

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



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person who induces or attempts to induce any deaf or unable to make articulate sounds child to absent himself or herself unlawfully from school, or employs or harbors any such child unlawfully from school, while said school is in session, shall, upon conviction thereof, before justice of the peace, or other court, be deemed guilty of a misdemeanor, and shall be fined in a sum not less than five (5) nor more than twenty (20) dollars for the first offense, nor less than ten (10) nor more than fifty (50) dollars for the second and every subsequent offense, with costs in each case. The principal teacher of every public school in the counties, and the truant officers of the cities of St. Paul, Minneapolis and Duluth, shall, within 30 days before the close of the school year succeeding the passage of this act, and at corresponding period each succeeding year thereafter, furnish the county superintendent of schools or the Board of Education of the cities of St. Paul, Minneapolis and Duluth, as the case may be, with the name, age, sex and address of parent or guardian of all normal children who are too deaf or unable to make articulate

sounds to be educated in the public schools between the ages of six and twenty years, inclusive, living within the boundaries of his or her school district and who do not attend school. And the county superintendent of schools, or the Board of Education of the cities of St. Paul, Minneapolis and Duluth, shall certify forthwith the names of all such deaf children, with address of parent, age and sex, to the superintendent of the Minnesota School for the deaf at the city of Faribault.

It shall be the duty of the county attorney to at once prosecute any case of parent or others unlawfully responsible, directly or indirectly, for the failure to place a deaf child or youth in a school for the deaf, when such case shall have been reported to him. So far as the same are applicable all the provisions of this section shall be construed to include children who are too blind or defective of sight to be materially benefited by the methods of instructions in vogue in the public schools, for the purpose of securing their attendance at the state school for the blind. (As amended Mar. 27, 1931, c. 92.)

CHAPTER 27 State Public School

§4620. State Board of Control to assume guardianship.

Commitment by one county of child having

legal settlement in another county binds the committing county for the future care of such child, as an indigent person after its return by the school. Op. Atty. Gen., July 21, 1930.

CHAPTER 28 Railroads, Warehouses and Grain

RAILROAD AND WAREHOUSE COMMISSION

§4638. Proceedings before commission—How commenced.

21F(2d)4, notes under §4700.

The position of Superintendent of Waterworks in the City of Eveleth is within this act, such officer not being the head of a department. 179M99, 228NW447.

§4639. Notice to respondent.

21F(2d)4, notes under §4700.

§4640. Answer.

21F(2d)4, notes under §4700.

§4641. Hearings before railroad and warehouse commission.

21F(2d)4, notes under §4700.

§4644. Complaint that rate is unreasonable—Duty of commission.

21F(2d)4, note under §4700.

§4650. Procedure for appeals to district court from orders of Railroad and Warehouse Commission.

Where order of Railroad Commission did not affect bus service in Hennepin County appeal to the district court of that county was without jurisdiction. 179M90, 228NW444.

§4651. Proceedings on appeal—Orders not appealed from.

172M601, 215NW188.

Findings of fact of Railroad Commission are prima facie correct on appeal. 177M136, 225NW94.

§4657. Costs and attorney's fees.

Attorney's fees were properly allowed. 177M136, 225NW94.

§4659. Appeals to Supreme Court.

172M601, 215NW188.

§4662. Dangerous crossings.

The Railroad and Warehouse Commission may require the construction of an overhead or underground crossing and divide the cost between the railroad company and the highway department. Where a highway is carried over railroad tracks by a bridge, the railroad company may be required to construct the bridge and the approaches, but not a part of the highway outside both bridge and approaches. 176M501, 223NW915.

§4663. Report and order—Flagmen, etc.

176M501, 223NW915.

Cost of changes of grade of streets and width of roadways and corresponding changes of viaducts or bridges over railroad tracks, occasioned by growth of city, may be divided between the city and the railway. 173M193, 226NW470.

City could not require railroad without com-

pensation to open up street across its right of way. Op. Atty. Gen., Oct. 31, 1930.

§4667. Charter powers not abridged.

This section is qualified and limited by Mason's St. 1927, §4743, subd. 12. Op. Atty. Gen., Apr. 16, 1929.

§4700. Powers and duties of commission—Notice and hearing—Schedule of rates—Revising rates.

Commission has power to fix divisions of joint rates between carriers. 21F(2d)4.

Rights of minority stockholder of carrier. 21F(2d)4.

Judicial division of rates must follow determination on question by commission. 21F(2d)4.

§4709. Violations of law—Penalty.

This section does not confer power on the Railroad and Warehouse Commission to interfere with the abandonment of a railroad on the ground that it is being operated at a loss. 32F(2d)819.

§4714. Penalty for non-compliance.

This section does not confer power on the Railroad and Warehouse Commission to interfere with the abandonment of a railroad on the ground that it is being operated at a loss. 32F(2d)819.

