of the County Board, the County Auditor, Clerk of Court, and two Justices of the Peace appointed by the Judge of the District Court. To canvass the returns of a general election, the Clerk of Court is not included in its membership.

In addition to these boards, special boards<sup>2</sup> are constituted in certain counties as the board of Court House Commissioners in St. Louis County, which have charge of the Court House; the Board of Tax

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1. Ibid, secs. 6,7; Chapter III.sec.5

2. R. L. 1905, Sections 198, 319.

Levy, composed of city and county officers in Hennepin County; and the Board of Control, appointed by the District Court of Ramsey County for the purpose of poor relief in both city and county.<sup>1</sup>

In addition to special boards in certain counties, there are also special officers, such as the License Inspector of St. Louis County, whose duty it is to enforce the <sup>2</sup> liquor laws outside of incorporated places; the Abstract Clerk of Ramsey County who shares the duties possessed elsewhere by the Register of Deeds; and the Auditor's County Examiner in St. Louis County, whose duties have been considered in connection with the town.<sup>3</sup>

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1. Laws 1907, Ch. 223.; Laws 1909, Ch. 111; Sp. Laws 1879, Ch. 338; Sp. Laws 1873, p. 273.

2. Laws 1909, Ch. 108.

3. Sp. Laws 1889, Ch. 355; Laws 1909, Ch. 108, See Chapter II. pp. 53 - 55.

Section 4. The County Board.

"The Power of the County as a body politic and corporate is exercised by the County Board or in <sup>1</sup> pursuance of resolutions adopted by it." This body which has both legislative and administrative powers and duties must be considered in detail.

Organization.

The County Board is composed of five members, each of whom is chosen by the voters of <sup>(1)</sup> one of the five districts into which each county is divided and must be and remain a resident there. These districts are to be composed of contiguous territory and be bounded by ward or town lines and contain as near equal population as practicable. The County Board may redistrict after each state or federal census upon giving three weeks published notice of its intention to do so.

Regular meetings of the County Board are held at the county seat on the first Tuesday **after** the first Monday in January and on the second Monday in **July**<sup>2</sup>; and such special meetings as it deems necessary

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1. R. L. Secs. ~~411, 419~~<sup>411, 419</sup> as amended 1913 ch. 537.

2. R. L. 1905, Sec. 424.



may be held. In Hennepin and Ramsey Counties, the county boards are required to meet monthly. Special meetings must be held when ditch petitions are received and in<sup>1</sup> certain counties where a large amount of drainage is being done, this necessitates many special meetings during the year. In some of the smaller counties, such as Dodge County, the meetings seldom exceed six or seven a year. The number is in a way limited by the fact that the number of meetings, not including special ditch meetings, for which the commissioners can draw mileage is limited to twelve. No session may extend over six days, but it may adjourn for any length of time provided it does not extend beyond the date of the next regular meeting.<sup>2</sup>

The County Board organizes at its first<sup>2</sup> regular meeting by electing a chairman and vice-chairman from among its members. The Auditor is Clerk of the County Board by virtue of his office. As Clerk of the County Board he must keep a record of the proceedings of the County Board, preserve all documents and records, receive all petitions and other papers, required to be

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1. Sp. Laws 1889, Ch. 439.; Sp. Law 1877, Ch. 205. ; Laws 1905 c. 230.
  2. The County Board of Ramsey County is composed of seven members, four chosen from St. Paul, two from the county, with the mayor of St. Paul as chairman, under 1904, Ch. 17 a County Board of seven members is provided for St. Louis County.

presented to the county board, attest warrants of the county board, prepare an annual financial statement unless otherwise ordered by the County Board, call a special meeting of the County Board upon receiving a drainage petition, and present at each regular meeting of the County Board a statement showing the tax levy, the tax collections for the current year, the cash balance on hand and the amount due.<sup>1</sup>

#### Committee System.

In certain of the counties of the state a system of standing committees exists. For this there is no express statutory authorization, although committees are occasionally mentioned in the statutes. This system of standing committees has probably reached its highest development in Hennepin and Ramsey Counties. In the latter county, the following list of committees were appointed in 1913: Taxes, Claims, Education, Health, Court House and City Hall, Legislation, License, Lake Improvement, Parental School, Poor, Public Buildings, Printing and Stationery, Road and Bridge, Records and Reports, and Ways and Means.<sup>2</sup>

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1. " R. L. 1905 Secs. 488, 491; State v. Sanderson, 26 Minn. 333  
The Co. Auditor is the proper person to whom all papers should be presented, which are required to be submitted to the County Board, when the County Board is not in session. "
  2. Proceedings of the Ramsey County Board, Jan. 6, 1913.

In Hennepin County, the list is somewhat shorter. Some of the smaller counties have a few standing committees. Thus Aitkin County has two (Purchasing, Courthouse and Poor Farm); Anoka has two (Courthouse, and Poor Farm); Beltrami has two (Purchasing and Burial); Benton has six ( a purchasing committee, and a committee of three members on each district of the county); Big Stone has three; Nichollet has two; Ottertail, three; Meeker, four; Rock, two; Steele, five; and Wilkin, five.<sup>1</sup>

Among the counties which have no standing committees are Cottonwood, Dodge, Martin and Watonwan. In these counties special committees are appointed as occasion arises. Special committees are occasionally appointed which have standing committees.

In Blue Earth and certain other counties, the board acts as a whole on all matters of importance. The County Auditor is frequently made a member of the purchasing committee or even made the purchasing agent of the county(as in Blue Earth County, 1913). Where no purchasing committee exists, or even where there is such a committee, permission is sometimes granted to other

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 1. Proceedings of the boards of the counties named for Jan. 7. 1913.

county officers to make purchases. In Renville County the Board, on January 7, 1913, granted permission to the Treasurer to purchase a new typewriter; on the same date the Register of Deeds of Wilkin County was authorized to purchase a new book-case; and on December 30, 1912, the Blue Earth County Board authorized a Deputy Sheriff of that county to "go after a pair of Bloodhounds without limiting cost and expenses".

Where only a few committees exist the object of the committee system is probably to facilitate business. Since the Board consists of only five members, it is difficult to see the need of many committees. A possible motive may be to give the control of the County Board to three members. Whether such a motive is possible, can only be determined by the examination of the committee system of a few counties.

In Hennepin County, in 1912, the allotment to committees of the various members of the board stood as follows:

Ways and Means,		Waddell	Carlson,	Cook
Public Bldgs.,	Upton,	Waddell	Carlson	
Roads and Bridges,		Waddell, Knight		Cook

Detention Home,		Waddell, Knight,	Cook
County Farm		Waddell, Carlson,	Cook
Lake Improvement,	Upton,	Waddell, Knight	
Printing,	Upton,	Knight, Carlson	
License,	Upton,	Knight, Carlson	
Claims,		Waddell, Knight,	Cook
Taxes,	Upton,	Waddell, Knight, Carlson,	Cook

During the year 1912, on those matters considered by the Board upon which the vote was not unanimous, the division stood as follows: Upton, Waddell, Knight, Carlson, Cook

<u>With the Majority:</u>	44	41	43	28	18
<u>With the Minority:</u>	6	7	8	21	27

Previous to the election of 1912, the Weekly Mirror charged that a ring of three men controlled the County Board. The above tables would seem to bear out these charges. It will be noted that Upton, Waddell, and Knight, or rather any two of them, have a majority of every committee except Ways and Means, and County Farm. From the division of <sup>the</sup> vote above given it is apparent that these men held together and composed the majority of the

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Board. Evidence also exists that the reports of the committees, of which they constituted the majority were usually sustained, whereas the same cannot be said of the reports of the two committees upon which Carlson and Cook constituted the majority. On questions such as the appointment of a County Physician, Morgue Keeper, Assistant Morgue Keeper, proposal to keep the county automobile in the morgue barn, to aid the Humane Society, to grant the request of the County Attorney for an examination of the accounts of the Millage of Golden Valley by the Public Examiner, etc., as well as in letting many of the more important road contracts, the Board divided three to two upon the lines indicated.<sup>1</sup>

That the minority in 1912 recognized this means of control is indicated by the realignment after the election of 1912. At this election Upton was defeated by Chase. In the allotment to committees by Commissioner Carlson, the newly elected chairman, the places formerly occupied by Knight, Waddell, and Upton are given to Carlson, Cook, and Chase, respectively, so that these three men by acting together are able to control the reports of all the committees of the Board except License and Detention

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1. All facts stated in this section are based upon the Official Proceedings of the Hennepin County Board, contained in the Morning Tribune

Home. That these three men are acting together would appear from the division of the vote during the early months of 1913. On those matters upon which the Board was not unanimous, the Board divided as follows:

	Chase	Waddell,	Knight,	Carlson,	Cook.
With Majority,	16	14	8	15	17
With Minority,	3	5	11	3	1

Many of the same questions have come before the Board this year and the opposite result reached. For example, in 1912, Warham was defeated for County Physician by a vote of three to two, in 1913, appointed by the same vote; Morton was not chosen Morgue Keeper, in 1912, three to two, chosen in 1913, three to two; in 1912 by a vote of three to two it was decided not to keep the county auto in the Morgue Barn but to pay rent to a private auto garage, in 1913, by the same vote, it was decided to remove the auto from this garage and keep it in the Morgue Barn.

Nothing can be said here as to the merits of these proposals, nor is this intended to cast any reflection upon the County Board of Hennepin County. These figures are given

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merely to show the possibility of control by three men under the committee system and the effect of a single change upon the attitude of the whole board.

In Ramsey County where the committee system is also fully developed, the reports of the committees seem to be sustained by a unanimous vote in most cases. Since the Board of that County consists of seven members, a combination of four votes would be necessary to control it. The assignment of members to committees is of little significance, aside from the fact that the chairman ( i. e. the mayor of St. Paul ) occupies no committee place, Commissioners Peters and Nash each are upon eleven committees, Commissioner Farrell upon seven, Commissioner Lind, eight, Bures and Smith, six each. Commissioners Peters and Nash by combining could control the reports of eight of the fifteen committees, thus giving them considerable power and influence.<sup>1</sup>

The failure of the smaller counties, in the absence of an express requirement of law, to give the vote of members of their County Boards upon matters passed upon by such Board makes it impossible to

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1. All facts with reference to the Ramsey County Board are obtained from the Official Proceedings published in the St. Paul Enterprise



determine whether such boards are controlled by rings of three men. Committee places seem to be allotted equally among all members, in so far as committees exist.

The relationship between the other county officers and the County Board varies in different counties. It seems to be closer, with reference to official acts of the Board, in the more populous counties. This is perhaps due in part to the requirements of the law. A few instances occur in Ramsey County in which the County Auditor appears before the board and recommends specific measures, such as changes in the annual budget, the number of inebriates, and even goes so far as to inform the Board that he has applied for State Aid for certain roads. Cooperation with the County Surveyor will be discussed in connection with Highways.<sup>1</sup>

In the more populous counties every matter of importance is referred to a committee. In Ramsey County, the practice seems to have developed of referring Road and Tax matters to a Committee of the Whole, with an occasional special committee appointed to examine a proposed change or improvement in a road. In the smaller counties, reference of matters to a committee is less

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1. All facts with reference to the Ramsey County Board are obtained from the Official Proceedings published in the St. Paul Enterprise.
  2. See pages. 185-90

frequent. In certain counties, the Boards seem to go farther and actually to delegate the power to make contracts or approve completed works to committees of the Board. For example: in Martin County, October 23, 1912, the Official Proceedings state that, "Commissioner Pope was authorized to contract for a culvert".....(describing the place, etc.) Commissioner Pope at the same meeting<sup>1</sup> was authorized to settle a disputed claim with the Engineer on a certain state road. In connection with the letting of contracts for permanent bridges by townships, for which county aid is given, the power to approve such bridges is usually delegated to committees of the County Board.

In *Evans v. Stanton*, the Supreme Court held that the acceptance by the Committee on Roads and Bridges<sup>2</sup> of the County Board of a bridge which had been constructed by a township of Goodhue County and toward the cost of which bridge the county had paid \$220.00 was prima facie the act of the County Board, and therefore that the County was bound to pay its share of the cost of such a bridge. The effect of this decision would seem to be the recognition by the Courts of standing committees of the County Board.

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1. Proceedings of Martin County Board, Oct. 23, 1912.

2. *Evans v. Stanton*, 23 Minnesota, 368.

Proceedings.

The proceedings of the County Board must be published in full in some legal newspaper of general circulation in the county. The contents of these published proceedings must be noted with reference to similarities and differences, and the amount of information which the interested voters of the various counties of the state may learn therefrom.

The statutes of Minnesota require that these proceedings contain certain reports, facts and resolutions. Thus at every regular session the proceedings must contain a statement of the condition of the county finances submitted by the Auditor; at the meeting designated for the levy of taxes, an estimate of the expenses for the ensuing year must be included. In Hennepin, Ramsy and St. Louis counties, the votes of all members must also be contained.<sup>1</sup>

Certain acts can be done only by resolution of the County Board which must consequently be printed in full. Among such acts are the sale or lease of county property, the location of a ditch, the formation of a new school district or any change in boundaries, the establish-

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1. R. L. 1905, 716,868,469,473.

ment of a State Rural Highway, and in Counties over 150,000, the appropriation of money for a contract.<sup>1</sup> With the exceptions<sup>side</sup> of these and a few other requirements, the contents of the proceedings are left to the discretion of each board. An examination of the proceedings of a few typical county boards may be of interest.

Taking first the more populous counties, we find that the proceedings of the County Boards of Hennepin and Ramsey are both very detailed, the latter being the more so. In both of these counties all resolutions of the County Board are printed at length and very detailed resolutions seem to be passed upon trivial matters. Likewise the committee reports are formal and lengthy. In Ramsey County, the arguments of the members of the Board and even of persons appearing before the Board at public hearings are sometimes included in the proceedings of the Board. These matters do not occur in the Hennepin County Board proceedings. The reports of the County Board of Audit are given at greater length in Ramsey County and contain exact and valuable information upon the subject of deposits and interest received from county

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 1. R. L. 1905, Sections 409, 1280; Laws 1905, ch. 230; Laws 1911, Ch. 33; R. L. Sec. 471.

2. See page 133.

depositories. In certain other respects the proceedings of the Ramsey County Board yield more information than those of Hennepin County. There seems to be a tendency in Hennepin County, both in reports of officers and in the proceedings of County Board, to designate contracts and proposals by number rather than name, especially in the case of highways, thus making it impossible for a reader to understand the proceedings without a key. This tendency was criticized by the Minneapolis Tribune of January 12, 1913, in an article headed "County Surveyor makes report sans information" in which it went on to say that the County Surveyor intimated to a reporter that it was not worth while to explain details. In Ramsey County, on the other hand, all roads are designated by name, exact information is given with reference to Highways, and the report of the County Surveyor is published in full in the proceedings of the Board with estimates and suggestions for highway work for the ensuing year. The Hennepin County Proceedings, however, possess the merit of stating at the beginning of each session what new matters have come up and what disposition has been made of them.

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1. See page s 187-88.

In general it might be said that Ramsey County Board proceedings err on the side of too great detail on minor subjects, whereas the Hennepin County Board proceedings lack exact information, or perhaps it might better be said the information contained in them is expressed in too technical terms.<sup>1</sup>

In general it may be said that the proceedings of the county boards of the smaller counties are not given in such detail. An examination of the proceedings of Brown, Cottonwood, Martin, Meeker, Nicollet, Ottertail, Renville, Rock, Steele, Watonwan, and Wilkin counties reveals certain facts that must be noted.

None of these counties give the arguments of commissioners or of persons appearing before the Board, nor do they contain lengthy committee reports. In many cases, the substance of the committee report is given, while in others no record of the action of the committee is given,<sup>2</sup> even in instances in which the actual power to make contracts was given to a committee. A few fail to give the number or amount of bids received and in certain of these counties the member making a motion as well as

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 1. Examples of these reports, resolutions, etc. are to be found in the appendix to this paper.

2. See page 84.

the vote thereon is not given. As a rule the reports of county officers and appointees, with perhaps the exception of the Overseer of the Poor, are not included in the proceedings of the Board. The proceedings of all the above counties, except Wilkin, contain a list of the jurors selected. Very few contain detailed resolutions except upon ditch, highway and other matters required by law.<sup>1</sup>

In general it may be said that the proceedings of the County Boards of the smaller counties of the state are not too detailed. In fact it would seem that in certain instances not enough information is given to the public. The interested voter is certainly entitled to know by whom certain motions are made, how each member voted, what bids were received, what interest the county will receive upon its deposits and other important matters of like nature and it must be said that the proceedings of many County Boards fail to yield that information although none of them possess the fault, attributed to Hennepin County, of using technical language which the public cannot interpret without a key.

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1. Examples of these reports, resolutions, etc. are to be found in the appendix to this paper.

Powers.

Certain powers of the County Board will be discussed in detail in the succeeding chapter on Functions performed by Local Government, under the sections relating to Finance and Taxation, Highways, Drainage, Poor Relief, Education, Health, and Justice and Police. But a brief discussion of these powers of the County Board which do not fall under one of these heads will next be taken up here. First as to the powers of the County Board in the management of the corporate business of the County.

Corporate.

The County Board is required to provide a suitable courthouse and jail with offices at the county seat for the Auditor, Treasurer, Register of Deeds, Clerk of Court, Judge of Probate, and Superintendent of Schools. In the case of *Upton v. Strommer*<sup>1</sup> the expenditure of money by the County Board of Clearwater County in the transformation of a town hall into a court house was held authorized by law as incidental to the management of county affairs,<sup>2</sup> even though the amount expended made necessary a tax levy

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1. R. L. 1905, 430,602, as amended by Laws 1909, Ch. 447.

2. *Upton v. Strommer*, 101 Minn. 97.



above the maximum fixed by law. In counties over 150,000 it must establish a public morgue.<sup>1</sup>

Of the optional powers of the first class, detention homes are to be found only in the more populous counties, tuberculosis sanitarium are not very numerous, although in many counties there is an agitation in favor of<sup>2</sup> the establishment of such institutions and with the amendment of the law in 1913 more are to be established. In Ramsey County, a movement is now on foot for the establishment of a joint City and County Tuberculosis Hospital, maintained and constructed, like many other institutions in that county, jointly by the City of St. Paul and the County of Ramsey.

In a few instances in this state, advantage<sup>3</sup> has been taken of the law passed in 1905 which enables county boards to arrange with library boards of cities and villages for the supply of books to residents of the county free of charge upon the payment of a certain sum by the County Board of the county. Among the counties where such is now the case are Anoka, in which the

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1. R. L. 1905, Sec. 437.

2. Laws 1911, Ch. 353, as amended by 1913 c.500.

3. Proceedings of Ramsey County Bd., September, 1912.

County Board pays \$250.00 to the Anoka City Library for the use of books by residents of the county; in Steele County where a similar arrangement exists between the County Board and the Owatonna Public Library, for which privilege the County Board is paying \$500.00 annually. In Hennepin County a similar arrangement has been proposed but has not yet been acted upon by the County Board.<sup>1</sup>

The County Board may acquire land for a park and, if authorized by a majority vote of the electors of the County, acquire land and erect and maintain a county hospital.<sup>2</sup> It may also expend not to exceed \$5000.00 to acquire land for a county fair.

By acts of the legislature in 1913, the County Board of Ramsey County was authorized to establish a home for boys and girls, and that of St. Louis County<sup>3</sup> to establish a work farm and an industrial home for girls.

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1. Proceedings of Anoka, Steele, Hennepin County Boards, January, 1913; Laws 1905, Ch. 521.
  2. R. L. 1905, Sec. 434; laws 1913, ch. 392, 265.
  3. Laws 1913, ch. 83, 337, 188.

Appropriations.

The County Board has the power to make appropriations for certain purposes in addition to those which are strictly necessary for the performance of its functions as a unit of local government. Among such may be included the following:

The County Board may appropriate -

- a. For a demonstration farm, not over \$300.00;
- b. For the County Agricultural Society, not over \$500.00;  
(in St. Louis Co. \$5000.00)
- c. For an exhibit at the State Fair;
- d. To the G. A. R. for the construction of a memorial hall;
- e. For a dam, not over \$300.00;
- f. To a humane society;
- g. For the purchase of grounds for an agricultural exhibition;
- h. For the observance of Memorial Day, not over \$200.00;
- i. For aid to a Hospital, not over \$5000.00;
- j. For the expenses of a member of the Board at the State Conference of Charities;
- k. It may offer rewards for the destruction of gophers and other similar pests;
- l. It may add to the State Wolf Bounty;

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a. '11, c. 69; b. R.L. 434; c. '07, c. 99, '09, c.26, '13, c. 277;  
 d. '11, c. 89; e. '07, c. 104; f. R.L. 3127; g. '11, c. 236;  
 h. '11, c. 109; i. '09, c. 210, '13, c.123; j '05, c. 262;  
 k. 2402; l. 2397.

- m. In counties under 211,000, not over five cents per capita for advertising agricultural resources, paid to development society;
- n. For a County agricultural agent, approved by Dean of Agricultural College, \$5000.00.

Probably no one county makes appropriations to all the purposes or societies named in this list but a few of the more usual ones we may note here. Almost all of the counties appropriate amounts varying from \$150.00 to \$500.00 for the aid of the County Agricultural Society for the annual Fair. An increasing number each year appropriate money to send an exhibit to the State Fair, and thus advertise their resources. Each year a large number send delegates to the State Conference of Charities and Corrections and appropriate money for expense of such delegate. (The importance of this conference will be discussed in a later chapter.) Aid to Humane Societies is usually granted where such societies exist. Appropriations for dams, for observance of memorial day, and for aiding hospitals are less frequent. A significant example of the latter occurred in Nicollet County during the past year, where the County Board granted \$1000.00 aid to

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m. 1913, c. 77; N. 1913, c. 376.

1. Nicollet County Board of Commissioners Proceedings October 12, 1912.

a private hospital, on condition that the hospital care for any patient sent there by the county at a certain rate fixed by the County Board. Demonstration farms under the supervision of the Agricultural College are becoming more and more numerous and the amount of money appropriated annually is growing.

In some of the less densely settled counties, wolf bounties are still offered and amount to a considerable amount in a year. Gopher bounties are offered in some of the counties. In Dodge county, in 1912, the aggregate of Gopher bounties reached the surprising total of \$1,446,733<sup>1</sup> at the rate of five cents for each pocket gopher, and three cents for each common gopher.

It will be noted that certain powers can only be exercised after a popular referendum. Among these are the appropriation of not over \$2500.00 to erect or aid in the erection of a monument or memorial hall to the G. A. R. (However, if the G. A. R. has commended the erection of such a building, the County Board may aid to the extent of \$1500.00 without such referendum.) In case of such a referendum, the question may be submitted at any regular or <sup>3</sup>

1. Proceedings of Dodge County Board Jan 2, 1912; Financial Statement.  
21. Laws of 1911, C. 89; R. L. 1905, Sec. 450.

special election and if carried, the County Board acts by a resolution to that effect. At the last general election, such a proposition was submitted and carried in Watonwan County.

The licensing power of the County Board is not of very great importance. Few ferries exist at the present time, employment bureaus outside of the cities are few. Licensing logging dams is of importance only in the forested counties of the northern part of the state. The power of granting liquor licenses outside of municipalities, has been exercised by thirty County Boards and more than eighty saloons licensed, yielding a revenue of more than \$50,000.00 for roads and bridges.<sup>1</sup>

The power of the County Board relative to the creation and change of townships has been discussed in a previous chapter, and that over school districts will be considered later.<sup>2</sup>

In the process of changing the county seat, the County Board acts in a purely ministerial capacity, merely examining the petition to ascertain its sufficiency and proclaiming the result after an election which it is required by law to call. The petitions to change the county seat,<sup>3</sup>

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1. R. L. 1905, Secs. 1246, 1522, 1825, 2547; 1909, Ch. 279.

2. See Chapter II pp. 38-9; Chapter IV . pp. 195-196.

3. R. L. 1905, Sec. 403, pp.

are few. Most of the County Seats are now located on railways and in the most centrally located and largest town in the county. In 1911 a petition to change the County Seat of Dodge County was circulated and an election held, but the proposal to change from Mantorville to Dodge Center was lost. Agitation to change the county seat of Stearns County in 1912 failed because of lack of signers to the petition. The grounds on which change is urged are generally that the proposed county seat is more centrally located or more accessible by rail from all parts of the county. It is obvious that the designation of a village as the county seat means much to a village or city and hence some of the bitterest campaigns and most largely participated in elections result when such a question is at issue. For example the recent election in Dodge County on this issue brought out the largest vote in the history of the County.

#### Contracts.

The power of the County Board to make contracts extends to the carrying out of all the powers of the Board. Under the general power given to "Make all contracts and do

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1. Dodge County Board Proceedings for 1911.
  2. Sauk Centre Herald during months of September, October, and November 1912.

all other acts in relation to the property and concerns of the county necessary to the exercise of its corporate powers" the Supreme Court has held that the County Board has the implied power to enter into contracts for the employment of agents to supervise and inspect highway work for which it has appropriated money.<sup>1</sup>

The manner of letting contracts is exactly prescribed by law. In a county under 75,000, no contract over \$500.00 for property, work or labor may be let without two weeks published notice, or for roads, bridges, and buildings without fifteen days posted and three weeks published notice. Every contract must be executed in writing and let to the lowest responsible bidder who must give a bond of not less than contract price sufficient to insure faithful performance, and to make up for losses county may sustain.<sup>2</sup> If the bids are not satisfactory to the board; they must again advertise for bids.

In any county over 200,000 no contracts for the purchase of "goods, materials, or supplies of any kind" for an amount over \$100 may be let without seven days

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1. R. L. 1905, Sec. 409; Goodnow v. Ramsey Co., 11 Minn. 31; Armstrong v. St. Louis Co., 103 Minn. 1.

2. R. L. 1905 Sec. 615, 4335.



published notice. Any such contract may be let to the lowest responsible bidder and approved by resolution of the County Board.

However in case of unforeseen injury to roads or decay of county property, a contract for repairs may be let without advertising for bids, but such contract must be approved by a majority of the County Board and recorded in the next official proceedings.

No county commissioner may be interested in any contract made by the County Board, and every contract made in violation of this provision is void. No county officer, deputy or clerk may be directly, ~~or indirectly~~ interested in any contract, work, labor or business to which county is party. Violation of this provision is a gross misdemeanor. <sup>1</sup>

It seems to be the general practice to require every bidder to enclose a certified check of a certain amount as a guarantee that ~~this~~ bid is in good faith, and to require a bond of the successful bidder in the exact amount of the work, equal to the minimum fixed by the law as above stated, i. e. the contract price of the work.

The letting of contracts for county printing affords an opportunity to make a close study of one kind of county contracts in regard to a subject upon which it is possible for an outsider to judge of the wisdom of the award made by the County Board.

Printing.

In every county, the following matters must be printed:

- (1) The Official Proceedings,
- (2) The annual financial statement,
- (3) The list of delinquent real estate taxes of the preceding year,
- (4) Miscellaneous notices.

As to these the following statutory provisions apply:

The Board is required to have the official proceedings published in some newspaper printed and published in its county, which publication is to be let annually by contract to the lowest bidder, at its first regular session in January of each year. The Board may reject any offer, if, in its judgment, the public interests so require and thereupon designate a paper without regard to any rejected offer.

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Provided that in counties where the population exceeds 50,000 the proceedings may be published in one daily and one weekly at the county seat. If the official newspaper ceases to exist for any reason, except by consolidation, the County Board has authority to designate another newspaper for the remainder<sup>1</sup> of the year.

The financial statement of the county, the details of which will be discussed later, must be made out by the County Board at their first meeting in January and caused by them to be posted at the courthouse door, and published for three successive weeks in some newspaper printed in the county, which in counties over 75,000 must be a daily. The statute contains no provision that such publication shall be let by contract but this seems to be the almost universal practice.<sup>32</sup>

The publication of the list of delinquent real estate taxes must be let by the County Board at their annual meeting in January, after receiving bids from publishers and proprietors of newspapers in the county. Before letting the printing of the delinquent tax list, the County Board must open, examine, and consider all bids filed with

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1. R. L. 428 as amended 1907, C. 447.
  2. R. L. 423 as amended by 1907 Ch. 205.: See pages 136-8.
  3. See pages 106 -110 and Appendix.

the county auditor, and shall thereupon award "the publication of the notice and list to the publisher or proprietor of the newspaper whose offer is found to be the lowest and does not exceed fifteen cents for each description. The Board may reject any offer if, in its judgment, the public interests so requires and may thereupon designate a paper without regard to any rejected offer." In a county over 75,000 the paper must be a daily paper of general circulation throughout the county, but if no daily submits a bid at the rate provided, the Board may designate a weekly of general circulation throughout such county. The paper must be designated by resolution, (for which the law prescribes the form). The bond of the publisher of such list is to be fixed by the County Board in an amount not less than \$2000.00, conditioned that such notice and list will be published in compliance with law and that the publisher will pay all expenses and losses to the county for his neglect or refusal to publish the same. The publisher must submit the proof as well as the first publication to the Auditor for correction, and if the published list is incorrect, republish.<sup>1</sup> The reasons why such extreme care

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1. R. L. 1905, Secs. 907-911 as amended by 1911, Ch. 5.

is provided for in connection with the delinquent tax list will be discussed in connection with the subject of taxation in the next chapter.<sup>1</sup>

No provision is made by statute for the letting by contract of the publication of **other** notices, but the Attorney General has held that the County Board may advertise for bids, and let by contract at its discretion.<sup>2</sup>

As noted above, the rate for the publication of the delinquent tax list must not exceed fifteen cents per description. As to the publication of other proceedings and notices, the law provides that the rate must not exceed seventy five cents per folio for the first insertion, and thirty five cents for each subsequent insertion.<sup>3</sup>

The County Board is sole judge as to whether the newspaper so designated is "of general circulation". The law in regard to what constitutes a legal newspaper, as amended in 1911 omits the requirement, formerly contained therein, that all such newspapers must be printed in the English language. Hence the Attorney General holds that it is sufficient if legal notices be printed in English, although a German paper.<sup>4</sup>

1. See pages 283-286.

2. Attorney General Report, 1908, p. 120; Laws 1911, C. 329.

3. R. L. 2714. (Folio equals 250 ems of solid matter of type used.)

4. Attorney General Report 1912, P.

In the appendix to this paper will be found a table showing the rates at which county printing was let<sup>1</sup> in twenty two counties of the state, and certain other data as to number of bids received. From this table, it appears that of twenty two typical counties, fourteen let the printing of the delinquent tax list for the maximum rate provided by law, thirteen let the printing of the financial statement, and the same number let the printing of their official proceedings, with which is usually included all other notices required by law to be published, for the maximum rate provided by law, or as some of the County Boards express it "For one maximum legal rate". One county, included in this list, (viz. Blue Earth) fails to state the rate at which the county printing was let, and the same thing was found to be true of the County of Rock in 1913, and of Dodge County in 1912.

