MASON'S

MINNESOTA STATUTES

1927

PUBLISHED UNDER THE TERMS OF THE CONTRACT MADE BY THE STATUTE COMPILATION COMMISSION FOR THE PUBLICATION OF THE GENERAL STATUTES OF 1923

EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STATUTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED BY THE SUBSEQUENT LEGISLATION OF 1925 AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES 1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

COMPILED AND EDITED BY THE EDITORIAL STAFF OF THE CITER-DIGEST COMPANY

WILLIAM H. MASON,
Editor in Chief.

MARTIN S. CHANDLER,
RICHARD O. MASON,
Assistant Editors.

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gated or superseded by the act of Congress of June 15, 1917, known as the Espionage Act. (139-267, 166+181). 141-263, 169+790. See 254 U. S. 326, 65 L. E. 287, 41 S. C. 125, 143-203, 173+425.

9976. Unlawful for non-citizen of United States to carry fire arms or explosives—It shall be unlawful for any citizen or subject of any nation with which the United States is at war, and who has not declared his intention to become a citizen of the United States, to have in his possession or under his control any firearms of any kind or nature whatsoever, or any explosives of any kind or nature whatsoever, or the necessary ingredients of any explosives from which explosives could be manufactured. Provided, however, that any person, having in his possession or in his control any such forbidden article shall have five (5) days from and after the passage of this act to dispose of the same. ('17 c. 435 § 1)

9977. Violation a gross misdemeanor—Any person violating any provision of this act shall be guilty of gross misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100.00), nor more than five hundred dollars ($500.00), or by imprisonment in any county jail in this state for not less than sixty (60) days nor more than one year, or by both. ('17 c. 435 § 2)

9978. Police officers authorized to make arrests—Any police officer of this state is hereby authorized to summarily arrest any person violating any of the provisions of this act. ('17 c. 435 § 3)

CHAPTER 96

CRIMES AGAINST PUBLIC JUSTICE

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BRIBERY AND CORRUPTION

9979. Definitions—The following words and terms, as used in this chapter, shall be construed as follows: The word "juror" shall include a talesman, and extend to jurors in all courts, whether of record or not, in special proceedings, and before any officer authorized to impanel a jury in any case or proceeding; the word "prison" shall mean any place designated by law for the keeping of persons held in custody under process of law or under lawful arrest; the word "prisoner," any person held in custody under process of law or under lawful arrest; the term "subornation of perjury" shall mean the wilful procuring or inducing another to commit perjury; the term "common barratry" shall mean the practice of exciting groundless judicial proceedings. (4798) [8522]

Subornation of perjury defined (85-19, 88+22).

9980. Bribery of public officer or legislator—Every person who gives or offers a bribe to any executive or administrative officer of the state, with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer; or who

gives, offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a member of the legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence such member to give or withhold his vote, or to absent himself from the house of which he is a member, or from any committee thereof; or who gives, offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a judicial officer, juror, referee, arbitrator, appraiser, or assessor, or other person authorized by law to hear or determine any question, matter, cause, proceeding, or controversy, with intent to influence his action, vote, opinion, or decision thereupon; or who gives, offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a person executing any of the functions of a public office, other than those hereinbefore specified, with intent to influence him in respect to any act, decision, vote, or other proceeding in the exercise of his powers or functions—shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or by both. (4799) [8523]

1. **What constitutes**—The essential elements of the crime of offering a bribe to a juror or judicial officer include knowledge on the part of the accused of the official character or capacity of the person to whom the bribe is offered, the fact that the thing offered is something of value, and that it is offered with the intent to influence the officer's official action (66–309, 68+1096).

2. **Indictment**—An indictment for offering a bribe to a juror must allege that the person to whom the bribe was offered was a juror; that the accused knew it; what was offered; that it was of value, and was offered with intent to influence the action of the juror as such (66–309, 68+1096).

9981. Bribery of member of legislature—A person who gives or offers, or causes to be given or offered a bribe or any money, property or value of any kind, or any promise or agreement therefor, to a member of the legislature, or any person who has been elected a member of the legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence a member or person who has been so elected a member, to give or withhold his vote or to absent himself from the house of which he is a member or to which he has been elected a member, or from any committee thereof, is punishable by imprisonment in the state prison for not more than ten years or by a fine of not more than $5,000, or both. (G. S. 1894 § 6343, amended '05 c. 31 § 1) [8524]

9982. Bribery of public officer or legislator—Every person who gives or offers a bribe, or any consideration, to any executive or administrative officer of the state, with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer; or who gives, offers or causes to be given or offered a bribe, or any consideration, or any money, property, or value of any kind, or any promise or agreement therefor, to a member of the legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence such member to give or withhold his vote, or to absent himself from the house of which he is a member, or from any committee thereof, or who gives, offers, or causes to be given or offered, a bribe, or any consideration, or any money, property, or value of any kind, or any promise or agreement therefor, to a judicial officer, juror, referee, arbitrator, appraiser, or assessor, or other person authorized by law to hear or determine any question, matter, cause, proceeding, or controversy, with intent to influence his action, vote, opinion, or decision thereupon; or who gives, offers or causes to be given or offered, a bribe, or any consideration, or any money, property or value of any kind or any promise or agreement therefor, to a person executing any of the functions of a public officer, other than those hereinbefore specified, with intent to influence him in respect to any act, decision, vote, or other proceeding, in the exercise of his powers or functions—shall be punished by imprisonment in the state prison not exceeding ten years, or by a fine not exceeding five thousand dollars or by both. No person shall be excused from attending and testifying before any court or magistrate upon an investigation, proceeding or trial for a violation of any of the provisions of this act upon the ground, or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture, but no person shall be prosecuted, or subjected to any penalty or forfeiture for, or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding. ('07 c. 353 § 1) [8525]

9983. Asking or receiving bribes—Every executive or administrative officer, or person elected or appointed to an executive or administrative office, who asks, receives, or agrees to receive any bribe upon an agreement or understanding that his vote, opinion, or action upon any matter then pending or which may by law be brought before him in his official capacity shall be influenced thereby; every member of either house of the legislature of the state who asks, receives, or agrees to receive any bribe upon any understanding that his official vote, opinion, judgment, or action shall be influenced thereby, or shall be given in any particular manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or who gives, offers, or promises to give any official vote in consideration that another member of the legislature shall give any such vote, either upon the same or another question; every judicial officer, every person who executes any of the functions of a public office, not hereinbefore specified, and every person employed by or acting for the state, or for any public officer in the business of the state, who asks, receives, or agrees to receive a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, upon any agreement or understanding that his vote, opinion, judgment, action, decision, or other official proceeding shall be influenced thereby, or that he will do or omit any act or proceeding, or in any way neglect or violate any official duty—shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or by both; and, in addition thereto, he shall forfeit his office, and be forever disqualified from holding any public office under the state. (4800) [8526]

1. **What constitutes**—A police officer of a municipality is an executive officer within this section (88–130, 92+529). To constitute the crime of asking for a bribe by a public officer "with the understanding or agreement that his vote," etc., "shall be influenced thereby" it is not necessary that the party solicited for the bribe shall consent to give it, or that there shall be any meeting of minds or mutual understanding or agreement between him and the party asking for a bribe. It is sufficient if the latter is ready and willing to enter into a corrupt agreement or understanding that his vote, etc., shall be influenced by the bribe (73–150, 75+1127). Two persons must necessarily co-operate in bribery—the bribe-giver and the bribe-taker. Asking for a bribe

and offering or giving a bribe are distinct offences. The asking for a bribe by a member of a city council, with the understanding that he will corruptly use it to bribe or influence the votes or official action of his colleagues is a bribe under this section (73-150, 75+1127).