§4718-1. Telephone, etc. wires crossing or paralleling railroad.

Power company, held not liable for injury to employee who climbed to the top of a road-building machine and came in contact with a power wire. 178M604, 228NW332.

RAILROADS AND COMMON CARRIERS

§4734. Width of crossings and grades.

Truck driver held guilty of contributory negligence in driving on crossing in front of train. 171M355, 214NW661.

It is only where peculiar and unusual conditions render a crossing extra hazardous that a railroad can be charged with negligence in failing to protect it by gates or other safeguards, unless the duty to provide such protection has been imposed by legislative authority. 174M404, 219NW554.

Car near crossing as negligent obstruction of view of main track. 174M404, 219NW554.

Evidence as to whether or not whistle was blown. 174M404, 219NW554.

Engineer has right to assume that vehicle near crossing will be out of way in time to avoid collision and is not required to slow down or stop train until it appears that collision is imminent unless he does so. 176M214, 223NW95.

Automobilist was guilty of negligence in not ascertaining approach of freight train. 178M322, 227NW45.

§4741. Railroad crossings to be protected.

176M501, 223NW915.

§4742. Hearing.

176M501, 223NW915.

§4743. Inconsistent acts repealed.

176M501, 223NW915.

Subdivision 12 qualifies and limits §4667, Mason's St. 1927. Op. Atty. Gen., Apr. 16, 1929.

§4743-7. Same—Drivers of vehicles to stop, etc.

Automobilist running into train at crossing was guilty of contributory negligence. Kosculski v. M., 234NW693. See Dun. Dig. 8187.

§4743-9. Same—Watchmen—Railroads to provide.

174M404, 219NW554, note under §4734.

§4743-11. Same—Crossing gates.

174M404, 219NW554, note under §4734.

§4743-12. Uniformity of devices for protection at grade crossings.

This section does not take away powers of city by charter to require warning signs at crossings. Op. Atty. Gen., Apr. 16, 1929.

§4743-13. Same—Hearings by Commission.

176M501, 223NW915.

City could not require railroad, without compensation, to open up street across its right of way. Op. Atty. Gen., Oct. 31, 1930.

§4743-14. Same—Overhead or underground.

The Railroad and Warehouse Commission may require the construction of an overhead or underground crossing and divide the cost between the railroad company and the highway department. Where a highway is carried over railroad tracks by a bridge, the railroad company may be required to construct the bridge and approaches, but not a part of the highway outside both bridge and approaches. 176M501, 223NW915.

§4744. Fences and cattle guards.

Railroad company held not liable for death of person caused by falling over retaining wall outside of right of way, on theory of failure to erect fences.—Bremmer v. Hendrickson, (CCA8) 31F(2d)893.

§4750. Ditches and culverts.

Finding that capacity of ditch was adequate and did not cause water to flow onto plaintiff's land, sustained. Nordlum v. G., 225NW145.

§4801. Common-law liability not to be limited.

There could be no recovery for loss of chicks in absence of proof of condition of chicks when delivered to carrier or proof of actual negligence. 177M494, 225NW432.

§4802. Receipts and bills of lading—Liability of initial carrier.

Carrier is responsible for all damages to goods in transit, unless occasioned by certain excepted causes mentioned in 128M514, 151NW419. 171M205, 214NW17.

The rule that a carrier failing to reject improperly crated or loaded freight assumes to carry the freight at its peril, applies to carload shipments. 171M205, 214NW17.

In action for damages to shipment, shipping receipt and consignee's receipt with notations, were admissible. 117M494, 225NW432.

A letter from agent at point of destination, showing loss of property, is competent. 177M494, 225NW432.

§4807. Free passes prohibited—Exceptions.

—From and after Jan. 1st, 1908, it shall be unlawful for any person, association, co-partnership, or corporation, or any representative thereof, to offer, give, or in any manner furnish to any person, either for himself or another, any free pass or frank, or any special privilege or reduction in rate withheld from any other person for the traveling accommodation or transportation of any person or property, or the transmission of any message or communication except to persons included within the classes hereinafter designated and limited, and it shall also be

