

GENERAL STATUTES

OF

MINNESOTA

1913

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PART V
CONSTRUCTION OF STATUTES AND
EXPRESS REPEALS

CHAPTER 107

STATUTES

THE REVISED LAWS AND THEIR EFFECT

9398. How cited—When to take effect—Session laws not affected—These laws shall not be cited, enumerated, or otherwise treated as a session law of the present year, but shall be designated, "Revised Laws, 1905." They shall take effect March 1, 1906, but shall not be construed as abrogating any act passed at the session of 1905, all of which, so far as they differ from the Revised Laws, shall be construed as amendatory thereof or supplementary thereto. (5504)

Cited (120-313, 139+500).

9399. Former laws not revived—Vested rights not affected—The repeal, by these laws, of any act or part thereof, whether the same be revised and re-enacted herein or not, shall not revive any law heretofore or hereby repealed or any office abolished. Neither shall it affect any act done, ratified, or confirmed, or any right accrued or established, or any action or proceeding had or commenced, in a civil cause, before the repeal takes effect; but the proceedings in such case shall conform, so far as practicable, to the provisions of the Revised Laws. (5505)

12-580, 503; 13-153, 138; 16-215, 187; 16-230, 202; 24-116, 122; 30-350, 352, 15+375; 45-231, 232, 47+794; 53-522, 55+815; 58-275, 278, 59+1015; 62-175, 179, 64+382, 29 L. R. A. 708. Cited (106-58, 118+63). Includes proceedings pending when Revised Laws went into effect, whether related to civil actions or otherwise (101-349, 112+278).

9400. Penalties, etc., not affected—Exception—Such repeal shall not affect any penalty or forfeiture previously incurred, except that any provision of the Revised Laws whereby a punishment, penalty, or forfeiture is mitigated, may be extended and applied to a judgment pronounced after they take effect; and in actions or prosecutions pending at the time of the repeal, for offences committed, or for the recovery of penalties or forfeitures incurred, under any of the acts repealed, the subsequent procedure shall conform, so far as practicable, to the Revised Laws. (5506)

9401. Tenure of offices preserved—Whoever, when said repeal takes effect, holds an office under any of the laws repealed, shall continue to hold it according to the tenure thereof, unless it is abolished or unless a different provision relative thereto is made by the Revised Laws. (5507)

9402. Continuation of former laws—The provisions of the Revised Laws, so far as they are the same as those of existing statutes, shall be construed as continuations thereof, and not as new enactments; and references in statutes not repealed to provisions of law which are revised and re-enacted herein shall be construed as applying to such provisions as so incorporated in the Revised Laws. (5508)

13-278, 256; 16-230, 202; 33-271, 22+614. Rule for construing revised statutes permits reference to and examination of prior statutes to ascertain intent of legislature, when the revised statute is ambiguous or susceptible of two constructions (99-248, 109+235; 99-307, 109+243; 112-76, 127+386). Changes will not be regarded as altering law, unless clear that such was intention (99-307, 109+243; 111-110, 126+477; 112-76, 127+386; 112-512, 128+833; 113-459, 130+18). Statute in Revised Laws, where complete in all its details and unambiguous, must be construed without reference to prior laws (100-249, 110+870, 8 L. R. A. [N. S.] 1272, 10 Ann. Cas. 398). The provision relating to continuations of existing statutes is plain and explicit, and entitled to reasonable construction, such as will give effect to intention of legislature (101-349, 112+278). See note under § 9399. A provi-

sion incorporated into the revision is a continuation of the original act (108-230, 122+11). Where two inconsistent statutes, relating to the same subject-matter, but passed at different times, are both incorporated into revision, court will, in construing them, inquire as to dates of respective enactments, and give effect to latest expression of legislature (107-437, 120+894; 113-298, 129+514; 115-446, 132+915. See, also, 102-15, 112+1050; 103-241, 114+762; 106-32, 119+391). Change in language or phraseology does not necessarily indicate intention to change in substance existing law, but is ordinarily to be ascribed to purpose to condense and simplify (113-27, 128+1112, 27 Ann. Cas. 1912A, 51). Where two inconsistent statutes are approved same day, it will be presumed they were approved in their numerical order (115-446, 132+915).