In most of the counties there is a surprising lack of competition for county printing. As it will be noted by looking over this list in ten counties only one bid was received for each item or for the printing as a whole, in four of the counties there were two, in two there were four, while in the remainder the number is not stated

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 1. The information contained in this table with respect to County Printing was obtained from the official Proceedings of the Counties.

and in most cases it can safely be assumed that the number did not exceed one.

In Faribault County, it will be noted by this table, that one newspaper was so anxious to secure the county printing as to bid one cent for the whole.

Where more than one paper puts in bids, there seems to be a tendency to divide the items among several papers and to give each some part with apparently little regard for the cost. Thus it is not uncommon to find, as it happened in Becker County in 1913, that one paper was awarded the proceedings, another the financial statement, and a third the delinquent tax list, although for two of the items lower bids were received within the same group.

Without an intimate knowledge of local conditions, such as the character and circulation of local newspapers and the interest of different elements of the public in county business, it is impossible to judge of the wisdom of any awards. With such knowledge, the letting of County Printing in Ramsey and Hennepin Counties may be examined. In Hennepin County in 1912, the bids and award was as

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follows:

<u>Paper.</u>	<u>Del. Tax</u>	<u>Fin.St.</u>	<u>Off.Pro.</u>	<u>Awarded</u>
Tribune	10¢	55,25	55,25	Off. Proceedings.
News	8¢	50,24	60,28	Del. Tax List and Fin. St.

This is clearly a case of letting to the lowest bidder.

In 1913 the bids and award was as follows:

<u>Paper.</u>	<u>Del. Tax.</u>	<u>Fin.St.</u>	<u>Off. Pro.</u>	<u>Awarded.</u>
Finance & Commerce		25,12		Fin. St.
Tribune	10¢	75,35 55,25 35,25	75,35 55,25 33,20	Off. Pro. 55,25
Daily	8½¢	60,32 50,25 40,20	62,31 52,33 33,20	Del. Tax List.

(1)

In this case, as in the preceding year, the publication of the financial statement and of the delinquent tax list goes to the lowest bidder. While the successful bidder on the financial statement is a paper of comparatively limited circulation, its circulation is chiefly among those who would be interested in the financial condition of the county, i. e. among investors, lawyers, and business men.

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1. The three rates given refer to the class of type to be used. The type to be used by Finance and Commerce is smaller than that of the others.



The official proceedings, as it will be noted by this table, was not let to the lowest bidder. In this case it would seem, however, that the Commissioners were wise in awarding the publication of the paper of greater circulation even though the rate was slightly higher.

An examination of the letting of the County Printing of Ramsey County during the last few years reveals slightly different tendencies. In 1912, bids were received from three small papers for the publication of the Official Proceedings, and it was awarded to the St. Paul Enterprise, the lowest bidder, a paper of extremely limited circulation, which publishes very little news, and by its own statement is "Devoted to the Interests of Dayton's Bluff and the East Side". If the intention is to give publicity to the proceedings of the County Board, surely this is not the method. The Financial Statement and Delinquent Tax List were awarded to the Tagliche Volkszeitung.

In 1913 the following bids were received on January 6th:

<u>Paper.</u>	<u>Del. Tax.</u>	<u>Fin. St.</u>	<u>Off. Pro.</u>
West End Bee			12 $\frac{1}{2}$ ,5
St. Paul Herald			18, 1
St. Paul Enterprise	7 $\frac{1}{2}$		18, 6
Dispatch	.75 per folio		
		46,22	
Volkszeitung	14¢	34,17	

These were referred to the Committee on Printing and Stationery, which reported on January 13th at an adjourned session of the annual meeting in favor of awarding the Delinquent Tax List and Financial Statement to the Tagliche Volkszeitung. It will be noted that the Volkszeitung is the lowest bidder on the Financial Statement. As previously noted the statute requires that the printing of the Delinquent Tax List be awarded to a daily in a county over 75,000 if any bid comes within the rate designated, and as amended in 1911, newspapers printed in foreign languages are legal newspapers within the meaning of the law.<sup>1</sup> Chairman Keller objected to the designation of a German paper of limited circulation for this purpose, but as the bid of the Dispatch was the only other bid of a daily and that was not in the form prescribed by law, there was no alternative but to let the Delinquent Tax List to the Volkszeitung in accordance with an opinion of the Attorney General the preceding year. Since the law, as interpreted by the Attorney General in the opinion previously cited, does not restrict the County Board in letting the contract for the publication of the Financial Statement, there would hardly seem to be

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1. R. L. Sec. 907; Laws 1911, Ch. 379.

2. See page 103.

any justification for giving it to a German newspaper of such limited circulation. If the purpose were information, or if the purpose were to inform investors, the Dispatch bid at forty six cents for the first insertion and twenty two cents for each subsequent insertion would surely be worth the difference in the rates bid.

As to the publication of the Official Proceedings, the owner of the St. Paul Enterprise appeared and objected that the St. Paul Herald was not a legal newspaper and the matter was referred to the committee and to the county attorney for further consideration. One week later at an adjourned meeting of the Board, the Committee on Printing asked more time and it was granted. On January 31st, the County Auditor again advertised for bids for publishing the proceedings of the Board, although no record is to be found in the proceedings of the Board giving such authorization. On the 24th of February the Board laid the matter over till March third. On March 3rd the "Board convened in adjourned annual session" and let the contract to the West End Bee for eleven cents for the first insertion, and free for all subsequent insertions.

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No statement occurs in the proceedings of the County Board as to the other bids, or of the fact that the auditor had re-advertised for bids, but it merely states that that the bid of the West End Bee was the lowest. It will be noticed that this bid was not the same as that originally submitted by the West End Bee, as noted in a table on the preceding page. As to the wisdom of letting to a paper of <sup>1</sup> such limited circulation enough has been said already. The discussion of letting to the St. Paul Enterprise applies equally well to the West End Bee.

The legality of this award might be called into question on another ground. Following the line of reasoning of the Minnesota Supreme Court<sup>2</sup> in Minnesota Debenture v. Scott, the contract for printing must be let at the first session in the year, which in Ramsey County, under special law occurs on the first Monday in January. The designation of the paper at an adjourned meeting is valid. In the case above cited the designation of the paper for publication of the Delinquent Tax List on a meeting held on the second Monday in January, being adjourned from the preceding Monday was held valid. Accord-

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 1. Page 107  
 2. 106 Minnesota, 32, 36.

ing to Banning v. McManus<sup>1</sup> a session may be adjourned over six days but it cannot be adjourned beyond the time fixed by law for the next session. By the special law above cited, the County Board of Ramsey County is required to meet on the first Monday of each month. Hence under this decision it would be impossible for the County Board to adjourn their regular January session to March 3<sup>rd</sup> as the statement in the Proceedings would indicate.<sup>2</sup>

Earlier in this chapter we have considered<sup>3</sup> the matter included in the proceedings of the county board. Since the cost depends on the amount of printing required as well as upon the rate, it may be interesting to compare the amount expended for printing in the various counties, as shown by their annual financial statements noting in each case the prolixity of their proceedings, the nature of their financial statements, and the rate at which the contract for each was let. Information of this character is available for only a limited number of counties. First let us compare these matters in two

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1. 51 Minnesota, 289.  
2. See page 109  
3. See pages 85-89

counties which are principally rural in character. This comparison may well be expressed by the following table:<sup>1</sup>

<u>County.</u>	<u>Rate 1912, Off. Proc.</u>	<u>Cost.</u>	<u>Rate for Fin. St.</u>	<u>Cost.</u>
Nicollet	75,35	\$875.	75,35	\$700.
Martin	60,28	\$314.	60,28	\$415.

It is evident that the difference in rate does not account for the difference in cost of county printing. This difference is to be found in the character of the proceedings themselves. As noted in a previous section, the published proceedings of Nicollet County are more detailed than those of any other rural county examined and this accounts in part for the difference in cost. A comparison of the business transacted in the two counties in 1912 reveals the fact that more ditches<sup>2</sup> and more highways were constructed in Martin County.

Little can be found to throw any light upon the profitableness of these county printing contracts. There seems to be a common impression that the newspapers make quite a profit out of such printing. In an editorial in the Sauk Centre Herald last January, it was charged that the St. Cloud Times had made an annual

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1. Based upon Financial Statements of above counties for Dec. 31, 1912, and Official Proceedings for Jan 2 1912.  
2. See pages 206-207

profit of about \$1500.00 a year, after deducting legitimate expenses and payments to competitors to stay out, but under the circumstances this may be an exaggeration. But it should be noted that the St. Cloud Times consistently was the official paper of Stearns County for twenty five years and in all cases except in 1909 it got the contract at full legal rates.

The profit to the newspaper of printing even the notices of the county where such are not let by contract, seems sufficient to keep many small papers alive in the larger counties. There are numerous small papers published in Minneapolis and St. Paul, such as the Weekly Mirror, St. Paul Herald, etc. which have almost no advertising, very little news of a general character, and a very limited circulation, which seem to go on from year to year with little reason for their existence except that nearly half the paper is filled with legal notices, relating to probate court business, district court business, sheriff's sales, etc.

An examination of the proceedings of various county boards throws very little light upon the letting of contracts for other than county printing. Wherever

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the amount of bids is stated, and such instances are few in some counties, the contract seems to be let to the lowest bidder, or the subject is such that discretion must be used by the County Board, (for example, - in the purchase of an auto) and hence little information is gained by considering such proceedings.

Highway contracts will be considered in a subsequent chapter.<sup>1</sup>

An exception to the general rule that contracts are let by the County Board must be made in the case of drainage or ditching jobs which are let by the County Auditor of the County concerned in the case of County Ditches, and by the Auditors of the counties concerned acting jointly in the case of Judicial Ditches.<sup>2</sup>

#### Appointments.

In certain of the smaller counties, the positions of County Physician and Overseer of the Poor are let after advertising for bids for the same. This hardly seems to be contemplated by the law, although the Attorney General seems to think that the law sanctions such a practice. In an opinion delivered in January, 1911,<sup>3</sup>

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1. See. Ch. IV, sec. 1

2. Laws 1905, Ch. 230.; See Chapter IV. Sec. 2.

3. Atty. Gen. Rept. 1911-12. p. 81:



the Attorney General justifies such practice on the following reasoning: Article XI, Sec. 4 of the Minnesota State Constitution says: "Provision shall be made by law for the election of such county and township officers as may be necessary". This section of the Constitution was interpreted by the Minnesota Supreme Court in the case of *Spencer v. Griffith* as requiring that "County officers ordinarily and usually to be elected by the people".<sup>1</sup> Hence it logically follows that the Overseer of the Poor, ~~occupying~~ being an appointive position must be an "Employee" and therefore "He must be employed by contract after advertising for bids". The Attorney General then advises the County Board not to award the contract to the lowest bidder, but to the bidder who seems to them to be most suitable person for the position. "Responsible" should be interpreted to mean "Suitable".

In this same opinion the Attorney General admits that this is stretching the meaning of the word "responsible". It is difficult to see the justification of this opinion. The section upon which he bases his opinion appears to have no relation to appointments. It reads as follows:

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1. *Spencer v. Griffith*, 74 Minn, 35.

"In counties under 75,000 no contract over \$500. shall be let without two weeks published notice, if for property, work or labor, or fifteen days posted notice and three weeks published notice, if for roads, bridges, and buildings, stating the time, place, amount, and description of the work. Such contract shall be let to the lowest responsible bidder, executed in writing, etc."

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Then follows a provision as to bond, re-advertising if no satisfactory bids, effect of failure to comply, and the section concludes with a proviso that this section shall not apply in case of unforeseen injury due to floods, etc. It is hard to see how such a restriction upon appointing power of the county board could be found in a section such as this.

Let us consider the effect of this interpretation in the practice followed in certain counties in appointment of Overseers of the Poor and of County County Physicians.

In Anoka County at the first meeting of the Board in 1913, two bids were received from applicants for the position of County Physician, one bid \$175., the other \$174; that latter was appointed to the position. In Becker County, with four bids for County

Physician, the lowest was accepted for \$650. In Dodge County, in 1911, three bids were received for County Physician; the position was let to the lowest for \$300., although a joint bid of \$500. was submitted by five physicians. In the same county, 1912, three bids were received, and the position was given to the lowest for \$300. In Steele County, in 1913, there was but one bid for County Physician for \$250. which was accepted. In two of these same counties, the position of Overseer of the Poor was let to the lowest bidder, in a third to the higher of two bidders.

There are two possible dangers in an appointment based upon bids received: in the first place, there is danger that in an attempt to economize the County Board will award the position to the person whose bid is the lowest, regardless of the service performed; in the second place, the County Board is prevented from obtaining the services of better men who perhaps would not care to put their services up at auction. Another point to be considered, is the fact that the service rendered by these "Employees" is changing and not

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 1. Official Proceedings of the Counties named.

constant. Hence it would seem to be more fair and probably more economical to follow the practice of Martin County, (to give but a single example), and pay for the services rendered by the County Physician upon the presentation of his bill to the County Board in the same manner as other claims are allowed.

In those counties in which there is a tendency to divide up the work as much as possible we have the peculiar spectacle of the County Physicians fixing their own salary by the amount bid. Take the following instance from Faribault County, 1913:

" Bids Received for Doctoring the County Poor: "

<u>Name.</u>	<u>Territory.</u>	<u>Bid.</u>
Broberg	3 twps, Blue Earth City & Jail	\$135.
Barr	3½ twps., and Wells village,	100.
Stewart	2½ twps. and Amboy village,	100.
Durgin	2 twps. and Winnebago village,	100.
Biickford	1½ twps. Minn. Lake, and P. F.,	100.
Jacobs	2½ twps. and Elmore,	75.
McGroarty	2 twps. and Easton	50.
Buser	2 twps. and Delevan,	50.

All of these bids were accepted as stated. In this case the County was agreeing to pay out in advance \$710. for medical services for the County Poor regardless of the nature or number. In the year ending July 1, 1912, the same

county paid out \$694. for similar services, while in Martin county, of the same area, and under similar conditions, only 427.10 was paid out during the year ending January 1, 1913.<sup>1</sup> Time does not permit the examination of the amounts in other counties nor do the methods of keeping the financial statements always permit a ready comparison. But this one comparison would seem to indicate that at least one half could be saved by paying for services as rendered rather than letting by contract.

The County Board is nominally the head of the county, but its control over the other officers of the county is very limited indeed. Let us consider some of the powers it possess with reference to other officers and employees of the county. First as to appointment:

The number of appointments which the County Board of a small county has in its power to make are very limited. They are limited practically to the Courthouse Janitor, the Overseer of the Poor Farm (if any), and such engineers as may be necessary for the construction of ditches.

In the more populous counties, where there are

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1. In Martin County this item includes medicines and nurses as well as physicians' services; in Faribault County the latter item is eliminated due to care of all sick poor at the poor farm. Deducting this item, Martin County expended only \$373.10. These items are contained in the Financial Statements of these counties.

more county institutions, the number of appointments to be made by the County Board is considerably larger, but even the appointment of the heads of some of these is given to other officers. For example in Hennepin County in 1913, the following employees were appointed by the County Board - at its first session - The Superintendent of the County Farm, the Matron of the County Farm, the County Physician, two chauffeurs, a Morgue Keeper, a Supervisor of Assessments, - at later sessions, an inspector on Contract No. 1, a book repair man. In addition to these should be mentioned certain appointments to positions in the Juvenile Detention Home, Probation Officers, etc. made by the District Court subject to the approval of the County Board. In Ramsey County, the number of appointments made so far in 1913 is even still smaller.

The County Board also has the power to determine within the limits fixed by law the number of deputies which any county officer may have but the actual appointment of such deputies, and in most cases the approval of their bonds is left to the respective county officers.<sup>1</sup>

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1. The tendency in more recent legislation seems to be to fix the exact number by statute, leaving nothing to be done by the County Board.

The County Board has power to fill vacancies in the offices of Auditor, Judge of Probate, Treasurer, Register of Deeds, Sheriff, Attorney, Surveyor, and Superintendent.<sup>1</sup> It has no power to fill vacancies in its own membership.<sup>2</sup> Vacancies in the County Board are filled by a Board of Appointment consisting of the chairmen of Town Boards, and the Mayor of every city, and the president of every village within that **district**. If a vacancy occurs more than thirty days after election ~~the person chosen fills it~~ holds for the remainder of the four year term.<sup>3</sup>

Certain vacancies are filled by the District Court, such as a vacancy in the office of Clerk of Court, and in the office of Court Commissioner.<sup>4</sup>

Over the actual conduct of business by other county officers the County Board has very little control. In addition to those powers and duties relating to Finance which will be discussed in the next section, the County Board may determine whether notice of tax rates shall be given by the treasurer, whether one or two tract indexes shall be kept by the Register of Deeds, whether the Treasurer shall collect taxes at various points in the County, what posts shall be replaced and what, if any, surveys made by<sup>5</sup>

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 1. R. L. 1905, Sec. 423.  
 2. Swedbach v. Olsen, 107 Minn. 420.  
 3. R. L. 1905, Sec. 426; Opinion of Atty. Gen. Rept. 1906, P. 160.  
 4. R. L. 1905, Secs. 114, 15.  
 5. R. L. 1905, 880, 534 as amended by '07 c. 405 and 1913 ch. 551.  
 R. L. 1905, Sec. 448-9, 576.

the County Surveyor.

Considerable control is given to the Chairman of the County Board by a very recent act of the legislature which authorizes him to examine the books, accounts, and records of every county official except the treasurer, upon the expiration of his term of office, and if he finds them as required by law, to issue a certificate to that effect. The salary of each officer for his last month is paid only upon the presentation of this certificate.<sup>1</sup>

The power of the County Board over the bonds and salaries of the officers of the county will be considered in a later section.<sup>2</sup>

These constitute some of the more important powers of the County Board, and serve to indicate the extent of its powers and duties. The limitations on these powers are very numerous and can only be ascertained by a thorough study of the decisions of the courts in cases in which these have been called into question. A few words as to judicial interpretation will suffice for our purpose here.

The Supreme Court has repeatedly held that the

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1. Laws 1913, Ch. 146.

2. See pages 158-61, 163.



powers of the County Board are purely statutory and include only such as are expressly granted or may be fairly implied therefrom. Its general powers are prescribed by statute. It has general supervision and control of the affairs of the county. The county acts through the board and for the transaction of county business is practically the county itself.<sup>1</sup>

In the transaction of business the County Board must act as a body. The Chairman has no authority to enter into a contract except as authorized by the Board. However an unauthorized act of a member may be ratified by the Board, and the acceptance of a bridge by a committee of the Board has been held sufficient.<sup>2</sup>

Among the powers that have been implied by the courts from those expressly granted are: (1) the power to employ agents to carry into effect its powers, (2) the power to make necessary repairs in county buildings regardless of statutory debt limitations, (3) the power to enter into contracts for the employment of necessary agents to oversee, superintendent and inspect the work on highways for which it has appropriated county money.<sup>3</sup>

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1. Chaska v. Carver Co., 6 Minn. 204; Goodnow v. Ramsey Co. 11 M. 31; St. v. Smith 84, Minn. 293; **Cashman v. Carver Co.**; 19 M.295.
2. Gardner v. Dakota Co. 21 Minn. 33; Schmidt v. Stearns Co. 34M.122; Evans v. Stouton, 23 Minn. 368.
3. Upton v. Strommer, 101 Minn. 91; Armstrong v. St. L. Co. 103 M. 1.

On the other hand it has been held that the County Board has not implied power to issue bonds for a courthouse or for any other purpose.<sup>1</sup>

Section 5. Financial Organization of the County.

A part of the county organization closely related to the foregoing but in which other officials and boards in addition to the County Board participate is the financial organization of the County. Discussion of the subject of taxation and of the relation of the financial officials of the county thereto will be reserved to a later chapter. In this section only those duties which relate to the custody of finances, accounting, and checks thereon will be considered.

In the county there is a much more complex financial organization.

Treasurer.

The duties of the County Treasurer are similar to those of the Town Treasurer in relation to finances. The County Treasurer may pay out money only on order of the County Board, signed by the Chairman and attested by

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1. Goodnow v. Ramsey County, 11 Minnesota, 31.  
2. See Chapter IV. Sec. 7 .

the County Auditor, or upon a warrant issued by the County Auditor upon presentation of the proper certificate by the person or tribunal allowing the same and not otherwise. All moneys due to the State may be paid only on draft of the State Auditor. All funds as soon as received must<sup>1</sup> be deposited by the treasurer in the name of the county in one or more banks designated by the Board of Auditors and<sup>2</sup> payments must be made by checks on such depositories. The checks upon the Treasurer are very comprehensive. The County Auditor is required to keep account current with the County Treasurer. The Treasurer and Auditor are required to make full settlements on the last of February<sup>3</sup>, May and October and within thirty days thereafter the Auditor must send an abstract to the State Auditor. At<sup>4</sup> the same time, the County Treasurer must exhibit his books to the County Board, if in session, or to the County Auditor alone, if the Board is not in session. The accounts of the Treasurer are subject to inspection at any time by the County Board and the County Board must inspect them at least once a year.<sup>5</sup>

1. R. L. 1905, Sec. 498.

2. Ibid, Sec. 500 as amended by 1905, c. 352.

3. Ibid, Sec. 490.

4. Ibid, Secs. 511, 883, as amended by laws, 1911, Ch. 225.

5. Ibid, 1905, sec. 511.

Board of Audit.

As in the township, a Board of Audit is provided. This Board, composed of the Chairman of the County Board, the Auditor and the Clerk of Court, is required to examine carefully and audit the accounts, books, and vouchers of the County Treasurer, and to count and ascertain the kind, description, and amount of funds in the treasury at least three times a year without previous notice to the treasurer as well as at the close of his term. This Board is required to report thereon to the Commission~~Board~~ and to publish the results in the newspaper. This is the chief duty of the Board of Audit. Other duties of this Board will be considered later on.<sup>1</sup>

These are the principal checks upon the County Treasurer within the county itself. There are also certain checks which the state has upon County Financial officials. Reports required to be made to the State Auditor by the County Auditor as to the amount of taxes levied and settlements are required to be made with the State Treasurer three times a year for the proceeds of public lands and for taxes due to the State.<sup>2</sup>

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1. I.R. L. 1905, Sec. 499 as amended 1909, ch. 22; under laws 1913, Ch. 146, the Chairman of the County Board is required to examine the books, records, and accounts of all other county officials; see pages 129-230.

2. R. L. 1905, Sec. 2730, 885.

Public Examiner.

The Public Examiner is required by law to examine and audit the accounts, books, vouchers, etc. of county officials and ascertain the items of their receipts and disbursements, verify and inspect the moneys, assets, and securities, and discover the amount and character of any commission, per cent, or other unlawful charge for services unlawfully exacted by them.

He is further empowered and required to enforce and prescribe a uniform system of accounting, as far as practicable, for state and county auditors and treasurers, "Such as shall afford suitable checks upon their mutual action and secure the supervision and safety of state and county funds". He must also expose faults and errors in accounting and instruct in the proper methods. He must ascertain the character and ability of bondsmen of county officials, and may require additional bonds whenever he deems it necessary. He may require of any County Treasurer as often as he thinks necessary a verified statement of his accounts. The Attorney General is required to enforce any refusal of an officer to obey a lawful

direction of the examiner.

He has the power of a court to issue subpoenas. Refusal to obey his orders constitutes a felony. He is required to report all delinquents to the governor who may suspend such officer till an examination can be made or better security obtained. The procedure for hearing, etc. on removal of a County Treasurer will be discussed<sup>1</sup> later.

The work of the public examiner since the establishment of that office has been very effective, and it is generally admitted that accounts of county officials are well kept in most instances. According to the report of the Public Examiner county officials show a readiness to cooperate and are willing to adopt better and improved methods when their superiority is demonstrated. In a few instances it has been found necessary to invoke the penalty of the law. In Beltrami County in 1909 the Auditor and four Commissioners were removed by the Governor after a hearing as a result of the report of the Public Examiner in 1908, and in the same year the County Treasurer of Itasca County was convicted of a felony as a result of a similar report.<sup>2</sup>

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1. R. L. 1905, Sec. 1582, as amended by 1909, Ch. 449. See pp.169-70.

2. Report of Public Examiner 1910, p. 223.

County Depositories.

In addition to the powers previously noted, the County Board of Audit has the duty of designating the county depositories. Advertisements for bids must be inserted in the newspapers for two weeks previous to such designation by the Board of Audit. The proposals submitted by the banks must state the security that will be given, the rate of interest to be paid on monthly balances, and the interest which will be paid on time deposits, ~~subject to withdrawal only at~~ the end of a specified time.<sup>1</sup>

Each bank before being designated as a county depository must deposit with the County Treasurer a bond to be approved by the County Board in at least double the amount to be deposited, payable to the County and signed by not less than five resident freeholders as sureties, who shall in the aggregate qualify for the full penalty named in the bond. If the bond is that of a surety company authorized to do business in Minnesota, the amount of the bond need not be greater than the amount to be deposited. Securities such United States, State, County, City or School bonds may be deposited in lieu of the bond of a

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1. R. L. Sec. 500 as amended by 1907, Ch. 352.

surety company. If, after it has designated a depository, the Board of Audit deems the surety given to be insufficient, it may require a new bond or revise or modify its designation. The bond so given must be approved by the County Board.<sup>1</sup> Thus there are two checks to insure the safety of deposits, first, approval by the Board of Audit, secondly, the approval by the County Board.<sup>2</sup>

The County Board of Audit cannot designate a bank in which any one of its members is a stockholder as a county depository.<sup>3</sup> All county funds as soon as received must be deposited by the County Treasurer in one of these depositories<sup>4</sup> and the County Board cannot impose other restrictions<sup>5</sup> upon the deposit of funds. The amount deposited in one bank must not exceed the capital stock of the bank plus the permanent surplus.<sup>6</sup>

Although the proceedings of the Board of Audit are generally published with the Proceedings of the County Board, few instances are to be found in which the proceedings of the former give the nature of the proposals received.

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1. R. L. Sec. 502 as amended by 1909, Ch. 124.
  2. R. L. Sec. 500 as amended by 1907, Ch. 352.
  3. R. L. Sec. 617.
  4. R. L. Sec. 500 as amended by 1907, C. 352.
  5. Opinion of Atty. Gen. 1910, p. 130.
  6. R. L. Sec. 500, as amended by 1907, Ch. 352.



In a limited number of counties it is possible to determine the rate of interest received, etc. The following table shows the rate of interest offered by County Depositories in Nicollet County in their proposals for the period of two years commencing July 1, 1911, the amounts on deposit in each of these banks at the time of each report of the Board of Audit of that county during 1912, and the total interest received during 1912.

<u>Bank.</u>	<u>Rate.</u>	<u>Dec. 16 '11.</u>	<u>Jan. 3, 12.</u>	<u>July 8</u>	<u>Dec. 21</u>
1st. Nat'l Bank St. Peter	1/4%	\$12,160.	\$ 3,698.	\$ 7,700.	\$19,688
Nic. Co. of St. Peter	1/4%	8,503.	4,389.	7,798.	23,830
Citizens of St. Peter	1/4%	7,671.	3,910.	8,007.	15,577
Courtland St. Bank	1%	3,554.	1,963.	2,956.	6,667
Farmer St. Bank of L.	1%	1,608.	709.	4,545.	5,508
Citizens State Bank of N.W.	1%	1,511.	807.	3,372.	7,873
Nicollet State Bank	1%	4,596.	1,586.	2,665.	10,696
Total on Deposit:		\$42,278.	\$19,346.	\$40,735.	\$102,374
Interest on Deposits; for 1912:		\$188.06.			