unlawful for any person or persons not included within the classes hereinafter excepted or limited to solicit or receive, either for himself or another, from any person, association, co-partnership or corporation, or use in any manner or for any purpose any free pass or frank or special privilege withheld from any person for the traveling accommodation or transportation of any person or property or the transmission of any message or communication; provided, however, that nothing contained in this act shall be construed to prohibit or to make unlawful or the issuing or giving of any such free ticket, free pass or free transportation to any person or persons within the classes hereinafter excepted or limited or the acceptance or use of the same by persons within such classes, that is to say, officers, bona fide agents, surgeons, physicians, attorneys and employes of such railroad or other companies, or persons affected by this act and dependent members of their families, the duly elected representatives of railroad labor organizations, children under 12 years of age, ministers of religion, secretaries of Young Men's Christian Associations, persons exclusively engaged in charitable and eleemosynary work, indigent, destitute and homeless persons, and such persons when transported by charitable societies or hospitals or by public charity, and necessary agents employed in such transportation, inmates of national homes or state homes for disabled volunteer soldiers, inmates of soldiers' and sailors' homes, including those entering and returning from such homes and boards of managers of such homes, postoffice inspectors, custom inspectors and immigration inspectors; witnesses of said railroad companies attending any legal investigation in which said company is interested; officials and linemen of telegraph and telephone companies; ex-employes retired from service on account of age or because of disability sustained while in the service of said railroad company and the dependent members of their families, or the widows or dependent children of employes killed or dying while in the service of such railroad company; necessary care-takers of live stock, poultry, vegetables and fruit, including transportation to and from point of delivery, employes on sleeping and express cars, railway mail service employes, newsboys on trains, baggage agents and persons injured in wrecks and physicians and nurses attending them; providing that one trip pass for a discharged employe and his family may be issued for use within 30 days of such discharge.

Provided further that the provisions of this act shall not be construed to prohibit and make unlawful the interchange of passes, and express and other franks for the officers, bona fide agents, surgeons, physicians, attorneys and employes and the dependent members of their families of any person or company affected by this act from doing any of the things prohibited hereby free, with the object of providing relief in cases of general epidemic, pestilence or calamitous visitation.

Provided further, that the provisions of this act shall not be construed to prohibit or make unlawful the interchange of passenger transportation and message service between

such railroad companies and telegraph companies and provided further that the provisions of this act shall not be construed to prohibit or make unlawful the interchange between railroad, express, telegraph and telephone companies of the transportation of persons and property, and the transmission of messages.

Provided further, that no free transportation shall be issued or given to any person when such person is a member of, employed by or in any way connected with any political committee or a candidate for or incumbent of any office or position under the constitution and laws of this state except as herein provided, and except that any railroad company may issue free passes to its employes while occupying office or position other than judicial under a municipality or public school district, or while acting under appointment as a notary public in this state, and except that any railway company may issue free passes to any member of the state legislature or Board of Regents of the University of Minnesota who is and has been an employe of such railway company for a continuous period of five years prior to his election to such office; provided, however, that such free transportation shall not be used by any such member of the legislature during the period of any legislative session nor for any travel for which mileage is collected from the state. (As amended Apr. 11, 1929, c. 162, §1.)

§4819. City councils to have power to grant franchises.

Public convenience and necessity for the extension of a street car line, held not shown, and an order of the city council for such extension, held arbitrary and unreasonable. 179M548, 229 NW883.

Street railroad company has burden of proving invalidity of unreasonableness of ordinance requiring extension of car line. 180M329, 230 NW809.

An opinion expressed by a physician, sent by defendant to examine the plaintiff before settlement was made, as to the length of time required for recovery, was not sufficient ground for setting aside the release. *Fornaro v. M.*, 234NW300. See Dun. Dig. 8374(42), (44).

Some statements made by the claim agent, to the effect that defendant would take care of plaintiff, and that he would make it good for plaintiff, held not sufficient ground for setting aside the release, under the circumstances shown. *Fornaro v. M.*, 234NW300. See Dun. Dig. 8374.

§4865. Bill of lading—Evidence—Penalty.

In action for damages to shipment, shipping receipt and consignee's receipt with notations, were admissible. 177M494, 225NW432.

A letter from agent at point of destination, showing loss of property, is competent. 177M 494, 225NW432.

§4872. Minimum weight of carload lots of live stock.—Every such company shall furnish at proper points designated by it, suitable cars for the transportation of live stock of all kinds, and shall transport the same at a rate not to exceed the highest rate and minimum weight charged by such company for any kind of stock in such car, except that the cattle rate and minimum weight will apply when by the use of same a lower charge results, and the cattle rate will apply when the actual weight exceeds the cattle minimum. The minimum weight of a single-deck

carload of mixed livestock containing cattle weighing each in excess of 400 pounds for all purposes of calculating freight charges shall be 19,000 pounds, in cars 36 feet 7 inches in length and under, and 21,000 pounds in cars 40 feet 7 inches in length and over 36 feet 7 inches in length, and 23,000 pounds for all cars over 40 feet 7 inches in length. Stock of different kinds shall be carried in the same car, at the option of the shipper, and the Railroad and Warehouse Commission is hereby authorized to provide for the partitioning of cars on such terms and conditions as it deems proper. Any such company failing to comply with any provision of this section shall forfeit to the party aggrieved not less than \$100.00, nor more than \$500.00. (As amended Apr. 20, 1931, c. 215, §1.)

§4872-1. Effective July 1, 1931.—This act shall take effect and be in force from and after July 1, 1931. (Act Apr. 20, 1931, c. 215, §2.)