2. **Indictment**—An indictment charging a police officer with accepting a bribe from swindlers held sufficient (88-130, 92+529; 134-26, 158+790). An indictment charging a mayor with accepting bribes from prostitutes held not double (91-365, 98+190).

3. **Cited**—88-130, 93+529; 90-183, 96+330; 110-304, 125+272.

9984. **Receiving bribe by member of legislature**—A member of either of the houses composing the legislature of this state, or any person who has been elected to membership therein, who asks, receives or agrees to receive, any bribe upon any understanding that his official vote, opinion, judgment or action shall be influenced thereby, or shall be given in any particular manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or who gives or offers, or promises to give any official vote in consideration that another member of the legislature or person elected to membership therein shall give any such vote either upon the same or another question, is punishable by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or both. (G. S. 1894 § 6344, amended '05 c. 32 § 1) [8527]

9985. **Accepting or receiving bribes**—Every executive or administrative officer, or person elected or appointed to an executive or administrative office, who asks, receives, or agrees to receive any bribe, or any consideration, upon an agreement or understanding that his vote, opinion, or action upon any matter then pending, or which may by law be brought before him in his official capacity shall be influenced thereby; every member of either house of the legislature of the state who asks, receives or agrees to receive any bribe, or any consideration, upon any understanding that his official vote, opinion, judgment, or action shall be influenced thereby, or shall be given in any particular manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or who gives, offers or promises to give any official vote in consideration that another member of the legislature shall give any such vote, either upon the same or another question; every judicial officer, every person who executes any of the functions of a public office, not hereinbefore specified, and every person employed by or acting for the state, or for any public officer in the business of the state, who asks, receives or agrees to receive a bribe, or any consideration, or any money, property, or value of any kind, or any promise or agreement, therefor, upon any agreement or understanding that his vote, opinion, judgment, action, decision or other official proceeding shall be influenced thereby, or that he will do or omit any act or proceeding, or in any way neglect or violate any official duty—shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or by both, and in addition thereto he shall forfeit his office and be forever disqualified from holding any public office under the state. No person shall be excused from attending and testifying before any court or magistrate upon an investigation, proceeding or trial for a violation of any of the provisions of this act upon the ground, or for the reason, that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture, but no person shall be prosecuted, or subjected to any penalty or forfeiture for, or on account of any transaction, matter or thing concerning which he may so testify, or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding. ('07 c. 325 § 1) [8528]

9986. **Jurors, etc., accepting bribes**—Every juror, referee, arbitrator, appraiser, assessor, or other person authorized by law to hear or determine any question, matter, cause, controversy, or proceeding, who asks, receives, or agrees to receive any money, property, or value of any kind, or any promise or agreement therefor, upon any agreement or understanding that his vote, opinion, action, judgment, or decision shall be influenced thereby, shall be punished by imprisonment in the state prison for not more than ten years, or by fine of not more than five thousand dollars, or by both. (4801) [8529]

81-472, 84+332.

9987. **Bribing witness**—Every person who shall give, or offer, or promise to give, to any witness, or person about to be called as a witness, any bribe, upon any understanding or agreement that the testimony of such witness shall be thereby influenced, or who shall attempt by any other means fraudulently to induce any witness to give false testimony or to withhold true testimony, shall be guilty of a felony. (4802) [8530]

71-28, 73+626.

9988. **Accepting bribe by witness**—Every person who is or is about to be a witness upon a trial, hearing, or other proceeding before any court, or any officer authorized to hear evidence or take testimony, who receives, or agrees or offers to receive, a bribe, upon any agreement or understanding that his testimony shall be influenced thereby, or that he will absent himself from the trial, hearing, or other proceeding, shall be guilty of a felony. (4803) [8531]

71-28, 73+626.

9989. **Influencing juror, etc.**—Every person who shall influence or attempt to influence improperly a juror in a civil or criminal action or proceeding, or one drawn or summoned to attend as such juror, or one chosen an arbitrator or appointed a referee, in respect to his verdict, judgment, report, award, or decision in any cause or matter pending or about to be brought before him, in any case or in any manner not hereinbefore provided for, shall be guilty of a misdemeanor. (4804) [8532]

9990. **Juror, etc., promising verdict, etc.**—Every juror, or person drawn or summoned to attend as a juror, every person chosen arbitrator, and every person appointed referee, who shall make any promise or agreement to give a verdict, judgment, report, award, or decision for or against any party, or who shall wilfully receive any communication, book, paper, instrument, or information relating to a cause or matter pending before him, except according to the regular course of proceeding upon the trial or hearing of that cause or matter, shall be guilty of a misdemeanor. (4805) [8533]

81-472, 84+332.

9991. **Misconduct of officer drawing jury**—Every officer or other person charged by law with the preparation of any jury list, or list of names from which any jury is to be drawn, and every person authorized by law to assist at the drawing or impaneling of a grand or petit jury to attend a court or term of court, or to try any cause or issue, who shall—

1. Place on any such list any name at the request or solicitation, direct or indirect, of any person;

2. Designedly put upon a list of jurors, as having been drawn, any name which was not lawfully drawn for that purpose;

3. Designedly omit to place on such list any name which was lawfully drawn;

4. Designedly sign or certify a list of such jurors as having been drawn, which was not lawfully drawn;

5. Designedly withdraw from the box or other receptacle for the ballots containing the names of such jurors any paper or ballot lawfully placed or belonging there, and containing the name of a juror, or omit to place therein any name lawfully drawn or designated, or place therein a paper or ballot containing the name of a person not lawfully drawn and designated as a juror; or

6. Who, in drawing or impaneling such jury, shall do any act which is unfair, partial, or improper in any other respect—

Shall be guilty of a misdemeanor. (4806) [8534]

9992. Juror placed on list by solicitation—Every person who shall directly or indirectly solicit or request any officer charged with the duty of preparing any jury list to put his name, or the name of any other person, on any such list, shall be guilty of a misdemeanor. (4807) [8535]

9993. Misconduct of officer in charge of jury—Every officer to whose charge a jury shall be committed by a court or magistrate, who negligently or wilfully, and without leave of such court or magistrate, permits them, or any one of them, to receive any communication from any person, to make any communication to any person, to obtain or receive any book, paper, or refreshment, or to leave the jury room, shall be guilty of a misdemeanor. (4808) [8536]

9994. Offender a competent witness—Every person offending against any provision of law relating to bribery shall be a competent witness against another so offending, and may be compelled to attend and testify upon any trial, hearing, proceeding, or investigation, in the same manner as any other person; but, if prosecuted or indicted for such bribery, he may plead or prove the giving of such testimony in bar thereto. (4809) [8537]

9995. Interfering with public officers—Every person who, by means of any threat or violence, shall attempt to deter or prevent any executive or administrative officer from performing any duty imposed upon him by law, or who shall knowingly resist, by use of force or violence, any executive or administrative officer in the performance of his duty, shall be guilty of a gross misdemeanor. (4810) [8538]

135–211, 160+666.