9403. Periods of limitation continued—If, in any statute hereby repealed, a limit of time be prescribed for acquiring a right, barring a remedy, or any other purpose, which period has begun to run, and the same or a similar limitation is herein prescribed, the time of limitation shall continue to run with the same effect as though the whole period had elapsed under the operation of the Revised Laws. (5509)

13-153, 138; 16-230, 202; 22-380, 384; 45-231, 47+794.

9404. Revised Laws—How printed, etc.—Commission—The attorney general, the secretary of state and the state printer are hereby appointed and required to serve as a commission to provide for printing, binding, publishing and distributing the Revised Laws, 1905. ('05 c. 185 § 1)

Section 2 provides that the secretary of state shall be the custodian of the copies owned by the state, and shall distribute them among the public officers of the state as said commissioners shall prescribe.

9405. Same—Powers of commission—Copyright—The said commissioners may determine whether said Revised Laws shall be published by the state or by a private person, and are authorized to enter into contracts, for and on behalf of the state, for printing, binding, publishing and distributing said Revised Laws; they are authorized to fix the amount for which such Revised Laws shall be sold, but the price shall not exceed five dollars per volume to citizens or residents of the state; they shall cause said Revised Laws, when printed, to be copyrighted for the state, and they shall not sell or transfer the copyright to any person; and if said Revised Laws are published by a private person, said commissioners shall purchase not to exceed one thousand copies for distribution among the public officers of the state and for exchange. ('05 c. 185 § 2)

9406. Same—Published laws as evidence—The Revised Laws, 1905, as published under the provisions of this act shall be competent evidence of the laws therein contained in all the courts of this state without further proof or authentication. ('05 c. 185 § 5)

9407. Same—How published—The Revised Laws, 1905, shall not be published otherwise than under the provisions of this act. ('05 c. 185 § 6)

CONSTRUCTION

9408. When to take effect—Every act of the legislature which does not expressly declare when it shall take effect shall be in force from and after its approval by the governor; or, if the governor shall refuse or neglect to approve the same, then from and after it shall become operative, without his signature, by virtue of the constitution. (5510)

9409. Revision to operate as repeal, when—Whenever a statute, enacted after the Revised Laws become operative, by its title purports to be a revision of all laws upon a particular subject, or of a particular chapter therein specified, or whenever such statute does, in fact, cover the entire subject matter of a former law, even if such statute contains no repealing clause, or only a general clause repealing laws inconsistent therewith, it shall be construed as repealing all former laws upon the same subject, or all of the chapter referred to not specifically retained. (5511)

Repeal by implication (98-256, 108+838).

9410. Effect of repeal—Whenever a law is repealed which repealed a former law, the former law shall not thereby be revived, unless it is so specially provided; nor shall such repeal affect any right accrued, any duty imposed,

any penalty incurred, or any proceeding commenced, under or by virtue of the law repealed. (5512)

25-457, 459; 31-360, 363, 17+957; 39-376, 40+261; 62-540, 544, 64+1022; 76-69, 78+883; 129 Fed. 657, 64 C. C. A. 169.

9411. Rules of construction—In construing statutes the following rules shall govern, unless their observance would involve a construction inconsistent with the manifest intent of the legislature, or repugnant to the context of the same statute:

1. Words and phrases not especially defined shall be construed according to the common and approved usage of the language, but technical or other words and phrases which have acquired a peculiar and appropriate meaning in the law shall be given such meaning; and clerical and typographical errors shall be disregarded when the intent is clear.

2. Words importing the singular number may extend and be applied to several persons or things, words importing the plural may include the singular, and words importing the masculine gender may be applied to females.

3. Words purporting to give a joint authority to three or more public officers or other persons shall be construed as conferring such authority upon a majority of them, unless it shall be otherwise expressly declared in the law giving the same. (5513)

Subd. 1 (3-389, 282; 18-361, 331; 25-146; 58-525, 533, 60+672, 28 L. R. A. 605; 72-165, 75+123; 89-502, 95+449; 120-443, 139+949). Subd. 2 (95-164, 103+889; 112-433, 123+578). Subd. 3 (41-69, 42+696; 61-56, 62, 63+176; 107-420, 102+753).

