

1936 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1936)
(Superseding Mason's 1931 and 1934 Supplements)

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 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.



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shall lend or transfer or offer to lend or transfer any such written consent or certified copy thereof to another person who is not entitled to use the same, and any person not entitled to use any such written consent or certified copy thereof who shall use any such written consent or certified copy thereof, or who shall borrow, receive, or solicit from another any such written consent or certified copy thereof, shall be guilty of a gross misdemeanor, and punished accordingly. ('27, c. 10, §2; Apr. 22, 1929, c. 285, §2.)

10422-5. Certain acts to be misdemeanor.—Every person who shall willfully place or deposit, or cause to be placed or deposited, or who aids or abets or who conspires to aid or abet in the placing or depositing in, upon, under, against, or near to any building, car, vessel, or structure any foul, offensive or injurious substance or compound, or any gas, fluid or substance injurious to life or property, or any noxious or offensive gas, fluid or substance, with intent to wrongfully injure, molest or coerce another, or to injure the property or person of another, or to molest another in the use, management, conduct or control of his business or property; shall be guilty of a gross misdemeanor, and upon conviction thereof shall be punish-

able by a fine of not more than One Thousand Dollars or by imprisonment in the county jail for not more than one year. (Act Mar. 24, 1931, c. 86, §1.)

10431. Coercion.

To sustain an action for damages on the ground of coercion there must be some wrongful or unlawful act, acts or conduct sufficient to constrain the plaintiff against his will. 174M535, 219NW908.

A threat to shoot an officer if he takes property under replevin papers is a misdemeanor under this section and officer to whom threat is made may arrest without a warrant. 177M307, 225NW148.

Statutory costs denied respondents for failure of brief to comply with paragraph 3. 177M222, 225NW85.

10432. Injury to other property.

Person hiring young man to put emery dust and waste in oil tank of automobile, resulting in damage, may be prosecuted under this section. Op. Atty. Gen., Mar. 4, 1933.

10433. Interfering with electrical apparatus.

Section is without application to action for death of house mover attempting to get house under wires. *Fari-bault v. N.*, 188M514, 247NW680.

10437. Draining meandered lakes, etc.

Owner of private lake cannot construct and maintain a channel to a public lake if it injuriously affects the public lake. Op. Atty. Gen., Sept. 26, 1929.

CHAPTER 102

Cruelty to Animals

10443. Overworking animals, etc.

Evidence held sufficient to support finding that horse's death resulted from starvation. *State v. Maguire*, 188M 627, 248NW216. See Dun. Dig. 279.

One in possession of horse under claim of lien is guilty if he permits it to starve to death. *Id.*

10450. Animal with infectious disease.

Seller of infected hogs, held not entitled to directed verdict for price. 180M78, 230NW259.

CHAPTER 103

Miscellaneous Crimes

10463. Trusts and combinations in restraint of trade prohibited.

A patent pooling agreement held not an unlawful attempt to restrain trade. 181M606, 233NW870. See Dun. Dig. 8437.

Contract which restrained trade and limited competition in a reasonable way only, was not obnoxious to the statute. *Pittsburgh Plate Glass Co. v. P.*, 182M368, 234NW453. See Dun. Dig. 8436(1).

Contracts should be so construed as to uphold rather than defeat them. *Pittsburgh Plate Glass Co. v. P.*, 182M368, 234NW453. See Dun. Dig. 8434(92).

A creamery corporation may not enter into an agreement with cooperative marketing association to fix the price of milk, but such a contract may be entered into by one cooperative marketing association with other cooperative associations. Op. Atty. Gen. (93a-14), Sept. 15, 1934.

10493. Gift enterprises defined.

It is not a gift enterprise to enclose a penny sucker within the paraffin wrapper of loaves of bread where the same kind and value is included with each loaf. Op. Atty. Gen., Jan. 9, 1932.

10497. Gift enterprise defined.

Contest held not the sort of gift enterprise defined in this section. 173M337, 217NW345.

10503. Indians located on reservations.

Tribal Indians are immune from arrest or prosecution under state laws for acts committed upon their reservations or allotments. Op. Atty. Gen., Dec. 2, 1931.