9996. Offering reward for appointments, etc.—Every person who shall give or offer to give any gratuity or reward in consideration that he or any other person shall be appointed to a public office, or to a clerkship, deputation, or other subordinate position in such an office, or that he or such other person shall be permitted to exercise, perform, or discharge any prerogative or duty or receive any emolument of such an office, shall be guilty of a gross misdemeanor. (4811) [8539]

9997. Misconduct of public officers—Every executive or administrative officer who shall ask or receive any emolument, gratuity, or reward, or any promise of emolument, gratuity, or reward, except such as shall be authorized by law, for doing any official act; or who shall ask or receive any emolument, gratuity, or reward, or any promise of emolument, gratuity, or reward, for omitting or deferring the performance of any official duty; or who shall ask or receive any fee or compensation for any official service which has not been actually rendered, except in case of charges for prospective costs or fees demandable in advance, in a case allowed by law; and every person who shall ask or receive, or agree to receive, any gratuity or reward, or any promise thereof, for appointing, or procuring the appointment of, another person to a public office, or to a clerkship, deputation, or other subordinate position in such office—shall be guilty of a gross misdemeanor. And in the last case, if the offender is a public officer, he shall, upon conviction, forfeit his office. (4812) [8540]

12–490, 393; 16–296, 260; 88–145, 92+527.

9998. Grant of official powers—Every public officer who, for any reward, consideration, or gratuity, paid or agreed to be paid, shall directly or indirectly grant to another the right or authority to discharge any function of his office, or shall permit another to make appointments or perform any of its duties, shall be guilty of a gross misdemeanor; and every grant, appointment, or deputation made contrary to any provision of law shall be annulled by a conviction for the violation of any such provision. (4813) [8541]

9999. Intrusion into and refusal to surrender public office—Every person who shall wilfully intrude himself into a public office, to which he has not been duly elected or appointed, or who, having been an executive or administrative officer, shall wilfully exercise any of the functions of his office after his right so to do has ceased, and every person who, having been an executive or administrative officer, shall wrongfully refuse to surrender the official seal, or any books or papers appertaining to his office, upon the demand of his lawful successor, shall be guilty of a gross misdemeanor. (4814) [8542]

141–495, 169+599.

10000. Disturbing legislature or intimidating member—Every person who shall wilfully disturb the legislature, or either house thereof, while in session, or who shall commit any disorderly conduct in the presence and view of either house thereof, tending to interrupt its proceedings or impair the respect due to its authority, or who, wilfully, by intimidation or otherwise, shall prevent any member of the legislature from attending any session of the house of which he shall be a member, or of any committee thereof, or from giving his vote upon any question which may come before such house, or from performing any other official act, shall be guilty of a gross misdemeanor. (4815) [8543]

10001. Altering draft of bill—Every person who shall fraudulently alter the draft of any bill or resolution which has been presented to either house of the legislature to be passed or adopted, with intent to procure it to be passed or adopted by either house, or certified by its presiding officer, in language different from that intended by such house, shall be guilty of a gross misdemeanor. (4816) [8544]

10002. Altering engrossed bill—Every person who shall fraudulently alter the engrossed copy or enrollment of any bill which has been passed by the legislature of the state, with intent to procure it to be approved by the governor, or certified by the secretary of state, or printed or published by the printer of the statutes, in language different from that in which it was passed by the legislature, shall be guilty of a felony. (4817) [8545]

197+752.

10003. Witnesses refusing to attend legislature or committee, or to testify—Every person duly summoned to attend as a witness before either house of the legislature, or any committee thereof authorized to summon witnesses, who shall refuse or neglect, without lawful excuse, to attend pursuant to such summons, and every person present before either house of the legislature, or any committee thereof authorized to summon witnesses, who shall wilfully refuse to be sworn or to affirm, or to answer any material and proper question, or to produce, upon reasonable notice, any material and proper books, papers, or documents in his possession or under his control, shall be guilty of a gross misdemeanor. (4818) [8546]

RESCUES AND ESCAPES

10004. Rescue of prisoners—Every person who, by force or fraud, shall rescue from lawful custody, or from an officer or person having him in lawful custody, a prisoner held upon a charge, arrest, commitment, conviction, or sentence for felony, shall be guilty of a felony; every person who shall so rescue a prisoner held upon a charge, arrest, commitment, conviction, or sentence for a gross misdemeanor, shall be guilty of a gross misdemeanor; and every person who shall so rescue a prisoner held upon a charge, arrest, commitment, or conviction, or sentence for a misdemeanor, shall be guilty of a misdemeanor. (4819) [8547]

10005. Taking property from officer—Every person who shall take from the custody of an officer or other person personal property in his charge under any process of law, or who shall wilfully injure or destroy such property, shall be guilty of a misdemeanor. (4820) [8548]

10006. Escaped prisoner recaptured—Every prisoner in custody under sentence of imprisonment for any crime who shall escape from custody may be recaptured and imprisoned for a term equal to the unexpired portion of the original term. (4821) [8549]

10007. Escaped prisoners—Every prisoner confined in a penal institution, or being in the lawful custody of an officer or other person, who shall escape from such institution or custody or who shall depart from such institution or custody without the permission of the authorities of such institution or of the officer or person having him in custody, or who, being outside of the confines of such institution by permission or order of the authorities thereof, or being away from the presence of the officer or person having him in custody by permission or order of such officer or person, shall depart contrary to such permission or order, or shall fail to return to such institution or to the presence of such officer or person in accordance with such permission or order, if he is held on a charge or conviction of felony, shall be guilty of a felony; if on a charge or conviction of a gross misdemeanor, shall be guilty of a gross misdemeanor; and if on a charge or conviction of a misdemeanor, shall be guilty of a misdemeanor. (R. L. '05 § 4822, G. S. '13 § 8550, '23 c. 47 § 1)

10008. Attempt to escape from state prison—Every prisoner confined in a state prison for a term less than for life, who shall attempt by force or fraud to escape from such prison, shall be guilty of a felony. (4823) [8551]

10009. Aiding prisoner to escape—Every person who, with intent to effect or facilitate the escape of a prisoner, whether such escape shall be effected or attempted or not, shall enter a prison, or convey to a prisoner any information, or send into a prison any disguise, instrument, weapon, or other thing, and every person who shall aid or assist a prisoner in escaping or attempting to escape from the lawful custody of a sheriff or other officer or person, shall be guilty of a felony if such prisoner is held upon a charge, arrest, commitment, or conviction for a felony; shall be guilty of a gross misdemeanor if such prisoner is held upon a charge, arrest, commitment, or conviction for a gross misdemeanor; and shall be guilty of a misdemeanor if such prisoner is held upon a charge, arrest, commitment, or conviction of a misdemeanor. (4824) [8552]

10010. Custodian suffering escape—Every officer or person who shall allow a prisoner lawfully in his custoy to escape, or shall connive at or assist such escape, or shall omit any act or duty by reason of which omission such escape is occasioned, contributed to, or assisted, shall, if he connive at or assist such escape, be guilty of a felony, and in any other case of a gross misdemeanor. (4825) [8553]

10011. Ministerial officers permitting escapes—Every sheriff, coroner, clerk of court, constable, or other ministerial officer, and every deputy or subordinate of any such officer, who shall receive any gratuity or reward, or any security or promise of one, to procure, assist, connive at, or permit any prisoner in his custody to escape, whether such escape shall be attempted or not, or shall commit any unlawful act tending to hinder justice, shall be guilty of a misdemeanor. (4826) [8554]

10012. Concealing escaped prisoner—Every person who shall knowingly or wilfully conceal, or harbor for the purpose of concealment, a person who has escaped or is escaping from custody, shall be guilty of a felony if the prisoner is held upon a charge or conviction of a felony, of a gross misdemeanor if the prisoner is held upon a charge or conviction of a gross misdemeanor, and of a misdemeanor if such prisoner is held upon a charge or conviction of a misdemeanor. (4827) [8555]