9412. Particular words and phrases—The following words and phrases, used in the Revised Laws or in future legislative acts, shall have the meaning herein given, unless another intention clearly appears.

1. *Clerk*—The word "clerk," when used in reference to court procedure, shall mean the clerk of the court in which the action or proceeding is pending, and the words "clerk's office" shall mean his office.

2. *County, etc.*—Whenever a county, town, city, or village is mentioned, without any particular description, it imports the particular county, town, city, or village appropriate to the matter.

3. *Felonious—Infamous crime*—The word "felonious" shall mean criminal, and the phrase "infamous crime" shall include every offence punishable with death or imprisonment in the state prison.

4. *Folio*—The word "folio" shall mean one hundred words, counting as a word each figure necessarily used. If there be fewer than one hundred words in all, the paper shall be computed as one folio; likewise any excess over the last full folio.

5. *Highway*—The word "highway" shall include roads laid out by state or United States authority, or by any town or county, and all bridges thereon.

6. *Holidays*—The word "holiday" shall include New Year's Day, January 1; Lincoln's Birthday, February 12; Washington's Birthday, February 22; Memorial Day, May 30; Independence Day, July 4; Labor Day, first Monday in September; election day, the first Tuesday after the first Monday in November of the even numbered years; Christmas Day, December 25; and the Friday next preceding Easter Sunday and commonly known as Good Friday. No public business shall be transacted on those days, except in cases of necessity, nor shall any civil process be served thereon.

7. *Insane persons—Spendthrifts*—The words "insane person" shall include every idiot, non compos, lunatic, and distracted person; and the word "spendthrift" shall mean any one who is liable to be put under guardianship on account of excessive drinking, gaming, idleness, or debauchery.

8. *Issue*—The word "issue," as applied to the descent of estates, shall include all the lawful lineal descendants of the ancestor.

9. *Lands, etc.*—The words "land," "lands," "realty," and "real estate" shall include lands, tenements, and hereditaments, and all rights thereto and interests therein.

10. *Oath—Sworn*—The word "oath" shall include "affirmation," in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "swear" shall include "affirm," and "sworn," "affirmed."

11. *Person*—The word "person" may extend and be applied to bodies politic and corporate, and to partnerships and other unincorporated associations.

12. *Population*—The word "population," and the word "inhabitants," when used in reference to population, shall mean that shown by the last preceding census, state or United States, unless otherwise expressly provided.

13. *Preceding—Following*—The word "preceding" or "following," when used with reference to any section of the Revised Laws, shall mean the section last preceding or next following unless some other section is expressly designated in such reference.

14. *Published and posted notice*—Unless otherwise specially provided, the words "published notice," when used in reference to the giving of notice in any proceeding or the service of any summons, order or process in judicial proceedings, shall mean the publication in full of the notice or other paper referred to, in the regular issues of a qualified newspaper, once in each week and at uniform intervals, for the number of weeks specified. And a "qualified newspaper," shall be one published in the county wherein the action or proceeding is pending or in which the thing to which such notice relates is to occur or be done, and conforming to the requirements of § 9413; or, if there be none in such county, then in an adjoining county. The term "posted notice," when similarly used, shall mean the posting, at the beginning of the prescribed period of notice, of a copy of the notice or document referred to, in a manner likely to attract attention, in each of three of the most public places in the town, city, district, or county to which the subject matter of the notice relates, or in which the thing of which notice is given is to occur or be performed.

15. *Recorded—Filed for record*—When an instrument in writing is required or permitted to be filed for record with, or recorded by, any officer, the same imports that it must be recorded by such officer in a suitable book kept for that purpose, unless otherwise expressly directed.

16. *Seal*—When the seal of a court, public office, or corporation is required by law to be affixed to any paper, the word "seal" shall include an impression thereof upon the paper alone, as well as an impression on a wafer, wax, or other substance thereto attached.

17. *State—United States*—The word "state," when applied to a part of the United States, shall extend to and include the District of Columbia and the several territories; and the words "United States" shall embrace said District and territories.