Though it may be unlawful for Indian to take wild animals on allotment, a tribal Indian is not personally amenable to state criminal laws. Op. Atty. Gen., Apr. 11, 1933.

Muskrats' skins taken by tribal Indian on allotment may be seized as contraband where not intended to be used on reservation by Indian or his tribe. *Id.*

10520. Fraudulently presenting claims, etc.

If one presents a claim against a town for bounties on gophers and crows which he did not kill within the

town, he violates this section. Op. Atty. Gen., Mar. 18, 1931.

10522-1. Conservation of certain wild flowers.—

No person within the State of Minnesota shall buy, sell, offer or expose for sale, the state flower (*Cypripedium reginae*) or any species of lady slipper (*Cypripedieae*) or any member of the orchid family trillium of any species, lotus (*Nelumbolutea*), gentian (*Gentiana*), arbutus (*Epigaea repens*), or any species of lilies (*Lilium*), or any thereof, dug, cut, plucked, pulled or gather in any manner whatsoever from any public land, or from the land of any private owner without the written consent of such owner or other occupant of such land, and then only upon written permission of the Commissioner of Agriculture, Dairy and Food, and for scientific and herbarium purposes. Except that any persons may upon their own lands cultivate for sale and sell said flowers by registering the purpose to do the same with the Commissioner. ('25, c. 409, §1; Apr. 1, 1935, c. 100, §1.)

Transplanting moccasin flowers from marshes to home flower garden is not violation of this section, but might afford cause of action for damages. Op. Atty. Gen., June 12, 1930.

There is no other legislation pertaining to picking of wild flowers. Op. Atty. Gen., May 9, 1933.

10522-2. Same—Prosecution.—The Commissioner of Agriculture, Dairy and Food is hereby authorized and it shall be his duty to administer this law, and when, by investigation, complaint or otherwise, it shall be made to appear that any person has violated any of the provisions of this act, it shall be his duty to assemble the facts and transmit the same to the Attorney General, or in the discretion of the Commissioner, he may act through the County Attorney of the county in which said violation was committed,

whose duty it shall be to forthwith institute proceedings and prosecute the same against the person or persons charged with such violation. It is hereby made the duty of the County Attorney to prosecute any and all cases submitted to him by the Commissioner or the Attorney General. (Act Apr. 1, 1935, c. 100, §1.)

10522-3. Same—Punishment.—Any person who violates any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$10.00 and the costs of such prosecution, nor more than \$50.00 and the costs of such prosecution, or in default of payment thereof shall be imprisoned in the county jail for not less than 10 nor more than 30 days for each and every such conviction. All fines and moneys thus collected shall be deposited in the State Treasury. ('25, c. 409, §2; Apr. 1, 1935, c. 100, §1.)

10522-4. "Person" defined.—The word "person" when used in this act shall be construed to impart both the singular and the plural as the case demands and shall include corporations, co-partnerships, companies, societies, firms and associations. (Act Apr. 1, 1935, c. 100, §1.)

10530. Railway cars obstructing roads and streets.
Civil liability for placing car so as to obstruct view of main track. 174M404, 219NW554.

10534. Application of term "vagrancy" and extension of the same so as to include various persons.
(5.)

Evidence showing solicitation of two men for purposes of sexual intercourse for hire is sufficient to sustain a conviction of prostitution. State v. Burke, 187M336, 245 NW153. See Dun. Dig. 7860c.

10536-1. Employers not to accept consideration for securing employment.—Any employer, or any

manager, superintendent, foreman or other representative of any employer, who directly or indirectly demands or accepts from any employe any part of such employe's wages or other consideration, or any gratuity, in consideration of giving to or securing or assisting in securing for any employe any employment with such employer, shall be guilty of a misdemeanor. (Act Mar. 2, 1933, c. 47.)

10536-2. Circuses prohibited, when.—It shall be unlawful for any person or persons, firm or corporation to conduct any circus in any city or village, or within a radius of six miles of any city or village, within a period of eighteen days immediately preceding the dates of the annual Minnesota State Fair, or during the time of holding such fair. Provided, however, any such circus may be exhibited during this period of time, if and when said circus is engaged or contracted by an accredited Agricultural Society to form a part of the entertainment program of the annual fair of said accredited Agricultural Society. Provided that nothing herewith contained shall exempt said circus from obtaining proper license or permit as provided by law. (Act Apr. 21, 1933, c. 357, §1.)