§4878. Damage to livestock—Notice of claim.

There could be no recovery for loss of chicks in absence of proof of condition of chicks when delivered to carrier or proof of actual negligence. 177M494, 225NW432.

In action for damages to shipment, shipping receipt and consignee's receipt with notations, were admissible. 177M494, 225NW432.

A letter from agent at point of destination, showing loss of property, is competent. 177M494, 225NW432.

§4887. Certain depots to be kept open.

This statute does not violate the Fourteenth Amendment to the Federal Constitution. 177M136, 225NW94.

Findings of fact of Railroad Commission are prima facie correct on appeal. 177M136, 225NW94.

§4916. Train brake system.

Casual connection between negligence and accident may be established by circumstantial evidence. 173M587, 218NW125.

Applicable solely to railroad engaged solely in intrastate commerce. Op. Atty. Gen., Apr. 23, 1929.

§4919. Automatic couplers on freight cars.

For cases under Federal Safety Acts, see Mason's U. S. Code, Title 45, sec. 1.

§4920. Assumption of risk—Contributory negligence.

For cases under Federal Safety Appliance Acts, see Mason's U. S. Code, Title 45, §1.

§4921. Powers of commission.

Applicable solely to railroad engaged solely in intrastate commerce. Op. Atty. Gen., Apr. 23, 1929.

§4926. Abandonment of road.

This section does not confer power on the Railroad and Warehouse Commission to interfere with the abandonment of a railroad on the ground that it is being operated at a loss. 32F(2d) 819.

§4926-1. Railroad shops or terminals may not be abandoned except etc.—No company operating any line of railway in the State of Minnesota shall abandon any shop or terminal located within this state or move any shop or change the location of any terminal except

as provided in this act. Any company violating any provision of this act shall forfeit to the state not less than \$200 nor more than \$1000 for each day such violation continues. (Act Mar. 18, 1931, c. 64, §1.)

§4926-2. Definitions.—The word "terminal" here used is defined to be any city or village in which 12 or more men employed in railroad train and engine service have established a legal residence.

The word "shop" is defined as a place in which 12 or more men are employed by a railroad as mechanics in the repairing of railroad equipment and is located in a city or village in which such men have established a legal residence. (Act Mar. 18, 1931, c. 64, §2.)

§4926-3. Application to commission.—Any such company desiring to abandon any shop or terminal, or move any shop or change the location of any terminal in this state shall first make application to the Railroad and Warehouse Commission in writing. Before passing upon such application the Railroad and Warehouse Commission shall order a public hearing and fix a time and place thereof and require such notice thereof to be given as it deems reasonable. (Act Mar. 18, 1931, c. 64, §3.)

§4926-4. Hearing—order.—In the hearing on the abandonment or removal of a shop or terminal if it shall be made to appear to such Commission that the abandonment of any shop or terminal or the change of any shop or terminal will result in efficiency in railroad operation and will not substantially injure the public or be detrimental to the public welfare, such petition may be granted, otherwise the same shall be denied. (Act Mar. 18, 1931, c. 64, §4.)

§4930. Procedure for abandonment.

This section does not confer power on the Railroad and Warehouse Commission to interfere with the abandonment of a railroad on the ground that it is being operated at a loss. 32F(2d)819.

§4932. Fire caused by engine—Insurable interest.

Liability of railway company for fire set by operations of its locomotives is absolute and not dependent on negligence. 177M261, 225NW111.

Burden rested on plaintiff to prove that fire was occasioned by sparks from a locomotive. 177M261, 225NW111.

The good condition of the locomotive and its having proper spark-arresting netting may be shown on the question whether the fire was caused thereby. 177M261, 225NW111.

\$800 for burning barn and other property, held not excessive. 177M261, 225NW111.

§4933. Liability of corporations for injury or death to employees.

For employees engaged in interstate commerce, see Mason's U. S. Code, Title 45.

1. In general.

Whether there was negligence of a fellow servant, and whether his negligence was the cause of the injury to a railroad mechanic, held for the jury. 172M284, 214NW890.

Instruction as to negligence in not warning an employee not charged with negligence, held properly refused. 172M284, 214NW890.

§12,500 damages held not excessive for injuries to neck and jaws. 172M284, 214NW890.

Under the Federal Boiler Inspection Act as amended, (Mason's U. S. C. A., Title 45, §23), the Interstate Commerce Commission is given exclusive jurisdiction to specify and prescribe the sort of equipment to be used on locomotives and to make rules and regulations by which fitness for service shall be determined. *Mahutga v. M.*, 234NW474. See Dun. Dig. 6022b, 6022r.

3. Interstate commerce.

Railroad employee was engaged in interstate commerce while lining up a pipe used in transporting sand from a drying room to a storage tank for use upon locomotives engaged in such commerce. 173M169, 216NW940.