18. *Sheriff*—The word "sheriff" may be extended to any person officially performing the duties of a sheriff, either generally or in special cases.

19. *Time—Month, year, A. D.*—The words "month" and "year" shall mean a calendar month or year, unless otherwise expressed; and the word "year" shall be equivalent to the expression "year of our Lord."

20. *Time—Standard*—The mean solar time of ninety degrees longitude west of Greenwich, being that commonly called "central time," shall be the standard of time for all purposes.

21. *Time—How computed*—In computing the time within which an act is required or permitted to be done, the first day shall be excluded and the last included, unless the last shall fall on Sunday or on a holiday, in which case the prescribed time shall be extended so as to include the first business day thereafter.

22. *Town*—The word "town" may include cities, villages, boroughs, and districts, unless such construction would be repugnant to the provisions of any act especially relating thereto.

23. *Will—Codicil*—The term "will" shall be construed as including codicils.

24. *Writing*—The words "written" and "in writing" may include any mode of representing words and letters, except that signatures, when required by law, must be the handwriting of the person, or, if he be unable to write, his mark, or his name written by some person at his request and in his presence. (R. L. § 5514, amended '07 c. 254)

Subd. 3 (12-293, 191). Subd. 6 (32-118, 121, 19+738; 41-269, 43+7; 50-457, 463, 52+915, 18 L. R. A. 753; 94-500, 103+499). Subd. 9 (21-101, 106; 31-354, 355, 17+954; 43-513, 515, 45+1099; 83-445, 447, 86+450; 91-60, 63, 97+449, 103 Am. St. Rep. 474; 91-482, 484, 98+463). Subd. 11 (28-396, 398, 10+421; 33-434, 436, 23+848). Subd. 13 (4-233,

166). Subd. 16 (90-393, 96+1128). Subd. 21 (6-192, 123; 16-230, 202; 23-61; 25-327; 27-197, 6+621; 31-119, 16+704; 34-403, 26+225; 39-426, 40+561; 45-231, 47+794; 48-223, 50+1038; 50-303, 52+863; 53-269, 55+121; 61-185, 63+489; 73-65, 75+752; 102-89, 112+880, 12 Ann. Cas. 56; 104-481, 117+158, 15 Ann. Cas. 24; 108-407, 120+526, 122+486, 133 Am. St. Rep. 455, 17 Ann. Cas. 550). Subd. 22 (33-351, 23+526; 90-406, 403, 97+103). Subd. 24. "Signature" includes mark (103-286, 114+838). Cited and applied (106-464, 119+59).

9413. Newspapers—Qualifications—A newspaper in order to be qualified as a medium of official and legal publications shall,

First—Be printed in the place from which it purports to be issued, and in column and sheet form equivalent in space to at least four pages with five columns to the page, each seventeen and three-quarters inches long.

Second—It shall be issued at least once each week, and if a daily, at least six days in each week, from a known office, established in such place of publication and equipped with skilled workmen and the necessary material for preparing and printing the same, except in any week in which a legal holiday or Thanksgiving day is included, not more than five issues of a daily paper shall be necessary; provided, that the presswork may be done elsewhere.

Third—Contain general and local news, comment and miscellany, not wholly duplicating any other publication, and not entirely made up of patents, plate matter and advertisements.

Fourth—Be circulated in and near its place of publication to the extent of at least two hundred and forty copies regularly delivered to paying subscribers.

And all of the foregoing conditions shall have existed for at least one year last past; provided, that suspension of publication for a period of not more than four months within said year, resulting from the destruction of its office by the elements, shall not affect the qualifications of such newspaper after it shall have resumed; nor shall the consolidation of one newspaper with another published in the same county nor any change in the name or ownership thereof disqualify it or invalidate any publication continuously made therein before and after the change; and provided, further, that if there be but one newspaper published in any county the foregoing requirements as to age and number of copies circulated shall not apply.

All legal notices shall be printed in the English language. (R. L. § 5515, amended '07 c. 3, '11 c. 379 § 1)

25-146; 33-349, 37+792; 45-27, 47+309; 54-281, 56+80. Weekly newspaper conforms to statute (98-113, 107+728). See note under § 1350. Cited and applied (117-214, 135+385).