PUBLIC RECORDS

10013. Injury to public records—Every person who shall wilfully and unlawfully remove, mutilate, destroy, conceal, or obliterate a record, map, book, paper, document, or other thing filed or deposited in a public office or with any public officer by authority of law, shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than five hundred dollars, or by both. (4828) [8556]

10014. Injuries to and misappropriation of records—Every sheriff, coroner, clerk of court, constable, or other ministerial officer, and every deputy or subordinate of any such officer, who shall mutilate, destroy, conceal, erase, obliterate, or falsify any record or paper appertaining to his office, or who shall fraudulently appropriate to his own use, or to the use of another person, or secrete with intent to appropriate to such use, any money, evidence of debt, or other property intrusted to him in virtue of his office, shall be guilty of a felony. (4829) [8557]

10015. Offering false instruments for filing or record—Every person who shall knowingly procure or offer any false or forged instrument to be filed, registered, or recorded in any public office, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or the United States, shall be guilty of a felony. (4830) [8558]

PERJURY AND OTHER CRIMES

10016. Perjury defined—Every person who shall swear or affirm that he will truly testify, declare, depose, or certify, or that any testimony, declaration, deposition, certificate, affidavit, or other writing by him subscribed is true, in an action or special proceeding, or upon any hearing or inquiry, or on any occasion in which an oath is required by law, or is necessary for the prosecution or defense of a private right or for the ends of public justice, or may lawfully be administered, and who, in such action or proceeding, or on such hearing, inquiry, or other occasion, shall wilfully and knowingly testify, declare, depose, or certify falsely in any material matter, or shall state in his testimony, declaration, deposition, affidavit, or certificate any material matter to be true, which he knows to be false, shall be guilty of perjury. (4831) [8559]

1. **What constitutes**—The oath administered must be pursuant to and required or authorized by some law (41–59, 42+599; 84–281, 87+764. See 29–156, 12+448). A statement in an affidavit for an attachment that affiant is plaintiff's attorney is material, and if false, may be the basis of a charge of perjury. There must be an oath actually administered. Merely subscribing an affidavit is not sufficient (57–425, 59+490). There must be a wilful intention to swear falsely (see 29–156, 12+448). The crime of perjury was not defined by statute prior to the Penal Code (48–466, 51+474). At common law a charge of perjury could be made only upon an oath before a court of justice (41–59, 42+599).

159–511, 199+427, note under § 9979.

False statement by applicant for marriage license. 166–381, 208+14.

Jurisdiction of court as affecting guilt. 209+750.

2. **Indictment**—It must contain "assignments of perjury" and the former statutory form (G. S. 1894 § 7239 No. 24) was insufficient in this regard (74–409, 77+223, overruling 19–484, 418). An allegation that the testimony of the accused was wilfully and corruptly false is equivalent to an allegation that he wilfully and knowingly testified falsely. A description of a justice court in which the offence was committed held sufficient (48–466, 51+474). It must be alleged that the accused was duly sworn, but no set form of words need be used. A document verified by an attached affidavit held to be sufficiently identified. An assignment of perjury held sufficient. An indictment under 1895 c. 175 § 104 for perjury in connection with the annual report of an insurance company held not double (78–311, 81+3). It is not necessary to aver that matter assigned as perjury is material where its materiality appears from the facts alleged. Where it is assigned as perjury that the accused in an affidavit for attachment swore falsely that he was the attorney for the plaintiff in the attachment suit held not necessary to allege that accused was an attorney at law (57–425, 59+490). See § 9148.

3. **Proof that oath was administered**—57–425, 59+490; 108–121, 121+611.

4. **Subornation of perjury**—85–19, 88+22.

10017. Irregularities in administering oaths—Incompetency of witness no defense—It shall be no defense to a prosecution for perjury that an oath has been administered or taken in an irregular manner, or that the defendant was not competent to give the testimony, deposition, or certificate of which falsehood is alleged. It shall be sufficient that he was actually permitted to give such testimony or make such deposition or certificate. (4832) [8560]

Irregularity in taking oath (108–121, 121+611).

10018. Knowledge of materiality not necessary—It shall be no defense to a prosecution for perjury that defendant did not know the materiality of his false statement, or that it did not, in fact, affect the proceeding in or for which it was made. It shall be sufficient that it was material, and might have affected such proceeding. (4833) [8561]

10019. Deposition—When complete—The making of a deposition or certificate shall be deemed to be complete, within the provisions of this chapter, from the time when it is subscribed, sworn to, or affirmed by the defendant, with intent that it be uttered or published as true. (4834) [8562]

10020. Statement of what one does not know to be true—Every unqualified statement of that which one does not know to be true is equivalent to a statement of that which he knows to be false. (4835) [8563]

10021. Committal of witness—Detention of documents—Whenever it shall appear probable to a court of record, having general jurisdiction, that a person who has testified in an action or proceeding before it has committed perjury in any testimony so given, it may, by order or process for that purpose, immediately commit him to prison, or take a recognizance for his appearance to answer to an indictment for perjury. In such case, if the court shall deem that any paper or document produced by either party is necessary to be used in the prosecution for perjury, it may detain the same, and direct it to be delivered to the county attorney. (4836) [8564]

148–398, 182+613.

Record examined, and held, that upon a conviction for the crime of subornation of perjury a new trial should be granted in the furtherance of justice because of the doubtful character of the testimony and the insufficiency of the evidence. 159–511, 199+427.

10022. Perjury and subornation—Every person who shall commit perjury or subornation of perjury upon the trial of an indictment for a felony shall be punished by imprisonment in the state prison for not less than two nor more than ten years. In every other case he shall be punished by imprisonment in the state prison for not less than one nor more than five years. (4837) [8565]

10023. Offering false evidence—Every person who, upon any trial, hearing, inquiry, investigation, or other proceeding authorized by law, shall offer or procure to be offered in evidence, as genuine, a book, paper, document, record, or other instrument in writing, knowing the same to have been forged or fraudulently altered, shall be guilty of a felony. (4838) [8566]

10024. Destroying evidence—Every person who, knowing that a book, paper, record, instrument in writing, or other matter or thing, is or may be required in evidence upon any trial, hearing, inquiry, investigation, or other proceeding authorized by law, shall wilfully destroy the same, with intent thereby to prevent it from being produced, shall be guilty of a gross misdemeanor. (4839) [8567]

10025. Preventing witness from attending—Every person who shall wilfully prevent or dissuade any person who has been duly summoned or subpœnaed as a witness from attending pursuant to the summons or subpœna shall be guilty of a gross misdemeanor. (4840) [8568]

71–28, 73+626; 141–490, 169+420.

10026. Inducing another to commit perjury—Every person who, without giving, offering, or promising a bribe, shall incite or attempt to procure another to commit perjury or to give false testimony as a witness, though no perjury is committed or false testimony given, or to withhold true testimony, shall be guilty of a gross misdemeanor. (4841) [8569]

71–28, 73+626.

10027. Neglect or refusal to receive person into custody—Every officer who, in violation of a duty imposed upon him by law, shall wilfully neglect or refuse to receive a person into his official custody, or into a prison under his charge, in case no punishment is specially provided by law, shall be guilty of a gross misdemeanor. (4842) [8570]

10028. Neglect of duty by officers, trustees, etc.—Every public officer, or person holding a public trust or employment, who shall wilfully neglect or omit to perform any duty enjoined upon him by law, in case no punishment is specially provided therefor, shall be guilty of a gross misdemeanor. (4843) [8571]

14–456, 340; 37–491, 35+364.