Empty car with defective coupler in process of repair by inspector, and intended to be sent to another state, "O. K. for grain," was engaged in interstate commerce, though the railroad had the power to divert it from interstate commerce, and did divert it after injury to the inspector. 173M261, 226NW934.

8. Release of damages.

Statements by claim agent to effect defendant would take care of plaintiff, held not sufficient ground for setting aside release, under circumstances shown. *Fornaro v. M.*, 234NW300. See Dun. Dig. 8374.

An opinion expressed by a physician, sent by defendant to examine plaintiff before settlement, as to length of time required for recovery, was not sufficient ground for setting aside release. *Fornaro v. M.*, 234NW300. See Dun. Dig. 8374 (42), (44).

9. Evidence.

Causal connection between negligence and accident may be established by circumstantial evidence. 173M587, 218NW125.

The evidence was insufficient to show that the engineer was negligent in operating his engine or in failing to stop, and no liability of defendants for the accident resulting in the death of plaintiff's instestate is shown. *Meisenhelder v. B.*, 233NW849. See Dun. Dig. 6025a.

Cause of death of section-hand while riding on a motor car held in the realm of conjecture. *Phillips v. C.*, 234NW307. See Dun. Dig. 7047.

Evidence held not to support a finding of negligence on the part of plaintiff's fellow servant who was unloading and piling ties with plaintiff on defendant's right of way. *Nadeau v. M.*, 233NW808. See Dun. Dig. 5945(72).

12½. Distribution of damages.

176M130, 222NW643.

13. Federal Employer's Liability Act.

For cases under Federal Employer's Liability Act, see Mason's U. S. Code, Title 45, §51. 179M67, 228NW546.

14. Federal Safety Appliance Act.

A car coupler in which there are no mechanical defects and which operate properly both before and after an accident cannot be found to be defective merely because a brakeman, while riding on the moving car in a switching operation, failed to lift the coupler pin by pressing on the pin lifter with his foot. *Meisenhelder v. B.*, 233NW849. See Dun. Dig. 6022e.

A decision and order of the Interstate Commerce Commission is construed as standardizing a side cab curtain known as the Wisconsin curtain or type. *Mahutga v. M.*, 234NW474. See Dun. Dig. 6022b.

When such approved curtain is used, negligence cannot be predicated upon the failure to have a tie-back appliance, such not being required by the Commission. *Mahutga v. M.*, 234NW474. See Dun. Dig. 6022b.

§4934. Liability of common carriers.

3. Evidence.

Liability of railroad for injury to section foreman while operating motor car. 225NW160.

Evidence, held to support verdict for plaintiff for negligence of fellow employees in dropping heavy objects on him from top of car on which all such employees were working. 181M97, 231NW710.

4. Damages.

§17,300, held not excessive for permanent in-

jury to car repairer 49 years old and earning \$105 per month. 181M97, 231NW710.

§4935. Contributory negligence.

For employees engaged in interstate commerce, see Mason's U. S. Code, Title 45.

181M97, 231NW710.

§4936. Employee not to be held to have assumed risk of employment.

3. Risks assumed.

For cases under Federal Employers Liability Act, see Mason's Code, Title 45, §1.

Section held assumed risk of injury from attempt to board moving motorcar from the front after he had cranked it, his act resulting in catching his foot in flywheel. 181M20, 231NW404.

Car repairers and others doing similar work in the yards must protect themselves by use of blue flag or lookout, and no active duty of looking for them is cast on a switching crew. 178M261, 226NW934.

4. Risks not assumed.

A railway employee does not assume the risk of injury from a fellow-servant's negligence. 172M284, 214NW890.

5. Questions for jury.

Assumption of risk by railroad mechanic of negligence of a fellow servant, held for the jury. 172M284, 214NW890.

Assumption of risk by car repairer working on ground of injury from throwing of heavy object from top of car by fellow employees, held for jury. 181M97, 231NW710.

MOTOR VEHICLE TRANSPORTATION FOR HIRE

§5015-1. Meaning of terms used.

172M601, 215NW188.

This statute is valid. 174M248, 219NW167.

Carrier by motor cannot claim exemption from statute because he was carrying mail upon a federal highway at time of enactment of this statute. 174M331, 219NW167.

§5015-2. Definitions.

This statute is valid. 174M248, 219NW167.

§5015-4. Powers and authority of Commission as to rates, fares, etc.

Liability of bus company for injury to passenger. 180M84, 230NW264.

The commission's power is limited to the granting or denial of a certificate of convenience and necessity, and it has no authority to issue an order to cease and desist; the remedy, in case of violation of its order, being a prosecution for the penalty, or injunction. 43F(2d) 236. See Dun. Dig. 8078c, 8079.

§5015-8. Certificates—When granted.

An order of the railroad and warehouse commission on an application for a certificate is administrative and not res judicata. 43F(2d) 236. See Dun. Dig. 8078e.