9414. Change of day of publication—It shall be lawful for any legal weekly newspaper in this state to change its day of publication without losing its standing as a legal newspaper, and the publication of any legal notice affected by such change of day of publication is hereby made valid. ('05 c. 174 § 1)

9415. Omission to publish for two weeks—Curative—No newspaper in this state, which conforms in all respects to the statutes defining a legal newspaper, except that it was not heretofore published for two consecutive weeks at some time since it became a legal newspaper, shall be deprived of its standing as such legal newspaper by reason of such omission; but such newspaper shall be deemed to be a legal newspaper notwithstanding such omission of its publication for two (2) consecutive weeks. ('13 c. 496 § 1)

See, also, 1905 c. 261 to the same effect.

9416. Change of place of publication—Curative—No newspaper in this state, which conforms in all respects to the statutes defining a legal newspaper, except that it has changed its office and place of publication within the same county, shall be deprived of its standing as such legal newspaper by reason of such change of office or place of publication; but such newspaper shall be deemed to be a legal newspaper notwithstanding such change of office and place of publication within the same county. Provided, that the provisions of this act shall not apply to any action or proceeding now pending in any court in this state. ('07 c. 100)

9417. Publication on holidays, etc.—Curative—All newspaper publications of notices required by law to be published in legal newspapers which have

been published in newspapers which conformed in all respects to the statutes defining legal newspapers except that they were not issued or published on legal holidays or Thanksgiving day, or upon any day or days generally observed as holidays, or the day following either thereof be, and the same are, hereby legalized, and declared to be valid and sufficient for all purposes. ('07 c. 4 § 1)

By section 2 it is provided that the act shall not apply to any pending action, etc.

9418. Affidavit required—Evidence—No compensation shall be recoverable for publishing legal or official matter in any newspaper not so qualified, nor until there shall have been filed with the county auditor the affidavit of a person having knowledge of the facts, showing the name and location of the newspaper and the existence of conditions constituting its qualifications according to § 9413. If the matter published relate to proceedings in another county, a like affidavit must be filed with its auditor also. And such affidavit, if it state the required facts, shall be prima facie evidence thereof and of such qualification. (5516)

83-427, 86+432.

9419. Newspapers qualified prior to Revised Laws—Affidavit—Curative—The publisher of any newspaper which was a legal newspaper on February 28th, 1906, or any person having knowledge of the facts and the existence of the conditions constituting its qualifications as such legal newspaper, may, at any time prior to July 1, 1907, make and file in the office of the county auditor of the county wherein such newspaper is printed and published, an affidavit stating that such newspaper was on February 28th, 1906, has ever since continued to be, and at the date of said affidavit was, printed and published in accordance with the laws of this state, in force and effect prior to March 1st, 1906, and thereupon the publication of all legal and official notices and matter made in such newspaper between February 28th, 1906, and the date of said affidavit in so far as the same are affected by the legal status of such newspaper, is hereby legalized and declared to be valid, and such affidavit shall be prima facie evidence of the facts constituting the qualifications and legality of such newspaper during the period from February 28th, 1906, to the date of such affidavit, and the provisions of sections 5515 and 5516, Revised Laws, 1905 [9413, 9418], notwithstanding, but this act shall not be construed as modifying any of the provisions of sections 5515 and 5516, Revised Laws, 1905, except as herein provided, and any newspaper in order to be qualified as a legal newspaper, subsequent to the making of such affidavit, shall in all respects comply with the provisions of sections 5515 and 5516, Revised Laws, 1905. The provisions of this act shall not apply to any action or proceeding now pending in any of the courts in this state. ('07 c. 463 § 1)

GENERAL STATUTES, 1913

9420. Minnesota statutes compilation commission—The governor, the chief justice of the supreme court and the attorney general of the state of Minnesota are hereby constituted a commission named the Minnesota statutes compilation commission and are hereby empowered to enter into a contract by and on behalf of the state of Minnesota with any person, firm or corporation for the preparation, compilation and publication of the general statutes of this state. ('11 c. 299 § 1)

Other sections provide for the time of publication, etc.