This rate of interest seems remarkably low. This can be accounted for by the fact that the totals on deposit

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 1. Reports of the Board of Audit of Nicollet County are contained in the Official Proceedings of the Board of County Commissioners. Total amount of interest was obtained from the Financial Statement of the County.

as shown by the reports of the County Board of Audit upon December 16, 1911, July 8, 1912, and December 21, 1912, respectively, are the totals after taxes have been collected ( one-half being paid by the first of June, the other one-half by the first of November), and before the share of the taxes due to the State and other divisions of government have been paid over to their respective treasurers. It is the practice in most of the smaller counties in compliance with the law which requires three examinations a year as a minimum, for the County Board of Audit to examine the treasurer's accounts after the taxes have been received. The totals shown upon January 3, 1912, are those found by the County Board upon the opening of the new year after settlements had been made with the various other taxing authorities. This probably represents the normal amount on deposit at any one time in the depositories of the County, and is apparent from the fact that one per cent of the total on deposit at that date, or \$193, is very slightly more than the total interest received by the county for that year (that is \$188.) Similarly the amount on deposit in Martin County during 1912 was as follows:

January 3, 1912,	\$111,379.	
August 21, 1912,	247,405.	
December 11,	183,560.	(1)

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1. Proceedings of Martin County Board for dates named, and Financial Statement for December 31, 1912.

The total interest received upon deposits for 1912 was \$2384. or a little more than two per cent of the lowest amount in the above table.

The changing nature of the balance on deposit in favor of the County is made clearer by the following table showing the interest received on monthly balances by the County of Ramsey during the year 1912:

Interest on Bank Deposits Fund.

December, 1911	\$824.99
January, 1912	515.81
February, 1912	533.07
March, 1912	889.42
April, 1912	685.95
May, 1912	631.64
June, 1912	922.22
July, 1912	961.18
August, 1912	759.93
September, 1912	444.53
October, 1912	524.35
November, 1912	734.27

Total interest: \$8,427.36

(1)

Since the rate of interest received by the County upon deposits was constant for this entire period, the above tables shows in a striking manner the change in the sum on deposit during different months of the year. The

total amount of interest received seems rather small in comparison to the immense sum of over \$4,000,000. that is received and paid out by the county each year and even more so when it appears that the balance on hand in favor of the county at the opening of the year 1912 was \$417,778. and that at the close of the year it was \$223,882. making the rate of interest on the latter less than one-half of one per cent. Experience seems to show that the rate of interest received by the smaller counties is larger than that of the more populous counties.

In considering the rate of interest paid it must be remembered that the funds so deposited are subject to withdrawal at any time and that a bond equal to the amount to be deposited is required if the surety is a surety company and of twice that amount if personal. The character of the bond security given seems to vary. The following table shows the amount and character of the security given by the banks designated by the Board of Audit as Depositories for the funds of Hennepin County in 1912:

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<u>Bank.</u>	<u>Amount of Bond.</u>	<u>Nature of Security Given.</u>
N. W. Nat'l	\$100,000.	Surety Company
Scandinavian Am.	75,000.	" "
Hennepin Co. Savings	50,000.	" "
Merchants & Mnfg'rs.	50,000.	Part surety company, part a personal bond and remain- der securities.
Metropolitan National	50,000.	Surety Company
German-American	50,000.	Securities.
Union State	50,000.	Personal Bond & Securities
St. Anthony Falls	50,000.	Surety Company.
East Side	25,000.	" "
South Side	25,000.	Securities.
North Side	25,000.	"
Central State	10,000.	"
Mpls. State	10,000.	Surety
West Mpls.	10,000.	"
St. Bonifacius	7,500.	Personal
Minnetonka State	5,000.	Surety.
Robbinsdale	5,000.	Securities.
Mound,	5,000.	Personal.
Maple Plain	3,000.	Personal.
Farmers' of Osseo	5,000.	Personal.
State Bank of Rogers	10,000.	Personal.
Osseo State	20,000.	Personal. (1)

In general the security given in the case of the larger banks seems to be that of a surety company and that of the smaller banks personal but so many exceptions exist that no generalization can be made. In the smaller counties bonds secured by surety companies seem to be of less frequent occurrence. The same tendency noted above for both Nicollet and Hennepin Counties seems to prevail generally thruout the state, namely, that of dividing

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1. Rept. of Board of Audit of Hennepin Co. to Co. Board on April 1, 1912.

the deposits among numerous banks of the county at whatever rate of interest is offered. Occasional examples are to be found, however, where the Board of Audit (as in Ramsey County 1912) refused to designate a bank as a county depository until a higher rate of interest was offered.

That wisdom has not always been exercised in the choice of depositories or in the acceptance of security would appear from a statement of the County Auditor of Hennepin County to the County Board on November 30, 1912 that Hennepin County had \$108,433.11 on deposit in "Suspended and closed" banks.

#### Financial Statements.

Many of the facts heretofore discussed with relation to finances have been gained from a study of the Financial Statements prepared by the Board of County Commissioners and published shortly after the close of the year. The question naturally arises as to the information that can be gained from such statements as to the financial condition of the county. It is likewise appropriate to consider here what other means of information exist with reference to the condition of county finances.

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The financial statements published by the different counties vary greatly. The provision of the statute relating thereto is as follows:

"Annually on the first Tuesday after the first Monday in January, such Board shall make a full and accurate statement of the receipts and expenditures of the preceding year, which shall contain a full and correct description of each item, from whom and on what account received, to whom paid and on what account expended, together with an accurate statement of the finances of the county at the end of the fiscal year, including all debts and liabilities and the assets to discharge the same...." 1

The statements vary of course with the different funds into which county finances are divided. In the smaller counties the statute requires but few funds while in counties over 150,000 it allows not to exceed twenty five funds and requires certain funds to be kept separate in each county of that population. For example in counties over 150,000 the unappropriated balance must be transferred to the suspense fund. In counties under 75,000, the County Board may transfer the surplus in one fund to another by a unanimous vote. In all counties the Treasurer is required to keep his accounts according to the separate and distinct funds or appropriations, and to record payments made under contracts, both under the name of the particular contract on account 2

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1. R. L. 1905, Sec. 433.

2. Ibid, Secs. 497, 469-73.

of which it was made and under the general title of the fund from which such warrant is payable.

Within the limits fixed by law there are many variations, in the itemizing of amounts and in the information given about each payment. Thus for example; in a financial statement like that of Anoka the total paid out for printing in 1912 is given and the persons to whom it was paid, but the statement fails to specify whether such items represent the printing of the proceedings of the County Board, official notices, summons for court, or for teachers' examinations. Likewise in the expenditures from the Road and Bridge Fund, it is not stated whether the money so expended was expended on State Roads, State Rural Highways, County Roads, or town roads, but merely the place is given. The same faults may be found with the statements of the counties of Becker, Pope, Scott, and Rock. In other counties, such as Dodge, Big Stone, Martin, Nicollet, Faribault, the financial statements are much longer and the items well grouped. For example, the items relating to printing specify in each case the paper to whom, and the work for which, such payment was

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made; the items relating to highways are classified as to whether the expenditure was made on state, county, or state rural highways, usually with the payments for construction of each grouped under the number of such highway; the expenditures for poor relief, if for temporary relief, are grouped under the name of the family to whom such relief was given; salaries, mileage and fees are separated; payments to schools and towns are grouped under the name or number of the subdivision. From such statements as these accurate information as to county affairs can be gained. The same thing can be said as to the Financial Statements of Ramsey and Hennepin Counties, which, although of the size of small books, contain in detail all items of receipt and expenditure properly grouped and classified, according to the approved system of budget making.

Other sources available from which information as to county finances can be gained are the reports of the County Boards of Audit which contain the tax collections of the current year, the condition of the various county funds and the amounts on deposit at the various banks designated by them as depositories. The Reports of the Public

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Examiner, published biennially, furnish a means for checking up such reports by local boards; and it is one of the defects of the present law that reports made by him are not required to be published in the County when the books are examined.

Likewise the reports of the County Auditor to the County Board at their regular sessions, which in Hennepin and Ramsey counties occur monthly, furnish contemporary information as to the condition of the funds at that time.

This matter of information to the interested public becomes of importance when we hear the frequent protests against the high taxes in the counties, the frequent complaints that are made by persons who do not see why the government needs so much money. The public are entitled to know for what purposes the money paid by them is expended and the published financial reports of the county should give such information in a manner comprehensible to the average citizen. It might be advisable to vest the State Public Examiner with more power, if necessary, to secure uniform accounting in the various counties and a system of bookkeeping in such a form as to give information to the public. Such appears to have been the result of the

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power given to a State Bureau of Ohio to install an adequate system of accounting in all counties and to supervise and annually inspect the bookkeeping of every taxing body in the state. Probably all that would be required is an increased force of deputies for the public examiner. 1

### Section 6. County Officers in General.

There are a few matters which pertain to the officers of the county which can be discussed more effectively if the officers are taken collectively rather than by a discussion of the matter individually for each officer.

These subjects are (1) The Election and Terms served, (2) the Bonds and Salaries, (3) and the Penalties for misconduct and procedure for Removal. A discussion of these subjects will occupy the remainder of the present chapter.

#### Election.

Commencing in 1914, all county officers, except the Judge of Probate, will be elected for four year terms.<sup>2</sup> The terms for which the present incumbents of county offices were elected were as follows: the Auditor, Treasurer, Register of Deeds, Sheriff, Attorney, Coroner, Superintendent of Schools for two years, and the Clerk

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1. Report of State Tax Commission of 1910, p. 262.

2. Laws 1913, C. 458; by C. 446 the Coroner of Ramsey Co. serves but two years; Laws 1913 Ch. 458 submits a constitutional amendment providing a four year term for the Judge of Probate.

of Court and Court Commissioner for four year terms each by the voters of the county as a whole. The members of the County Board, as previously noted, are elected by the voters of their respective districts for four year terms, three of them going out of office at one time, two at the next.

Up to 1911, all of these officers were elected on partisan tickets but in 1912 a law was passed making the election of Judges of Probate, Court Commissioners, and Superintendents of Schools non-partisan, and in 1913 this was extended to all county officials. This would seem to be the proper method. National party designations have no connection with county affairs. There had been, however, more and more a growing tendency toward independent voting in the matter of county elections and a party label no longer insured election. Many efficient officers were continually reelected by the voters of their respective counties. <sup>1</sup>

The question is often asked, "Are the incumbents of county offices changed frequently?" or "Do efficient county officials continue in office for a series of terms?"

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1. Laws 1912, C. 2 as amended by laws 1913, C. 389.

A table showing the number of terms which the present incumbents of county offices will have served at the conclusion of their present term, which is included in the appendix to this paper, may throw some light on this matter. An examination of this table will reveal the fact that the average number of terms served by the present incumbents of county offices is approximately three (to be exact the average is 2.93). The average for officers elected for two years is 3.29, for officers having four year terms 2.29.

The average number of terms served by the various officers is as follows:

Auditor,	3.58
Treasurer	3.4
Register	4.2
Sheriff	3.63
Attorney,	2.22
Probate Judge	4.6
Surveyor	2.87
Coroner	2.69
Superintendent of Schools	2.48

Four Yr. Terms.

Clerk of Court	2.57
Court Commissioner	1.93
Commissioners	2.3

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These averages seem to be borne out by common observation and inquiry. It seems to be a well established opinion that Judges of Probate hold office longer than other county officials and are often men of higher character and more deeply respected than other county officials. The fact that he deals with the administration of estates, the guardianship of the weak, etc. makes it necessary that he be an able man.

The fact that the duties of the Register of Deeds,<sup>1</sup> as previously noted, are almost purely clerical in their nature and give little chance to ~~winn~~ distinction or to win political glory in their performance probably accounts for the fact that the incumbent usually holds for a long time. The same thing might be said for the Clerk of Court, and Court Commissioner when it is recognized that two and one-half terms of four years is equal to as many as five terms of two years each. The averages for Auditor, Treasurer, and Sheriff it will be noted are a little higher than those of the other two year officers, probably due to the same reasons as given for Judge of Probate.

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1. See page 70.

It might be interesting to know the large number of terms that certain county officials in this state have served. Auditor F. D. Stocking of McLeod County has served the longest of any County Auditor in the state - he is now serving his eleventh consecutive term. Treasurer John Webster of Nicollet , now serving his twelfth consecutive term, holds the record for long service as County Treasurer. Register of Deeds A. M. Anderson of Kanabec County, and Eugene Wood of Mower County are each serving their fourteenth consecutive term. Sheriff James Lowe of Murray County is now serving his twelfth consecutive term. County Attorney Albert F. Pratt, of Anoka County holds the record among County Attorneys, although he has served only seven consecutive terms. For Judges of Probate, T. P. Moran of Dakota holds the record with twelve terms. N. Y. Taylor of Meeker County has served twelve consecutive terms as Surveyor and is now serving his thirteenth. A. M. Hirscher of Scott County has completed his twelfth term as Coroner. County Superintendent August A. Zech of Wright County has served six terms in that office and is now serving his seventh.

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Of the officers whose terms are for four years, two Clerks of Court, viz: Frank E. Seavey of Aitkin, and George G. Krost of Blue Earth County, are now serving their seventh consecutive terms. Court Commissioners J. M. Witherow of Clay County, George H. Newbert of Kanabec, and O. J. Davison of Traverse County are each serving their ninth consecutive terms. County Commissioners W. S. Crowley of Watonwan, and Ole N. Sherdal of Yellow Medicine are now serving their sixth terms.

Qualifications.

It is a peculiar fact that no special qualifications are required for election to any county office. Upon the subject of the right to hold office the provision of the Minnesota Constitution is as follows:

"Every person who by the provisions of this article shall be entitled to vote at any election shall be eligible to any office which now is, or hereafter shall be, elective by the people in the district wherein he shall have resided thirty days previous to such election, except as otherwise provided in this constitution or in the Constitution and Laws of the United States." (1)

In the constitution of Minnesota there is no requirement that any county officer have additional qualifications. Hence, it has been held by the Supreme Court of Minnesota, that

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1. Minnesota Constitution Art VII, Sec. 7.



any citizen, without regard to his knowledge, is eligible to the office of County Attorney.<sup>1</sup> As a matter of fact, few instances occur at the present time where any person not an attorney at law is elected to that office but there was a time in the earlier history of our state when such instances were rather common. In such cases it was necessary for the County Attorney to hire another attorney to prosecute the cases which might arise.

In a similar way, a person, however little may be his educational experience, is eligible to the office of County Superintendent of Schools. A constitutional amendment submitted in 1912 to add a professional qualification for this office failed to be adopted because it did not secure a majority of those voting at the election.

Apparently the suggestion has never been made that justices of the peace, judges of probate, and Court Commissioners should be men who had a knowledge of the law. No provision is made in the Constitution for any knowledge of law on the part of these judicial officers and no amendment for that purpose has been submitted within recent

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1. State v. Clough 23 Minn. 17; State v. Nichols, 83 Minn. 3.

years, if ever.

Compensation.

A few words need to be said with reference to the nature of the compensation received by County Officers in Minnesota. Due to the peculiar system, or rather lack of system, on which salaries are fixed, it is extremely difficult to generalize concerning the compensation of any county officer in Minnesota. The fee system has not been entirely abandoned.

In all the counties of the State, except Hennepin and Ramsey, the Coroner and Surveyor still receive fees as their only compensation. The other officers of the county receive either a fixed salary in lieu of all fees, which are then paid into the County Treasury or a fixed salary and a limited number of fees in addition. The compensation of certain officers is fixed by a number of laws and in relation to a number of subjects so that it is difficult to find out what officers receive only a fixed salary and no fees. Although the provision of the statute with reference to compensation may state that the County Auditor in all

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 L. R. L. 1905, Sec. 2609; Laws 1909, Ch. 372, 1913, C. 446.

counties is to receive a fixed salary in lieu of all fees, another statute with reference to drainage provides for fees in ditch proceedings; likewise although by one statute it is definitely stated that the members of the Board of County Commissioners shall be entitled to mileage for attending not more than **twelve** meetings of the County Board in one year, another statute provides that notwithstanding any limitation<sup>1</sup> upon the number of meetings for which such Commissioner may draw mileage, mileage shall be paid for attendance at all meetings called to pass upon **the** construction of drainage ditches.

To complicate matters still more, the compensation of certain officials is left to the County Board wholly or in part. Thus the County Board may fix the salary of the County ~~Attorney~~ <sup>Attorney</sup> between \$1000. and \$2000. in counties under 45,000 and from its decision an appeal lies to the District Court.<sup>2</sup> It may increase the salary of the Clerk of Court in Counties have a population of less than 50,000. Likewise it may increase the compensation of the County Surveyor to five dollars per day.<sup>3</sup>

Once having determined that a county official

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1. Laws 1911, Ch. 374, 1913, Ch. 308; Laws 1905, Ch. 230.
  2. Laws 1911, Chs. 214, 88, 145.
  3. Laws 1909, Ch. 335; Laws 1909, Ch. 205.

of a given county is entitled to receive a fixed salary and no fees, the problem is by no means solved. The basis upon which salaries are fixed may be that of the population of the county, its assessed valuation, its area, the number of townships in the county, the number of schools, of days of court or a combination of several of these.

A few examples will serve to make this clearer. Disregarding temporarily the discretion which the County Board may exercise over the amount of his salary, the scale upon which the salary of the County Attorney is determined is probably the simplest.

Salary of County Attorney.

<u>Population of County.</u>	<u>Salary.</u>
Under 45,000	1000 to 2500 (fixed by Co. Bd)
45,000 to 75,000	2500
150,000 to 200,000 (St. Louis)	4000
200,000 to 275,000 (Ramsey)	5000
over 275,000 (Hennepin)	4500 (1)

That this scale ~~was~~ adopted to fit the needs of certain counties is evident from the fact that no provision is made for counties between 75,000 and 150,000 because none

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1. Laws 1907, Ch. 372; Laws 1911, Chs. 88, 145, 214.

exist, and the further fact that in counties of from 250,000 to 275,000 the county attorney receives a salary greater than that of the same official in counties over 275,000.

At the present time there is no instance in which valuation alone is used as a basis for fixing the salaries of any one official in all the counties of the state. Valuation is always combined with some other element. The simplest example is probably that of the salary of the Auditor: This is as follows:

Salary of County Auditor in Minnesota.

<u>Valuation.</u>	<u>Salary.</u>
less than 4 million	\$1200.
more than 4     " and less than 6	1500.
"     " 6     "     "     "     " 10	2000.
"     " 10     "     "	2500.

Exceptions to this scale:

Valuation between four million and six million and between 76 and 80 congressional townships and under 40, 000 population,	\$2000.
Valuation over 20 million and area over 2500 square miles,	3000.

Population over 150,000 and less than 200,000 (St. Louis)	\$4500.	
Population over 150,000 (Ramsey)	4500.	
Population over 275,000 (Hennepin)	4500.	(1)

The scale of salaries for the treasurer is nearly the same as the above. The salary for the Judge of Probate is based primarily upon population with certain exceptions for counties of certain valuation. The scale for determining the salary of the Sheriff combines area and population in a rather peculiar way. The salary of the County Superintendent is based upon the number of the schools in the county at the rate of fifteen dollars per school unless that rate will give a salary of more than \$1000. If so, then the rate is to be \$12.50 per school. The maximum<sup>2</sup> salary is not in any case to exceed \$2000. and the salary of the Superintendent figured upon the basis of \$12.50 must be at least \$1000. The duty of determining the salary of the County Superintendent under this scale is given to the County Board.<sup>3</sup>

The laws by which the salary of the Clerk of Court is fixed are interesting, not because they are easily understood

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1. R. L. 1905, Sec. 492 as amended by Laws 1905, Ch. 206; L. '07, ch. 572; Laws 1911 Chs. 136, 145, 128.
  2. Laws 1913, Ch. 192; 1909, Ch. 470 as amended by 1911, Ch. 143; 1913, Ch. 390.
  3. Laws 1911, ch. 216.

but because they show the extent to which classification may be carried through the enacting of general laws that fit only a limited number of counties.

Salary of the Clerk of Court.

In lieu of all fees except in Real Estate Proceedings:

<u>Population.</u>	<u>Salary.</u>
Under 7500	\$ 650.
7500 to 12,500	750.
12,500 to 20,000	800.
20,000 to 30,000	900.
30,000 to 40,000	1000.
40,000 to 50,000	1100.

In any county with a taxable valuation of less than six million and a population of less than 15,000 \$100. less than above scale.

In any county with a taxable valuation of more than six million wherein the Grand Jury returned indictments against twenty separate defendants or where the District Court was held 20 days or more, \$1100.

The population is to be determined by adding two per cent annually to the last Federal census unless the last census shows a decrease in population.

In lieu of all fees:

Between 150,000 and 200,000 (St. Louis)	\$3600.	
" 200,000 and 275,000 (Ramsey)	4500.	
Over 275,000 (Hennepin)	4000.	(10)

Time and space do not permit an attempt to apply this table to the counties of the state to determine the salary to which the clerk of each county is entitled. But it is

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1. Laws 1907, Ch. 372; Laws 1909, Ch. 335; 1911, Chs. 80,145.

safe to assume that the number of counties in each class is limited.

In several of the instances given it will be noted that the salaries of the county officials of Ramsey County exceed those of the same officials of Hennepin County. This seems to be quite a general tendency. A comparison of the salaries of the more important officials in these three larger counties in this state may be of interest.

<u>Official.</u>	<u>Salary as fixed by Law.</u>		
	Hennepin	Ramsey.	St. Louis.
Auditor	\$4500.	\$4500.	\$3600.
Treasurer	4500.	4500.	4000.
Judge of Prob.	4500.	5700.	3600.
Sheriff	4500.	6000.	4500.
Clerk of Court	4000.	4500.	3600.
Co. Attorney	5000.	5000.	4000.
Reg. of Deeds	4000.	4500.	3600.
	(a)	(b)	(c) (1)

There is evidently no particular reason why the Judge of Probate, Sheriff, Clerk of Court, County Attorney, and Register of Deeds of Ramsey County, a county of less population and of much smaller area than Hennepin should be permitted to draw so much larger salaries than those of Hennepin, unless it were that such a law was demanded by the County or rather by those in control of the County.

1. (a) 1909, C. 372; 1913, C. 140.

(b) 1911, C. 168.

(c) 1911, C. 145; 1913, C. 118.



The salaries in St. Louis County, the third largest county of the state in size and the largest in area, compare fairly well with those in the other two counties. The peculiar conditions existing in St. Louis County must be taken into consideration when we consider the matter of salaries, expenses, and appropriations. As one man expressed it, St. Louis County is an empire in itself, with an agricultural region, a forest region, one of the largest cities in the state, and one of the richest mining regions in the world. The Supreme Court of Minnesota in a recent case from Crow Wing County recognized the fact, which is also true of St. Louis County, that the duties required of certain officers, especially of the sheriff, in a mining country, are so much greater as to entitle him to a larger salary. Similar peculiar conditions probably justify other inequalities or peculiarities found in our law fixing the compensation of county officials.

The Attorney General in a recent opinion held that the Clerk of Court, County Auditor, and Chairman of the County Board when serving on the Board of Audit were entitled to compensation therefor at the rate fixed by

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1. Opinion January 4, 1911 in Rept. 1912, pp.39-40.

statute. They are ex-officio members of this body and their regular salary as incumbents of the offices which entitle them to membership does not cover duties required of them on such boards.

The compensation of members of the County Board is fixed by two acts passed in 1913, which are to be construed as supplementary. The annual salary of commissioners is as follows:

<u>Assessed Valuation.</u>	<u>Salary.</u>
Not over \$2,500,000,	\$ 125.
More than 2,500,000 and less than 6,000,000	175.
" " 6,000,000 " " " 20,000,000	250.
" " 20,000,000 " " "100,000,000	800.
" "100,000,000	1200.

In addition to the annual salaries fixed by this act, members of the County Board in the first three classes of this table are entitled to \$3.00 per day for each and every day necessarily occupied in the discharge of their official duties while acting upon any committee under the direction of the Board and to mileage of ten cents per mile each way for every mile necessarily traveled in attending meetings of the Board, not to exceed twelve meetings in one year. In addition the chairman is entitled to mileage to the

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county seat to sign warrants. This provision as to mileage is limited in respect to members of the County Board of the fourth class in this table ( i. e. receiving \$800. salary) in that the total aggregate amount of traveling expenses and salary shall not exceed \$1200. in one year. Those receiving this \$800. salary are not entitled to a per diem for committee work; those receiving a \$1200. salary receive neither a per diem nor mileage. <sup>1</sup>

In an opinion rendered last year with respect to the 1911 law which was very similar to the above provision, the Attorney General stated that a member of the County Board was not entitled to mileage while looking after the poor, because that was a part of his official duty as a member of the County Board. He urged that the law be construed strictly because any other construction might lead to abuses. <sup>2</sup>

In view of the fact that the law has changed but little it may be interesting to observe the working of the 1911 statute in certain counties of this state.

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1. Laws 1913, Chs. 308, 456.

2. Opinion of Atty.Gen., May 12, 1911; Rept. 1912 P. ; The 1911 Laws, Chs. 283, 374 differed from the above only in relation to counties of 20,000, to 100,000,000 valuation and in relation to mileage for the chairman.

A comparison of the amounts which county commissioners draw as mileage and fees in addition to their regular salaries would tend to make one think that the strict construction advised by the Attorney General was not always given to the law. The following amounts were received by commissioners in the counties specified. The population of each county and its area and valuation are given in each instance in order to permit of a fair basis of comparison.

County.	Population in 1912.	Area.	Valuation.	Total Compens.	Salary of each.	Mileage & Fees.
Aitkin	10, 371	1,830	\$4,189,192.	\$294. 497.32 252.78 380.88	\$175.	\$119. 322.32 87.78 205.88
Big Stone	9,367	491	4,951,487	342.80 290. 209. 259.60 226.60	175.	177.80 115. 34. 84.60 51.60
Cottonwood	12,651	640	6,330,404	327.60 308.70 250.00 292.00 284.60	250.	77.60 58.70 none 42.00 34.60
Faribault	19,499	719	10,710,744	268.00 256.80 308.20 274.20 288.60	250.	18.00 6.80 58.20 24.20 38.60
Martin	17,518	719	9,448,240	263.50 263.20 263.90 280.00 250.00	250.	13.50 13.20 15.90 30.00 none
Rock	10,222	492	7,367,954	329.80 346.30 291.30 363.00 307.70	250.	79.80 96.30 41.30 103.00 57.70

1. Based upon financial statements of counties.

In Martin and Faribault counties, the Financial Statement includes only mileage for County Board meetings, and apparently the County Commissioners do not draw an per diem in addition. But in Rock County, the Financial Statement does not distinguish the purposes and in the first two counties named the approved statement of fees merely groups the salary and fees and mileage together as one lump sum.

Only one financial statement was found which made any attempt to state the number of miles which each county commissioner had traveled during the year (that of Nicollet County) this statement also itemized the matters for which the county commissioners had drawn fees during the year. It will be noted in the statements given above that one member of the County Boards of Cottonwood and Martin County, respectively, who resided in the County Seat drew no mileage.

Perhaps the large amount of fess and mileage, in Aitkin County is justified by the large number of miles and the round about ways it is sometimes necessary to travel in a county with so much swamp land and few railroads, which is at the same time one of the larger counties of the state. But on the other

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hand, it would be impossible to justify the large amount of fees and mileage in Rock County, comparatively a small county well settled and with good railway connections. Why it should be necessary for the County Commissioners of Rock County each on the average to draw seventy five dollars for mileage, when the County Commissioners of Martin County average fifteen is hard to see. Perhaps there may be peculiar conditions in certain of these counties which justify such large expenditures but it would be well to keep in mind the advice of the Attorney General to construe the law strictly as to mileage and fees in order to prevent abuses growing up.

County officials are required to file statements of fees with the County Auditor on or before January 10th each year. The Auditor is required to present such statements to the County Board and report failure of any official to so file. But such statements are included in the proceedings in very few counties. In Counties of more than 150,000 County officials, receiving stated salaries, unless otherwise provided by law, receive full compensation for all services and expenses and are required to file on (1)

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1. R. L. 1905, Secs. 603-5,2721.

with the County Auditor on the first Monday of each month, a correct statement of all fees received by him and turn the same into the County Treasurer.

The amount of these fees can best be seen by taking a typical county.

POPE COUNTY, 1912,  
(Population 12,746, Area 693, Valuation  
\$4,429,729.)

<u>Officer.</u>	<u>Salary.</u>	<u>Fees.</u>	<u>Expenses Paid.</u>	<u>Other Items.</u>	<u>Total Emolument</u>
Auditor	\$1500.	\$ 89.70			\$1589.70
Treasurer	1500.	46.81			1546.81
Sheriff	900.	714.00			1614.00
Jailer	480.				
Judge of Probate	1200.	453.69			1653.69
Clerk of Court	800.	633.10			
		248.80 from Co.			1681.90
Coroner,		9.00			9.00
Ct. Comm.		10.00			10.00
Register of Deeds	1000.00	1530.50			1530.50
Co. Surveyor		18.50			18.50
Co. Supt.	1230.				1230.00
County Atty.	1080.				1080.00
Total paid out from Co. Treasury as salaries for officers,					\$8938.80
Total paid to officers in fees (not from County)					3502.20

(1)

1. County Commissioners are not included in above table.

A comparison of this statement with those of counties similarly situated shows about the same characteristics as the above which seems to be typical of the average rural county. The only fee office of importance is that of the Register of Deeds, whose compensation in counties of less than 150,000 consists wholly of fees both as Register of Deeds and by virtue of his position as Registrar of Titles. The fees of the County Auditor from such subjects as making out certified copies of records, serving on the Board of Audit, serving on the County Board of Equalization, transcribing records, etc. usually do not aggregate much when compared to the salary given by law. The same thing may be said of the fees of the treasurer. The fees of the sheriff and Clerk of Court often equal or even exceed the salary fixed by law. The only other fee office of importance is that of the Judge of Probate. In many of the counties as the above table would indicate for Pope County the compensation of the County Surveyor, Coroner, and Court Commissioner amounts to practically nothing.

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Bonds of Officials.