10029. Delaying to take prisoner before magistrate—Every public officer or other person having arrested any person upon a criminal charge, who shall wilfully and wrongfully delay to take him before a magistrate having jurisdiction to take his examination, shall be guilty of a gross misdemeanor. (4844) [8572]

10030. Arrest without authority—Every public officer, or person pretending to be a public officer, who shall knowingly, under the pretence or color of any process, arrest any person or detain him against his will, or shall seize or levy upon any property, or dispossess any one of any lands or tenements, without a regular process therefor, shall be guilty of a gross misdemeanor. (4845) [8573]

10031. Maliciously procuring search warrant—Misconduct in use—Every person who shall maliciously and without probable cause procure a search warrant to be issued and executed, and every officer who, in executing a search warrant, shall wilfully exceed his authority, or exercise it with unnecessary severity, shall be guilty of a misdemeanor. (4846) [8574]

10032. Refusing to make arrest or to aid officer—Every person who, after having been lawfully commanded by any magistrate to arrest another person, shall wilfully neglect or refuse so to do, and every person who, after having been lawfully commanded to aid an officer in arresting any person, or in retaking any person who has escaped from lawful custody, or in executing any legal process, shall wilfully neglect or refuse to aid such officer, shall be guilty of a misdemeanor. (4847) [8575]

10033. Resisting public officer—Every person who, in any case or under any circumstances not otherwise specially provided for, shall wilfully resist, delay, or obstruct a public officer in discharging or attempting to discharge a duty of his office, shall be guilty of a misdemeanor. (4848) [8576]

135–211, 160+666.

10034. Compounding crimes — Every person who shall take money or other property, gratuity, or reward, or an engagement or promise therefor, upon any agreement or understanding, express or implied, to compound or conceal a crime or violation of a statute, or to abstain from, discontinue, or delay a prosecution therefor, or to withhold any evidence thereof, except in a case where a compromise is allowed by law, shall be guilty—

1. Of a felony, and punished by imprisonment in the state prison for not more than five years, where the agreement or understanding relates to a felony punishable by death or by imprisonment in the state prison for life;

2. Of a felony, and punished by imprisonment in the state prison for not more than three years, where the agreement or understanding relates to any other felony;

3. Of a gross misdemeanor, and punished by imprisonment in a county jail for not more than one year, or by fine of not more than two hundred and fifty dollars, or both, where the agreement or understanding relates to a misdemeanor, or a gross misdemeanor or to a violation of a statute for which a pecuniary penalty or forfeiture is prescribed.

Upon the trial of an indictment for compounding a crime, it shall not be necessary to prove that any person has been convicted of the crime or violation of statute in relation to which any agreement or understanding herein prohibited was made. (4849) [8577]

40–55, 41+299.

A contract to make restitution of property stolen or embezzled made under an agreement to protect the guilty person from prosecution is void, and the courts will give no aid to either party unless it was executed under duress. 161–504, 202+20.

10035. Intimidating public officer — Every person who shall directly or indirectly address any threat or intimidation to a public officer, or to a juror, referee, arbitrator, appraiser, or assessor, or to any other person authorized by law to hear or determine any controversy or matter, with intent to induce him, contrary to his duty, to do or make, or to omit or delay, any act, decision, or determination, shall be guilty of a misdemeanor. (4850) [8578]

10036. Lynching defined—Lynching is the killing of a human being, by the act or procurement of a mob. ('21 c. 401 § 1)

10037. Damages may be recovered—Whenever any person shall be lynched, the county in which said lynching occurred shall be liable in damages to the dependents of the person lynched in a sum not exceeding seven thousand five hundred dollars to be recovered in a civil action. ('21 c. 401 § 2)

10038. Officers guilty of malfeasance in certain cases—Any sheriff, deputy sheriff or other officer having the custody of any person whom it is sought by a mob to take from his custody who shall fail or neglect to use all lawful means to resist such taking, shall be deemed guilty of malfeasance and shall be removed from office by the governor in the manner and upon the same procedure as is provided by law for the removal from office of County Officers guilty of malfeasance or nonfeasance in the performance of their official duties. ('21 c. 401 § 3)

10039. Suppressing evidence — Every person who shall maliciously practice any deceit or fraud, or use any threat, menace, or violence, with intent to prevent any party to an action or proceeding from obtaining or producing therein any book, paper, or other thing which might be evidence, or from procuring the attendance or testimony of any witness therein, or with intent to prevent any person having in his possession any book, paper, or other thing which might be evidence in such suit or proceeding, or to prevent any person being cognizant of any fact material thereto from producing or disclosing the same, shall be guilty of a gross misdemeanor. (4851) [8579]

10040. Common barratry—Every person who shall excite groundless judicial proceedings shall have committed common barratry, and be guilty of a misdemeanor; but no person shall be convicted of such offense except upon proof that he has excited actions or legal proceedings in at least three instances, and with a corrupt or malicious intent to vex and annoy. Upon prosecution for common barratry, the fact that defendant was himself a party in interest or upon the record in any action or legal proceeding complained of shall not be a defense. (4852) [8580]

10041. Buying demands or promising reward by justice or constable—Every justice of the peace or constable who shall directly or indirectly buy, or be interested in buying, any thing in action, for the purpose of commencing a suit thereon before a justice, or who shall give or promise any valuable consideration

to any person as an inducement to bring, or in consideration of having brought, a suit thereon before a justice, shall be guilty of a misdemeanor. (4853) [8581]

10042. Criminal contempts—Every person who shall commit a contempt of court, of any one of the following kinds, shall be guilty of a misdemeanor:

1. Disorderly, contemptuous, or insolent behavior, committed during the sitting of the court, in its immediate view and presence, and directly tending to interrupt its proceedings, or to impair the respect due to its authority.

2. Behavior of like character in the presence of a referee, while actually engaged in a trial or hearing, pursuant to an order of court, or in the presence of a jury while actually sitting for the trial of a cause, or upon an inquest or other proceeding authorized by law.

3. Breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of a court, jury, or referee.

4. Wilful disobedience to the lawful process or other mandate of a court.

5. Resistance wilfully offered to its lawful process or other mandate.

6. Contumacious and unlawful refusal to be sworn as a witness, or, after being sworn, to answer any legal and proper interrogatory.

7. Publication of a false or grossly inaccurate report of its proceedings.

But no person shall be punished as herein provided for publishing a true, full, and fair report of a trial, argument, decision, or other proceeding had in court. (4854) [8582]

128–153, 150+383.