9421. What compilation shall contain—How entitled—Such compilation shall include all the general statutes of this state in force at the time of its publication, including the Session Laws of 1913. It shall also include the constitution, organic act, enabling act, and act of admission, of the state of Minnesota, and the constitution of the United States. It shall be published in one volume and be entitled, General Statutes, 1913. The sections shall be numbered consecutively throughout the volume and contain references to prior compilations and session laws showing the history of the section. Beneath each section there shall be a brief statement of any decisions of the supreme court relating thereto,

with references to the Minnesota Reports and the Northwestern Reporter. ('11 c. 299 § 2)

9422. **Authority of compiler**—The compiler is authorized to change headlines, cross-references, and the spelling of words. ('11 c. 299 § 3)

9423. **Prima facie evidence**—Such compilation shall be prima facie evidence of the statutes therein contained, in all the courts of this state, without further proof or authentication. ('11 c. 299 § 5)

9424. **Price**—Such compilation shall be sold to the state and to individuals at a uniform price, not to exceed six dollars a copy. ('11 c. 299 § 6)

9425. **Authority of secretary of state**—The secretary of state is hereby authorized to purchase one thousand copies of such compilation to be distributed by him as follows: Three copies to each justice of the supreme court; one copy to each judge of a district court; one copy each to the probate judge, county attorney, auditor, treasurer, register of deeds and clerk of court of each county; one additional copy to the clerk of each district court, for use in the court room of the district court of his county, and, where there is more than one district court room in the court house of his county, as many copies as there are court rooms, one copy for each of said court rooms; one copy to each municipal court (two or more copies where there are two or more judges); twenty copies to the law library of the state; ten copies to the law school of the state university; seven copies to the office of the attorney general; one or more copies as they may be required to the various executive officers, administrative boards, and societies of the state government; the remaining copies to legislative committees as they may be required. ('11 c. 299 § 7)

9426. **Bond of contractor—Approval of compilation**—The person, firm or corporation appointed hereunder shall give a bond to the state of Minnesota in the sum of ten thousand dollars conditioned for the faithful performance of the provisions of this act within the time and in the manner described in this act. The determination of the question as to the faithful performance of the provisions of this act shall be left to the commission hereinbefore provided; which said commission is hereby authorized to approve or disapprove the said compilation, which if approved by the said commission, shall be adopted, if disapproved, rejected. ('11 c. 299 § 10)

CHAPTER 108

EXPRESS REPEAL OF EXISTING LAWS

9427. **When repeal takes effect**—The several laws hereafter enumerated shall be expressly repealed from and after the taking effect of the Revised Laws, subject to the provisions of the preceding chapters; but nothing herein shall be construed as a legislative declaration that any law so enumerated has not heretofore been expressly or impliedly repealed. (5517)

9428. **General Statutes of 1866**—All of the General Statutes of 1866, except the first 74 sections of chapter 8 and chapter 122 thereof. (5518)

9429. **Session Laws of 1866**—The following chapters of General Laws, 1866: 1-17, 19-37, 39-42, 45, 47, 52-62. (5519)

9430. **Session Laws of 1867**—The following chapters of General Laws, 1867: 1-22, 24-74, 77-90, 92-115, 118-122. (5520)

9431. **Session Laws of 1868**—The following chapters of General Laws, 1868: 1-25, 27-40, 42-76, 78-108, 116-127. (5521)

9432. **Session Laws of 1869**—The following chapters of General Laws, 1869: 1-39, 41-48, 50-93, 95, 97-108. (5522)

9433. **Session Laws of 1870**—The following chapters of General Laws, 1870: 1-30, 32-44, 48-53, 56-71, 73-89, 91, 94-96, 99-117. (5523)

9434. **Session Laws of 1871**—The following chapters of General Laws, 1871: 1-34, 36, 37, 39-50, 52, 53, 55-59, 61-95, 101-123. (5524)

9435. **Session Laws of 1872**—The following chapters of General Laws, 1872: 1-38, 40-68, 70, 72-82, 84, 85, 88-92, 94-119. (5525)