Each county official must give a bond in the sum fixed by law conditioned that he will faithfully execute the duties of his office and turn over to the county all moneys due it.

The liability of a county official under his bond can best be illustrated by taking the liability of the county treasurer. His liability extends to (1) money stolen from him without his fault; (2) negligence in paying forged county orders; (3) failure to deliver funds to his successor; (4) misapplication of funds to cover delinquency during a previous term; (5) neglect to account for and pay over the full amount of taxes collected. For these and other acts, the county may sue the treasurer either on, or independent of his bond and recover the full amount of funds belonging to the State, County, Town, City, or School District. Although the liability of other county officials is less, the same principles apply.<sup>1</sup>

The bonds of all county officers must be submitted to the County Board for its approval. If approved, the bond is then recorded by the Register of Deeds and

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1. Hennepin Co. v. Jones, 18 Minn. 199; Ramsey Co. v. Elmund, 89 Minn. 56; Redwood Co. v. Tower 28 Minn. 45; Pine Co. v. Willard, 39 Minn. 125; Itasca Co. v. Miller, 101 Minn. 294; Mower Co. v. Smith, 22 Minn. 97.

forwarded to the Attorney General for his approval. If the Attorney General does not approve, he endorses his reasons thereon and the Secretary of State notifies the County Board which must then require a new bond. The bonds of all county officers, when approved by the Attorney General, are filed with the Secretary of State.<sup>1</sup>

The County Board of its own motion, as well as upon the order of the Attorney General, may require an additional bond if it deems the bond given inadequate or upon the request of the surety of the original bond.<sup>2</sup> The Public Examiner is also given the duty of ascertaining the character and financial ability of the present and proposed bondsmen of state and county officials, and he may require new or additional bonds whenever he deems it necessary.<sup>3</sup>

If a County official fails to give a new bond within twenty days after the County Board makes the request, he forfeits the office.

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1. R. L. 1905, Secs. 608-610 as amended by laws 1909, C.115.

2. Same as 1.

3. Laws 1909 ch.449.

The following table shows the amount of the bonds of county officials as fixed by law:

<u>Official.</u>	<u>Amount.</u>	<u>Size of County.</u>
Auditor	\$2000. to 20,000 in discretion of Co. Bd.	
Treasurer	As Co. Bd. directs in counties under 150,000 \$500,000 if personal, \$250,000 if corporate in county over 150,000	
Sheriff	not under \$5000. not under \$25000.	under 150,000 over 150,000
Coroner	\$500. to \$10,000 as directed by the Co. Bd.	
Attorney	\$1000.	
Judge of Probate	\$1000.	
Clerk of Court	\$1000. to \$10,000 as Co. Bd. may direct in Co. \$25000.	under 200,000 over 200,000
Court Commissioner	\$2000.	
Surveyor	\$ 500.	
Register of Deeds	\$5000.	
Supt. of Schools	No Bond required.	
County Commissioner	\$10,000 No Bond required in county under 150,000.	over 150,000

It will be noted that in the above law much is left to the discretion of the County Board especially in the less

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populous counties of the state. It may be of interest to observe how this discretion is exercised in practice, by comparing the amount of the bonds required of certain officials in different counties of the state. This can best be expressed in a table as follows:

<u>County.</u>	<u>Auditor.</u>	<u>Treasurer.</u>	<u>Sheriff.</u>	<u>Coroner.</u>	<u>Clerk.</u>	<u>Others.</u>
Beltrami	\$5,000.	\$75,000.	\$5000.	\$1000.		
Benton	2,000.	50,000.		500.		
Blue Earth	5,000	100,000.	5000.	1000.		
Cottonwood	5,000.	50,000.	5000.	500.	2000.	
Dodge	5,000.	65,000.	5000.	500.	1000.	
Hennepin	10,000.	250,000.		1000.		
Martin	6,000.	100,000.	5000.	1000.		
Meeker	2,500.	60,000.	5000.	1000.		
Nicollet	4,000.	50,000.	5000.		10,000.	
Olmstead	10,000.	150,000.	5000.	1000.		
Ottertail	10,000.	100,000.	5000.	1000.	1000.	
Pope	10,000.			500.	1000.	
Renville	10,000.	100,000.	5000.	1000.		
Scott	3,000.	50,000.	5000.	1000.		
Steele	5,000.	100,000.	5000.	1000.		

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It will be noted that in this table the bond required of the Sheriff is universally the minimum amount fixed by law; that of the coroner is usually close to the minimum, while those of the other three officers vary greatly even in counties of similar size. Within the limits of the law, the amount of the bond depends entirely upon the amount of security which the County Board considers necessary for the safety of public funds.

In looking out for the safety of public funds, the character of the bondsmen or bonding company is also of importance. The character of the bonding company is perhaps insured by the requirement that it must be one which is licensed to do business in the state of Minnesota. The character of personal bondsmen must be such as will pass the scrutiny of the County Board, the Public Examiner, and the Attorney General.

However, it may be interesting to note the kind of bond given by county officials in different counties, that is, whether it is one signed by his friends and neighbors or by a bonding company. Of those counties

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given in the table on a preceding page all those in Martin, Meeker, Ottertail, and Scott are personal; in Beltrami and Cottonwood all were personal except the Treasurer and the Auditor, and in Steele all except the Treasurer. With respect to the more populous counties, it is difficult to generalize, but with respect to the rural counties, the tendency seems to be for all the county officers, except perhaps the Treasurer and sometimes the Auditor, to give personal bonds. This may be due in part to the fact that the premium on bonds of a bonding company is rather high. For example, in Ramsey County, the premium on the \$250,000. bond of the Treasurer was \$554.31 in 1913; that on the bonds of each of the six County Commissioners for \$10,000. each was \$25.00. Each of these was paid by the County.<sup>2</sup>

#### Misconduct and Removal.

A few words are necessary with respect to misconduct of officers and procedure for removal.

By statute it is made a felony for any public officer whose duty it is to receive money on or for any department of the state, county, city, etc. to (1) appropriate it to his own use or to the use of any person not

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1. All facts in this section with reference to bonds were obtained from the official proceedings of the County Boards of the Counties named.
2. After advertising for bids, the Co. Bd. "awarded" the bonds to seven different companies, five of these each bonded the treasurer for \$44,200; a sixth for \$26,500 and the same company bonded two commissioners for \$10,000 each; four of the commissioners' bonds were given by a seventh company at the same price.

legally entitled thereto; (2) knowingly to keep false accounts; (3) fraudently alter, falsify, or destroy an account; (4) to wilfully omit or refuse to pay over to any governmental body any<sup>1</sup> money due to the same.

Any financial officer who wilfully disobeys any provision of law relating to his official conduct and any public officer who neglects to perform any duty as well as any public officer who becomes interested in a governmental contract, in relation to which his official duty requires him to act, is guilty of a misdemeanor.<sup>2</sup>

The general power to remove the Clerk of Court, Judge of Probate, Court Commissioner, Sheriff, Coroner, County Attorney, Register of Deeds, Superintendent of Schools, Auditor, Treasurer, or any member of the County Board or any collector or receiver of public moneys or any Justice of the Peace as well as any officer whose duties relate to taxation, when it appears by competent evidence that such officer has either been guilty of malfeasance or non-feasance in the performance of his official duties, is given to the Governor of the State. The official accused in each case must be given a copy of the charges against him and an opportunity to be heard in his own defence.<sup>3</sup> The Governor

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R. L. 1905, Sec. 5029.

2. Ibid, Secs. 5030, 4796.

3. Ibid, Sec. 2668 as amended by Laws 1913, C. 462.

may suspend any county auditor or treasurer pending investigation, whenever it appears to him that the public interest requires it and upon report of the public examiner that a county treasurer has been guilty of malfeasance or non-feasance the Governor must suspend him and notify the County Auditor. The County Board must then appoint a Treasurer ad interim. If the suspended Treasurer demands a hearing, he must be furnished a copy of the charges and a special commissioner be appointed by the Governor to take testimony. If the charges are sustained, the Governor removes the Treasurer and the appointee of the County Board finishes the term. If the suspended Treasurer does not demand a hearing he remains out of office.<sup>1</sup>

This power of the Governor to remove a county officer for non-performance of duty may prove of importance in compelling a County Attorney to enforce the liquor law; the failure to enforce such a law has been held by the Attorney General to be a sufficient cause for his removal.<sup>2</sup>

The County Board possess a limited power to compel the removal of county officers whose duties are connected with the financial organization of the county. If the

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1. R.L. 1905, Secs. 1582, 2673, 5.

2. Opinion of Atty. Gen. Sept. 27, 1911; Rept. 1912 p. 86.



Auditor fails to make a settlement, or pay over money or misapplies money, the County Board must bring an action against him. If the Treasurer fails to settle with the State Treasurer or to make a settlement with the Auditor or to pay over money, the County Board may order the Auditor, to ~~cause~~ action to be commenced against the Treasurer. Similarly if the Sheriff fails to pay over money to the county or to any individual, the County Board or that individual, respectively, may proceed against him to compel such payment. In the case of the Auditor, the Governor must suspend pending the trial; the County Board may remove the Treasurer upon conviction; but in the case of the Sheriff, merely the sum plus twenty per cent damages may be recovered and the office is not forfeited. <sup>1</sup>

This concludes a chapter on County Government. In this chapter an attempt has been made to show not only the legal status and structure of the county as a body politic and corporate, but also the practical working of county government with especial reference to its corporate and financial organization. The greater part of this chapter has been devoted to the County Board because

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 1. R. L. 1905, Secs. 483, 512-4, 551.

this Board constitutes the most important feature of the county regarded as a corporation. A few facts applying to County officers in general have been noted and an attempt has been made to state briefly the duties of certain officers. To any general statements that have been made, it should be remembered that there may be, and probably are, exceptions which may have been overlooked. These exceptions are due in the most part to the special laws which are still in force or to legislation for counties<sup>1</sup> of different classes.

Local government organizations exist not for their own ends but for the performance of certain functions delegated to them by the state of which they are a part. In this chapter no attempt was made to consider the part which the county takes in the performance of certain of these essential functions. The part which the county plays is so bound up with the duties of the town and of the state as well that it seemed best to devote a separate chapter to their consideration.

1. See pages 24 - 31.

Chapter IV. The Principal Functions of Local Government  
in Minnesota.

The question, "What are the principal functions performed by local government in Minnesota?" can be answered partly by considering the amount of money expended for different purposes by local governmental units. As noted in the preceding chapter, the absence of published reports makes it difficult to find out for what purposes towns expend money. This can be determined only from the taxes levied. As the subject of taxes will be discussed in a subsequent section of this chapter,<sup>1</sup> it is sufficient to note at this time that the bulk of town revenue is raised as a Road and Bridge tax, a smaller amount for the purposes of general Town Revenue, and, in thirty counties of the state having the Town System of Poor Relief a still smaller amount for the purpose of Poor Relief. Thus it may be said that the care of Highways is financially the most important function of the town.

When one considers the county, reliable and accurate figures as to the exact amount expended by a

1. See pages 249-286. -----

given county for various purposes are obtainable from the County Financial Statements. The relative importance of the different functions of the county from the standpoint of expenditure is indicated by the amounts expended by certain typical counties in 1912:

<u>County.</u>	<u>Corporate.</u>	<u>Highways.</u>	<u>Drainage.</u>	<u>Justice.</u>	<u>Poor.</u>	<u>Health.</u>	<u>Other.</u>
Cottonwood	21,777.	\$ 9,589.	\$ 7,565.	\$ 4,589.	453.	278.	3618.19
Faribault	27,566.	15,553.	146,790.	2,912.	6701.	136.	4317.34
Martin	20,023.	28,576.	196,859.	4,586.	4578.	188.	3167.53
Nicollet	19,779.	7,426.	7,689.	2,007.	5646.	191.	1156.79
Rock	19,222.	15,566.	12,943.	2,311.	2560.	284.	1370.
Ramsey	229,134.	82,998.	2,783.	56,597.	199356.	56.	74,399.

(1)

A word of explanation may be necessary in regard to the sums represented in the several columns of this table. Under corporate expenditures are included in each case: (1) Salaries, fees, mileage, and expenses of all officers except those connected with the administration of justice, (2) expenses of maintenance of all county buildings other than poor farm and detention homes, (3) supplies for all county officers, (4) expenses connected with the election of 1912. The totals under Highways and Drainage include all expenditures for those purposes made through the agency of the county; the total for Justice includes: (1) the expenses

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1. These totals include only the amounts expended from county funds and not those collected as taxes for cities, towns, village and school districts and turned over to them. Part of the amount expended by the county was derived from taxes, part from fines, part from state aid for roads, etc.

of both District and Justice Courts, including fees of officers, jurors, witnesses; (2) the expenses of the Probate Court in all proceedings and including expenses for transporting the insane; (3) Coroner's fees and expenses. The total for Health includes the expense of recording vital statistics. The last column represents principally: (1) interest on county loans; (2) private redemption; (3) tax refunds; and expenditures of like nature. The small expenditure made directly by the county for education is included in the Corporate expenditure. Most of the expenditure for this purpose is made directly by the school district.

These activities of the county relating to the conduct of corporate business have been considered in the preceding chapter. The other activities of the county will be considered in this chapter, taking them in the following order: (1) Highways, (2) Drainage, (3) Justice, (4) Poor Relief, (5) Health, (6) Education, and (7) Taxation. Each will be considered with reference to the machinery involved in the actual performance of that function together with the source from which the finances

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are obtained; and in each case an attempt will be made to show the relative parts which State, County, and Town have therein, both legally and in practice.

### Section 1. Roads and Bridges.

In outlining the history of local government in Minnesota, the various steps in Highway Legislation were discussed. It will be necessary here to discuss only the law now in force. Most of this law is contained in the Dunn Road Act of 1913,, which largely codified and to some extent modified the existing law.<sup>1</sup>

Roads in Minnesota are divided into three classes with reference, principally, to the procedure by which they were established or improved, namely:

(1) Town, (2) County, and (3) State roads.

#### Establishment.

The procedure in the case of the establishment of Town, County, and State Highways is very similar and hence it will be necessary to consider only one in detail.

Town highways are altered, vacated or established by the Town Board upon the filing of<sup>a</sup> petition with the Town

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1. Laws 1913, Ch. 235; See pages 35-37.

Clerk signed by not less than eight voters in the town who own and occupy real estate within three miles of the proposed road. This petition must contain an exact description of the road, its beginning and termination and general course. The Town Board must give notice to the landowners affected and fix a time and place for a hearing. After this hearing the Board may grant or refuse the petition. If granted, the Board may order a survey made. It must then assess the amount of damages to the land affected. From the decision of the Board, any person aggrieved may appeal to the District Court. The determination of the Board granting or denying a petition is final for one year. <sup>1</sup>

The procedure followed in establishing County Roads is very similar to the above, substituting the County Auditor for the Town Clerk, and the County Board for the Town Board. Before the hearing, a Committee of the County Board must examine the proposed route. <sup>2</sup>

In counties having a population of less than 200,000 county roads may be established only upon town lines, partly upon town line and partly within a town, running into more than one town or along the shore of a

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1. Laws 1913, Secs. 43-48.

2. Ibid, Ch. 235, Secs. 34-7.

lake. In counties having a population of more than 200,000 any road in the county may be designated as a county road and improved as such. <sup>1</sup>

A road may be established upon the line dividing two or more counties, by a similar proceeding, differing in that the Judge of the District Court acts instead of the County Board, and appoints three commissioners to act in the place of the Road and Bridge committee of the County Board. <sup>2</sup>

State roads were formerly established by special act of the legislature. Perhaps a few of these state roads still exist, but most of them have been turned over to the County in which they are situated.

At the present time the designation of a road as a State Road has reference to its improvement rather than to its original construction. Any County Board may, with the consent of the State Highway Commission, designate any established road, or a specified portion thereof, in its county, not within the incorporated limits of a city or village, a state road, and construct or improve the same in accordance with the regulations of

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1. Laws 1912, Secs. 32-36.

2. Ibid, Secs. 18 ff.



the State Highway Commission relative to state roads. Under the statute as amended in 1913, if funds are available and the Highway Commission considers the improvement of the road desirable, it shall consent to the designation of such road as a state road. The Council of a city of the Fourth class or of a village may, with the consent of the State Highway Commission and the County Board, designate any street or road within its corporate limits connecting with a State Road a State Road and have the same improvements as provided by the State Road act.<sup>1</sup>

Under the law as it existed before 1913, the initiative in the designation of state roads was required to be taken by the County Board. As amended in 1913 it is provided, that whenever it shall appear to the State Highway Commission that upon the petition of ten freeholders, the County Board has refused to designate a road as a state road, the State Highway Commission may proceed de novo. Upon the designation of a state road, the State Engineer is required to make or cause to be made all necessary surveys, establish grades, and prepare plans and specifications (except in counties having a county

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1. Laws 1913, Secs. 18

Superintendent of Highways or similar officer). The work on State Roads may be done either by contract or by day labor, as the County Board and State Highway Commission may direct. A county line road may be designated as a State Road upon the joint application of the County Boards of the two counties. <sup>1</sup>

Assistant Engineers, appointed by the State Highway Commission, make all the surveys, estimates, and specifications for work on state roads. If the estimated cost is less than \$500. the County Board may let the contract to the lowest responsible bidder, after the surveys have been made by the Assistant Engineer. If the estimated cost is over \$500. the plans for the road must first be approved by the State Highway Commission. The actual work upon the State Roads must be done under the supervision of an Assistant Engineer acting under orders from the State Highway Commission. After the completion of the road to the satisfaction of the State Highway Commission, the State Auditor issues a warrant for the State's share. <sup>2</sup> The portion of the cost of any state road which the State may pay out of the allotment to any county depends upon

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1. Laws 1913, Ch. 235, Secs. 18-19.

2. Ibid, Secs. 19-22.

the valuation of the county as follows:

<u>Assessed Valuation.</u>	<u>Per Cent.</u>
Less than \$5,000,000.	80
Between 5,000,000. and \$10,000,000.	70
Between 10,000,000. and 15,000,000.	60
Over 15,000,000.	50 (1)

Thus in a county of less valuation the share of the financial cost borne by the State is greater.

A second type of State Roads provided by the Elwell Law of 1911, which is not repealed by the Act of 1913, is the State Rural Highway. The procedure is essentially the same as above, differing only in that proceedings must be instituted by petition to the County Board. The cost of roads of this character must be paid for as follows: one quarter by assessment of landowners benefitted, one quarter by the County, and one ~~quarter~~<sup>2</sup> by the State. The procedure for establishing drainage ditches is required to be followed as near as practicable.<sup>2</sup>

Before proceeding further with a discussion of the subject of highways, it is necessary to know something of the organs of government to which the duty of supervising

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1. Laws 1913, Sec. 16.

2. Laws 1911, C. 234.

their care and construction is given. The State Highway Commission must be considered first.

Authorities.

By a constitutional amendment adopted in 1898, the legislature was authorized to provide for the appointment by the Governor of the State of a Board to be known as the "State Highway Commission, consisting of three members, who shall perform such duties as shall be prescribed by law without compensation or salary other than personal expenses". This Commission has the general superintendence of the construction of state roads and bridges and the duty of distributing the fund provided by this amendment for that purpose. This provision, as amended in 1906 and again in 1912, provides for a State Road and Bridge Fund, consisting of the income from internal improvement land, to which the Legislature is authorized to add the proceeds of an annual state-wide tax, not to exceed one mill. In the distribution of the fund so provided, no county may receive more than three three per cent nor less than one-half of one per cent. (2)

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1. Minn. Constitution 1899 Ed. Art. IX, Sec. 16 - The Constitutional provision for a State Highway Commission was repealed in 1910, but the validity of the later acts relating to it is unquestioned.
  2. Minn. Constitution, (1913 Ed.) Art. IX, Sec. 16.

For the purpose of carrying out this amendment a law was passed in 1906 creating the State Highway Commission. As since amended, it provides for a commission consisting of three members, one appointed annually by the Governor for a three year term. The secretary of this Commission, appointed by it, acts as State Highway Engineer. Deputy and assistant engineers may also be appointed by the commission. The commission must give advice upon highway construction and make out rules for construction, maintenance, and improvement of state and county roads. <sup>1</sup>

The assistant engineers appointed by this commission are required to devote their full time to their duties. The Commission may, and in practice, has assigned each engineer to one or more counties. It is the duty of these engineers to make all necessary surveys, estimates, and specifications for work done upon state roads. Upon the request of any Board of County Commissioners or an Board of Town Supervisors, they are required to advise with such boards in the construction or improvement of county or town roads; to make plans and specifications when so required; to exercise supervision

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1. Laws 1913, Ch. 235 Secs. 9,10,20,4.

over such construction or improvement, and lend every possible assistance to the local road authorities in bettering the public highways.<sup>1</sup>

In Hennepin, Ramsey and St. Louis Counties the construction of state roads is left to the supervision of the County Surveyor who performs all the duties required elsewhere of the Assistant Engineer.<sup>2</sup>

The County Surveyors of these three counties have also extensive duties in connection with the expenditure of the County Road and Bridge Fund. Any road, not within a city or village, in these three counties may be designated as a county road. When it has been so designated, the County Board may appropriate money for its construction, repair, or improvement. Before any money may be expended, the County Board must require the County Surveyor to make plans and specifications and estimate the cost of such improvement. If the Board approves these plans and deems the expenditure advisable it may then advertise for bids by posted and published notice, containing a brief description of the work.<sup>3</sup>

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1. Laws 1913, Ch. 235, Sec. 20.

2. Laws 1909, Ch. 208.

3. Laws 1913, Ch. 291.

At the time and place stated in these notices, the County Board meets and is required to award the contract to the lowest responsible bidder. The successful bidder must enter into a written contract and give a satisfactory bond for the faithful performance of the same. If, in the judgment of the Board, all these bids are excessive, the Board may reject them and re-advertise.

Previous to 1913, all such work was required to be let by contract. In certain instances in Ramsey County much needed road work was delayed and blocked altogether by the failure of contractors to bid within or near the Surveyor's estimate. The County Surveyor of that county in his annual report to the County Board in 1913 strongly urged that legislation be passed which would permit the County to do its own road work. Under the law enacted in <sup>1</sup> 1913, "if such Board shall deem it impossible to get such work done at a fair cost by letting it to a contractor, said Board may direct the County Surveyor to employ men, purchase materials and equipment, and to proceed to do such work in accordance with plans and specifications." A subsequent section of the same act permits each of the above counties to expend, under the supervision of its Surveyor, one-half

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 1. Ramsey Co.Bd. Official Proceedings for Jan. 6, 1913.

of the road appropriation for each year for repairing roads and bridges in its county without letting the jobs by contract.<sup>1</sup>

In Hennepin and Ramsey counties the respective county surveyors are required to make an annual report to the County Board showing the cost and nature of the work upon the county highways during the preceding year. . . A comparison of the reports of the surveyors of these two counties is of interest because of the great contrast between them. Reference has been made in a previous connection to the tendency in the former report to refer to all work by the number of the contract or highway, and thus make it impossible for a citizen to get very definite information without a key. It should also be said that this report was confined to a mere enumeration of the work done with its cost, without comments or explanations of why repairs were needed, why it cost more to grade one mile of road than another, etc. The recommendations made consist of the following brief statements:

"That many of the county bridges are in very poor condition.

That the service rendered by bridge watchmen employed

1. Raws 1913, Ch. 291.
2. R. L. 1905, Sec. 581.
3. See Ch. III, Sec. 3, pp. 87



by the County does not comply with the statutes.

That the County tools should be housed."

No further explanation is found in this report to reveal the facts which a Tribune reporter learned in an interview, namely, that the first of these statements referred to only two bridges; that the second referred to the fact that the watchmen of two of the bridges over the Minnesota river lived so far away that they must be reached by telephone, when a steamer wished to pass through the draw, and failed entirely to watch the bridge when droves of cattle crossed; or that the third statement referred to the failure to provide sheds for graders and scrapers which were left outside to rust when not in use.<sup>1</sup>

In striking contrast to the report of the Surveyor of Hennepin County is the report of County Surveyor Armstrong of Ramsey County for work done in 1912. This report contains an itemized statement, in which the exact location, nature, contract price, amount paid, and balance due for each piece of work is given with a statement as to whether it was done by the County Repair crew or by contract. The report also contains an itemized

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1. All information relating to County Surveyor's report was obtained from the Minneapolis Tribune of Jan. 12, 1912.

statement showing the location and length of all macademized, of all gravelled, and of all graded county roads, on January 1, 1913, and includes an inventory of all county tools and road machinery. In contrast to that of Hennepin County, this is a report based on good business principles, from which the humblest citizen can gain information.<sup>1</sup>

Not only does this report contain definite information, as to work already completed, but it also makes specific suggestions as to work to be done in 1913. For each recommendation, the exact location, nature of the work, length of the road, and an estimate of the cost are given. In a previous connection reference has been made to his suggestion as to road legislation<sup>2</sup> which has subsequently been enacted into law.

Before 1913, except in Hennepin, Ramsey, and St. Louis counties, no county officer existed to whom the duty of superintending the construction, maintenance, and repair of county highways was given. But at the 1913 session of the legislature, the office of County Superintendent of Highways was created in those counties having an area of 2500 square miles and a population of 15,000 inhabitants.

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1. Off. Pro. Ramsey Co. Bd. Jan. 6, 1913.

2. see page 185

but which contains no city or village of 3500 or more inhabitants. This official is to be appointed by the County Board for a four year term, and this office may be conferred upon the County Surveyor. It is made the duty of this official to "inspect all roads, bridges, and ditches, constructed by the County, and all work done by his County in the construction, maintenance, and repair of roads, bridges, and ditches, promptly, from time to time, as requested by the County Board." No moneymay be paid out by the County on any such contract until the Superintendent of Highways has certified that he has inspected the work and found it in compliance with the contract, nor until the County Attorney has certified that the amount is due.<sup>1</sup>

Aside from the question of the expediency of applying an act of this character to a limited number of counties, its constitutionality might be questioned. An act of 1907 similar in nature to this act, but even broader in its application in that it applied to counties under 200,000<sup>2</sup> was declared unconstitutional by our Supreme Court upon the ground that such a classification of counties for the purposes of highway legislation is unconstitutional

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1. Laws 1913, Ch. 254.

2. " 1907, Ch. 458.

because it does not relate to the subject.<sup>1</sup>

The general principle of this act, that is, the giving to a specified county official the duty of inspecting roads and bridges seems to be a step in advance which ought to be extended over the entire state.

The general supervision and care for existing roads (as distinguished from the improvement or construction of them) is committed to the town. The Town Board of each town has the general care and supervision of all roads therein. It may provide for the construction or repair of town roads, and the purchase of such road materials and tools as it deems necessary. But in repairing County and State roads it must follow the specifications laid down by the State Highway Commission. Under the Town Board there is a single Town Road Overseer appointed by the Town Board who has charge of the construction of town roads and of the maintenance of all town and county roads in the town.<sup>2</sup>

#### Finance.

The money for constructing, improving, and maintaining highways is derived from a number of sources.

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1. *Hydin v. Patterson*, 105 Minnesota, 256.
2. Laws 1913. C. 235, Secs. 39, 42-4; Previous to 1913, each town was divided into a number of road districts, each of which elected its own overseer.

The Dunn Act of 1913 provides for a one-mill tax to be levied upon all the assessed valuation of the state as a State Road tax. The proceeds of this tax together with the income derived from investments in the internal improvement fund constitute the State Road and Bridge Fund.

Likewise the County Board is permitted to include in its annual tax levy a tax not to exceed three mills for the County Road and Bridge Fund. The Annual Town Meeting is authorized to levy a tax not to exceed fifteen mills for Road and Bridge purposes after a report by the Town Board on the amount needed.<sup>1</sup> In addition to this, in time of emergency, the Town Board may levy a five mill additional tax. The County Auditor is required to extend upon the tax lists of his county a tax of one mill on the dollar of the taxable property in each town, outside the corporate limits of any village or city; the proceeds of this tax must be kept in a separate "Dragging Fund" and used only for the purpose of procuring drags and dragging the roads of the town.<sup>2</sup>

The money thus raised by taxation and paid into the respective Road and Bridge funds is expended as follows:

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1. Under Sec. 40 of Dunn Act, all Road taxes must be paid in cash.
2. Laws 1913, Ch. 235; Secs. 12, 31, 41-2, 39;

The State Road and Bridge Fund must be allotted to the various counties of the state in such a manner that no one county shall receive more than three per cent nor less than one per cent thereof in a single year. Of the money so turned over to the counties, twenty per cent must be used only for the maintenance of state roads and bridges thereon in the county; twenty five per cent may be used by the County Board for the improvement or construction of county roads in the county, in accordance with the regulations laid down by the State Highway Commission.

In the Dunn Act of 1913, provision is made for the reversion to the State Road and Bridge Fund of any sums in excess of one-half of one per cent of the total amount, allotted to a county in any one year and not used by it for a period of two years. This seems to have been included to prevent any funds lying idle, as was the case in the absence of this provision in the former law, when a number of the counties of the state failed to establish state roads, and thus did not draw their allowance.<sup>1</sup>

The County Road and Bridge Fund may be expended by the County Board:

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1. Laws 1913, Ch. 235, Sec. 15.; State Highway Commission 1913.

- (1) For opening, vacating, resurveying, or improving county roads;
- (2) For building bridges upon any public road in the county;
- (3) For the purchase of road materials, tools, and supplies;
- (4) For the construction and maintenance of roads in an adjoining county (not over 15,000);
- (5) For the aid of any town in the county for maintaining its roads and bridges;
- (6) For the payment of one quarter the cost of State Rural Highways.