10043. Grand juror acting after challenge allowed—Every grand juror who, with knowledge that a challenge interposed against him by a defendant has been allowed, shall be present at, or take part, or attempt to take part in, the consideration of the charge against the defendant who interposed the challenge, or the deliberations of the grand jury thereon, shall be guilty of a misdemeanor. (4855) [8583]

10044. Misconduct by attorneys—Every attorney or counselor at law who shall be guilty of any deceit or collusion, or shall consent thereto, with intent to deceive the court or any party, or who shall delay his client's suit with a view to his own gain, shall be guilty of a misdemeanor, and, in addition to the punishment prescribed by law therefor, he shall forfeit to the party injured treble damages, to be recovered in a civil action. (4856) [8584]

10045. Production of pretended heir—Every person who shall fraudulently produce an infant, falsely pretending it to have been born of a parent whose child is or would be entitled to inherit real property or to receive a share of personal property, with intent to intercept the inheritance of such real property or the distribution of such personal property, or to defraud a person out of the same or any interest therein, or who, with intent fraudulently to obtain any property, shall falsely represent himself or another to be a person entitled to an interest or share in the estate of a deceased person, as executor, administrator, husband, wife, heir, legatee, devisee, next of kin, or relative of such deceased person, shall be punished by imprisonment in the state prison for not more than ten years. (4857) [8585]

10046. Substitution of child—Every person to whom a child has been confided for nursing, education, or any other purpose, who, with intent to deceive a parent, guardian, or relative of the child, shall substitute or produce to such parent, guardian, or relative another child or person in place of the child so confided, shall be punished by imprisonment in the state prison for not more than seven years. (4858) [8586]

10047. Punishment for prohibited acts—Whenever the performance of any act is prohibited by a statute, and no penalty for the violation of the same shall be imposed in any statute, the doing of such act shall be a misdemeanor. (4859) [8587]

10048. Instituting suit in name of another—Every person who shall institute or prosecute an action or other proceeding in the name of another, without his consent and contrary to the statutes, shall be guilty of a gross misdemeanor, and punished by imprisonment not exceeding six months. (4860) [8588]

10049. Unauthorized communication with prisoners—Every person who, not being authorized by law or by written permission from the state board of control, or by consent of the warden of the prison or superintendent of the reformatory, shall have any verbal communication with a convict in the state prison or state reformatory or shall bring into or convey out of such prison or reformatory any writing, clothing, food, tobacco, or other article whatsoever, to or from any convict under sentence, shall be guilty of a misdemeanor. (4861) [8589]

10050. Disclosure of transactions of grand jury—Every judge, grand juror, county attorney, clerk, or other officer, who, except in the due discharge of his official duty, shall disclose, before an accused person shall be in custody, the fact that a presentment has been made or an indictment found or ordered against him, and every grand juror who, except when lawfully required by a court or officer, shall wilfully disclose any evidence adduced before the grand jury, or anything which he himself or any other member of the grand jury said, or in what manner he or any other grand juror voted upon any matter before them, shall be guilty of a misdemeanor. (4862) [8590]

10051. Falsely certifying as to record—Every officer authorized by law to record a conveyance of real property, or any other instrument which by law may be recorded, who shall knowingly falsely certify that such conveyance or instrument has been recorded, shall be guilty of a felony. (4863) [8591]

10052. Other false certificates—Every public officer who, being authorized by law to make or give a certificate or other writing, shall knowingly make and deliver as true such a certificate or writing, containing any statement which he knows to be false, in a case where the punishment thereof is not expressly prescribed by law, shall be guilty of a gross misdemeanor. (4864) [8592]

10053. Falsely auditing and paying claims—Every public officer, or person holding or discharging the duties of any office or place of trust under the state, or in any county, town, city, or village, a part of whose duty is to audit, allow, or pay, or take part in auditing, allowing, or paying, claims or demands upon the state, or such county, town, city, or village, who shall knowingly audit, allow, or pay, or directly or indirectly consent to, or in any way connive at, the auditing, allowance, or payment of, any claim or demand against the state or such county, town, city, or village, which is false or fraudulent, or contains charges, items, or claims which are false or fraudulent, shall be guilty of a felony, and punished by imprisonment in the state prison for not less than two nor more than five years,

or by a fine not exceeding five thousand dollars, or by both. (4865) [8593]

80-165, 83+54; 86-426, 90+1105.

Indictment for taking part in auditing and approving for payment a fraudulent claim against the state held to state the acts constituting the offense with sufficient particularity to inform the defendant of the nature and cause of the accusation against him. 159-228, 198+543.

Where a town supervisor is on trial for knowingly and fraudulently auditing and allowing a false claim against the town, which claim was in fact for material furnished for an improvement to his own building, evidence that he audited and allowed other false claims for labor and material, furnished at about the same time for this same improvement, was properly received as bearing on the question of guilty knowledge. 213+552.

10054. Wrongfully receiving or disposing of money or property—Every person who, being or acting as a public officer or otherwise, by wilfully auditing or paying, or consenting to or conniving at the auditing or payment of, a false or fraudulent claim or demand, or by any other means, shall wrongfully obtain, receive, convert, dispose of, or pay out, or aid or abet another in obtaining, receiving, converting, disposing of, or paying out, any money or property held, owned, or in the possession of the state, or of any city, county, village, or other public corporation, or any board, department, agency, trustee, agent, or officer thereof, shall be guilty of a felony, and punished by imprisonment in the state prison for not less than three nor more than five years, or by a fine not exceeding five times the amount or value of the money or property converted, paid out, lost, or disposed of by means of the act done or abetted by such person, or by both. Such fine shall be paid into the treasury of the corporation or body injured. (4866) [8594]

10055. Conspiracy defined—How punished—Whenever two or more persons shall conspire—

1. To commit a crime;
2. Falsely and maliciously to indict another for a crime, or procure him to be complained of or arrested for a crime;
3. Falsely to institute or maintain any action or special proceeding;
4. To cheat and defraud another out of property by means which are in themselves criminal, or which, if executed, would be a cheat, or to obtain money or other property by false pretences;
5. To prevent another from exercising any lawful trade or calling, or from doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements, or property belonging to or used by another, or with the use or employment thereof;
6. Or to commit any act injurious to the public health, public morals, trade, or commerce, or for the perversion or obstruction of public justice or the due administration of the laws—

Every such person shall be guilty of a misdemeanor. (4867) [8595]

12-164, 99; 43-253, 45+447; 80-143, 82+1082; 81-472, 84+332; 82-448, 85+229; 90-536, 97+428; 110-304, 125+272; 136-176, 161+1056; 142-326, 171+930; 149-8, 182+712; 149-31, 182+773.

10056. Conspiracy, when punishable—Overt act—No conspiracy, except one of those enumerated in § 10055, shall be punished criminally. No agreement, except to commit a felony upon the person of another, or to commit arson or burglary, shall amount to a conspiracy, unless some act besides such agreement be done to effect the object thereof by one or more of the parties to such agreement. The orderly and peaceable assembling or co-operation of persons employed in any calling, trade, or handicraft, for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such rate, is not conspiracy. (4868) [8596]

Overt act unnecessary at common law (12-164, 99). See 151-220, 186+781.

10057. Criminal syndicalism defined—Criminal syndicalism is hereby defined as the doctrine which advocates crime, sabotage, (this word as used in this bill meaning malicious damage or injury to the property of an employer by an employe) violence or other unlawful methods of terrorism as a means of accomplishing industrial or political ends. The advocacy of such doctrine, whether by word of mouth or writing is a felony punishable as in this act otherwise provided. ('17 c. 215 § 1)

10058. Teaching or advocating syndicalism declared a felony—Any person who by word of mouth or writing, advocates or teaches the duty, necessity or propriety of crime, sabotage, violence or other unlawful methods of terrorism as a means of accomplishing industrial or political ends, or prints, publishes, edits, issues or knowingly circulates, sells, distributes or publicly displays any book, paper, document or written matter in any form, containing or advocating, advising or teaching the doctrine that industrial or political ends should be brought about by crime, sabotage, violence or other unlawful methods of terrorism; or openly, wilfully and deliberately justifies by word of mouth or writing, the commission or the attempt to commit crime, sabotage, violence or other unlawful methods of terrorism with intent to exemplify, spread or advocate the propriety of the doctrines of criminal syndicalism, or organizes or helps to organize or becomes a member or voluntarily assembles with any society, group or assemblage of persons formed to teach or advocate the doctrine of criminal syndicalism, is guilty of a felony and punishable by imprisonment in the state prison for not more than five years or by a fine of not more than one thousand dollars or both. ('17 c. 215 § 2)

10059. Assembling for purpose declared a felony—Wherever two or more persons assemble for the purpose of advocating or teaching the doctrines of criminal syndicalism defined in this act, such an assemblage is unlawful and every person voluntarily participating therein by his presence, aid or instigation is guilty of a felony and punishable by imprisonment in the state prison for not more than 10 years or by a fine of not more than $5,000.00 or both. ('17 c. 215 § 3)

10060. Owner or lessor of buildings for assemblage liable for gross misdemeanor—The owner, agent, superintendent, or occupant of any place, building or rooms who wilfully and knowingly permits therein any assemblage of persons prohibited by the provisions of section 3 of this act, or who, after notification that the premises are so used, permits such use to be continued, is guilty of a gross misdemeanor and punishable by imprisonment in the county jail for not more than one year or by a fine of not more than $500.00 or both. ('17 c. 215 § 4)

140-112, 167+345; 150-406, 185+931.