§5015-9. Transfer, etc., of certificates.

A person operating an auto transportation company and holding a certificate of public convenience, upon forming a corporation, can transfer his certificate only upon authorization by Railroad Commission and payment of the fee provided. *Op. Atty. Gen.*, May 6, 1931.

§5015-10. Companies already operating.

This statute is valid. 174M248, 219NW167.

§5015-12. Laws applicable.

The provision that actions or proceedings against automobile transportation companies may be tried in any county through which such company operates applies only to original

actions or proceedings in the district court and not to appeal from orders of the Railroad Commission. 179M90, 228NW444.

§5015-13. Penalties.

The railroad and warehouse commission may enforce the penalties of this act without first issuing an order to cease and desist. 43F(2d) 236. See Dun. Dig. 8078c, 8079.

§5015-14. Interstate commerce excepted.

This statute is valid. 174M248, 219NW167.

§5015-15. Filing fees.

A person operating an auto transportation company and holding a certificate of public convenience, upon forming a corporation can transfer his certificate only upon authorization by Railroad Commission and payment of the fee provided. Op. Atty. Gen., May 6, 1931.

§5015-18. Not to affect charter limitations.

—No provision in this act shall authorize the use by any transportation company of any public highway in any city of the first class, whether organized under Section 36, Article 4, of the Constitution of the State of Minnesota, or otherwise, in violation of any charter provision or ordinance of such city in effect January 1, 1925, unless and except as such charter provisions or ordinance may be repealed after said date; nor shall this act be construed as in any manner taking from or curtailing the right of any city or village to regulate and control the routing, parking, speed or the safety of operation of a motor vehicle operated by any transportation company under the terms of this act, or the general police power of any such city or village over its highways; nor shall this act be construed as abrogating any provision of the charter of any such city now organized and operating under said Section 36 of Article 4, requiring certain conditions to be complied with before such transportation company can use the highways of such city, and such rights and powers herein stated are hereby expressly reserved and granted to such city. (As amended Apr. 11, 1929, c. 154, §1.)

STORAGE AND SHIPMENT OF GRAIN TERMINAL WAREHOUSES

§5023. Inspection at terminal warehouse.

All grain received at a terminal warehouse shall be inspected and graded by a state or federal inspector at the time of its receipt, provided such grain has not previously been inspected out of a warehouse at another terminal in Minnesota. The rights of reinspection and appeal are hereby expressly preserved to all interested parties. All grain shall be inspected in like manner upon delivery from such warehouse. The charges for such inspections shall be paid by the warehouseman and added to the storage, and the chief inspector may recover such charges from the warehouseman. (As amended Apr. 12, 1929, c. 175, §1.)

Sec. 2 of Act Apr. 12, 1929, provides that the act shall take effect from and after May 1, 1929.

§5041. Duty of inspectors.—Such inspectors shall inspect and grade all grain received at or shipped from any terminal warehouse in carload or boatload lots, and give a certificate of the inspection to the person entitled thereto. Provided such inspectors shall not be required to grade any grain which has

previously been inspected by a state inspector at another terminal in Minnesota. All rights and privileges covering re-inspection and appeal in such cases are hereby preserved to all interested parties. Their decisions shall be conclusive as to the grade and dockage of such grain, and the certificate shall be evidence thereof, unless changed upon reinspection or appeal. (As amended Apr. 12, 1929, c. 174, §1.)

Act Apr. 12, 1929, c. 174, §2 provides that the act shall take effect from and after May 1, 1929.

LOCAL WAREHOUSES

§5071. Warehousemen to be licensed.

Authority of principal to deliver bond, after signed by surety and forwarded to and signed by principal, implied whenever it is fairly and legally inferable from the circumstances that such was the intention of the parties, but the appointment of a receiver in the meantime for principal, because of insolvency, terminates such implied authority. 171M455, 214NW507.

Bond filed by principal after appointment of receiver did not become effective against the surety. 171M455, 214NW507.

Demand is not necessary in action for conversion of stored grain against surety after property of warehouseman is in hands of receiver. 171M455, 214NW507.

STORAGE OF GRAIN UPON FARMS

§5077-1. Object and purpose of act.—The purpose of this act shall be to provide the owner of grain in this state with means of warehousing same on the farms, under proper restrictions and safeguards, as a basis for credit and to aid in the orderly marketing thereof. (Act Apr. 21, 1931, c. 294, §1.)

§5077-2. Supervision by Railroad and Warehouse Commission.—The Railroad and Warehouse Commission (hereinafter referred to as "the Commission") is hereby authorized and it is hereby declared to be its duty to carry out the provisions of this act and to that end it is hereby given full authority to prescribe such rules and regulations as may be deemed necessary for carrying out the provisions thereof. (Act Apr. 21, 1931, c. 294, §2.)