(1)

The Town Road and Bridge Fund (exclusive of the Dragging Fund) may be expended by the Town Board for:

- (1) Opening, locating, constructing, and repairing town roads under the supervision of the town overseer;
- (2) To aid in the construction or improvement of state roads (to be paid into the County Road and Bridge Fund)
- (3) To procure road material, tools, and machinery;
- (4) For the establishment of cartways;
- (5) For damages for the establishment of a ditch to drain a public road;
- (6) For the removal of trees and hedges within the road limits.

(2)

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1. Laws 1913, Secs. 5,30 (Ch. 235); Laws 1911, Ch. 234, Laws 1912, Ch. 221.

2. Laws 1913, Ch. 235, Secs. 38,55,59,71,72,5.

If fifty freeholders of a county, or fifteen of a town, respectively, petition their respective Boards that a road or roads therein be macadamized or improved with hard material, the question of whether bonds shall be issued for this purpose must be submitted to the voters at the next town meeting or election, as the case may be. If carried, the County or Town Board must proceed to issue bonds to the amount needed for the work petitioned for.<sup>1</sup>

An examination of the expenditures for roads and bridges in certain counties of this state made by the State, County and Towns respectively, will serve to indicate the division of the financial burden in relation thereto.

<u>County.</u>	<u>Total of Towns.</u>	<u>County.</u>	<u>State.</u>
Becker	\$ 9,895.	\$ 9,184.	\$ 2,691.
Faribault	14,014.	15,582.	628.
Martin	32,940.	28,576.	3,500.
Nicollet	6,088.	5,202.	2,572.
Rock	28,466.	14,544.	2,631.

(2)

1. Laws 1913, C. 235, Secs. 30, 58; the form, interest, etc. is carefully prescribed by this section.

2. The total for the state is obtained from the Special Report of the State Highway Commission for 1913; for the County, from the County Financial Statements; for the town no figures as to expenditure are available, the totals given are based upon the tax levy in 1911.



It is evident from this table that the portion of the cost of road construction and maintenance borne by the County and Town, respectively, is approximately equal in most instances. The differences in the amounts expended by the state in the counties above is due in part to the fact that under the law of 1911 State Aid was given only for road construction and of the six counties in the above table, Martin alone drew the total amount which was allotted to it.

A further analysis of the purposes for which appropriations were made from the County Road and Bridge Funds of certain of these counties in 1913 will serve to show the working of certain laws previously discussed:

<u>County.</u>	<u>For County Roads.</u>	<u>Town Roads.</u>	<u>State Roads.</u>	<u>Inspection &amp; Mileage.</u>	(1)
Faribault	\$ 10,476.	\$ 2,751.	\$ 1,714.	\$ 275.	
Martin		13,175.	11,592.	254.	
Nicollet		2,023.	2,224.	311.	
		14,953.	972.		

This table serves to bring out the fact that a very small part of the County Road and Bridge Fund

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1. Principally expenses incurred by the County Board in inspecting Bridges and State Roads.

is expended under the direction of any county officer. The apparently large amount expended directly by Faribault County was used largely for the construction of bridges across the Blue Earth River. A comparison of this table with that previously given will show that in Faribault County the aid given to the towns by the County is approximately equal to one-third of the amount raised by the towns therein; in Martin and Nicollet counties, the aid given is nearly one-half; in Rock County nearly equal to the total road and bridge taxes raised by the towns therein. A part of this expenditure can be accounted for by the fact that under an act of 1907,<sup>1</sup> since repealed in 1913, upon the request of the Town Board, the County was required to pay one-half the cost of every steel, stone, or concrete bridge constructed by a town. In Martin County, the appropriations to towns for this purpose constituted three-fourths of the the total amount indicated in the above table. Under the Dunn Act, as previously indicated, all such bridges will be constructed directly by the County, and so we may expect that a larger share of the County Road and Bridge Fund will be expended directly by

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1. Laws 1907, Ch. 423.

the County Board. This increase in the County Road and Bridge Fund, as well as the increase in direct expenditures therefrom, only serve to emphasize the need of extending the provisions of the County Superintendent of Highways law, to all the counties of the state in order that expert supervision and direction may be available for this work. <sup>1</sup>

Reference has been made to the division of the State Road and Bridge Fund among the counties of the state. The provisions of the law in force in 1912 with reference thereto differed from the present law only in that the minimum allowed any county was one-half of one per cent instead of one per cent, and that the fund to be divided was much smaller. Under the present<sup>2</sup> law, aid is to be allotted on the same basis.

The fund to be divided in 1912 amounted to \$350,000, of this amount, \$311,000 was derived from the State one-quarter mill tax levied during the preceding year. Under the provision of the Constitution that not more than three per cent nor less than one-half of one per cent could be given to any county, the

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1. See P. 189

2. The Constitutional Amendment adopted in 1905 provided for a State Road Tax of 1/4 mill; that of 1912 provides for one mill.

amounts allotted to the various counties of the state must vary between \$1750. and \$10,500. each. This amount was so divided that four counties got less than they paid into the State Treasury under the one-mill tax, whereas eighty-four counties received back more than they paid in. The same thing was true of the allotment of 1912 with the exception that only three counties received less than they paid in. The approximate amount of taxes paid to the State Road and Bridge Fund by various counties follow:

<u>County.</u>	<u>State Tax.</u>	<u>State Aid 1912.</u>	<u>Aid 1913.</u>
Aitkin	\$ 1047.	\$ 3500.	\$ 3500.
Anoka	1156.	4000.	3500.
Benton	714.	2500.	2700.
Faribault	2662.(2680)	4800.	2600.
Hennepin	53677.	8000.	10000.
Koochiching	1620.	3000.	5500.
Martin	2365.	3500.	4000.
Ramsey	32467.	8000.	10000.
St. Louis	79562.	8000.	10000. (1)

From these figures it would appear that three counties, Hennepin, Ramsey, and St. Louis, are paying more than one-half the cost of the construction of State Roads in the State as a whole, whereas, collectively, they are receiving back less than one tenth of the amount

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1. These figures are based upon the valuation of the Counties as given in the Report of the State Tax Commission and the reports of allotments as given in the State Highway Commission Special Report for 1913; the allotment should not be confused with the amount actually paid.

distributed, even when, as in 1913, the maximum amount is allotted to them. The justice of this scheme is doubtful to say the least.

The figures in the above table help to show the basis upon which this fund is distributed within the limits fixed by law. Anoka and Faribault counties received less in 1913 because they failed to use their allotment in 1912; the former constructed no state roads, the latter expended but \$600. Martin County, on the other hand, expended its entire allotment of the preceding year, and so its share was increased. Koochiching, being a new county, with a large area of non-taxable state lands, was given a larger share than its relative importance would otherwise have entitled it to. These were in brief the principles upon which the fund was distributed in 1913; Population, Valuation, interest in good roads, and need of state aid.

When it is apparent that the amount that will be available in 1914 will be approximately four times the allotment in 1913 and that this sum must be divided among eighty-six counties within even smaller limits,

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the injustice of this plan becomes more apparent. Are the rural counties of Minnesota becoming so dependent upon the State that they will expect to be supplied with money out of the State Treasury for the construction of roads, even at the expense of the counties of higher valuation, which are prevented by the Constitution from receiving the share to which their valuation would entitle them?

We need good roads, to be sure, but the question is, Shall we get them at the expense of the three counties of higher valuation in this state. A limited state aid is probably advisable, but a system in which the State as a whole pays the money, and in the division of the proceeds, eighty counties get much more than they contribute, whereas three contribute from four to seven times the amount they receive does not seem to suit one's sense of fairness or justice.

Section 2. Drainage.

Closely allied to the subject of highways, is that of drainage. In many respects the present statutes relating to the two are similar. Although time and space

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do not allow a detailed discussion of this subject here, but in order to give a complete picture of our local governmental activities today, a brief discussion is needed.

With reference to the **authority** by which drains are established, they may be divided into classes similar to those noted under roads, namely: (1) Town, (2) County, (3) Judicial, (4) State Drains.

The authority of the State Drainage Commission, however, is limited to the establishment and construction of State Ditches, (the purposes of which are specified by statute) and it does not extend to the supervision of the other classes of ditches named. Hence it is not necessary to consider this body further.<sup>1</sup>

#### Establishment.

Town, County, and Judicial ditches are established, respectively, by the Town Board, the County Board, and the District Court. The procedure in each case is similar. The steps are in brief as follows:<sup>2</sup>

- (1) Upon petition of a certain number of landowners who

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1. Laws 1905, Ch. 230.

2. Laws 1905, Ch. 230 as amended by Laws 1907, Ch. 420; Laws 1909, Ch. 469; Laws 1913, Ch. 567.

would be benefited by the ditch proposed, and hence liable for a share of the cost;

(2) The Clerk (of the town, Auditor of the County, Clerk of the Court) must give published notice of the same for a designated period;

(3) The Board or Judge, as the case may be, then appoints a competent engineer (in the case of town drains this is optional) to survey the proposed route, estimate the cost, and make out the contract for the work;

(4) Upon the report of this engineer, the Board (or Court) appoints three viewers to make out a tabulated statement of the landowners affected, the damages, and benefits of each, which must be filed with the Clerk (or Auditor) within thirty days. (In the case of town drains, the Town Board **act** as viewers). The Board (or Court) then considers the report of the engineer and viewers; and if the amount of benefits exceeds the damages, it may establish the ditch as specified in the report of the engineer.

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Then the County Auditor, in case of County Ditches, or the County Auditors of the Counties in the case of Judicial Ditches, the Town Clerkin the case of Town Ditches, must advertise for bids for a specified time and let the contract for the construction of the ditch to the lowest responsible bidder. The petitioners in each case must furnish bond to cover the expenses, if the ditch should not be established, and the successful bidder must also furnish a bond equal to the contract price to insure completion of the work.

After the ditch is completed, payment may not be made until the Engineer in charge of the work has given his certificate that the work is satisfactory.

The expenses of the work are met temporarily by the issue of bonds by the county or counties in the case of County and Judicial Ditches, respectively, and by the temporary payment of expenses by the petitioners in the case of town ditches. The expenses are ultimately met by the payment of assessed benefits by landowners. The benefits, as determined by the viewers before the construction of the ditch is ordered, are a lien

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upon the land until paid. A statement of the benefits as determined by the viewers is filed with the Register of Deeds. This may be paid in ten annual installments, and is a lien until paid.

In the case of town and county ditches an appeal lies to the District Court and in Judicial and State Ditches to the Supreme Court of the State.

Repair.

After a town ditch has been constructed, it may be altered and spurs constructed to drain other lands only by following the procedure by which its construction was originally authorized. It is the duty of the County Board to keep County and Judicial ditches free from obstruction, and expenses incurred therein may first be paid out of the general revenue fund of the county which is subsequently reimbursed by the payment of benefits assessed against the land. The Attorney General has held that repairs so made must be slight and not involve a material change in the ditch. For example, an open ditch could not be changed to a tile drain to repair a cave-in without following the original procedure for

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1. Att'y. Gen. Opin. Apr. 3, 1912; Rept. 1912, Pp.116-7.

constructing a ditch.

By an act of 1913 the original procedure for establishing ditches must be followed in its entirety to deepen or widen a ditch on account of additional drainage from private ditches.<sup>1</sup>

As to ditches wholly within a town, the jurisdiction of these three bodies having power to establish ditches is concurrent. It is clear that the County can establish a ditch, although it is included wholly within the limits of a single township. In fact, the method of financing a county ditch seems to have proved so much less burdensome to the petitioners that it is used instead of the town ditch. The Attorney General has recently held that the Judicial Ditch Law, as amended in 1909, permits a Judicial Ditch to be established wholly within the limits of a single county and gives the Judge of the District Court concurrent jurisdiction with the County Board in ditch matters.<sup>2</sup>

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1. Laws 1913, Ch. 179.

2. Att'y Gen. Opin. Feb. 8, 1911; Rept. 1912, P. 113.

Finance.

The drainage problem of each county are peculiarly its own. To what extent expenditures for drainage are necessary depend wholly upon local conditions. A comparison of the expenditures for important purposes has previously<sup>1</sup> been given. It should be borne in mind that the expenditure by the county is merely for the temporary financing of the project and that the cost is ultimately paid by the assessment of lands benefitted thereby.

However, during the period before the proceeds of these assessments are paid, it is necessary for the county to advance its credit to raise money to meet the expense and sometimes to levy a rather high tax to meet the interest on such bonds, and other expense in connection.

A single example will serve to make this clearer. In Martin County, where the number of miles of ditches exceeds that of any of its neighbors and the ditching fever seems to be at its height, county bonds aggregating \$209,190.25 were sold in 1912, whereas the amount received from assessments was only \$33,362.15, less than one-sixth of the added indebtedness of the County.

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1. See page 174.

To meet the interest charges and other expenses in connection with drainage, a special county ditch tax ~~was~~ levied, the proceeds of which netted \$33,813.46. During the year 1912, \$196,613.69 was expended upon drainage, leaving a balance in the treasury of \$119,044.63, in comparison with a balance on January 1, 1912, of \$38,406.99. But in spite of this large balance, on January 1, 1913, the special ditch tax of three and one-half mills is found necessary to pay expenses aggregating \$41,179.08.<sup>1</sup>

This may be an extreme case of the burden put upon the taxpayers of the county to pay the cost of improvements for which the county will be reimbursed in the future, but it makes evident that in the construction of ditches, as well as the construction and maintenance of roads, is an important item in the budget of the county.

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1. Facts regarding Martin County were obtained from the Financial Statement of Martin County, for 1913, and from the Martin County Independent for December 10, 1912, and January 8, 1913.

Section 3. Justice and Police.

In the administration of justice, the County is used as the basis for all classes of courts.

Justice of the Peace.

At the foot of our judicial system is the court of justice of the peace. Two justices of the peace are elected in every township and village and in certain cities of this state, but the jurisdiction of each extends throughout his county. The jurisdiction of the justices of the peace is limited by the State Constitution to civil actions in which the amount in controversy does not exceed \$100.00, and criminal causes where the punishment does not exceed three months imprisonment or a fine of over \$100, provided that none of these actions involve the title to real estate. By statute his civil jurisdiction has been limited to actions in contract, damages, replevin, etc. where the amount does not exceed \$100., and to actions on a bond the penalty of which or the amount of which does not exceed \$100; he has in addition jurisdiction of certain other cases such as the refusal of a train to stop at a railway crossing, the refusal of a school

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1. Minn. Const. Art. VI, Sec. 8.

officer to serve, etc. His criminal jurisdiction is limited by statute to minor offences against the breach of the peace, to the preliminary examination and the binding over to the Grand Jury of persons charged with more serious crimes, and to compelling persons to give bond to keep the peace. The jurisdiction of the District Court and Justice Court are concurrent. With <sup>1</sup> respect to those actions which lie within the jurisdiction of the latter, an appeal from the decisions of the justice lies to the district court of the county. Where no special provision is made by law, the justice of the peace has all the powers of a court of record. If necessary, he may empanel a jury, but may not charge it.

As indicated in a previous chapter, the Judge of the District Court is elected from a Judicial District, which usually consists of more than a single county, and hence cannot be considered a county officer in the true sense. His jurisdiction includes the whole field of our criminal and civil law with the exception of those matters committed to the Judge of Probate.<sup>2</sup>

The duties of the Court Commissioner have been considered in classifying the officers of the county, and need no further discussion here.<sup>2</sup>

1. R. L. 1905, Secs. 3886, 2023, 1404, 2999, 3885, 4000, 5235.

2. See Chapter III, Sec. 3.

Judge of Probate.

The Judge of Probate, as indicated in a previous connection, has a rather limited jurisdiction in matters of an administrative nature which is constantly being extended. He has often been called the protector of the weak and helpless, and his duties would seem to bear out this designation. His principal duties, as the name of the office would imply, have to do with the probating of estates. If a person dies leaving a will, in order to make the will effective to pass either personal or real estate it must be proved and allowed by the Probate Court. Proceedings for this proof must be started by petition to the court by any devisee, legatee, or by the executor appointed by the will. Upon the filing of the petition, the court sets a date for a hearing upon the will. After the will has been probated, the court grants letters testamentary to an executor. <sup>1</sup>

If, on the other hand, a person dies intestate, either his spouse, next of kin, or other interested party may petition the court for letters of administration. The procedure followed is the same as in case of a will except that an administrator is appointed. <sup>2</sup>

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1. R. L. 1905, Secs. 3664-75-92.

2. Ibid, 3669-3700.



In either case, the court sets a time within which all claims against the estate must be presented for payment, gives notice to all interested parties both by publication (1) and by personal service, and later it may hear the account of the administrator or executor, approve the distribution of the estate to the heirs, legatees, or devisees; and upon petition therefor authorize the sale of real estate of the deceased before the distribution of the estate. In each case. In each case it must grant a hearing on demand. (2)

In addition to these powers relating to estates, the Probate Court has jurisdiction in the appointment of guardians for abnormal persons. Thus upon petition of the County Board, or of a relative or friend of the person, the Probate Court after a hearing may appoint a guardian for any person, who, by reason of old age, loss or imperfection of mental faculties is incompetent to have the management of his property, or who by excessive drinking, gaming, idleness, or debauchery so wastes his estate as to be liable to expose his family to want or suffering.<sup>3</sup>

The Probate Judge is also charged with the examination of alleged insane. Upon the filing of a verified

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1. R. L. 1905, Sec. 3727.
  2. Ibid, Secs. 3638-40.
  3. Ibid, Sec. 3826.

petition that a person in the county is insane and in need of care and treatment, or that it is dangerous for him to remain at large, the court directs that the alleged insane be brought in, if necessary issuing a warrant to a sheriff or constable for this purpose. The County Attorney is required to appear for the alleged insane. A Board of Examiners, consisting of the Probate Judge, and two reputable men, at least one of whom must be a physician, examine the alleged insane. If proved insane, the patient is committed to a state hospital for the insane; if sane he is discharged. The Court Commissioner of the County acts if the Probate Judge is unable to act and in a county over 150,000 the examination of all insane may be delegated to the Court Commissioner.<sup>1</sup>

A similar, although much newer duty, imposed upon the Judge of Probate is the examination of inebriates and the commitment of the same to the State Inebriate Farm at Willmar. The procedure followed is almost identical with that followed for the commitment of insane.<sup>2</sup>

The Judge of Probate also possesses the power to appoint guardians for delinquent children and to

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1. R. L. 1905, Secs. 3852-3866; Laws 1905 C. 85.

2. Laws 1911, C. 17 amending Laws 1907, C. 388.

commit them to the State Public School at Owatonna. By an act of 1909, the court of Judge of Probate was constituted a Juvenile Court in those counties in which no special Juvenile Court had been provided.<sup>1</sup>

The administration of the so-called Mothers' Pension Act passed in 1913 is given to the Probate Court. This provides for the payment by the County to mothers of dependent children not to exceed ten dollars per month for the care of each child.<sup>2</sup>

#### Constable.

The only police officer of the town is the constable. His duties are principally to summon the jury for the Justice Court, or for a coroner's inquest, to execute all processes issued by a Justice or Notary, to take care of animals exposed to the weather and to arrest any person violating a state law. He must sell unclaimed property at auction, and he may perform many of the duties of the Sheriff.<sup>3</sup>

1. R. L. 1905, Secs. 3826, 1942; Laws 1909, C. 232.

2. Laws 1913, C. 130.

3. R. L. 1905, Secs. 4011, 5889-90, 1561, 2801, 2664, 2791, 1499; Laws 1905, C. 344; Laws 1907, Ch. 398.

Sheriff.

In the county the chief police officer is the Sheriff. His duties correspond very closely with those of the constable in the town. He is the chief conservator of the peace of the county and as such it is his duty to see that all laws of the state are enforced. For the purpose of enforcing the law, he may summon, if necessary, all the able-bodied men of the county to his assistance, as the posse comitatus. It is also his duty to pursue and arrest all felons. He must attend all terms of the District Court, execute all processes, writs, precepts, and orders issued by lawful authority and delivered to him, and perform all other duties pertaining to his office which the court may require.<sup>1</sup>

He also has charge of the County Jail and must keep safely all persons lawfully committed thereto. To aid him in carrying out his powers and duties he may appoint a jailer and a sufficient number of deputies, for whose acts he is responsible.<sup>2</sup>

His power as a police officer is of great importance in the rural districts of the state. In the

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1. R. L. 1905, Secs. 546-549.

2. Ibid, Secs. 556-9.

territory not within any incorporated place, the enforcement of the liquor law, and the apprehension of criminals seems to be performed largely by the Sheriff. In the large mining counties of our state, the Sheriff furnishes protection and maintains order during strikes or other disturbances. The Supreme Court of Minnesota in a recent decision recognizes the greater duties imposed upon the Sheriff in a county on the iron range, and holds that he is entitled therefore to more compensation than a Sheriff in a purely agricultural county of the same size. The power of the Sheriff to summon able-bodied men to his assistance becomes of importance in suppressing disorder incident to strikes. This power is sometimes used to secure the obedience of a law in the city, when the police seem reluctant or unable to enforce it, as for example, in the suppression of the Red Light district in Minneapolis. In Hennepin County, in the large district surrounding Lake Minnetonka the enforcement of the liquor law, along the shores of the lake is entrusted to the Sheriff and a force of motorcycle deputies.

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In the execution of the processes issued by the Courts, the Sheriff has the power to sell property at a sheriff's sale, to conduct a judicial sale, and to perform numerous other duties of like character.<sup>1</sup>

The Sheriff has certain other powers related to the carrying out of other powers of the county, such as the collection of delinquent taxes on personal property by distress and sale and collection of other moneys due the county.

#### County Attorney.

Another county official, whose duties are connected with the enforcement of law is the County Attorney. As noted in the preceding chapter his function is two-fold, first, as prosecutor of the county, second, as counsel for the county. His duties in the latter capacity have already been considered in another connection.<sup>2</sup>

As prosecuting attorney, it is his duty to attend all terms of the District Court, or of any other court having criminal jurisdiction upon request of the justice for the preliminary examination of persons charged with crime. Upon the request of the Grand Jury, he must attend its

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1. R.L. '05 secs. 4206-13, 4220-4, 4306-21, 2262-76 .

2. See page 68

See Ch. III, Sec. 3.

sessions, give it legal advice, issue subpoenas for witnesses, and examine them. Likewise at the request of the Coroner, he must attend any inquest.<sup>1</sup>

It is his further duty to draw all indictments, and presentments found by the Grand Jury and to prosecute the same in the District Court, and at the request of the Attorney General to appear for the State in any case instituted by him in a county.<sup>2</sup>

It is made the duty of the County Attorney to make complaints for violations of the liquor laws, for violation of the compulsory education law, and for trespass on state lands. But except in these three instances, no express provision is made by statute requiring him to ferret out crime. After a complaint has been filed, however, the County Attorney can issue subpoenas and can use the power of the Sheriff to produce evidence of crime.<sup>3</sup>

By an act of 1909, the County Board was authorized to appropriate not to exceed \$1000. a year to defray expenses incurred in the preparation and trial of criminal cases, the conduct of investigations by the Grand

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1. R. L. 1905, Sec. 565.

2. Ibid

3. Ibid, Opinion of Atty. Gen. 1912, p. 83-4.

Jury and for the business of the County. This fund, known as the County Attorney's Contingent Fund<sup>1</sup>, has been held by the Attorney General to be required in all counties. In certain counties very little of this fund is used during the year. In Hennepin County, on the other hand, this seems to be used in the employment of a force of detectives by the County Attorney for the express purpose of ferreting out crime. Some well-meaning reformers have suggested that the Contingent Fund of the County Attorney ought to be greatly increased in order to have an agency that would act independently of the city police and of the Sheriff in ferreting out crime. Such a measure would only result in making our local government still more complex instead of simplifying it.

The duties of the Coroner and the Clerk of Court have been outlined in a preceding chapter and do not need further consideration here.<sup>2</sup>

Comparison of the amounts expended by the different counties of the state for the enforcement of law and the administration of justice would be of little value, unless in connection therewith, were to be considered the

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1. R.L. 1905, Sec. 74 as amended by Laws 1909, C. 233.

2. Weekly Mirror, Dec. 14, 1912.

3. See Ch. III, Sec. 3.



number and nature of the cases tried, the evidence produced in each one, and the result. Such an investigation is beyond the scope of this paper.

It should be noted that the expense of criminal cases, whether tried by Justices of the Peace or by the District Court, are paid out of the County Treasury. Hence the expenditure for judicial purposes, previously given represents the total cost of criminal prosecutions to the people of the county.<sup>1</sup>

#### Section Four - Poor Relief.

Another of the functions of the state that is entrusted to local government is the function of caring for those residents who are in need, and who have no relatives capable of supporting them. The relatives of such a poor person are required to support him or her, when they are able to do so. If they refuse, the County or Town Board, as the case may be, may compel them to forfeit and pay to the county or town poor fund the sum of fifteen dollars per month. If the poverty is due to intemperance this liability does not extend farther than to parent or child.<sup>2</sup>

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1. See reports of the Attorney General for expense in each county. A table in the introduction to this chapter shows the amounts expended for various purposes in typical counties of this state.

2. R.L. 1905, Sec. 1485-6.

Two principal systems of poor relief prevail in Minnesota: (1) the County and (2) the Town systems. The features of these two systems are very similar. Let us consider the County System a little more in detail.<sup>1</sup>

County System.

Under the County system of Poor Relief, the members of the County Board are Superintendents of the Poor. Wide discretion is vested in them as to the method to be adopted for support of the poor. They may maintain a poor house, a poor farm, a workhouse, or if the number of poor in the county does not warrant any of these institutions, provision may be made for the support of the poor in any manner they may deem proper.<sup>2</sup> The expense of providing buildings for the poor farm, workhouse, or almshouse, is met by a special county tax, and the support of the poor under the County system is met by a general tax for "Poor Relief" levied throughout the county.<sup>3</sup>

If the County Board chooses to care for the poor on a poor farm, it must appoint an overseer for the same, who has charge and control of all the poor; he

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1. R. L. 1905, Sec. 1487.

2. R. L. 1905, Sec. 1492.

3. R. L. 1905, Sec. 1504, 1492; two counties with joint combined population of less than 10,000 may unite in maintaining a poor house, R. L. 1505.

must find employment for those that are able and keep a record of the amount earned by each. Paupers are committed to this poor house or poor farm by the County Board. The Board may discharge any inmate when satisfied that he or she is not properly a county charge. Upon application from a pauper any member of the County Board may commit him to the poorhouse or poor farm, if satisfied that he is in need; any such commitment must be reported to the County Board<sup>1</sup> for their subsequent approval.

The Attorney General has held that the County Commissioners cannot make arbitrary rules in regard to an almshouse; nor authorize the overseer to open the mail of inmates, unless clearly carried on for unlawful purposes; nor place inmates in solitary confinement for breaking of the rules. The almshouse is not a prison,<sup>2</sup> but a charitable institution.

The peculiar practice in certain counties of letting the position of overseer by contract has already been noted in a preceding chapter.<sup>3</sup>

In counties in which there is no poorhouse, the County Board may employ individuals to take care of the poor, paying therefor reasonable and just amount for

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1. R. L. 1905, Secs. 1494-7.

2. Opinions of Atty. Gen. Rept. 1906, p. 306.

3. See Chapter III, Sec. 4, pp. 116-118.

the services rendered. An individual cannot be hired for this purpose under a contract extending over two years, that is, beyond the term of members of the County Board then in office.

This practice is followed in Martin County where the County Board rents a house in the City of Fairmont and hires a man and his wife to take care of all the poor of the County, who do not live at home, paying therefor \$3.50 a week for each. The poor who live at home are cared for there.

If upon inquiry by a member of the County Board, it appears that only temporary assistance is needed and that it will be for the best interests of the county to grant the same, the Board may allow temporary relief for food, clothing, coal, groceries, or other necessaries for such time as it is needed by the family in question.<sup>1</sup> This practice seems to be followed in certain counties for the support of all the poor of the County, each Commissioner being responsible for the care of the poor of his district, and authorizing expenditures for the purchase of supplies, payment of house rent, etc. for every family in his district supported by the County. Whether a member

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 1. R. L. 1905, Sec. 1498 as amended by Laws 1909, C. 390.

of the County Board is entitled to compensation for duties performed in looking after the poor seems to be an unsettled question. In 1910 the Attorney General held that the County Board could not appoint a member as overseer of the poor, but might appoint a committee of one member to supervise the care of the poor and this member would then be entitled to mileage while performing these duties. In 1912 in response to a similar inquiry, the Attorney General held that members of the County Board were not entitled to compensation for looking after the poor because that was a part of their duty, and the performance of such a duty could not be considered as one performed "under the direction of the County Board" within the meaning of the statute. (2)

It is also the duty of the County Board to appoint one or more physicians as County (Poor) Physicians. Such physicians must attend the poor upon direction from a member of the County Board. If immediate treatment is required any physician may attend the poor and notify the County Physician and be paid therefor by the

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1. Opinions of the Atty.Gen. Rept. 1910, p. 127.; 1912 p. See pages 156 for instances where such mileage was paid.  
March 23, 1912 - May 12, 191
  2. Laws 1911, Ch. 283; See Chapter III, Sec. 6.