10536-3. Violation a gross misdemeanor.—Any person or persons, firm or corporation violating the provisions of this Act shall be guilty of a gross misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000.00 or by imprisonment in the county jail for a period not to exceed one year, or by both such fine and imprisonment. (Act Apr. 21, 1933, c. 357, §2.)

10536-4. All Acts and parts of Acts inconsistent herewith are repealed. (Act Apr. 21, 1933, c. 357, §3.)

CHAPTER 104

Criminal Procedure

SEARCH WARRANTS

10537. When issued.

There was no error in condemning and destroying slot machines, though there was no search warrant. 176M 346, 223NW455.

Search warrants may not be issued in intoxicating liquor cases. Op. Atty. Gen. (218f-3), Apr. 13, 1934.

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 warrant is not necessary. Op. Atty. Gen. (218f), Feb. 5, 1935.

10540. Property seized—How kept and disposed of.—Whenever, any officer, in the execution of a search warrant, shall find any stolen property, or seize any other things for which search is allowed by law, the same shall be safely kept by direction of the court or magistrate, so long as may be necessary for the purpose of being produced as evidence on any trial, and then the stolen property shall be returned to the owner thereof, and the other things seized destroyed under the direction of the court or magistrate. Any money found in gambling devices when seized shall be paid into the county treasury, or, if such gambling devices are seized by a police officer of a municipality, such money shall be paid into the treasury of such municipality. (R. L. '05, §5199; G. S. '13, §9036; Apr. 13, 1929, c. 177.)

Court erred in ordering that destroyed slot machines should be sold and proceeds of sale and money found in slot machines turned into county treasury. 176M346, 223NW455.

Gambling devices suitable only for use as such may be destroyed under Stillwater ordinance without first prosecuting the keepers thereof. Op. Atty. Gen., June 19, 1931.

Money found in slot machines may not be confiscated, under Stillwater ordinance, and paid into city treasury. Op. Atty. Gen., June 19, 1931.

This section contains no provision for procedure which would be applicable to the forfeiture of money found in gambling devices. Op. Atty. Gen., June 19, 1931.

Where sheriff seized slot machines containing money and proprietor died before trial after pleading not guilty, slot machines could be destroyed upon summary order of court and probably money could be paid into county treasury, but safest course would be to bring proceeding in rem and make personal representative of proprietor a party. Op. Atty. Gen., Sept. 15, 1932.

EXTRADITION

10542. Warrant of extradition, service, etc.

½. In general.

Extradition is governed by the Constitution and laws of the United States, and chapter 19, Laws 1929, ante, §40, cannot interfere or delay its operation. State v. Moeller, 182M369, 234NW649. See Dun. Dig. 8835, 1721.

A prisoner who has been removed from demanding state by federal authorities is nevertheless a fugitive from justice in an asylum state and must be delivered to demanding state upon proper extradition process. State v. Wall, 187M246, 244NW811. See Dun. Dig. 3705.

County attorney is not required to appear for and on behalf of the sheriff in habeas corpus proceedings brought to discharge a person held by the sheriff for the purpose of being extradited to another state. Op. Atty. Gen., May 6, 1931.

Sheriff may charge officials of another state a fee of \$4.00 per day in transporting a prisoner demanded by another state to the boundary line of this state. Op. Atty. Gen., May 6, 1931.

3. Who is a fugitive from justice.

Father and husband, guilty of abandoning wife and child, when he stopped payments to them for their support, could not be extradited where he was not in the state when the crime was committed, though by failing to make payments he committed a crime within the state. Op. Atty. Gen. (840a-1), Apr. 13, 1934.

Where husband and father deserted wife and child in Chicago and wife and children came to Minnesota, the husband and father was a fugitive from justice if he made trip to Minnesota while refusing to furnish wife and children a home and support. Op. Atty. Gen. (339a), July 13, 1934.

A resident of another state who sends wife and children into certain county in state with intent to follow but then neglects to support them commits crime of abandonment in such county in state, but cannot be extradited where he has never come into the state, as he is not a fugitive from justice. Op. Atty. Gen. (494b-15), Nov. 1, 1934.