1940 Supplement

To

Mason's Minnesota Statutes

1927

(1927 to 1940)

(Superseding Mason's 1931, 1934, 1936 and 1938 Supplements)

Containing the text of the acts of the *1929, 1931, 1933, 1935, 1937* and *1939* General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.

Edited by

William H. Mason

Assisted by

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CHAPTER 95

Crimes Against the Sovereignty of the State

9970. Wilful neglect of official duty.

It is malfeasance in office for a police officer to give gamblers information and advice which is valuable to them in illegal operations. State v. Raasch, 201M158, 275 NW620. See Dun. Dig. 6589.

It was not prejudicial that those parts of telephone conversations which did not relate to subject-matter of accusation against defendant police officer were not recorded, or that defendant was not permitted to show that his actions in assisting and advising gamblers were under instruction from a superior officer. Id.

Village officers refusing to comply with section 1175 requiring publication of annual financial statement, would violate this section. Op. Atty. Gen., Sept. 30, 1931.

Mayor of Minneapolis has no power to remove civil service commissioner from office. Op. Atty. Gen., July 12, 1932.

Proper procedure with reference to improper conduct of justice of peace would be to advise with county attorney. Op. Atty. Gen., Jan. 24, 1933.

President of water, light, power and building commission, may be compelled by mandamus to sign contract voted by commission. Op. Atty. Gen. (469b-6), Apr. 11, 1934.

This section is violated by mayor who refuses to sign orders audited and allowed by city council. Op. Atty. Gen. (361f), Jan. 2, 1936.

City council has no authority to remove members of water and light commission, at least in absence of a conviction of an offense involving violation of official oath. Op. Atty. Gen. (358c-1), May 15, 1937.

9971. Acting in public office without having qualified.

Where a justice of the peace was elected in 1929 and due to the change in date of village elections his term expired and no successor was elected, and during such vacancy he continued to act and collect fines which he refused to turn over to the village, he might technically be prosecuted under §9971, but preferably under §10302. Op. Atty. Gen., Jan. 6, 1932.

CHAPTER 96

Crimes Against Public Justice

BRIBERY AND CORRUPTION

9980. Bribery of public officer or legislator.

1. What constitutes.

Knowledge that offeree is an officer is an essential element of crime of bribing an officer. State v. Lopes, 201M20, 275NW374. See Dun. Dig. 1103.

2. Indictment.

An information for bribery, averring official character of offeree and that bribe was offered to him "as such officer," held good as against objection that it did not charge that accused knew that offeree was "such officer," overruling State v. Howard, 66Minn309, 68NW1096, 34LRA 178, 61AmStRep403. State v. Lopes, 201M20, 275NW374. See Dun. Dig. 1103.

Information is not defective because its charge was that offeree of bribe "was about to charge" defendant with crime, it being averred in that connection that offer was on condition that offeree, an officer, "would not arrest" and would "not prosecute" defendant. Id.

Evidence held to show offer of money and so a thing of value as charged. Id.

9982. Bribery of public officer or legislator.

This section is constitutional. 176M308, 223NW144.

Variance between allegations and proof; admissibility of evidence. 180M450, 231NW225.

9983. Asking or receiving bribes.

½. In general.

Person convicted under §9983 in 1925 and incarcerated in the state penitentiary is not entitled to restoration of civil rights under §9944. Op. Atty. Gen. (1841), Mar. 29, 1935.

2. Indictment.

Indictment charging that defendant did "ask, agree to receive, and receive" a bribe, was not duplicitous or repugnant, and state need not elect. 178M437, 227NW497.

Proof of acceptance of credit on price of automobile not fatal variance from allegation of acceptance of money. 178M437, 227NW497.

Admissibility of evidence, and variance between allegations and proof. 180M450, 231NW225.

RESCUES AND ESCAPES

10005. Taking property from office.

Owner of growing crops levied on by officer violates this section by feeding the crops to his live stock. Op. Atty. Gen., Mar. 9, 1929.

10012-1. Jumping bail a gross misdemeanor.—Any person charged with or convicted of a felony who has been admitted to bail or released on recognizance in connection with such felony, and who wilfully fails to appear as required and thereby incurs a forfeiture of his bond or recognizance is guilty of a gross misdemeanor, if he does not appear or surrender himself within thirty days thereafter. (Act Apr. 17, 1935, c. 196.)

PERJURY AND OTHER CRIMES

10016. Perjury defined.

1. What constitutes.

No conviction for perjury for untrue answers to questions after plea of guilty. 171M246, 213NW900.

Person intentionally making a false return in listing property for money and credits tax, if made under oath, is guilty of perjury, and one making false returns may also be guilty of a gross misdemeanor. Op. Atty. Gen. (133b-53), June 15, 1938.

5. Evidence.

Evidence held to sustain verdict of guilty of perjury. State v. Olson, 186M45, 242NW348. See Dun. Dig. 7476.

10018. Knowledge of materiality not necessary.

No conviction for perjury for untrue answers to questions after plea of guilty. 171M246, 213NW900.

10028. Neglect of duty by officers, trustees, etc.

If a recorder of a village fails to perform his duties, he may be prosecuted under this section, and his conviction would create a vacancy in his office under section 6953(5). Op. Atty. Gen., Oct. 20, 1931.

This section is violated by mayor who refuses to sign orders audited and allowed by city council. Op Atty. Gen. (361f), Jan. 2, 1936.

10030. Arrest without authority.

Railroad held liable for unlawful arrest by special agent at depot. 176M203, 223NW94.

If an intoxicating liquor inspector is rightfully within a place where non-intoxicating liquors are sold, he may seize intoxicating liquor for purpose of using same for evidence in a prosecution, but he may not search premises for intoxicating liquors, and in such case a search warant is not necessary. Op. Atty. Gen. (218f), Feb. 5, 1935.

10033. Resisting public officer.

A sheriff cannot enter a home by force for purpose of levying an execution, but debtor is guilty of resisting an officer in refusing to give up the property. Op. Atty. Gen. (390a-6), Feb. 7, 1935.

State fire marshal may not use force to effect entry on premises for purpose of making inspection, but owner padlocking premises so that inspection may not be made is guilty of offense of resisting, delaying and obstructing a public officer in discharge of his duties. Op. Atty. Gen. (197c), May 9, 1935.

10034. Compounding crimes.

Complaint held not bad for duplicity, and evidence held to support conviction. 181M106, 231NW804.