County. The practice of letting the position of County Poor Physician to the lowest bidder has been sufficiently commented upon in another connection. <sup>1</sup>

If an application is made by a pauper whose residence is in another county, the chairman may order him to depart or order the Sheriff to convey him to his place of settlement. If such a pauper becomes ill, the County may render him assistance, which must be paid for by the County of his residence. <sup>2</sup>

#### Town System.

By a law of 1889, an alternative system for support of the poor was provided. Under this Town System of Poor Relief, the burden of supporting the poor rests upon the individual towns, villages, and cities in the county, each supporting its own poor. The respective town boards, city and village councils, are superintendents of the poor and have the duties possessed by the County Board under the County System with the exception that the poorhouse under the Town System must be erected by the County, and the expense of caring for the poor

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1. R. L. 1905, Sec. 1581; See Chapter III, Sec. 4.

2. Ibid, Sec. 1500.

there, must be paid by the towns and villages according to the number of inmates committed from each.<sup>1</sup>

In Hennepin County, the Town System of Poor Relief prevails with the slight modification that the powers and duties of the Department of Corrections and Charities of Minneapolis are slightly more extensive than those of a city council under the Town System, including the supervision and management of the City Hospital and Workhouse. A poor farm is maintained by Hennepin County.<sup>2</sup>

In St. Louis County, a Board of Poor Commissioners, appointed by the County Board with the approval of the District Court, has the same powers and duties as the County Board under the County System.

In Ramsey County, the City of St. Paul and the County of Ramsey join in maintaining an almshouse, City Hospital, and a poor farm, which are placed under a "Board of Control" appointed by the District Court. This Board must report to the County Board and the City Council, and it has the same powers as Overseers of the Poor in other counties of this state, including the power to appoint a City and County Physician, and grant aid

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1. Laws 1889, C. 170; R. L. 1905, Secs. 1509-1513.

2. Sp. Laws.

Two thirds of the expense of Poor Relief is paid by the County, one third by the City.<sup>1</sup>

To change from one system of poor relief to the other requires the submission of the question of change of system at a general election upon petition of one quarter of the voters of the county. If the proposition to change is carried, the new system takes effect upon January first. Since the County System was the first, each county is considered as continuing that system until change is made in the manner specified in the statute. At the present time about thirty counties have adopted the town system.<sup>2</sup> These include a few counties in which there is a city of some size, and the problem of relief of the poor is that of the city.<sup>3</sup>

#### Expenditures.

But there is also a large number of purely rural counties in which this system has been adopted. In most of these counties the taxes levied for this purpose by the respective towns and villages seem to be lower than those levied by counties of similar size and situation under the County System of Poor Relief.

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1. Special Laws 1907, Ch. 22; Laws. Sp. 1873, P. 273.

2. R. L. 1905, Sec. 1491.

3. Conclusions based on report of State Tax Commission.



For example, the tax levy for Support of the Poor in Martin County, in 1911, was \$3,028.67, whereas the tax levy by the towns and villages of Cottonwood County was only \$1,935.44. This apparent difference is increased somewhat by the fact that Martin County commenced the year with a balance of \$3,520, and ended the year with a balance of \$2,108.62, thus making the actual expenditure for poor relief \$4,170. However, it must be borne in mind that no records are available to show the number of poor cared for in in the towns of Cottonwood County during the year 1912, nor with what balance the towns of that county started or finished the year. Hence little can be learned by a comparison of the expenditures of the counties under the two systems unless one is familiar with local conditions and has town as well as county records on such matters as the number of paupers supported, the amount of temporary relief granted, the kind and character of medical services rendered, etc.

The same knowledge of local conditions would be necessary for one to judge whether it is better to

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1. Figures are taken from the report of the State Tax Commission for 1912, and from the Financial Statements of the Counties named.

adopt the method pursued by Faribault and other counties of keeping most of the paupers at a County Poor Farm, and thus enable them by work to earn part of their board; or to follow the plan of Martin County and rent the poor farm for cash to a private individual and keep the sick paupers in a rented almshouse in a city and care for all others at their homes, letting each county commissioner be responsible for those from his district.

The test after all is not the low amount of expenditure, but the character of the service rendered. Theoretically it is difficult to see the need of two systems of poor relief in Minnesota. The Town System would seem unnecessary except in those cases where a City problem is involved and the care can best be given to the city. In rural districts the number of poor is generally small, although it is a surprising fact to find that the tax for poor support levied by towns in a given county usually exceeds that raised by villages, although in neither is the amount great.<sup>1</sup> Hence there can be little if any objection to taxing the entire county for the support of the poor. It would also seem that where

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1. Under the Town System in Beltrami County, the Town tax in 1911 for poor was \$5,207., the city and village tax (including Bemidji) was only \$2,526; in Clay County, the town tax was \$2,748.65; the city and village tax, \$555.13.

the number warrants it, the poor could be better and more economically cared for at a poorhouse or poor farm maintained by the county. A possible tendency on the part of the County Board to be more liberal in granting temporary relief may account for the increasing number of counties that are changing to the town system of relief with a view to place the care of the poor in their local town boards who are closer to the people and better able to judge of the need of such relief and more likely to be more economical in the expenditure of money. If such a reason exists, it may be advisable to continue both systems. If not, the County System would seem preferable.

Practically no state supervision is provided for the Poor Relief by the Counties. The duties of the State Board of Control are limited to one annual inspection of the almshouses of the various counties of the state with reference principally to their sanitation.<sup>1</sup>

Certain similar functions such as the care of the insane, the feeble-minded, are performed by the State.

The expenditure of typical counties for Poor Relief is indicated in the introduction to this chapter. <sup>2</sup>

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1. R. L. 1905, Sec. 5012.

2. See also Sec. 7 of this chapter.

Section Five. Health.

Another function of the state in which the machinery of local government is used is that of the preservation of health. The local ~~Boards~~ of Health act more frequently as agents of the State Board of Health than in the exercise of independent powers and duties which they possess.

Boards of Health.

A local Board of Health exists in every town, village, city, and county in this state. Only two of these Boards need be considered here. The Town Board of Health is composed of the members of the Town Board of Supervisors. The County Board of Health is composed of two members of the Board of County Commissioners, and one practicing physician selected by the County Board.

The duties of these two boards are very similar. The Town Board of Health has jurisdiction within the town and over every village within the township which has no organized Board of Health.<sup>1</sup> The County Board of Health has jurisdiction over all unorganized townships in the county and is required by statute to perform such other duties as the State Board of Health may prescribe.<sup>2</sup> In view of this

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1. A village is not required by law to have a Board of Health., but may do so and usually does.  
2. R. L. 1905, Sec. 2134.

requirement the Attorney General has held that every county is required to have a Board of Health whether it contains any unorganized territory or not.<sup>1</sup>

The Town Board of Health is of little importance. Most of the problems affecting the public health arise within the villages or cities of the state. Regulations on garbage, disposal, sewage, slaughter houses, lying-in hospitals, and medical inspection of children, laid down by the State Board of Health, although so worded as to imposed duties upon all local<sup>2</sup> boards of health have little or no application to the town.

The State Board of Health has imposed the following duties upon the County Health Officer (i.e. the physician member of the County Board of Health):

- (1) To report quarterly to the State Board of Health the general sanitary condition of the county, especially with reference to communicable diseases, and rabies.
- (2) To keep a close watch over apparent epidemic diseases within their jurisdictions and if any question arises as to the proper mode of treatment to notify the

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1. Atty.Gen. Rept. 1910 Opinion 38.

2. Minn.State Health Laws and Regulations 1912.

State Board of Health;

(3) To note the condition of slaughter houses, rendering establishments, paper mills and similar factories and report to the State Board of Health;

(4) To report the failure of local registrars to report births and deaths;

(5) To attend the annual conference called by the State Board to discuss public health matters. (1)

Thus it is evident that the State Board of Health exercises considerable supervision over local health officers and in fact exercises more supervision over the locality than any other state authority.

#### Contagious Diseases.

A few words may be necessary as to the payment of expenses connected with the suppression of contagious diseases. The Town or Village Board of Health is authorized to employ at the cost of the town or village such help as may be needed for the suppression of communicable diseases or for carrying out the lawful regulations and directions of the State Board of Health. If it fails to do so, the State Board may employ such assistance and

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1. Minn. St. Bd. of Health Reg. May 1912, Nos. 62 to 70.

charge the cost to the locality. All claims accruing for such assistance after audit and approval by the Town Board must be presented to the County Board, which (1) must pay one-half of the same.<sup>2</sup>

#### County Hospital.

Upon authorization by a majority vote of the electors of a county, the Board of County Commissioners may acquire land, erect a County Hospital, and either lease it or appoint a Board of three freeholders, and a superintendent, at the same time making regulations for its management.<sup>3</sup>

#### Vital Statistics.

Another duty of certain local officials closely related to the matter of health is the collection and recording of vital statistics. This duty is imposed upon the Town, and Village Clerks, and upon the Health Officers of the City, who are constituted local Registrars. Birth certificates must be filed by the attending physician or midwife, and Death certificates, by the undertaker, with the local registrar. The local registrar is required

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1. R. L. 1905, Secs. 2137-9.

2. Town of Montgomery v. Co. of Le Sueur, 32 Minn. 532; Co. of Co. of Roseau, 93 Minn. 240; Opinion of the Attorney General, Report, 1910, p. 366.

3. Laws 1913 C. 392; Laws 1913, C. 500 provides for County Tuberculosis sanatoria.

to report monthly to the State Board of Health upon these matters. A body may be buried only after a burial permit has been secured from the local Registrar. This law it will be noted imposes additional duties and responsibility on the Town Clerk and gives him a function not connected with his other duties. Any local Registrar who fails to comply with this act may be removed by the State Registrar ( i. e. Secretary of the State Board of Health).

Such statistics are tabulated by the State Board of Health and a tabulated statement of the same filed with the Clerk of the District Court of the respective county. The expenses of administration are paid by the county.<sup>1</sup>

#### Section Six - Education.

Another function performed by the State which is partly delegated to the smaller local units is that of education. The scope of this paper does not make it necessary to consider the educational institutions of the state other than the common school.

The local organization by which education is carried on, differs from that of roads, drainage,

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 1. R. L. 1905, Sec. 2140 as amended by Laws 1911, C. 250, was repealed and a new act passed, Chapter 379, Laws of 1913., with essentially the same provisions.



health, and poor relief, in that school districts, which are public corporations of limited powers, are organized for this sole purpose, instead of giving it to the existing town organization.

Creation of School Districts.

A School District is created by the County Board upon the petition of a majority of the freeholders who are qualified voters, residing upon any territory not less than four sections in extent and within which not less than twelve children of school age reside. This petition must be submitted to the County Superintendent for his opinion. The County Board then proceeds as in the organization of the town; giving notice of a public hearing upon the matter; hearing all interested parties at such hearing; and either granting or denying the petition for the organization of such district. The boundaries proposed in the petition may be changed upon the recommendation of the County Superintendent. An appeal lies to the District Court from an order of the County Board upon the ground that the County Board had no jurisdiction, exceeded its jurisdiction, or that its action

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1.R. L. 1905 Secs. 1281-5; By a similar proceeding any school district may be annulled and the school come under the County Board of Education as provided by Laws 1913, Ch. 82.

was not for the best interests of the districts affected. The boundaries of any existing district may be changed by a similar process upon petition of a majority of the voters of the district affected. By a similar proceeding any resident freeholder may have his land, which adjoins a neighboring district, attached to that district.<sup>1</sup>

If a school district has exercised the powers and franchises of a district for one year, the validity of its organization cannot be questioned.<sup>2</sup>

Corporate Powers:

Every school district may be regarded as a public corporation with limited powers, created for the special purpose of managing and controlling a public school. The Maintenance and management of schools is one branch of the state government. A School district is a part of the county in which it is situated, territorially, but not otherwise. For the purpose for which it is created it is coordinate with, and not subordinate to the county in which it is situated. Since it is created by the state for a special purpose and its powers are limited by

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1. R. L. 1905, Sec. 1286 as amended by laws 09, C. 13; 1913, Ch. 435 provides a similar procedure for the addition of rural territory to a city or village district.

2. Ibid, Sec. 1283.

statute, it can legally do nothing outside of the powers so granted. Hence it is not liable to a private individual for negligence in keeping its grounds in repair and thus making injury possible.<sup>1</sup>

The members of the school board are regarded as trustees for the district to hold and manage its property for educational purposes. Hence they are not liable to an individual for failure to repair property but are liable only to the district for failure to perform their duty in properly managing the property thereof and keeping it in condition for educational purposes. When the school board assume to do any act (such as to make a promissory note) for which there is no express authorization by statute or by the electors of the district, it must be shown that they have not overstepped their authority in order to hold the district liable. School districts, like towns and counties, are not liable for acts of their officers in excess of their legal powers but acts of its officers within their legal powers are binding upon it. It is not liable to private individuals for negligence but it is liable to the state for failing

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 1. Bank V. Brainerd, School Dist. 49 Minn. 106; Sch. Dist. v. Thompson, 5 Minn. 280. State v. Lakeside Land Co. 7 Minn. 290.

to perform its function. Likewise its officers are not liable to private individuals for negligence but are liable to the district.<sup>1</sup>

The organization of the school district is very similar to that of the town. Thus there is an annual assembly of the voters and a board in control of the affairs of each.

#### School Meeting.

The annual school meeting is required to meet on the third Saturday of July at seven P. M. The Clerk of the district is required to give ten days notice specifying the business of the meeting. Special meetings may be called upon written request of five freeholders, for which notice must be given in the same manner. The procedure of the annual meeting follows that of the town meeting very closely, the chairman of the school board presides, and the clerk of the board acts as clerk, officers are elected by ballot, and the minutes of the meeting are kept by the clerk.<sup>2</sup>

The annual meeting may designate a site for

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1. Cases cited above.

2. R. L. 1905, Secs. 1305-7.

a building and provide for the construction of a school house, provided that a majority of the freeholders who have lived in the district for a year must favor such change. By a majority vote, bonds can be issued. In common school districts, the annual meeting may vote a fund for the maintenance of the school for the ensuing year and for all other proper purposes; it may appoint a librarian and make rules for the management of the school library; it may direct the school board to make certain improvement on the school property; and provide for free text books.<sup>1</sup>

The provisions relating to school districts composed of more than ten townships, special school districts, and independent districts differ in certain respects from these, but it is not necessary to consider them here.

#### School Officers.

In every common school district a school board of **three** members (consisting of a chairman, clerk, and treasurer) is elected for a three year term, (the term of one expiring each year). The school board has the manage-

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1. R. L. 1905, Secs. 1308-9 as amended by Laws 1911, C. 249.

ment of the school, including the power to purchase all needed supplies, and furniture; to employ teachers, and a janitor; to provide free text books or for the sale of books at cost to pupils; to defray necessary expenses of the school; to lease rooms for school purposes; to provide for heating of the school; to provide for the erection of outhouses; for the planting of shade trees, and in general to manage and supervise the schools in the district. It is required to submit an estimate of expenses for the ensuing year to the annual school meeting and to levy a tax for school purposes if the annual meeting fails to do so.<sup>1</sup>

The Clerk has the usual duties, incidental to such a position, including the duty of submitting a report to the County Superintendent at certain times as to the number of pupils and the financial condition of the district. The Treasurer has the usual duties to keep all moneys of the district, and pay them out only upon order of the chairman attested by the Clerk. His books are subject to examination by the school board and his bond is twice the amount of money likely to be received during the year.<sup>2</sup>

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1. R. L. 1905, Secs. 1313-1324; By Chs. 244 and 353 of Laws 1913, contracts over \$500. must be let to lowest responsible bidder after advertising, etc. Proceedings of school board in district of more than ten townships must be published.

2. Ibid, secs. 1326-1328.

Subject to the supervision of the Board, the teacher has general control of the school.

County Superintendent.

The County Superintendent of Schools has general supervision over all the common schools in the county. It is his duty to visit and instruct in each common school district at least once in each term, to instruct the teachers, and to advise teachers and school boards as to the best methods of instruction, plans for building, improving and ventilating school buildings, ornamenting school grounds and adapting the grounds to the exercise of the pupils.<sup>1</sup>

He is also charged with the duty of organizing and conducting teachers' institutes, which he may require all teachers to attend; conducting teachers' examinations; encouraging teachers' associations; and stimulating school officers to a prompt and efficient discharge of their duties. He may call a meeting of the school officers for conference for one day in each year.<sup>2</sup>

Reports must be made to the County Superintendent by the teacher in each district as to the number of pupils

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1. R. L. 1905, Section 1379.

2. Ibid, Secs. 1349, 1378, 1380; 1913, C. 365.

attending school; and by the clerk as to the amount of property, financial condition, and certain other information relating to the district. After receiving these reports, the County Superintendent must report to the Auditor the number of pupils entitled to be counted in the state apportionment.<sup>1</sup>

The County Superintendent must in turn report to the State Superintendent of Public Instruction the number of pupils in each district in the county, with an abstract of the teachers' reports, the general condition of the schools of the county, and such other matters as the State Superintendent may require. He must also notify that official of the failure of a book company to sell books of standard required.<sup>2</sup>

Upon being notified by the teacher of the failure of any children to attend school, he must in turn notify the parents of the children. Upon their refusal to comply, he must notify the County Attorney and upon request of that official file a criminal complaint.<sup>3</sup>

He may suspend any teacher upon his own authority, or upon the complaint of any school board, after

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1. R.L. 1905, Secs. 1326, 1346, 1384.

2. Ibid, Secs. 1383, 1379, Laws 1911, c. 43.

3. Laws 1911, C. 356.



giving notice to the teacher, for immoral conduct, failure to finish term, or tuberculosis or other communicable disease. From such order of the County Superintendent the teacher may take an appeal to the State Superintendent. An appeal also lies by the School Board to the State Superintendent for the refusal of the County Superintendent to act after a complaint has been made.<sup>1</sup>

In proceedings for the consolidation of rural schools, the County Superintendent is required to make a plat of the proposed change and submit it to the State Superintendent for his approval. Such a consolidation can be made only after twenty five per cent of the freeholders of the district petition therefor, the State Superintendent approve and the proposition being submitted at a special election be carried by a majority<sup>2</sup> vote.

The County Board may appropriate money for a teachers' institute. Upon the petition of fifteen per cent of the voters of the County, it may appropriate not to exceed \$20,000. a year for the maintenance of a County School of Agriculture and Domestic Economy.

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1. Laws 1911, C. 96.

2. Laws 1911, C. 207, as amended by 1913, C. 428.

For the management of such a school a County School Board, consisting of the County Superintendent and two other members chosen by the County Board is created.<sup>1</sup>

Money for the erection and maintenance of schools is supplied from several sources. In a common school district the annual school meeting may levy a tax not to exceed 15 mills for maintenance and 10 mills for the erection of a building and acquisition of a site. But if a ten mill tax will not yield \$600. a tax of not over twenty five mills to yield not over \$600. may be levied. 2

Part of the liquor licenses and of the fines paid into the county treasury are also turned over to the school districts thereof in the proportion fixed by the County Superintendent for the distribution of State Aid.

In addition to the tax levied by the school district, the County Auditor is required to levy a one-mill tax throughout the county for school purposes and turn over to each district the portion derived from the property therein. 3

State aid is paid from the General School

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1. R. L. 1905, Sec. 1433; Laws 1913, Ch. 314.

2. Laws 1913, Ch. 36.

R. L. 1905, Sec. 1399.

fund and from the State Revenue fund.

The General School fund consists of the interest upon the invested principal which has been derived from the sale of State School lands and one-half of the interest on State Swamp Land fund, plus a one-mill tax levied throughout the state for school purposes. From this fund there is paid out annually to the counties the sum of two dollars for each pupil who has attended a specified number of days. (1) (2)

Since the income from the tax is about one-half the total amount available, the inequality in the allotment of this fund is not so great as in the case of the State Highway fund. In 1912 only three counties (Itasca, Wilkin, and St. Louis) received a smaller amount in return than they paid into the State Treasury under the one-mill school tax. The proceeds from the tax in the first and third of these was necessarily great due to the presence of iron mines. (2) (3)

Being based upon the number of pupils in attendance, the amount allotted to a given county corresponds fairly well to the population thereof.

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1. Minn. State Const. Art. VIII.
  2. Report of State Auditor 1912. ppxix,xx,
  3. State Tax Commission 1912, pp. 731-2.

In addition to the aid from the General School fund based upon the number of pupils, there was granted in 1912 from the State Revenue Fund to each high school \$1750; to graded schools of one class (146 in 1912) \$600. each, to graded schools of another class (50 in 1912) \$1,100. each; to semi-graded schools \$300. each, with \$62. deficiency each; to first class rural schools \$142. each, with \$96. deficiency; to second class rural schools \$100. each, with \$53. deficiency for 1909 and 1910. <sup>1</sup>

Since the number and class of schools in different counties is not in proportion to the population or valuation, it is apparent that inequality will result.

As in the case of roads and drainage, it may be interesting to see what part of the burden of supporting local schools is borne by the state and by the locality, respectively. This is shown by the following table:

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1. State Auditor's Report 1912, pp 526 ff. Additional aid was given to high schools having agricultural and industrial courses.

County	Total State Aid, 1912.	Total Local School Tax, 1911.
Aitkin	\$ 20,370.	\$ 60,785.
Anoka	24,293.	46,521.
Beltrami	33,420.	105,092.
Blue Earth	41,801.	109,984.
Cottonwood	27,798.	57,556.
Faribault	49,024.	90,832.
Hennepin	301,762.	1,708,471.
Koochiching	13,478.	72,821.
Martin	46,594.	80,923.
Nicollet	26,613.	38,005.
Ramsey	174,072.	810,051.
Rock	21,900.	57,954.
St. Louis	204,157.	2,142,883.
For Whole State:	\$3,488,946.	\$10,211,102. (1)

From this table of typical counties, it would appear that the amount of state aid received by different counties varies from less than one tenth of the local school tax in the case of St. Louis County to more than three-fourths of it in Nicollet County. The general average seems to be about one-third, and the proportion of the totals is about one to three.

Statistics are not available to show the use made of these funds by individual districts, nor to show whether any districts in the state received more from state aid than they raised by local taxation. The amount per pupil raised

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1. Report of the State Auditor, 1912, pp xviii - xx; State Tax Commission 1912, pp 736-7.

by local taxation in 1912 varied from \$9.42 in Isanti to \$83.85 in Itasca county (based largely on mining property). The average for the state was \$30.69.<sup>1</sup>

Since the greater part of this allotment comes from the State Revenue Fund, for which the tax levied includes nearly all the activities of the State Government, the ~~proportion~~ <sup>ratio</sup> of the State taxes paid for school purposes alone to the amount of State aid received cannot be accurately determined. The total state taxes paid as compared with the total State aid received for all purposes will be considered in the final chapter of this paper.

In addition to direct aid, provision is also made by the State Constitution for the loan of the principal of the State School fund to school districts to aid in the erection of buildings and other improvements.<sup>2</sup>

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1. Report of the Superintendent of Public Instruction, 1912, p.
  2. Minnesota Constitution Art. VIII.

Section 7. Taxation.

The activities of local government, considered so far in this chapter, necessitate the expenditure of money. We must now consider from what source the funds are derived which make these expenditures possible.

This can best be determined by examining the sources of revenue of a few typical counties. Excluding State aid and loans, the sources from which certain counties derive their revenue is indicated by the following

County.	General Taxes.	Special Taxes.	Ditch Assessments.	Licenses, Fees,	State Lands.	Interest.	Fines.	Miscellaneous
Cottonwood	\$ 166,940.	5,753.	2,638.	918.	1,293.	1,121.	323.	1,25
Faribault	284,230.	9,073.	143,195	1,859.	10,277.	261.	2,034.	2,99
Martin	278,206.	7,339.	33,362	3,833.	7,451.	2,384.	1,286.	4,42
Nicollet	163,761.	86.	3,007.	1,662.	6,829.	188.	96.	2,94
Rock	176,556.	3,967.		1,307	2,130.	652.	543.	4
Ramsey	3,961,891.	222,012.		229,600.		8,427.		81,681

In this table under general taxes are included those collected by the county for all purposes and for all governmental bodies. Under special taxes are included

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mortgage registry taxes and inheritance taxes. Fees are those for nominations or for officials' duties; licenses are those granted by the county and two per cent of the liquor licenses granted by municipalities therein. Except in the case of Cottonwood county, the only interest received by the county was on time deposits. Under Miscellaneous, are included all revenues from refunds, rent of poor farm, income of various county institutions, and all other revenues not included in the other items and not derived from loans or from state grants.<sup>1</sup>

If grants and loans from the state are included in the total revenues of counties, the portion derived from taxation is approximately seventy five per cent.<sup>2</sup>

The important fact to be borne in mind is that the county is the agency thru which practically all of the revenue of the town, over seventy per cent of the revenue of the school district, fifty per cent of the revenue of the cities and villages of the state, and over twenty five per cent of the revenue of the state government is collected in taxes paid to the county treasurer. Hence it seems proper to consider the collection of taxes as one

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1. The amount of State Aid, received by the above counties, for roads and schools has been given in preceding sections of this chapter; the amount borrowed for drainage is approximately equal to the expenditure therefor, as given in Section Two of this chapter.
  2. Dr. E.V. Robinson, "Cost of Local Government in Minnesota" in State Tax Commission Report, pp. 258.



of the principal functions of local government, and more especially of county government.<sup>1</sup>

Assessment.

It is the purpose of this section to consider in detail the machinery by which property is assessed, by which a just valuation is supposed to be obtained, by which the rate of taxation is calculated, and finally by which taxes are collected, and distributed to the bodies by which they were originally levied.

The assessment of property in Minnesota is entrusted to local assessors, elected in the townships by the town meetings, and either elected or appointed in the villages and cities of the state.

On the last Thursday in April the assessors meet the County Auditor to receive assessment books previously prepared by him, corresponding with each district.<sup>2</sup>

The assessor makes his assessment during the months of May and June and prior to the fourth Monday of June. This assessment is submitted to the Town Board, meeting as a Town Board of Review on the fourth Monday

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1. Based on Report of State Tax Commission, 1912.

2. R. L. 1905, Sec. 804, as amended 1913, Ch. 303.

in June. (In villages and cities such assessment is submitted to the village or city council or to some body designated by the charter of the city.) This Board of Review is entrusted with the duty of reviewing<sup>1</sup> the assessment as submitted by the Town Assessor. It may examine the property listed, and supply omissions of property. On application of residents, or of its own motion, it may lower the assessment of property as made by the Assessor, and it may raise the assessment of any piece of property, after notice to the person owning such property. The Assessor must attend its meetings and give his assistance.<sup>2</sup>

After the Assessor's books are signed by the Town Board of Review the Assessor must foot the columns and make a tabulated statement. The books and statement must be returned to the County Auditor before the first Monday in July. The salary of the Assessor is not paid until he has delivered his books to the County Auditor and presented a certificate of such delivery to the Town Clerk.<sup>3</sup>

The County Auditor must examine the assessment books of the town assessors in the county, and if he finds any property, not assessed notify the assessor to assess such property.<sup>4</sup>

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1. R. L. 1905, Secs. 808, 847.

2. R.L. 1905, Sec. 847.

3. Ibid 850 as amended by 1907, C. 87.

4. Ibid, 852.

On the third Monday of July, the County Board of Equalization enters upon its duty of equalization, which must be completed within four weeks thereafter. This Board, as has been previously indicated, is composed of the County Commissioners (or a majority of the Board), the County Auditor, or his deputy, or in the absence of both the Auditor and his deputy, the Clerk of Court. The duty of the County Board of Equalization is to examine and compare the returns of assessment in the several towns and districts and to equalize them so that each tract or lot of real property and each article or class of personal property is entered on the assessment list at its true and full value. In doing so, the County Board of Equalization may:

- (1) Raise the assessment of a tract of real property, if too low, after notice to the owner;
- (2) Reduce the assessment of a tract, if too high;
- (3) Raise the assessment of any class of personal property; or the aggregate of the assessment of any individual if too low;

(4) Reduce the assessment of any class of personal property; or the aggregate of the assessment of any non-resident, upon complaint of such owner, if too high. But in such equalization, the aggregate valuation of real and personal property must not be reduced below the aggregate valuation for the county as a whole as returned by the assessors.<sup>1</sup>

On or before the fourth Monday of August, the County Auditor transmits to the Tax Commission of the State, abstracts of the assessments of the county.

The State Tax Commission, which has taken the place of the former State Board of Equalization, is composed of three members appointed by the Governor with the consent of the Senate, for a term of six years each. On the second Tuesday of September, the State Tax Commission meets as a Board of Equalization with power to:

- (1) Add to the aggregate valuation of real property in the county, the percentage necessary to bring it up to the true value;
- (2) Deduct from such aggregate valuation sufficient percentage to bring it down to the true value;

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1. R. L. 1905, Sec. 859 as amended by Laws 1907, c. 400.

(3) Raise or reduce the real property of the town, village or city;

(4) Raise the aggregate valuation of any class of personal property in any county;

But in the performance of its duty it must not reduce the aggregate valuation of the state over 1%.<sup>1</sup>

These are in brief the principal officers and boards whose duties relate to the assessment and equalization of the assessment of property. There are certain other officers in a few counties, which are entrusted with special functions which will be considered later.

Previous to 1913, all property was required by law to be assessed at its full and true value, which was defined as "the usual selling price at the place where the property to which the term is applied, shall be at the time of assessment, being the price, which could be obtained at a private sale, and not at a forced or auction sale." The law could hardly have been more explicit in requiring assessment at full value.<sup>2</sup>

In 1913, this was amended and property was divided into four classes: Class one includes iron ore, and

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1. Laws 1907, C. 408, supplemented by R. L. 1905, Sec. 863.