§5077-3. Grain Inspection.—Whenever ten or more farmers operating farm lands tributary to any market center, or any less number of farmers having at least 5,000 bushels of grain for storage, shall apply to the Commission in writing to have their grain inspected for the purpose of securing a warehouse certificate thereon, the Commission shall cause such grain to be inspected as soon as practicable. Provided, however, that the Commission may at its discretion, inspect the grain of any applicant making application for farm grain storage hereunder. Such applicant shall designate where such grain is kept, the kind of structure in which it is stored, the incumbrance, if any, upon such grain, and shall state the name of all persons interested therein, and shall be signed and sworn to by the applicant. Whenever any grain is owned by more than one owner, said application shall be signed by all having any interest therein. In case the grain is mortgaged the application shall be signed by the owner and the mortgagee or his agent, duly authorized in writing, and any certificate issued for

grain owned by more than one person or which is incumbered shall be issued in the names of such persons, including the mortgagee. Such application may direct the Commission to issue and deliver the certificate to be issued in conformity with such application to the applicant or any other person, firm or corporation, which delivery shall constitute a full and complete assignment thereof to the same effect as if personally endorsed and delivered by the applicant. (Act Apr. 21, 1931, c. 294, §3.)

§5077-4. Fees for inspection.—Each applicant shall remit with such application, a minimum of \$5.00, and if the quantity of grain to be inspected exceeds 1000 bushels, one-half cent per bushel for the number of bushels sought to be inspected, payable to the Minnesota Railroad and Warehouse Commission, which fee shall be credited to the general grain inspection fund. (Act Apr. 21, 1931, c. 294, §4.)

§5077-5. Warehouses to be sealed.—When application shall be made for inspection under the provisions of this act, the Railroad and Warehouse Commission shall designate a qualified sampler to inspect the bin and structure in which the same is to be stored, to determine the availability for the warehousing of the grain, and to procure a fair average sample of such grain by the use of a standard grain probe, and thereafter to seal the bin or granary with a ball type seal bearing the name of Minnesota Railroad and Warehouse Commission and the seal number and the year of such sealing, and putting upon the structure or bin so sealed a notice containing a printed copy of the penalty prescribed for entering sealed bins or structure or removing such grain or any part thereof, by any person who is not the holder of the receipt or under the direction of the Railroad and Warehouse Commission. The person making such inspection and obtaining such sample shall at once forward the sample to the State Grain Inspection Department in Minneapolis, sending at the same time his report on the quantity of such grain in the bin or structure in which the same is contained. (Act Apr. 21, 1931, c. 294, §5.)

§5077-6. Warehouse receipts may be issued.—Upon receipt of such sample the State Grain Inspection Department of Minneapolis shall inspect the grain and determine the grade thereof, and shall issue warehouse certificate therefore, and every such certificate must embody within its written or printed terms:

(a) The consecutive number of the certificate.

(b) The date of issue of the certificate.

(c) A description of the granary, bin, or structure in which the grain is stored, and the premises upon which it is located.

(d) A description of the grain giving its grade, kind, variety, dockage, test weight and moisture content, and the number of bushels of such grain based on cubic measurement and not by weight.

(e) The name of the owner, or owners, whether ownership is sole, joint or in trust, and the conditions of such ownership, as shown in the application.

(f) A statement of any and all liens or incumbrances upon said grain as reported by the owner in his application.

(g) A statement whether the grain will be delivered to the bearer, to a specified person, or a specified person or his order, and at what place it will be delivered.

(h) A statement as to whether any other certificate has been issued covering any grain in the same granary, bin or structure, and the amount of such certificate.

(i) Any other matter or information required by the rules and regulations promulgated under this act, and deliver such certificate to the parties entitled thereto as heretofore provided. (Act Apr. 21, 1931, c. 294, §6.)

§5077-7. Certificates to be in triplicate.—All such warehouse certificates issued under the provisions of this act shall be in triplicate, the original to be printed upon white paper, and the duplicate copies to be printed upon tinted paper, the original and one copy to be delivered to the parties entitled thereto as hereinbefore provided, and one of the duplicate copies to be retained by the inspection department. Both copies of the certificate shall have plainly printed or stamped upon the face thereof "Duplicate Certificate No value." If a loan is made upon such grain the parties interested may file with the Register of Deeds of the county in which such grain is stored the copy of the certificate held by the owner, and upon payment of a filing fee of thirty-five cents such copy shall be indexed as a chattel mortgage upon the grain described in the certificate, is pledged to the redemption of the loan.