10042. Criminal contempts.

Writ of prohibition will not be granted upon contention that criminal complaint does not charge a public offense for reason that alleged contemptuous publication related to matters which had been finally determined by court, since court had jurisdiction of person and of offense attempted to be charged and of determination of whether or not complaint stated a public offense. State v. Laughlin, 204M291, 283NW395. See Dun. Dig. 1703a.

10044. Misconduct by attorneys.

This section trebles damages in actions therein referred to, but does not create any new cause of action. 181M322, 232NW515. See Dun. Dig. 674.

10047. Punishment for prohibited acts.

This section provides penalties for those sections in Laws 1931, c. 70, for which no penalty is provided in section 9 of such act. Op. Atty. Gen., Oct. 19, 1931.

If neither owner nor operator of a vehicle is a party to a strike, it is unlawful to interfere in any manner with operation of vehicle or operator thereof whether it be upon any of the public streets or highways or upon premises of any business establishment or elsewhere, and such violation is a misdemeanor within meaning of §10047 with punishment prescribed by §9922. Op. Atty. Gen. (270d-7), August 11, 1939.

10052. Other false certificates.

Civil liability for false certificate as to tax liens. 181 M334, 232NW359. See Dun. Dig. 2314a.

10053. Falsely auditing and paying claims.

County auditors and other officers issuing certificates for payment of wolf bounties on fox violate both §6258 and §10053 and may be removed from office. Op. Atty. Gen. (47f), Mar. 17, 1938.

10055. Conspiracy defined—How punished.

An uneducated widow reposing confidence in a lawyer having reputation for ability and integrity was not estopped to claim conspiracy and fraud against lawyer and corporation of which he was president because she retained stock of the corporation for some years and received dividends thereon. Scheele v. U., 200M554, 274 NW673. See Dun. Dig. 1562.

An uneducated investor had right to repose confidence in a lawyer having reputation for ability and integrity, as affecting conspiracy and fraud in purchase and sale of stock of a corporation of which lawyer was president. Id.

A conspiracy to defraud is ordinarily provable only by circumstantial evidence. If in end there is a completed structure of fraudulent result frame of which has been furnished piecemeal by several defendants, parts when brought together showing adaptation to each other and end accomplished, it is reasonable to draw inference of conspiracy and common intent to defraud. Id. See Dun. Dig. 1566b.

10060-1. Printing and circulating certain documents prohibited.—Any person who, not being otherwise authorized by law to do so, drafts, prepares, prints, multigraphs, mimeographs, typewrites, writes, or otherwise transcribes or duplicates; for sale, gift, distribution or other disposal, or who circulates, gives away, distributes, publishes, or offers for sale any paper or document, or any blank form of paper or document which, when the blanks thereof have been filled in, simulates or is intended to simulate a summons, complaint, writ, final or other notice, or legal, judicial or court process of any kind, shall be guilty of a misdemeanor. (Act Mar. 18, 1939, c. 69, §1.)

10060-2. Exceptions.—Nothing herein contained shall prohibit the printing, publishing, giving away, sale, circulation or distribution of blank forms of legal documents for use by attorneys at law. (Act Mar. 18, 1939, c. 69, §2.)

CHAPTER 97

Crimes Against the Person

HOMICIDE

10065. Defined and classified.

Evidence that defendant was the possessor of a weapon of the kind with which a homicide was committed is not rendered incompetent by reason of the fact that it tends incidentally to prove the commission of other and unrelated offenses. 172M106, 214NW782.

State's rebuttal evidence was admissible. 172M106, 214 NW782.

A conviction for homicide cannot stand on evidence of motive with nothing more; there must be enough additional evidence so that whole shows guilt beyond reasonable doubt. State v. Waddell, 187M191, 245NW140. See Dun. Dig. 4247.

10066. Proof of death, and of killing by defendant.

Burden is upon state to prove each element of corpus delecti beyond a reasonable doubt, and necessary elements are death of a human being and that a criminal agency produced it. State v. Voges, 197M85, 266NW265. See Dun. Dig. 4247.

In prosecution of mother of girl having a baby, evidence held insufficient to warrant a finding of any degree of homicide, there being no evidence of any one seeing the child, that it was alive when born, and was not dead when thrown into stove. Id.

It is identity of offense, and not of act, which is referred to in constitutional guarantee against putting a person twice in jeopardy. Where two or more persons are injured in their persons, though it be by a single act, yet, since consequences affect, separately, each person injured, there is a corresponding number of distinct offenses, as in separate prosecutions for homicide where two persons in same automobile were killed. State v. Fredlund, 200M44, 273NW353. See Dun. Dig. 2426.

Failure of specific proof of exact manner of death should not prevent conviction where adequate proof that death was caused by acts of accused in some manner is available. State v. Poelaert, 200M30, 273NW641. See Dun. Dig. 4247.

10067. Murder in first degree.

4. Premeditation.

Murder in the first degree requires a premeditated design to effect death of person killed or another. State v. Norton, 194M410, 260NW502. See Dun. Dig. 4232b.

8. Evidence.

No reversible error found in reception of evidence of conversation between killer and defendant after arrest. 176M562, 223NW917.

Finding that defendant, with knowledge of killer's intent to kill, encouraged and abetted him, held justified by the evidence. 176M562, 223NW917.

Dying declarations, res gestae, and sufficiency to support conviction. 180M221, 230NW639.

Circumstantial evidence held to support conviction for first degree murder of one upon whom accused carried life insurance. State v. Waddell, 187M191, 245NW 140. See Dun. Dig. 4247.

Testimony of accomplice held sufficiently corroborated to sustain conviction of murder. State v. Jackson, 198 M111, 268NW924. See Dun. Dig. 4247.

Evidence supported admission of a scoop shovel with which state contended murder was committed. State v. Rowe, 280M172, 280NW646. See Dun. Dig. 4246.

That some hair similar to that of deceased was not discovered on shovel until some months later went to weight but not to admissibility of such discovery. Id.

Evidence justified conviction of murder in first degree. Id. See Dun. Dig. 4247.

10068. Murder in second degree.

Evidence sustained finding of murder in second degree. State v. Quinn, 186M242, 243NW70. See Dun. Dig. 4233.

Murder in the second degree requires a design to effect death of person killed or another, but without deliberation or premeditation. State v. Norton, 194M410, 260NW502. See Dun. Dig. 4233.

Evidence held sufficient to sustain a verdict of guilty of murder in second degree. State v. Poelaert, 200M30, 273NW641. See Dun. Dig. 4233.

10070. Murder in third degree.

1. What constitutes.

One killing another with an automobile while recklessly driving it in an intoxicated condition may be convicted of murder in the third degree. 171M414, 214NW 280.

Evidence held not to require an instruction that defendant should be acquitted if he was so drunk that he did not know what he was doing. 171M414, 214NW 280.

Murder in the third degree is killing of a human being, when perpetrated by acts eminently dangerous to others, and evincing a depraved mind, regardless of human life, although without a premeditated design to effect death of any individual, or without a design to effect death, by a person engaged in committing or attempting to commit a felony either upon or affecting the person killed or otherwise. State v. Norton, 194M410, 260 NW502. See Dun. Dig. 4234.

Where the verdict was of murder in second degree, but evidence sustains conviction only in third degree, supreme court has power to direct entry of judgment accordingly. State v. Jackson, 198M111, 268NW924. See Dun. Dig. 2501.

It is identity of offense, and not of act, which is referred to in constitutional guarantee against putting a person twice in jeopardy. Where two or more persons are injured in their persons, though it be by a single act, yet, since consequences affect, separately, each per-