2. R. L. 1905, Sec. 802.

iron land and is to be assessed at fifty per cent; class Two, household goods, wearing apparel, and personal property used for domestic purposes, at twenty five per cent; class Three, merchandise, farm products, machinery, tools, live stock, and poultry, furniture and fixtures of stores, manufacturers' articles and manufactured articles, all tools, implements and machinery and all unplatted real estate not in class One - at thirty three and a third per cent; class Four, all other property - at forty per cent. <sup>1</sup>

That this law follows the same tendency noted with respect to roads and schools is apparent from the fact that mining property is assessed at the highest rate and city property which constitutes the chief item in class Four is assessed at the next highest rate. Thus the wealthier sections of the state are compelled to bear an even greater burden.

It was a notorious fact that the law requiring assessment at full value was never complied with. Although this law has been repealed, the tendencies to evade the law, which were manifest in its operation will not die out soon. These tendencies can best be understood by consider-

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1. Laws 1913, C. 483.

ing the process of assessment in a typical rural county from beginning to end.

At the meeting of the Assessors of Martin County on the last Thursday in April in 1912, the following scale of values was agreed upon:

Horses, one year,		\$15.
" two year,		20.
" three or more,		40.
Cattle, one year,		5.
" two or more,		8.
Cows,		12.
Sheep,		1.50
Hogs, per cwt.		2.50
Wagons and carriages,		15.
Sewing machines,		5.
Watches and Clocks,		1.
Organs,		10.
Pianos,		75.
Dogs,		5.
Bank Stock,	50%	
Lands and lots,		15. per acre.
All other property,	33-1/3%	

This practice, although in direct violation of the law, has been general throughout the state. That it would lead to inequalities as between counties needs no proof, especially when some counties assess at a given percentage, while others set a definite value of goods.

The extensive powers possessed by the Town Board of Review have been noted, but it is a well known

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fact that its meetings are a mere formality to sign up the books of the assessor. It is in a position by virtue of its knowledge of local conditions to make assessments as between individuals of the same town, just and fair.<sup>1</sup>

Continuing with Martin County, it appears that even with the scale of valuation agreed upon, the assessment as between the towns was not fair. Although rather long, a summary of the proceedings of the County Board of this county serves to illustrate the inequality in a manner that a detailed discussion will not do. The following table shows the changes made by the County Board in the valuation of different towns, villages, and cities in the county:

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1. This table is based upon the proceedings of the Board published in the Martin County Sentinel for July 26, 1912.



Town, Village, City.	Land.	Improve- ments.	Horses, 1 yr.	Cows.	Farm Mach.	Wagons.	Sewing Household Goods.	Mach.	Clocks.	Org.
East Chain	5				33-1/3	10	75			-10
Pleasant P.		5			10	15	30	10		10
Center Creek		20		-20	-20	50			-50	-20
Cedar		-40				25	20			-33-1/3
Silver Lake					25		10			
Fairmont Twp.		-20					20			-25
Rutland		-10	40		30		-10			
Westford					-10		20			
Tenhassen		-20			20					
Manvaska		-12 1/2			-15	50	-5			
Rolling Green		10			33-1/3	10	50			-20
Fraser		5			-10		15			20
Waverly					-25	25	15	10		25
Lake Belt		30			15	10	10			
Fox Lake		5					10			25
Nashville						10	15			
Lake Fremont		-5			-33-1/3	15	-12 1/2			
Jay		20			-12 1/2	12	-5			-60
Elm Creek		20								
Galena		5		-15		12 1/2				-25
Granada						25			-50	
Truman										-35
Triumph	-10					10		-10		
Monterey	-12 1/2					25	-33	-25		
Welcome						25	-25			
Sherburn	10			5		40		175		
Tenhassenvill.						40				
Fairmont City						25				-20
Ormsby									-25	

(1)

In this table the figures given indicate the percentage added (or subtracted if minus sign (-) ) by the County Board to give a fair valuation.

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1. This table is based upon the proceedings of the Board published in the Martin County Sentinel for July 26, 1912.

It is evident that the County Board has not the information before it that would enable it to make all assessments just and in addition its power is much more limited than that of the Town Board of Review. Any changes it makes under these circumstances are merely attempts to get as fair a valuation as possible under adverse circumstances.

The aggregate change made in the valuation of real property by the County Board of Equalization, Martin county, was a decrease of \$10,565. from the valuation as returned by the assessors; the valuation of personal property was increased \$5,555, thus leaving a net decrease of \$5,010. 1.

The State Tax Commission in 1912 made numerous changes in this assessment in 1912. The assessed valuation of all real estate in Martin County was increased 15%; two year old horses were increased twenty per cent in the city of Fairmont only; automobiles were increased 25%; watches 100% except in the city of Fairmont; organs 10%; pianos 10% in the city of fairmont only; household goods 10%; threshing machines 10%; merchandise 10%; manufacturers' 2.

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1. State Tax Commission Rept. 1912, pp. 702-5.

2. Ibid, pp. 653-4.

tools 10%; and changes were made in the valuation of the stock of certain banks.

The total change made by the State Tax Commission was an increase of \$36,486. in the valuation of personal property, and \$1,289,393. in that of real estate, making a total increase of \$1,327,879. 1.

The results shown by the above figures seem to be typical for the changes which the assessment of each county undergoes as far as can be judged from the aggregate totals. In 1913 the assessment for personal property was decreased by the State Tax Commission in only five counties; that of real estate was decreased in only one. The total increase in the assessment of real property made by County Boards over the Town Assessors was \$28,728,310; of personal property, \$3,918,027. To these increases the State Tax Commission added a further increase of \$78,062,609. in the valuation of real, and \$4,415,662. in the valuation of personal property, thus making the total increase in assessment as equalized by the State Tax Commission \$82,477,271. above that of the County Boards, or an increase of \$115,123,608. over that originally returned by the local assessors. 2.

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1. State Tax Commission Report, p. 702-5.

2. Ibid, p. 702-5; 36-41.

When a fair assessment cannot be secured by equalization, the State Tax Commission upon complaint or upon its own motion may appoint a special assessor and cause to be made in any year a reassessment of all or any real and personal property or either in any assessment district. (1)

A single instance of such a reassessment will serve to show the extremes to which a tacit disregard of law may go. In the month of July 1909 the County Board of Jackson County filed with the Commission a complaint against the assessor of the town of Des Moines in that county, charging him with gross negligence and non-feasance in office. The Commission appointed a special assessor and ordered a reassessment of all the personal property in the town.

As a result of this reassessment, it was found that instead of 334 horses valued at \$12,754, there were 461 horses valued at \$16,588. Instead of 1,258 cattle valued at \$11,873, there were actually 1,572 valued at \$14,489; instead of 149 wagons and carriages valued at \$1,195, there were 257 wagons and carriages valued at \$3,374; the

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1. Laws 1909, C. 159, 294.

agricultural implements valued at \$1,859. were increased to \$4,259. These are but a few examples of the changes made. The total increase in valuation was from \$34,406. to \$49,892. or an increase of 49.9%. The number of articles found by the Town Assessor was only 2,583, the number by the Special Assessor, 3,585. The number of persons assessed by the Town Assessor was 120, the number assessed by the Special Assessor was 130. (1)

In Springwater township, Rock County, a reassessment increased the valuation \$31,286. or 87.5%.

A comparison of these assessments shows that the assessors wilfully omitted to place on the assessment rolls a large amount of personal property. Such conditions are not at all unusual. The practice of omitting property from the rolls for the purpose of keeping up the average of a class, or of favoring individual taxpayers, is common. It has permeated nearly every part of the state. Undervaluation, when all the taxpayers are treated alike, does not necessarily result in injustice, but the omission of property from the rolls almost inevitably results in the most glaring cases of unjust taxation. If all the

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1. State Tax Commission Report, 1910, pp. 19-22.

property belonging to half of the taxpayers in a town is placed on the rolls and only part of the property belonging to the other half, it needs no argument to show that an unjust burden is being placed on the taxpayers whose property is all assessed.

A possible incentive to this desire to undervalue property may be found in the fact that State taxes are becoming higher every year. Since the rate of these taxes is the same for the entire state, they bear heaviest on the counties having the highest valuation.

Supervision. To remedy somewhat the difficulty arising through lack of information by the County Board and to provide a means by which any county so desiring, may secure a more uniform valuation, a law was passed by the legislature of 1907 under which any county board may appoint a supervisor of assessments, whose duty it is to value every tract of land in the county once in two years and also to supervise the work of the local assessors. He is required to devote all his time to his work, and thus can give adequate information to the County Board of Equalization as to the work of the assessors and furnish

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a basis upon which the local assessors are required to (1)  
make their assessments. This law has, however, been  
adopted by comparatively few counties; most of them  
still cling to the old and inefficient system of assess-  
ment by town assessors.

Every attempt to secure a law providing for  
county assessor has failed. The State Tax Commission has  
twice formulated a complete bill for such an office, but in  
each case, such bill has been defeated in the legislature.  
The purpose of both bills was to abolish the local assessors,  
and to substitute in their place a county assessor.  
All such assessors were to be subject to the direction and  
supervision of the Tax Commission and removable by it for  
cause. To this county assessor it was also proposed to  
transfer those duties of the county auditor relating to  
tax lists. 2

In addition to the powers formerly possessed  
by the State Board of Equalization, the State Tax Commission  
has general supervision over the administration of the  
assessment and taxation laws of the state and over officers  
and boards charged with the carrying out of these laws.

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1. R. L. 1905, Sec. 807, as amended by laws 1909, c. 217.
2. State Tax Commission, Rept. 1912, p. 123 ff.; H. F. No. 243  
(sess. 1913)  
In 1913, the bill provided for appointment by the Co. Bd.;  
in 1911 for election from the county at large for a four  
year term.

Its principal duties in this connection are to confer with, advise, and give necessary instructions to local assessors in relation to their duties; to call meetings of the assessors of the county at the county seat and instruct them as to their duties; and to visit each county in the state at least once in two years.<sup>1</sup>

The State Tax Commission has adopted the policy of sending out letters to assessors and boards of equalization advising them as to their duties and the method by which they should be performed, urging them to make an assessment fair to all property owners. In the instructions sent out in 1911 and 1912 the county boards of equalization were particularly urged to examine thoroughly the assessment of property in the various townships of the county without waiting for complaints. During the months of May and June, 1912, while the assessment was being made members of the State Tax Commission visited between sixty and seventy counties in the state, holding hearings in each place and thus obtaining exact information as to the method of assessment in each county and hearing many complaints which otherwise would probably not have reached them. The details

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1. Laws 1907, C. 408.



of such hearings and the conclusions drawn from them are given in detail in the biennial report of the commission and will not be repeated here. Reference is made to them<sup>1</sup> merely to show the efficient work the State Tax Commission is doing and the efforts which it is making to secure a just assessment.

The State Tax Commission is able to get much information that would otherwise be unobtainable because it has the power to require town, city, village, and county officers, and corporations and individuals to furnish information. It may also summon witnesses and take depositions.

The State Tax Commission is also given the duty to direct the proceedings and prosecutions against public officers, corporation agents, local assessors, and boards of equalization for neglect of duty, and it may order county attorneys to prosecute the same. Thus the Commission has it within its power to compel officers whose duties relate to taxation to enforce the law.<sup>2</sup>

According to the last biennial report of the Commission, a considerable portion of its time is taken

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1. Rept. of State Tax Commission, pp. 11 - 34.

2. Laws 1907, C. 408.

up each year in considering and passing upon applications for abatement of taxes. These petitions for abatement must first be favorably approved by the County Board of the county in question. As noted in a previous cha ter, many of the County Boards have special committees to pass upon the abatement of taxes and much of the time of certain county boards seems to taken up with considering applications for abatement of taxes. In the two year period, ending August 1, 1912, the Tax Commission passed upon 9,396 of such applications, or an average of 391 per month. Of these applications came from Ramsey County; 1,375 from Hennepin County; 933 from St. Louis County, and 3,118 from the balance of the state. Most of these applications are made to obtain relief from palpable mis-<sup>1</sup>takes on the part of assessors.

To the general provisions given for the procedure of assessment and in the equalization in the state, a few exceptions must be made for Hennepin and Ramsey counties. In the former county, under a special law of 1881, the Standing Committee on Taxes of the Minneapolis City Council is made a Board of Equalization

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1. State Tax. Commission Report, 1912, pp. 7 - 10.

with all the powers possessed by county boards of equalization in the other counties of the state. From the decisions of this board there is an appeal only to the State Tax Commission. The County Board acting under the state law previously noted, has usually appointed a County Supervisor of Assessments who has supervision over the assessors of the territory not included in the city of Minneapolis.<sup>2</sup> In Ramsey County, likewise, under special law, the County Board is empowered to appoint a County Assessor who personally or through deputies assesses all the property in the city and county. (1) (3) (1)

Having now considered the method by which the assessed valuation of the property is arrived at, we must examine the tax levy.

Tax Levy.

Taxes are levied for town purposes by the town meeting. In a town having a valuation of less than \$100,000. the rate for town purposes must not exceed \$250. or one-half of one per cent; in towns having a valuation of more than \$100,000. it must not exceed two mills, nor in any case one-half of one per cent. In addition to the tax for town purposes, the town may levy a tax not to exceed fifteen

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1. Sp. Laws 1881, c. 76as amended by Sp. Laws 1883, C. 31; 1889, C. 33.
  2. Laws 1907, c. 217.
  3. Sp. Laws 1875, C. 90.

mills for Roads and Bridges, and in towns having the town system of poor relief a tax not to exceed five mills. Upon authorization by the voters the Town Board may levy a tax to pay the cost of construction of a town hall,<sup>1</sup> or to pay a judgment against ~~the~~ town.<sup>2</sup>

In the common school district, taxes are voted by the annual school meeting. The levy for school support must not exceed fifteen mills and the levy for acquiring a site and erecting a school building must not exceed ten mills.<sup>3</sup> The annual school meeting may also levy a tax to pay a judgment against the school district.<sup>4</sup>

In addition to the tax levied by the School District, itself, for school purposes, the County Auditor is authorized by law to levy a school tax of one mill throughout the county for school purposes.<sup>5</sup>

The County Board, (except in counties under special law) may levy a tax for general county purposes of not to exceed five mills in a county of \$1,000,000<sup>0</sup>. or more valuation, and of not to exceed \$5000. in a county of less than \$1,000,000. assessed valuation. It may also<sup>5</sup> levy a tax to create a sinking fund for the purpose of

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1. G. S. 1894, Sec. 1558 amended 1899, C. 117, omitted from R. L. 1905, reinserted by 1907, c. 404, as amended 1913, c. 165 - 235 - five mill additional tax may be levied by the Town Board in case of emergency, By Laws of 1913, c. 235, the Co. Auditor is required to extend on his books an additional one mill tax for a town "Road dragging" fund.
  2. R.L. 1905 sec. 628, 697.
  3. Laws of 1913, c. 36. - If 10 mill tax will not amount to \$600. a tax of not over 25 mills or \$600. may be levied; if No. of voters is less than ten, shall not exceed \$400.

paying the bonded indebtedness of the county when the same<sup>1</sup> becomes due. It may levy a tax for the purpose of acquiring a poor farm and buildings; for the purpose of erecting a county jail<sup>2</sup> or for the payment of bonds issued for that purpose. In counties having the county system of poor relief, it must levy a tax for the purpose<sup>3</sup> of supporting the poor. The tax limit for general county purposes (not including the erection of buildings) is five per cent above the expenses as estimated by the County Board. The County Board is authorized to levy a tax of two mills in addition to this sum for the purpose of the County Road and Bridge Fund.<sup>5</sup>

In counties having a valuation of from one to two and a half millions (which includes only the eight counties in the state having the lowest valuation) the tax levy of the county for general revenue purposes must not exceed eight mills. (6)

In addition to these taxes levied by the local bodies, the state levies various taxes the proceeds of which are paid over to the local districts. The more important of these are considered in another connection.

(From p. 270)

4. R. L. 1905, Sec. 1460.  
5. Ibid, sec. 1413.

1. R.L. 1905, sec. 1000  
2. Ibid, secs. 1492, 5483, 5486.  
3. Ibid, sec. 1504.  
4. Ibid, sec. 868.  
5. Ibid, sec. 1205 as amended by 1907, c. 423.  
6. Laws 1909, c. 462.

The procedure required by law in the case of the levy of taxes by the County Board must be considered at greater length. In every county of the state, taxes are to be levied by the County Board at the regular July meeting (1) (except in Hennepin, Ramsey, and St. Louis counties) after the County Board has made an estimate of the expenses for the ensuing year. In counties of 150,000 population or more, the law prescribes a more detailed procedure, The County Board in these counties is required to make out an itemized statement of the expenses for the ensuing year, dividing the same into not more than twenty five specified funds and specifying as nearly as possible the amount needed for each fund, but the total estimate must not exceed the maximum limit fixed by law. The County Board must also at this time make out an estimate of the revenues which the county is likely to receive from sources other than taxation and the amount likely to be left over in the "suspense fund" from the preceding year. The estimates so made out must be used by the Board in levying taxes for the ensuing year and the proceeds received from such taxes used for the purposes designated. In Hennepin county, this

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estimate must be sent to the Board Tax levy, which as previously indicated, is composed of representatives of all the taxing bodies of both city and county. This board has the duty of fixing the maximum levy which will be permitted for County, City, Park, School, and Library purposes.<sup>1</sup> It reports to the various taxing bodies, and if the amount of taxes voted by such boards is in excess of this legal maximum, the taxes must be reduced. In 1912, for example, the Board of Tax Levy insisted on a reduction of the estimate for expenditures amounting to \$60,000. and increased the estimate of probable receipts of the county from sources other than taxation \$14,500.<sup>2</sup>

The amount of money needed by the various taxing bodies having thus been voted by their respective taxing authorities, the amounts must be certified by them to the County Auditor before October 10th. The rates for the state taxes are fixed by statute or by state authority;<sup>3</sup> the rates for all other taxes must be calculated and fixed by the County Auditor taking as a basis the valuation of the taxing district as finally determined

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1. Sp. Laws 1879, c. 338 as amended sp. l. 1885, c. 84; sp. l. 1887, p. 704, c. 110.
  2. Proceedings of Hennepin Co. Bd. July 29, 1912; Oct. 1, 1912, see Appendix.
  3. R. L. 1905, sec. 870.

by the State Tax Commission and computing therefrom the rate required to raise the amount of revenue voted by each district. This computation must be made according to the limitations fixed by statute. If any taxing district returns an amount greater than that permitted by law, the auditor may extend only the amount permitted by law.<sup>1</sup>

If the tax limit will not permit the payment of necessary current expenses and outstanding indebtedness, the former must be paid. If the tax limit will not permit the payment of all necessary current expenses, the Attorney General has held that the rules laid down in *Rogers v. Le Seuer County*<sup>2</sup> and in the later case of *Upton v. Strommer*<sup>3</sup> must be followed. In the latter case, the Supreme Court held that the reasonable cost of repairing a courthouse was incidental to the management of county affairs and hence a levy of a tax for that purpose was not unlawful even though the amount so levied when added to the items of current expense exceeds the statute limitation. It based its opinion upon the proposition that The absolutely necessary current expenses of a county must be paid without reference to the tax limit."

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1. R. L. 1905, Sec. 870.

2. *Rogers v. Le Seuer Co.* 57 Minn. 1

3. *Upton V. Strommer*, 101 Minn. 97.



Having considered the statutory provisions with reference to the rate and amount of taxes levied by various bodies, let us examine the amount of taxes actually levied in a few instances.

As noted in a previous section of this chapter the bulk of the town taxes are levied for the town road and bridge fund. To make this clearer, let us take a few concrete examples: first as to the amount of taxes voted by town meetings in Anoka and Watonwan counties in 1913:

Taxes Levied by Town Meetings in certain  
towns of Minnesota, 1913.

	<u>Revenue.</u>	<u>Road and Bridge.</u>
<u>Anoka County.</u>		
Linwood,	\$300.	\$500.
Oak Grove,	250.	1000.
Ramsey	300	1400.
Currie	300.	700.
St. Francis	250.	350.
Burns	400.	600.
Ham Lake	500.	975.
<u>Watonwan County.</u>		
St. James Twp.	250.	4000.
Madelia Twp.		1315.
South Branch	150.	1000.
Adrian		1500. (for bridges)
Long Lake		2000.
Butterfield		1500. (for 3 steel bridges)
Nelson	300.	15,000.

As indicated on a preceding page of this section, other town taxes may be levied in addition to those named above. No statistics are available to show the comparative amount levied by towns in different counties for purposes other than road and revenue. The following table may be of interest in that it shows the rate of town taxes for various purposes in certain towns in Renville County:

<u>Town.</u>	<u>Revenue.</u>	<u>Road &amp; Bridge.</u>	<u>Ditch.</u>	<u>State Load.</u>	<u>Total.</u>
Preston Lake	1.5	2.5			4.
Boon Lake	1.	2.5	1.5		5.
Cairo	1.	2.			3.
Wellington	1.	2.			3.
Martinsburg	1.	1.5	.5		3.
Hector	.5	5.			5.5
Beaver Falls	1.6	3.9			5.5
Flora	.5	1.		7.	8.5
Hawk Creek	1.8	2.2			4.4

(1)

Thus the average rate of taxation for town purposes appears to be about four mills. It also appears

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1. Statement of County Treasurer to County Board of Renville County, Minnesota, January 8, 1913. The rate given is in mills.

from the above table that the bulk of taxes levied by the town are for roads. This is further borne out by the following showing the total taxes levied in certain counties in 1911. by the towns therein.

<u>County.</u>	<u>No. towns.</u>	<u>Revenue.</u>	<u>Road &amp; Bridge.</u>	<u>Poor.</u>	<u>Bonds.</u>	<u>Del. Road.</u>	<u>Special.</u>
Aitkin	47	\$ 6,788.	\$18,014.		\$2,713.	\$ 9,065.	\$ 437.
Beltrami	56	7,742.	22,887.	\$5,207.	196.	15,740.	3,694.
Cottonwood	18	5,945.	14,973.	856.		4,973.	
Martin	20	6,865.	32,440.				2,642.
Lac qui Parle	24	6,572.	16,179.			1,627.	111.
Norman	24	6,221.	10,956.		390.	6,144.	902.

That in the state as a whole the total taxes for roads levied by towns is equal ~~these~~ for all other purposes combined is evident from the following table showing the total town taxes levied in 1911:

For General Revenue (town expense)	\$ 717,183.18
For Roads and Bridges,	\$1,492,313.11
For poor relief (in 30 counties)	68,698.08
For bonds and interest,	108,903.64
Delinquent road,	362,173.94
Special taxes,	216,737.99

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Having examined the tax levy of the towns, let us do likewise for the county.

The following table shows the amount of taxes levied by certain counties in 1911:

<u>County.</u>	<u>Revenue.</u>	<u>Road &amp; Bridge.</u>	<u>Poor.</u>	<u>Bonds &amp; Int.</u>	<u>Special.</u>
Anoka	\$17,120.	\$ 8,452.21	\$2,531.	\$ 1,605.	\$8,276.
Brown	25,296.	14,354.	8,432.	3,541.	
Clay	37,762.	8,957.		11,416.	36,532.
Faribault	21,445.	16,083.	5,361.		
Martin	19,893.45	19,893.	3,028.		35,041.
Nicollet	25,469.	6,367.	6,367.		7,539.
Wilkin	14,774.	6,245.	5,125.		

(1)

These instances, selected at random from the report of the State Tax Commission, serve to show the varied nature of county revenue and expenditure. It is difficult to generalize concerning county taxes. In certain of the above counties in which Special taxes seem unusually large it is probably due to extensive ditching operations. The tax for the county revenue fund (from which is paid the expense of justice, salaries and the general maintenance

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1. State Tax Commission report, 1912, pp. 730-738; The expenditure of certain of these counties in 1912 is given in the introduction to the chapter. P. 173.

of the corporate functions of the county) is the largest, with roads and bridges next, poor relief a close third. This seems to be borne out by the following table showing the total tax levied by all the counties in the state in 1911:

For Revenue,	\$3,484,880.29	
Roads and Bridges,	1,108,124.61	
Poor, (56 counties)	392,452.49.	
Bonds and Interest,	491,658.24	
Special Taxes,	755,744.15	(1)

The apparent great importance of the last two items as compared with poor relief is due to the fact that only fifty six counties have the county system of poor relief whereas the last item includes not only ditch but also any miscellaneous taxes which are not the same in all counties.

To the taxes levied by the town and county, must be added the tax levied by the school district. The amount of taxes levied by the district varies with the needs of the school, the nature of the district (whether common, independent, etc.) and the character of the school

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1. State Tax Commission Rept 1912, tables pp. 730-738. The expenditure of certain of these counties in 1912 is given in the introduction to this chapter.

maintained. It is impossible to give the amount of taxes voted by individual districts in the various counties in the state on account of the failure of the financial statements of the counties to distinguish between the State **apportionment** and locally collected school taxes. A statement published by the County Treasurer of Renville County indicates that the rate for school district taxes in that county varies between one mill for districts numbers **to** ,44, and 123 to 25 mills for district **79**. There is nothing in the table to indicate which of these districts are common or independent, and hence it is of little value for the purposes of this study.

It is possible to get the aggregate of school taxes from the tax lists of the counties and the following table showing such totals may be of interest:

<u>County.</u>	<u>Local 1 Mill.</u>	<u>Bonds &amp; Interest.</u>	<u>Special Taxes.</u>
Becker,	\$ 7,500.	\$4,279.	\$64,312.83
Blue Earth	12,856.27		97,128.
Dodge,	6,377.		47,508.
Faribault,	10,722.	3,266.	78,856.
Martin,	9,463.	355.	71,104.
For the State as a whole:	\$1,246,357.	\$344,167.	\$ 8,620, 577.

(1)

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1. Based upon table in State Tax Commission Report, pp 730-2

In explanation of the above table, it should be said that the first column represents the tax which the County Auditor is required to levy upon all property in each district and the third represents the tax levied by the voters in the annual school meeting (or by the board in independent school districts) for maintenance of schools and the erection of buildings.

Taxes levied for state, city, and village purposes serve to increase the rate of taxation considerably so that the rate of taxation for all purposes varied between 19.7 mills in Sherburne County and 51 mills in Mille Lacs in 1911, with an average of 29.67 mills for the state as a whole. 1

The auditor, after computing the rate of taxation, is required to make a separate tax list for each taxing district of the county showing the ownership and description of property, its valuation, and the various items of taxation included in the total. These lists are turned over to the County Treasurer by the Auditor on or before the first Monday in January of each year. The Treasurer is then ready to receive the taxes paid by property owners. 2

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1. See table in State Tax Commission Report. 1912, pp. 730-731.
  2. R. L. 1905, sec. 878,880, as amended by laws 1907, c. 400.

If the County Board so instructs him, the County Treasurer must then give three weeks published notice in a newspaper, specifying the rate of taxation for all purposes, the amounts raised for each specific purposes, etc.<sup>1</sup>

If required to do so by his County Board, the County Treasurer must visit different places in the county<sup>1</sup> for the purpose of collecting taxes. Formerly the County Treasurer was expected to drive over the entire county, collecting taxes in person. Later it seems to have become the practice and it is still the practice in certain of the counties for him to visit each townhall or village in the county on certain specified dates for that purpose. But this practice seems to be passing away with the greater use of checks, and taxes are paid direct to banks to be transmitted by them to the County Treasurer.

Personal property taxes are due and payable on the delivery of the tax lists and if not paid before March first a penalty of ten per cent is added; real estate taxes become payable at the same time, one-half must be paid before June 1, the remaining one-half before

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 1. R. L. 1905, Sec. 880 as amended by laws 1907, c. 400, as amended 1913, c. 551.



November 1. A penalty of ten per cent is added for failure to pay June 1, of five per cent for failing to pay before the next January. With ~~there are~~ the numerous safeguards, such as receipts, record of auditor, etc., which it is not necessary to discuss here; they pertain to the technicalities of accounting.

Delinquent Taxes.

A few words are necessary as to the collection of delinquent taxes. Since personal property taxes are assessed against the person and not against the property, upon failure of the owner of such personal property to pay his taxes by April 5, the County Treasurer is required to notify the Clerk of the District Court and ten days later, the Clerk of Court issues a warrant to the sheriff of the county to collect the same by the seizure and sale of any personal property owned by the delinquent. The delinquent tax payer may answer and set up ~~the~~ defense and the case is then tried in the district court. If decided against the delinquent, he has the alternative of paying the tax with the penalty or the amount/<sup>is</sup> collected by public sale by the sheriff of any of the delinquent's personal property. If the Sheriff is unable to collect any such delinquent

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taxes by June 1st, he must so notify the County Clerk of Court, and then the County Board may cancel such taxes as it considers cannot be collected. (1)

The procedure for collecting real estate taxes is slightly different. Real estate taxes are assessed against the property and not against the person. A list of such taxes delinquent on February 1st is filed by the County Auditor with the Clerk of Court. Five days later the Clerk must issue a citation to all persons interested to show cause why judgment<sup>2</sup> should not be entered against the land. Publication of this notice and list is published is made in the newspaper designated by the County Board for that purpose and has the effect of a complaint by the County in an action against the land. If no defence is made within twenty days after the expiration of such notice, the Clerk enters a judgment against each tract. On the first Monday in the following May, the County Auditor must sell at public vendue all tracts of land against which judgment has been entered. The purchaser at this sale becomes the owner if the lot or tract is not redeemed within three years thereafter.<sup>3</sup>

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1. R. L. 1905, Sec. 888 ff.