Any assignment of such receipt may also be filed and properly endorsed upon the receipt, and when filed shall have the same force as the filing of any assignment of chattel mortgage. Any owner or owners of grain stored under the provisions of this act, where the certificate has not been pledged or negotiated, may procure the release of such grain from storage thereunder by delivering the original warehouse certificate to the State Grain Inspection Department at Minneapolis, which shall, upon the receipt thereof, cancel the same by perforating it with the words "Surrendered and Cancelled" and shall notify such original holder or holders of such cancellation, and the receipt of such notice of cancellation by such owner or owners shall be authority to such owner or owners to break the seal and retake possession of the grain in such certificate described. Upon delivery by the owner or owners, to the warehouse certificate holder, of the grain pledged thereby, or upon payment of the obligation for which such certificate has been pledged, the warehouse certificate holder shall be required to cancel and redeliver such certificate to the owner of such grain, such cancellation to be so made by endorsing thereon in ink the

words "Cancelled and Delivered to the Owner of the Grain," together with the signature of such warehouse certificate holder.

Such owner of grain may upon cancellation of such warehouse certificate, forward the same to the State Grain Inspection Department for the purpose of having it cancelled in its office and discharged of record, and the said Inspection Department shall notify the Register of Deeds of the county in which the duplicate certificate is filed to discharge any cancelled certificate of record; and such Register of Deeds is hereby required to cancel the same, without charge, upon such notice from the Commission. All original warehouse receipts so cancelled as above by the Inspection Department shall be retained in the files in its office and a permanent record of such certificates so cancelled shall be kept; such record to show the name of the person or persons to whom the certificate was issued, the number of the certificate, the date of cancellation and when the cancelled certificate was surrendered as paid and the name of the person surrendering the same. (Act Apr. 21, 1931, c. 294, §7.)

§5077-8. Owner to deliver grain on demand.—The owner of grain stored under the provisions of this act shall be charged with the due care of said grain and shall exercise that degree of due care and diligence, which any ordinary prudent person would exercise with regard to similar property of his own. The owner shall also, upon demand of the holder of such certificate, deliver said grain to his usual market place without charge to the holder. No legal demand for the delivery of said grain shall be made, however, upon said owner until the maturity of the obligation for which said certificate is pledged, or until the security shall become impaired. In case of the maturity of the obligation for which said certificate was pledged or in case of the impairment of such security, and the refusal of said owner to deliver such grain as above provided, then the holder of the certificate shall be entitled to take immediate possession of the grain so pledged, and to sell the same at the market price thereof, and to retain from the proceeds of such sale all expenses of the removal and transporting of such grain to market. (Act Apr. 21, 1931, c. 294, §8.)

§5077-9. Records not open to public.—The said Inspection Department shall not allow the inspection by the general public of its records as to the amount, kind, quality or variety of grain stored, but said records shall be open to the holder of any certificate as to the portion thereof relating to the grain covered by such certificate. (Act Apr. 21, 1931, c. 294, §9.)

§5077-10. Warehouseman's bond may be filed.—The locking up and sealing of any

storage facility acceptable to the Commission is hereby waived, if and when the applicant shall have filed a warehouseman's bond as a guarantee to the carrying out of the provisions of this Act. Any such bond may be accepted by the Commission in lieu of the locking and sealing of stored grain under the rules and regulations promulgated hereunder with reference thereto. (Act Apr. 21, 1931, c. 294, §10.)

§5077-11. Owner to be responsible for grade.—The owner or owners of grain stored hereunder shall be responsible for the quality of the grain being equal to that stated in the certificate. Provided, however, that when such grain is marketed it shall be sold according to its then actual grade. Whenever the amount certified to shall have been determined by cubic measurement, said amount shall be deemed prima facie evidence of the amount of said grain, but the actual amount shall be determined by the actual weight thereof when marketed, and the owner shall be responsible and liable to the holder of the certificate for the delivery of the amount of grain indicated in said certificate, by actual weight thereof. (Act Apr. 21, 1931, c. 294, §11.)

§5077-12. Penalties for breaking seal.—Any person who shall without order or direction of the Commission break the seal of any bin or structure wherein grain is stored under the provisions of this act, or who shall break or enter the structure or bin wherein such grain is so stored except for actual delivery of such stored grain to the holder of a pledged certificate, or who shall damage, remove, or destroy any grain stored and sealed under the provisions of this act, shall be guilty of a felony and upon conviction therefor shall be punished by imprisonment in the county jail for not less than one year, or in the state prison for not less than one nor more than three years; or by a fine of not less than \$300.00 nor more than \$1,000.00 or both such fine and imprisonment. (Act Apr. 21, 1931, c. 294, §12.)

§5077-13. Penalties for false statements.—Any person who shall, in order to procure any warehouse certificate hereunder, make any statement of material fact knowing such statement to be false, shall be guilty of a gross misdemeanor, and shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than six months nor more than one year, or by a fine of not less than \$200.00 nor more than \$500.00 or both such fine and imprisonment. (Act Apr. 21, 1931, c. 294, §13.)

§5077-14. Provisions separable.—If any provision or part of this act be held unconstitutional it shall not invalidate or in any way affect any other provision or part thereof. (Act Apr. 21, 1931, c. 294, §14.)