2. Ibid, secs. 904, ff.

3. Ibid, secs. 904, ff.

Statistics showing the proportion of taxes that become delinquent are available for only a limited number of counties. In Faribault County, in 1911, the total tax levied was \$210,911.41; of this amount there had been collected up to January 1, 1913, \$209,963.50, leaving a balance of \$1,987.91 delinquent. In Martin County, in 1911, the tax levy was \$276,299.66, the collections up to January 1, 1913, totalled \$273,614.64. Subtracting \$505.53 for taxes abated, we find that there was delinquent on January 1, 1913, \$2,178.49. In Ramsey County, 1911, the tax levy was \$3,943,860.50, the amount collected up to January 1, 1913, was \$3,847,375.73, leaving a balance of \$96,494.77 delinquent. The amount of delinquent taxes collected in 1912 in the various counties aboved named for 1910 and previous years was as follows: Faribault, \$4267.18; Martin, \$4591.39; Ramsey, \$93,008.13. Hence it seems fair to assume that practically all of the tax levied by the various taxing bodies to be collected by the county is collected.<sup>1</sup>

In this section an attempt has been made to describe concisely the procedure by which revenue is raised

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1. State Tax Commission 1912, p. 729; Financial Statements of Faribault, Martin, and Ramsey Counties for Dec. 31, 12.

for the various units of local government and for the state government as well through the agency of the county. The duties of the officers connected with assessment, equalization, levy and collection of taxes have been considered and a few examples have been given to show how these various laws work out in practice. No attempt has been made to discuss the fine **technical** points that arise in cases considered by the Supreme Court nor to consider in detail the work of the State Tax Commission or of the County Boards of **particular** counties. To any general statements that have been made, exceptions can probably be found in certain counties of the state. Time did not permit the investigation of **particular** customs nor did it seem that the scope of this **paper** made such discussion necessary.

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Chapter V. Summary and Conclusions:

Having examined the existing structure and functions of local government, let us summarize some of the more important features and consider some changes that may be advisable.

Section 1. The Town.

From what has been said in the preceding chapter, it is evident that the principal function of the town is the care and maintenance of all highways and the construction of roads of lesser importance. It has been noted that the greater part of town taxes are levied for the town Road and Bridge Fund. In those thirty counties which have (1) the Town system of Poor Relief, this function of the town comes next in importance. In the control of contagious diseases therein, the Town Board acts as a Board of Health, and one-half the cost is paid by the town. With the exception of expenditures for corporate activities or bounties, these are the only activities of the town which involve an expenditure of money on its part.

The machinery of the town may also be used for

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1. See sections 1 and 7 of Chapter IV.

drainage, although such instances seem to be infrequent. The Town Clerk acts as registrar of vital statistics. Justices and constables elected by it perform the minor judicial and police functions. But in these cases, the cost is paid by the petitioners in the first instance, and by the county in the last two instances. However, in the case of assessment for purposes of taxation, although the function would seem to belong properly to the county, the cost is paid by the town.<sup>1</sup>

The limited nature of the activities of the town raises the questions whether it should be continued in its present form. That an assembly of farmers for the purpose of discussing local needs is desirable needs no argument. In rural districts, the question of roads is the one of greatest importance. No body is so well able to judge what roads need improvement as the town meeting composed of those who must pay the cost thereof, and no authorities are better able to carry out the will of these residents than their locally elected town board, with an overseer subject to their orders. The construction and repair of all roads by the county might, in some instances, **result** in more

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1. See Sections 2 to 5 of Chapter IV.

economical use of funds and it would probably result in the construction of more permanent trunk highways. But it would not enable the individual farmer, remote from the more important main roads, to secure the improvement of public roads leading from his home to those of his neighbors or to the main road to town. The present system has the latter effect. Under the present system, a means for securing permanent highways is provided under the State Road laws, with state aid. This provision in addition to those which provide for the issuing of bonds for similar improvements seem adequate to insure a system of good roads without taking away from the towns the duty of constructing and repairing ordinary roads.

The merits of the town system of poor relief have (1) been discussed in another connection and need no further discussion here.

It has been suggested that certain activities in which the machinery of town government is used might better be transferred to the county. Such activities include the making of assessments and the administration of justice. Enough has been said in a previous connection with regard

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1. Chapter IV, Sec. 4, pp. 224-5.

to the need of a County Assessor; the matter of administration of justice needs further discussion here. (1)

As noted in a previous chapter,<sup>2</sup> two justices of the peace are elected in each town, village, and in certain cities of the state. Each has a jurisdiction co-extensive with the limits of the county. And each depends upon fees for his compensation. It is but seldom that a member of the bar is elected to this office; and it is a well known fact that most of these justices know very little of the law. While no great evils have manifested themselves so far under this system, its dangers are great. There is the possibility of unscrupulous competition to get business and therefore more fees and also the dangers incident to a mistaken interpretation of the law. In view of these facts, would it not be advisable to substitute for these numerous town justices a limited number of county justices, learned in the law, and drawing a fixed compensation?

The same difficulty exists with reference to rural police. As noted in the preceding chapter,<sup>3</sup> the authority of the constable and sheriff is concurrent

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1. See Chapter IV, Section 7. pp. 264-5.
  2. See pages 208-9.
  3. See pages 223-6.



in many instances. But it is a peculiar fact that under the interpretation of our statute by the courts, a constable cannot be at the same time a deputy sheriff. Rather than maintain two separate police organizations, it might be advisable to combine the two, following the example of Los Angeles county, California, in which there is provided an organized constabulary consisting of town constables subject to the order and call of the Sheriff at all times. Under this system it is not necessary to swear in a large force of deputy sheriffs who have no responsibility after their temporary service is ended in case of trouble or difficulty. (1)

### Section 2. The County.

The various activities in which the county participates have been sufficiently discussed in the preceding chapter, and it has been demonstrated by tables that their relative importance varies in different counties. Except in the transfer of certain functions of the town to the county, no important changes in the present duties of the county suggest themselves.

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1. Los Angeles County Charter, Art. VIII.

In the past few years certain changes in the structure of county government have been advocated by various reformers and a few of these have been put into practice in other states, principally on the Pacific slope. Some of these merit our consideration, as suggestions for changes needed here.

Probably the most important of these plans and the only one that has been put into practice at the present time is that of Los Angeles County, California. In order to understand this plan it is necessary to consider first certain recent changes in the Constitution of California. An amendment was submitted to the people at the election of October, 1911, which provided that any county of the State might adopt a home-rule charter by following a procedure similar to that for home-rule cities. Upon the petition of fifteen per cent of the electors, or upon the initiative of the Board of Supervisors, a Board of Freeholders must be elected. These Freeholders then draft a charter, which is submitted to the people for ratification and to the State Legislature for its approval. Every such charter must provide for:

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a Board of Supervisors (to consist of not less than three members, elected in any manner the charter may provide); thirteen other county officials (to be elected or appointed as the charter may provide); the appointment or election of justices of inferior courts; for the powers, duties, removal, etc. of officers; for the fixing of compensation etc. of all officers by the Board of Supervisors; for the compensation of game wardens, probation officers, etc, provided by general law. In addition, any charter may provide for offices other than those required by the Constitution and Laws of the State, or for the creation of new officers by the Board of Supervisors, and either fix the compensation or each or leave it to the Board. (1)

The first county to act under this provision was the County of Los Angeles. A charter drawn up, as provided by this section, was adopted by the electors of that county last fall. The principal provisions of this charter (2) with which we are concerned are as follows: A Board of Supervisors, consisting of five members, each of whom is chosen by the voters of his district, is provided for a term of four years. This Board has, in addition to the

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1. California Constitution, Art. XI, sec. 7, 7 $\frac{1}{2}$ .

2. This charter is contained in a pamphlet sent out by the "Short Ballot League", entitled "The First Short Ballot County".

powers and duties conferred by general law, the power to appoint all the county officers, except the Sheriff, District Attorney, and Assessor; to provide by ordinance the number of justices and constables to be elected and appointed in each township; to provide by ordinance the number of assistants, deputies, etc. for each officer or department of the county; to create new offices; to require a bond of any county or township officer or employee; to provide, publish, and enforce a code or rules, prescribing in detail the duties and systems for office and institutional management, accounts, and reports, of all departments of the county.<sup>1</sup>

In addition to the members of the Board of Supervisors, a County Assessor, a Sheriff, and a District Attorney are elected in each county for a term of four years. The other county officers, all of whom are appointed by the County Board, are: the Auditor, Members of the Board of Education, Members of the Board of Law Library Trustees, Members of the Civil Service Commission, Coroner, Clerk, County Counsel, Fish and Game Warden, Health Officer, Horticultural Commissioner, License Collector, Live Stock Inspector, Public Defender, Purchasing

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1. Los Angeles County Charter, Art. II and III.

agent, Recorder, Registrar of Votes, Members of the Probation Committee, Probation Officer, Public Administrator, Road Commissioner, Superintendent of Charities, Superintendent of Schools, Surveyor, Tax Collector, and Treasurer. (1)

The duties of most of these officers are evident from the title of the office. A few may need explanation. The County Counsel performs those duties required of the County Attorney in Minnesota with reference to giving advice to county officers and appearing in all suits in which the county is a party. Upon the request of the Defendant or upon the order of the Court, the Public Defender must defend, without expense to them, all persons, charged with a criminal offense, who are not financially able to employ counsel. It is also his duty to prosecute actions for the collection of wages upon the request of persons who are not able to employ counsel. 2

As previously noted, all constables are ex-officio deputy sheriffs and are subject at all times to the orders of the Sheriff. Other provisions of this chapter relate to civil service and recall. 3

1. Ibid, Art. IV.

2. Ibid, Art. VI.

3. Ibid, Art. VIII, IX, XI.

Other plans similar in character have been suggested. In Alameda County, California, which consists mainly of urban **centers**, a plan has been suggested by which, the Board of Supervisors would consist of the mayors of the cities therein. This plan differs from that of Los Angeles County, only in that a county manager is placed in immediate control of county administrative affairs, whereas judicial officers, such as the Sheriff, Public Administrator and Clerk are appointed by the Superior Court.<sup>1</sup>

The idea of a business manager for the County had been previously suggested by certain Oregon reformers, probably in imitation of the Lockport plan of City Government.

Let us consider the tendencies in county government, which the **above** plans have been devised to correct, and see how far they may be applied to Minnesota.

The principal feature of all of them is the adoption of the Short Ballot. The list of County officers given above in California (and the same thing is true of many other states) is far too long for intelligent

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1. Information obtained by a private letter from Mr. H.C. Gilbertson of the Short Ballot League.

voting. This is not the case, however, in Minnesota. In the rural districts, each county officer is prominent; the incumbent of a county office is a man honored and respected in the community; hence he is in the people's eye. Whatever his character, the publicity which this involves is helpful in securing honesty and efficiency in the conduct of county business. The principle of popular election of county officers has generally proved a success and there would seem to be no reason for abandoning it.

In the more populous counties, on the other hand, the county is obscured by the greater importance of the city. The problems of Ramsey and Hennepin counties are, essentially, those of St. Paul and Minneapolis, respectively. All matters of controversy arise in connection with city or state politics; the county is regarded as a humdrum sort of an organization to which taxes are paid and which looks after the rural districts in certain ways. In these counties responsibility can be secured only by combining city and county offices insofar as similar duties are performed and close relations exist. To work out a detailed scheme of county-city government would involve close and

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careful examination of the legal powers and duties and the activities of both city and county. Such an investigation is beyond the scope of this paper. Only a few general suggestions can be given here.

This problem can be made clearer by taking the government of Ramsey County and comparing therewith the government of St. Paul. The former is governed by a Board of Commissioners, consisting of seven men, four chosen from the city at large, two from country townships, and villages, and the seventh is the mayor of St. Paul. This is in recognition of the fact that the city of St. Paul is the most important part of the county. Commencing in 1914, the city of St. Paul will be governed by a similar commission, with the mayor of St. Paul as presiding officer. These commissions jointly will appoint the County Assessor, the Board of Equalization, and numerous other employees whose duties are performed under both organizations. The latter may construct a street within the city up to the limits, the former may extend the same street to the county line of a neighboring county to

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connect with a street therein. The latter may pass ordinances relating to parks and lakes within the city limits; the former may appropriate money for the improvement of lakes outside the city limits, and appoint patrols therefor. Is there any valid reason why a single commission chosen from both city and country could not do the work of the two?

The same duplication appears in connection with the other departments of city and county government. Why have the County Treasurer receive taxes and then solemnly pay them over to the City Treasurer every month, requiring duplicate books to be kept by the County Auditor and City Comptroller as to each payment? Why maintain a Sheriff with a large force of deputies when the only territory in Ramsey County, not subject to the control of the City police of St. Paul consists of two towns and two villages? Why require the Board of Control (organized for the conduct of poor relief) to report to two separate authorities and divide the cost of poor relief between them? Why maintain a Coroner and a large force of deputies subject to the county, when the same work could be performed as easily by the City

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1. See Chapter III, Secs. 3 and 4; Chapter IV, Secs. 1, 4, and 7.

## Health Department?

The details of such a combination cannot be worked out here. An attempt to apply a similar scheme to Hennepin County would be met by the difficulty that a large rural territory exists not within the city limits. To secure efficiency it might be necessary to form Minneapolis into a separate county, acting under that provision of the Minnesota Constitution which permits any city over 20,000 to be formed into a separate county. Some such combination must be made in order to focus public interest upon county affairs and secure that publicity which will insure economical and efficient government. (1)

While no radical changes seem necessary in the government of the rural counties of the state, a few minor changes might be advisable. It is a well known fact that the duties of the County Surveyor, Court Commissioner, and Coroner are comparatively insignificant. This difficulty might be remedied and greater efficiency secured by making the former, County Superintendent of Highways (as previously suggested); the duties now performed by the Court Commissioner could well be given to the Probate (2)

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1. Minnesota Constitution, Art. XI, sec. 2.

2. See Ch. IV, sec. 1.

Judge, except in the more populous counties, and thereby secure an able officer, capable of acting in the absence of the District Judge. Greater permanency and ability might be secured by requiring that the Coroner be a practicing physician and giving him the duties of the County Poor Physician and County Health Commissioner, instead of leaving the latter two positions to be filled by appointment by the County Board.

The only change that seems needed in the powers of the County Board is to give it more control over the other officers of the county.

Section 3. State Aid and Supervision.

Enough has been said in a preceding connection as to the need of giving the Public Examiner greater powers with respect to the examination of the accounts of minor subdivisions of the county, and also as to the need of greater publicity ~~of~~ the results of examinations.<sup>1</sup>

No fault can be found with state supervision insofar as it secures better roads and better schools. This is one of the hopeful tendencies in local government. But in the method <sup>of</sup> financing such improvements there seems

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1. See Ch. III, Sec. 5.

to be grave dangers. In the preceding chapter, statistics were given showing inequalities in the division of highway and school funds. By adding the amounts given, the total State aid for a given county can be determined. It is not a suprising fact, in view of these circumstances, to learn that twelve counties pay into the State Treasury more than they receive from it, whereas seventy-four counties receive more in return, than they pay in State taxes. This difference in the case of the three more populous counties is enormous. The following table shows a few extremes and a few normal counties:

<u>County.</u>	<u>Total State Aid.</u>	<u>Total State Taxes.</u>
Aitkin	\$ 26,824.	\$ 16,254.
Anoka	26,537.	16,396.
Beltrami	35,044.	24,021.
Blue Earth	50,431.	49,822.
Cottonwood	27,798.	28,714.
Faribault	49,253.	41,599.
Hennepin	304,762.	833,072.
Itasca	42,033.	98,750.
Koochiching	34,323.	25,146.
Martin	47,904.	36,717.
Nicollet	26,863.	24,605.
Ramsey	175,567.	503,893.
Rock	23,323.	28,650.
St. Louis	229,590.	1,105,481. (1)

Tables given on preceding pages will serve to

1. State Auditor's Report 1912, pp. XVIII-XXI; see also Chapter IV, Secs. 1 and 6.

indicate the reasons for many of these items. The low amount of State aid in Cottonwood and Faribault counties is due to the fact that few state roads were constructed in those counties in 1912. The excess of State taxes in Itasca and St. Louis counties is partly accounted for by the rich iron deposits in those counties.

The dangers inherent in this system of financing state aid are two: In the first place it is unjust to those counties in which the amount of State taxes greatly exceeds the aid received; secondly, it may have a tendency, if carried to extremes, as when aid is granted before the localities can profitably use **its** money, to cause the localities to depend too much upon the abundant state fund to pay for their activities, rather than to develop local initiative. That this latter contingency has now arrived with reference to State school aid seems to be feared by many people. Whether the Dunn Road act by granting State aid for the improvement of county as well as state roads will have the same effect remains to be seen. It may be well at this time to call attention to the tendency in recent legislative acts, as typified in these road and school amendments, and in the act for valuation of property,

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for the rural counties to get what they can at state expense from State Funds, the bulk of which is often supplied by the cities. This can be done as long as the rural districts can outvote the cities; a pernicious attempt to make this inequality permanent occurred in the so-called Seven Senator amendment, submitted at the last election, and to be submitted for a second time in 1914.

We need in these matters an aroused public opinion. When the dangers inherent in these tendencies are properly set forth, the good sense and fairness of the mass of the voters will not let them continue. Greater public interest in all local government is also needed. If the public realized the cost to them of inefficient officials, of wasteful and uneconomical contracts, of duplication in the functions of officials, reform of local government would be easy to secure. On many of the matters the laws are adequate; public opinion must demand their enforcement.

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Appendix.

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Typical Resolutions passed by County Boards.

Official Proceedings of Ramsey County Board January 6, 1913.

"Commissioner Nash presented the following resolution:

Whereas: Chapter 295 General Laws of 1905 provides for the renewal or the perfecting of certain records in the Office of the County Auditor and whereas the transfer records of said County Auditor's office are becoming unfit for record purposes owing to age, injury, use and other causes and because of such condition are liable to destruction.

THEREFORE? BE IT RESOLVED, that pursuant to said chapter 295, General Laws 1905, the County Auditor be and he is hereby authorized to appoint and employ such extra help necessary to properly prepare and transcribe such transfer records.

BE IT FURTHER RESOLVED: that there be and thereis hereby appropriated the sum of \$2,000 or as much thereof as may be necessary to pay the salaries of such help in amounts not to exceed the minimum amount per month paid to the general clerks of the County Auditor as provided by law, the same to be paid out of the County Treasury upon County Auditor's warrants drawn therefore, from the "Transcribing Public Records Fund.

Typical Committee Report as presented in certain counties.

Official Proceedings of Hennepin County Board, December 27, 1912.

"Commissioner Waddell, from the Committee on the County Farm, presented the following report:

To the Honorable Board of County Commissioners:

Gentlemen: Your standing committee of the County Farm to whom was referred the matter of bid for contract No. 136 a being stove for County Farm have given the same careful consideration and we leave to report as follows: That the bid of Boutell Bros., for \$175 and allow \$25 for old stove, be accepted and the County Auditor is hereby directed to set aside the sum of \$150 from the County Farm fund to pay for the same, and the Chairman is hereby directed to execute contract when bond is approved.

Respectfully submitted, C.B. Waddell, F.W. Cook, C.M.E.  
Carlson. "



## Appendix -3

Report of a Public Hearing

Official Proceedings of Ramsey County Board, September 3, 1912

"Otto Rohland appeared and protested against the location of the tuberculosis hospital on the grounds of the City and County Hospital. He stated that the Fifth Ward was strongly opposed to this location. The West End Commercial Club Passed a resolution opposing it and a petition that was circulated for this purpose is signed by over half of the people of this ward. Mr Rohland claims that the railroad tracks run on either side of the hospital, reducing greatly the amount of fresh air obtainable; also that other cities are locating their hospitals outside the city where the air is purer and requested that we do likewise. He states that the people of his ward were heartily in favor of stamping out this disease."

Mrs. A. R. Colvin of the St. Anti-Tuberculosis society spoke in reply, saying . . . "

Table showing the rates at which county printing was let in certain counties in 1913(unless otherwise designated)

County	Rate for Del.Tax	Fin.St.	Off.Pro.	No.of Bids	Remarks.
Anoka	15¢	75,35	75,35	1	
Becker	10¢	60,30	50	4	
Beltrami	15¢	75,35	75,35	2	other bid was not legal
Benton	15¢	75,35	75,35	1	
Big Stone	15¢	75,35	75,35	1	
Blue Earth	15¢				
Cottonwood	15¢	75,35	75,35	1	
Dodge	15¢	75,35	75,35	1	
Faribault	Free	1	Free	4	
Hennepin	8½	25,12	55,25		
Martin	13½	67½,31½	67½,31½	2	
Meeker	15	75,35	75,35	1	
Mower	15	75,35	75,35		Notices free
Nicollet	15	75,35	75,35	2	one exceeded legal rate
" 1912	15	75,35	75,35	2	one exceeded legal rate
Olmstead	7½	37½,17½	37½,17½	1	
Pennington	6	35,15	35,15	2	
Pope	12	25,10	25,10		
Ramsey	14	34,17	11	3	on each item
" 1912	15	49,24	13,6		
Renville	15	75,35	75,35	1	on each
Scott	15	75,35	75,35		
Watsonwan	15,	75,35	75,35	1	
Wilkon	15	75,35	75,35	1	on each

The amount given in the first column represents the rate per description for the delinquent tax list, the amounts in the second and third columns represent the rate per folio, the first figure being the rate for the first insertion, the second figure for all subsequent insertions. For discussion see pages .

Table showing the number of terms which the present incumbents of county offices in Minnesota will have served at the expiration of their present terms.

County	Aud.	Treas.	Reg.	Sher.	Atty.	Prob.	Surv.	Cor.	Clk.	Sur.	Ct.	1	2	3	4	5
Aitkin	3	3	10	6	3	8	4	2	7	3		1	2	1	1	1
Anoka	5	3	8	6	7	7	1	2	3	1	1	2	1	4	4	1
Becker	1	2	2	2	2	8	6	1	2	1	1	3	3	1	1	1
Beltrami	2	1	5	1	1	6	3	3	3	4	1	1	2	1	1	1
Benton	1	4	1	2	1	4	1	3	1	1	2	2	2	1	3	1
Big Stone	3	6	4	7	2	6	2	2	3	5	2	2	1	3	4	2
Blue Earth	1	2	3	2	2	8	9	1	7	5		1	1	1	1	1
Brown	9	4	5	6	1	4	2	1	2	1		1	1	1	1	2
Carlton	5	2	1	2	1	4	2	1	2	1	2	1	1	4	4	1
Carver	6	4	8	5	3	5	3	1	1	6	1	2	2	1	1	1
Cass	4	6	3	3	1	3	5	1	4	2	5	1	3	1	3	1
Chippewa	3	4	4	1	3	2	2	3	2	4	3	2	2	3	1	1
Chisago	8	9	3	3	3	1	2	3	4	2	2	1	3	4	6	2
Clay	3	3	3	4	1	7	2	4	4	2	9	1	2	3	1	1
Clearwater	2	3	4	3	1	1	5	3	1	1	1	1	2	1	2	1
Cook	2	6	5	5	2	5	6	4	1	1	1	1	3	1	2	5
Cottonwood	2	2	4	1	6	1	3	3	4	1	1	2	1	1	3	2
Crow Wing	4	5	5	3	1	6	1	1	4	2	4	1	2	4	2	1
Dakota	5	2	3	2	2	12	1	1	3	1		3	1	1	3	2
Dodge	6	3	2	1	2	6	4	2	1	4	2	1	1	2	2	1
Douglas	3	7	3	2	5	1	2	2	3	5	1	1	1	2	1	1
Faribault	4	4	7	7	6	7	1	1	3	3	7	3	1	2	1	2
Fillmore	3	4	2	9	1	3		6	3	4		1	1	2	3	1
Freeborn	4	4	2	5	4	3	1	5	2	3	1	2	2	5	2	2
Goodhue	3	1	5	10	1	10	1	3	3	2		1	4	3	2	4
Grant	4	2	6	2	1	6	2	1	4	1	9	2	2	1	1	2
Hennepin	2	4	4	3	2	1	4	3	1	3	5	1	1	3	2	2
Houston	3	7	5	4	1	2	2	1	1	1	2	2	4	3	1	1
Hubbard	4	3	2	7	2	2	1	1	4	2		1	1	2	1	1
Isanti	2	2	1	4	1	5	9	1	2	1	2	1	1	1	1	1
Itasca	5	1	5	3	2	2	1	7	5	2	2	2	2	1	1	1
Jackson	7	1	3	1	3	2	2	1	2	4	4	1	1	1	1	1
Kannabec	5	2	14	1	2	1	1	2	1	1	9	4	3	3	2	4
Kandiyohi	4	3	3	4	5	2	2	2	6	5	4	1	1	3	1	1
Kittson	3	3	2	5	1	5	1	1	2	3	2	1	2	3	1	1
Koochiching	3	1	4	1	1	1	1	3	2	4		1	2	1	1	2
Lac Qui P.	4	4	2	1	2	2	1	4	2	2	3	2	2	2	1	3
Lake	6	8	3	8	1	1	1	3	3	3	1	1	2	1	1	2
Le Sueur	3	4	2	2	3	2	3	1	3	3		2	1	1	1	2
Lincoln	2	2	4	4	2	2	1	2	1	2	1	1	1	1	1	1
Lyon	4	4	5	1	2	4	4	6	4	4	1	1	1	1	1	1
McLeod	11	2	3	3	1	3	1	3	3	2	1	2	4	2	2	2
Mahnomen	2	1	2	2	3	2	1	2	2	2	2	1	1	2	2	2
Marshall	3	2	3	7	2	9	1	1	3	2	2	2	2	1	2	2
Martin	1	2	2	1	1	8	3	2	4	2		1	1	1	1	1

Table - Terms of County Officers (continued)

County	Aud.	Treas.	Reg.	Sher.	Atty.	Prob.	Sur.	Cor.	Clk.	Sup.	Ct.	1	2	3	4	5
Meeker	1	1	1	2	4	9	13	11	2	5	5	2	2	1	2	2
Morrison	2	4	2	3	4	6	1	22	5	4	1	1	2	1	1	1
Millel.	2	3	1	5	1	33	4	33	3	5	7	2	2	3	3	3
Mower	6	6	14	5	2	2	3	2	2	1	8	3	4	3	3	3
Murray	3	2	4	12	1	3	1	1	4	2	1	1	1	1	1	1
Nicollet	2	112	2	4	3	6	6	9	3	1	2	3	2	1	1	1
Nobles	1	1	44	1	4	11	2	4	1	1	2	3	2	2	2	1
Norman	3	3	5	9	1	3	1	1	4	3	5	3	1	2	2	2
Olmstead	1	5	4	3	3	2	1	2	1	1	2	2	2	2	2	1
Pennington	2	2	1	2	2	2	2	1	1	1	1	1	1	1	1	4
Pine	4	1	10	8	2	6	2	1	2	3	1	2	2	2	1	1
Pipestone	1	2	10	2	1	7	4	2	2	2	2	2	2	1	3	3
Folk	3	3	3	1	3	1	1	1	3	3	3	2	2	2	3	3
Fope	5	7	3	4	6	2	1	1	3	5	1	1	3	2	1	2
Ramsey	2	1	7	2	44	7	3	2	2	35	7	2	2	3	2	1
Red Lake	1	2	3	1	2	2	11	1	2	1	11	1	1	2	3	3
Redwood	4	1	3	1	2	2	1	55	2	1	2	2	1	3	2	2
Renville	2	1	5	1	2	2	3	11	1	23	6	1	2	1	3	2
Rice	3	1	1	5	2	2	1	35	3	4	3	3	3	1	1	1
Rock	3	3	19	12	5	6	5	2	5	4	1	1	2	1	2	2
Roseau	1	2	3	1	2	6	3	2	3	3	355	3	4	1	1	1
St. Louis	10	1	2	1	11	1	2	1	1	2	28	2	2	1	2	1
Scott	2	9	3	3	1	9	13	11	35	1	1	1	2	1	1	1
Sherburne	5	4	1	4	3	8	4	2	1	1	1	1	1	2	1	1
Sibley	3	2	4	4	1	1	11	1	2	4	1	4	4	2	4	2
Stearns	3	7	2	1	1	4	1	4	2	2	1	3	2	3	1	4
Steele	1	1	5	4	3	3	1	1	2	1	1	1	1	1	1	1
Stevens	4	11	5	2	4	4	1	7	2	3	5	3	2	1	1	3
Swift	3	7	4	2	3	4	5	1	1	3	1	1	3	4	2	2
Todd	3	1	3	3	3	3	9	1	4	2	1	1	2	1	2	2
Traverse	3	7	10	2	1	10	2	8	2	1	9	3	3	1	2	5
Wabasha	2	1	2	1	1	3	3	2	2	2	1	1	3	1	1	3
Wadena	6	5	2	2	1	3	1	4	3	3	2	2	2	1	1	1
Waseca	3	5	12	4	2	3	1	7	2	2	3	1	1	1	1	1
Washington	4	7	3	2	1	4	2	1	1	2	3	1	5	6	1	1
Watsonwan	2	5	1	3	1	6	6	3	2	1	3	3	1	1	1	2
Wilkin	3	2	6	2	2	4	2	2	4	4	1	3	2	1	3	1
Winona	1	2	5	4	4	7	1	1	1	11	1	3	2	1	3	2
Wright	3	3	33	4	1	4	3	5	2	723	2	1	3	3	2	2
Yellow Med.	5	1	33	7	3	2	9	11	2	35	4	1	6	1	4	2

This table gives only the number of successive terms the present incumbents of the office have served. The last five columns represent the commissioner districts.

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Note.- The Annals of the American Academy of Political and  
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series of articles of various phases of County Government.  
This series appeared too late for use in writing this paper. 2